

<b>POLICY OF STATE OF DELAWARE DEPARTMENT OF CORRECTION</b>	<b>POLICY NUMBER</b> 9.18	<b>PAGE NUMBER</b> 1 of 3
	<b>RELATED ACA STANDARDS:</b> 2-CO-1C-11; 4-4056, 4-4281-6; 4-ACRS-7E-04, 4-ACRS-6A-05; 4-APPFS-3E-05	
<b>CHAPTER: 9 HUMAN RESOURCES AND EMPLOYEE MANAGEMENT RELATIONS</b>	<b>SUBJECT: SEXUAL HARASSMENT AND COMPLAINTS</b>	
<b>APPROVED BY THE COMMISSIONER AND EFFECTIVE THIS DATE:</b>		
		
<b>APPROVED FOR PUBLIC RELEASE</b>		

**I. AUTHORITY:** State of Delaware Policy on Sexual Harassment Prevention; State of Delaware Merit Rules, Chapters 2 and 12; DOC Code of Conduct; *11 Del. C.* §1211, §1223-§1225, §1233, §1244, §1245 and §6517; *19 Del. C.* §1703; *29 Del. C.* §5806 and §8903.

**II. PURPOSE:** To ensure that all DOC employees, contractual agents and volunteers enjoy a workplace free from sexual harassment and to outline the procedure for reporting alleged instances of sexual harassment.

**III. APPLICABILITY:** All DOC employees, volunteers, persons or organizations conducting business with the Department of Correction, including offenders.

**IV. DEFINITIONS:**

**Sexual Harassment:** Includes unwelcome advances, requests for sexual favors, sexually motivated physical conduct or other verbal or physical conduct or communication of a sexual nature, when:

1. Submission to that conduct or communication is made a term or condition of employment, either explicitly or implicitly; or
2. Submission to or rejection of that conduct or communication is used as a factor in decisions affecting that individual's employment; or
3. The conduct or communication has the purpose or effect of substantially interfering with an individual's employment or work performance, or creates intimidating, hostile or offensive working conditions.

**V. POLICY:** Sexual harassment is unacceptable conduct and will not be tolerated. Supervisors are responsible for ensuring that all employees under their supervision are fully aware of this policy and appropriate complaint procedures. All complaints will be promptly investigated. Any employee who, after a complete and impartial investigation, is found to have engaged in such conduct will be subject to appropriate disciplinary action, up to and including termination. Non-employees who engage in

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such conduct at DOC facilities will be subject to appropriate action necessary to eliminate the harassment.

- A. Any employee, who believes they are being sexually harassed or any employee, who witnesses sexual harassment, should advise the offending individual that the conduct in question is offensive and request that it be discontinued immediately. Any employee who feels they were harassed should keep personal notes of the time and date of any incident.
- B. If the employee does not desire to mention the offensive behavior to the offending individual, or if the conduct in question continues, the employee who believes they have been subjected to or witnessed sexual harassment should report the incident(s) to their supervisor.
- C. ~~If the employee does not feel comfortable going to their supervisor, he or she has the option to forego the supervisor notification and alert another appropriate person (e.g. another supervisor, shift commander, office manager, etc.) or they may contact the Human Resources Office or Internal Affairs.~~
- D. Supervisors must take action to stop the conduct. If the supervisors who have knowledge of sexual harassment and either condone such conduct or fail to take action to stop such conduct, the supervisors will themselves be subject to discipline up to and including termination. Any employee receiving a complaint must immediately notify their chain of command. Confidentiality must be maintained throughout any investigatory and resolution process to the extent feasible and consistent with the organization's requirement to investigate, fully resolve the issues and implement corrective measures.
- E. Every reasonable effort will be made to investigate and determine the facts pertinent to the complaint with the full knowledge of the Director of Human Resources through the DOC Diversity Coordinator. The Diversity Coordinator must be made aware by the facility that an incident has occurred, that an investigation has been launched and be provided the results of the investigation when completed. The Diversity Coordinator will track this information to identify trends and modify Sexual Harassment Training accordingly.
- F. If requested by any of the parties involved in the incident, or by management, the DOC Diversity Coordinator may serve as a liaison between complainant and respondent in trying to resolve the conflict at the lowest possible level. This Informal Resolution Process is further detailed in DOC Policy 9.28.

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- G.** Within five working days of the closure of any investigation, the appropriate HR Staff will notify the complainant and the subject of the investigation of the results. Those results will include a determination as to whether the allegations were substantiated or not substantiated. If the complainant is not satisfied with the results of the investigation, they may file a charge of discrimination with the Delaware Department of Labor or other agencies.
- H.** The Department prohibits employees from providing false information in any report, investigation or hearing. Any person found to have provided false information or to have knowingly filed a false complaint may be subject to disciplinary action, up to and including dismissal and potential prosecution. An unsubstantiated allegation does not mean the complaint was false; only that the allegation could not be proven.
- I.** DOC prohibits any form of retaliation against employees for filing a complaint, reporting alleged violations or for cooperating in the investigatory process. Retaliation itself will be cause for appropriate disciplinary action, up to and including termination and potential criminal prosecution.
- J.** As a preventive measure, the Department will deliver initial Sexual Harassment Training for new DOC employees within six months of their date of hire and refresher training for delivery to all employees every three years. The Diversity Coordinator will modify course content to meet evolving trends and work closely with Wardens, Administrators and the Employee Development Center in coordinating training delivery.
- K.** The DOC is committed to resolving discrimination issues; however, employees experiencing sexual harassment also have the right to contact the Statewide EEO/AA Administrator or the Delaware Department of Labor's Office of Labor Law Enforcement.

