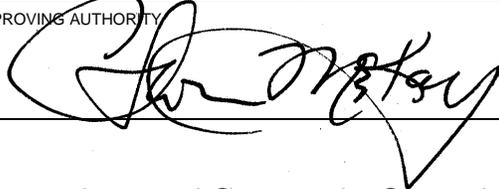


 Corrections and Community Supervision DIRECTIVE	TITLE Sexual Harassment in the Workplace		NO. 2605
			DATE 12/21/2015
SUPERSEDES DIR #2605 Dtd. 11/6/2014	DISTRIBUTION A	PAGES PAGE 1 OF 3	DATE LAST REVISED
REFERENCES (Include but are not limited to) Civil Rights Act of 1964; NYS Human Rights Law; EO #19; DOCCS Employees Manual	APPROVING AUTHORITY 		

- I. **POLICY:** The New York State Department of Corrections and Community Supervision (DOCCS) shall strictly adhere to the Statewide Policy on Sexual Harassment in the Workplace. DOCCS has a zero tolerance policy with respect to sexual harassment in the workplace and provides no latitude for the instigation of sexual harassment. Every State employee is entitled to work in an environment free from sexual harassment and its negative economic, psychological, and physical effects. Allowing sexual harassment to go unchecked in the workplace creates significant costs to the State in both human and financial resources, including the replacement of personnel who leave their jobs, increased use of health benefits due to emotional and physical stress, absenteeism, and decline in work productivity. Sexual harassment is an unlawful employment practice and a violation of the Civil Rights Act of 1964, as amended, as well as New York State Human Rights Law.
- II. **BASIS:** This policy is based upon Governor Mario Cuomo's Executive Order 19 (issued in 1983), which sets forth the New York State Policy Statement forbidding Sexual Harassment in the Workplace, and Equal Employment Opportunity in New York State – Rights and Responsibilities, A Handbook for Employees of New York State Agencies.
- III. **DEFINITION**
 - A. Hostile environment sexual harassment consists of words, signs, jokes, pranks, intimidation, or physical violence which is of a sexual nature, or which is directed at an individual because of that individual's sex. Sexual harassment has also been defined as any unwanted verbal or physical advances, sexually explicit derogatory statements, or sexually discriminatory remarks made by someone in the workplace which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, or which interfere with the recipient's job performance.
 - B. Sexual harassment is known as "quid pro quo" harassment when a person in authority tries to trade job benefits for sexual favors. Only supervisors are deemed to engage in this kind of harassment because co-workers do not have the authority to grant or withhold benefits.
 - C. Sex stereotyping occurs when conduct or personality traits are considered inappropriate simply because they may not conform to general societal norms or other perceptions about how individuals of either sex should act or look. Harassment because a person does not conform to gender stereotypes is sexual harassment. Derogatory comments directed at a person who has undergone sex reassignment surgery can be sexual harassment, just as comments about secondary sex characteristics of any person can be sexual harassment.

- D. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:
1. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
 2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
 3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

IV. RESPONSIBILITY

- A. Employee: Each employee who believes he or she is the victim of sexual harassment may file a complaint to his or her immediate supervisor or anyone in a management-level position within the facility or work unit. Alternatively, the employee has the option to file a complaint directly with the Office of Diversity Management, [Form #2602A](#), "Diversity Management Complaint Form."
- B. Supervisor: Once a supervisor or anyone in management has heard or received a complaint of sexual harassment, that person has an obligation to immediately notify the Superintendent, Regional Director, or Division Head who will report the complaint to the Office of Diversity Management.
- C. The Office of Diversity Management is responsible for:
1. Expeditiously investigating and resolving any complaint of sexual harassment;
 2. Following up on each reported case of sexual harassment to assure that the behavior has been effectively stopped;
 3. Providing information to the complainant regarding other available avenues of administrative or legal redress; and
 4. Providing counsel and advice to the facility Executive Team regarding what actions should be taken to address the allegations prior to a formal investigation.

- V. **PROCEDURE**: Any employee who believes that he or she is being sexually harassed should make a complaint to his or her supervisor or anyone in a management-level position within the facility/work unit. An employee may also file a complaint directly with the Office of Diversity Management by calling (518) 485-5806; by writing to the office at NYS Department of Corrections and Community Supervision, The Harriman State Campus-Building 2, 1220 Washington Avenue, Albany, New York 12226-2050; or by e-mail at DiversityManagement@DOCCS.ny.gov.

- A. Pending an investigation by the Office of Diversity Management, supervisory staff should assess the allegations being reported and take immediate and reasonable action to eliminate the possibility of further alleged incidents of sexual harassment. The assessment should include a review of various Agency directives and policies on sexual harassment, discrimination, and retaliation and the Department's Employees' Manual, specifically Section 2, "Conduct and Activities of Employees." This directive and the following Departmental directives shall be included as part of this review:
- Directive #2601, "Equal Employment Opportunity & Affirmative Action Program"
 - Directive #2602, "Diversity Management Complaints"

- Directive #2608, “Non-Discrimination in Employment Based on Sexual Orientation”

Any violation of the Employees’ Manual will be handled as such, and corrective action will be taken by supervisory staff.

- B. During the pendency of an investigation into allegations of sexual harassment, the Office of Diversity Management should notify the complainant that he or she may file a subsequent complaint for any additional allegations of sexual harassment. Concurrently, the party accused of any subsequent allegations of sexual harassment shall be notified by their supervisor or supervisory personnel to cease and desist.

Confidentiality will be maintained to the extent possible in investigating sexual harassment complaints. Any employee who, in good faith, participates in the investigative procedure may do so without fear of retaliation. Retaliation against any such employee is illegal and constitutes a violation of the Agency’s Sexual Harassment Policy, New York State Human Rights Law, and Title VII of the Civil Rights Act of 1964, as amended.

VI. DISCIPLINE

- A. Sexual harassment is considered a form of employee misconduct. Individuals guilty of such conduct may be subject to appropriate disciplinary action which may result in termination.
- B. Any supervisory or managerial staff who knowingly allows sexual harassment to continue may also be subject to appropriate disciplinary action which may result in termination.