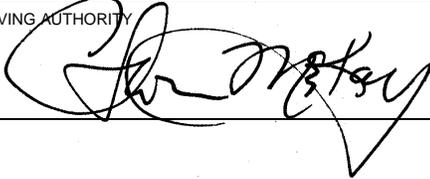


 Corrections and Community Supervision DIRECTIVE	TITLE		NO. 2608
	Non-Discrimination in Employment Based on Sexual Orientation		DATE 6/21/2016
SUPERSEDES DIR #2608 Dtd. 5/21/2014	DISTRIBUTION A	PAGES PAGE 1 OF 2	DATE LAST REVISED
REFERENCES (Include but are not limited to)	APPROVING AUTHORITY 		

- I. **POLICY:** It is the policy of the Department of Corrections and Community Supervision not to discriminate against any applicant or employee on the basis of sexual orientation.
- II. **BASIS:** This policy is based upon the New York State Executive Law, Human Rights Law, Section 296, which “prohibits discrimination based on sexual orientation in any matters pertaining to employment” by any State Agency or Department. Additionally, this policy is in accordance with the mandates of Title VI and VII of the Federal Civil Rights Act of 1964, as amended, and Equal Employment Opportunity in New York State-Rights and Responsibilities, A Handbook for Employees of New York State Agencies.
- III. **DEFINITIONS**
 - A. Sexual Orientation: A private preference of an individual protected by the New York State Executive Law, Section 296, for heterosexuality, homosexuality, bisexuality, or asexuality, whether actual or perceived.
 - B. Gender Identity: Having or being perceived as having gender identity, self image, appearance, behavior, or expression whether or not that gender identity, self image, appearance, behavior, or expression is different from traditionally associated with the sex assigned to that person at birth.
 - C. Discrimination: Any conduct that has the purpose or effect of making sexual orientation the basis for an employment decision; or interferes with an employee’s work performance; or which creates an intimidating, hostile, or offensive work environment.
- IV. **RESPONSIBILITY**

The Office of Diversity Management (ODM) is responsible for:

 - A. Expediently investigating and, if substantiated, resolving any complaint of harassment, discrimination, or retaliation based on sexual orientation;
 - B. Following-up on each substantiated case of sexual orientation harassment, discrimination, or retaliation to assure that the behavior has been effectively stopped; and
 - C. Providing guidance and advice to the complainant regarding other available avenues of administrative or legal redress.
 - D. Supervisory Responsibility: Pending an investigation by ODM, supervisory staff should assess the allegations being reported and take immediate and reasonable action to eliminate the possibility of further alleged incidents of harassment, discrimination, or retaliation based on sexual orientation. The assessment should include a review of various Agency directives and policies on harassment, discrimination, or 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 #2605, "Sexual Harassment in the Workplace"
- Directive #2607, "Reasonable Accommodations for Individuals with Disabilities"

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

- E. During the pendency of an investigation into allegations of harassment, discrimination, or retaliation, ODM should notify the complainant that he or she may file a subsequent complaint for any additional allegations of harassment, discrimination, or retaliation. Concurrently, the party accused of any subsequent allegation of harassment, discrimination, or retaliation shall be notified that any such action must immediately cease and desist.

V. PROCEDURE

- A. Any employee who believes that he or she is being harassed, discriminated against, or retaliated against on the basis of their sexual orientation should submit the complaint to their supervisor or anyone in a management-level position within the facility/work unit. An employee may also complete a written complaint form and file directly with the Office of Diversity Management or call (518) 485-5806, or write to the office at NYS Department of Corrections and Community Supervision, The Harriman State Campus, Building 2, 1220 Washington Avenue, Albany, NY 12226-2050. Once an employee has reported the allegations to a supervisor or anyone in management, that person has an obligation to promptly report the complaint to ODM.
- B. Confidentiality will be maintained, to the extent possible, in investigating sexual orientation 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 Equal Employment Opportunity and Affirmative Action Program.

VI. DISCIPLINE

- A. Harassment, discrimination, or retaliation based on a person's sexual orientation is considered a form of employee misconduct. Individuals guilty of such conduct may be subject to appropriate administrative or disciplinary action.
- B. Supervisory or managerial staff who knowingly allow harassment, discrimination, or retaliation based on sexual orientation may also be subject to appropriate administrative or disciplinary action.