

## 1.1.C.10 Staff Anti-Harassment and Discrimination Policy

### I Policy Index:



**Date Signed:** 01/02/2019  
**Distribution:** Public  
**Replaces Policy:** N/A  
**Supersedes Policy Dated:** 12/09/2017  
**Affected Units:** All Units  
**Effective Date:** 01/03/2019  
**Scheduled Revision Date:** November 2019  
**Revision Number:** 16  
**Office of Primary Responsibility:** DOC Administration

### II Policy:

The Department of Corrections (DOC) is committed to maintaining a workplace free of harassing, discriminatory and offensive behavior based on race, color religion, national origin, sex (including pregnancy), age (40 years or older), genetic information, disability or any other legally protected status or characteristic. Staff is prohibited from engaging in discriminatory harassment. Staff shall refrain from speech, gestures or other conduct that could reasonably be perceived as sexual harassment and shall require the same standard of conduct of others subject to the staff member's direction and authority. Supervisors and managers must make a good faith effort to eliminate and prevent discriminatory harassment from occurring in the their respective workplaces and/or areas.

### III Definitions:

#### Staff Member:

For the purposes of this policy, a staff member is any person employed by the DOC, full or part time, including an individual under contract assigned to the DOC, an employee of another state agency assigned to the DOC, authorized volunteers and student interns.

### IV Procedures:

#### 1. Access to the Bureau of Human Resources (BHR) Anti-Harassment/Discrimination Policy:

- A. The BHR policy on Anti-Harassment/Discrimination may be viewed on the BHR website at: <http://bhr.sd.gov/forms/policies/default.aspx#harassment>.
- B. A copy of the BHR policy is contained within [Attachment 1](#) of this policy.

#### 2. Scheduled Review of the BHR Anti-Harassment/Discrimination Policy:

- A. The BHR Anti-Harassment/Discrimination policy will made available to staff during pre-service and annual in-service training (See DOC policy 1.1.D.1 [Staff Training Requirements](#)).
- B. DOC training staff will review the BHR Anti-Harassment/Discrimination policy with staff during pre-service training.

### 3. Other Harassment:

- A. This policy directive and the BHR Anti-Harassment/Discrimination policy address discriminatory harassment, including sexual harassment. Other forms of harassment involving staff or others not addressed by this policy directive will be responded by the DOC and may result in disciplinary action.
- B. Harassment of staff by offenders is prohibited by DOC policy. Offenders who harass a staff member shall be subject to disciplinary action. Staff are prohibited by this policy and DOC Policy 1.1.C.1 [Staff Code of Ethics](#) from harassing or discriminating against offenders.

## V Related Directives:

BOP [Anti-Harassment/Discrimination Policy](#)

## VI Revision Log:

**August 2005:** New policy.

**January 2006:** **Added** definition for staff member. **Revised** the procedures to incorporate the term staff member.

**December 2006:** Minor style/format changes made to the document.

**December 2007:** **Revised** the instructions on how to locate the BOP Anti-Harassment Policy on the Internet. **Revised** the definition of staff member.

**November 2008:** **Revised** formatting of policy in accordance with DOC policy 1.1.A.2. **Revised** wording and directions in Access to the BOP Anti-Harassment Policy. **Revised** minor wording throughout policy.

**November 2009:** **Deleted** ss (B-D) and added direct hyperlink to BOP Anti-Harassment Policy to ss A of (Access to the BOP Anti-Harassment Policy). **Added** reference to the Receipt and Acknowledgement (DOC Policies) form in ss (C of Scheduled Review of the BOP Anti-Harassment Policy). **Added** hyperlinks.

**November 2010:** **Revised** formatting of Section I.

**January 2012:** **Deleted** "Non-Public" and **Replaced** with "Public".

**December 2012:** **Added** "Discrimination" to policy title. **Deleted** "BOP" and **Replaced** with "BHR" throughout policy. **Added** "and/or when a revised version of this policy is signed by the Secretary of Corrections and becomes effective." to Section 2 C.

**August 2013:** **Added** "and Discrimination" to the title of the policy. **Deleted** "The DOC will follow the Anti-Harassment policy as established by the BHR" and **Replaced** with "The DOC is committed to maintaining a workplace free of harassing, discriminatory and offensive behavior. The DOC will investigate all complaints alleging a staff member has engaged in harassing, discriminatory or offensive behavior" in the "Policy" statement. **Deleted** "and/or when a revised version of this policy is signed by the SOC and becomes effective" and **Deleted** "The training officer will review the BHR Anti-Harassment/Discrimination policy with staff during the annual in-service training" in Section 2 C. **Added** Attachment 1 to the policy.

**November 2013:** **Reviewed** with no changes.

**November 2014:** **Reviewed** with no changes.

**November 2015:** **Reviewed** with no changes.

**November 2016:** **Added** "Staff are prohibited from engaging in discriminatory harassment. Supervisors and managers must make a good faith effort to eliminate and prevent discriminatory harassment from occurring in the their respective workplaces and/or areas" to the policy statement. **Added** Section 3.

**November 2017:** **Reveiwed** with no changes.

**November 2018:** **Reveiwed** with no changes.

*Denny Kaemingk (original signature on file)*

Denny Kaemingk, Secretary of Corrections

*01/02/2019*

Date

## Attachment 1: Anti-Harassment/Discrimination Policy

The State of South Dakota will not tolerate harassment, discrimination or offensive behavior based on race, color, religion, national origin, sex (including pregnancy), age (40 years or older), genetic information, disability or any other legally protected status or characteristic.

Employees must not engage in harassment, discriminatory or offensive behavior. Additionally, because of the State's strong commitment to keeping the workplace free from harassing, discriminatory, and offensive behavior, employees must avoid any conduct that could be viewed as harassing, discriminatory, or offensive even if the conduct does not violate federal or state law.

Harassment includes conduct that creates a hostile work environment or that results in a "tangible employment action," such as hiring, firing, promotion or failure to promote, demotion, work assignments, benefits, or compensation decisions. This prohibition against harassment and discrimination also encompasses sexual harassment. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexually harassing nature, when: (1) submission to the harassment is made either explicitly or implicitly a term or condition of employment; (2) submission to or rejection of the harassment is used as the basis for employment decisions affecting an individual, or (3) the harassment has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Harassment, discriminatory, or offensive behavior may take different forms and may be verbal, nonverbal, or physical in nature. To aid employees in identifying inappropriate conduct, the following examples of harassment, discriminatory or offensive behavior are provided (these examples are not all-inclusive):

- unwelcome physical contact such as kissing, fondling, hugging, or touching;
- demands for sexual favors; sexual innuendoes, suggestive comments, jokes of a sexual nature, sexist put-downs, or sexual remarks about a person's body; sexual propositions, or persistent unwanted courting;
- swearing, offensive gestures, or graphic language made because of a person's race, color, religion, national origin, sex, age, or disability;
- slurs, jokes, or derogatory remarks, email, or other communications relating to race, color, religion, national origin, sex, age, or disability;
- calendars, posters, pictures, drawings, display, cartoons, images, lists, e-mails, or computer activity that reflects disparagingly upon race, color, religion, national origin, sex, age, or disability; or
- refusing to hire someone because you know the applicant has the breast cancer gene.

An employee who has a complaint of harassment, discriminatory, or offensive behavior by anyone, including supervisors, co-workers, or non-employees, should immediately notify his or her supervisor, a higher-level supervisor, the agency's human resource manager, or the EEO officer for the Bureau of Human Resources at 605.773.4918. The person who receives a harassment or discrimination complaint shall immediately report the matter to his or her

supervisor (or a higher-level supervisor if his or her supervisor is allegedly involved in the harassment) and the agency's human resource manager.

The State will investigate all complaints. If the investigation supports charges of harassment, discrimination, a violation of this policy, or inappropriate behavior, appropriate corrective action will take place. The employee engaging in the improper behavior will be subject to discipline, up to and including termination.

The State will protect the confidentiality of harassment/discrimination allegations to the maximum extent possible, and information will only be shared with those individuals who need to know about it. While the State cannot guarantee complete confidentiality because it cannot conduct an effective investigation without revealing certain information to the alleged harasser and potential witnesses, it will keep information as confidential as possible.

The State will not tolerate adverse treatment of employees because they report harassment, oppose discrimination in the workplace, participate in the complaint process, or provide information related to complaints. If an employee feels that he or she has been subjected to retaliation, the employee should immediately report the alleged retaliation to his or her supervisor, a higher-level supervisor, the agency's human resource manager, or the EEO officer for the Bureau of Human Resources.

In addition to reporting alleged harassment or discrimination to the State, an employee may file a charge of discrimination based on race, color, religion, national origin, sex, disability, or protected activity with the South Dakota Division of Human Rights (Human Rights) or may file a charge of discrimination based on race, color, religion, national origin, sex, age, disability, genetic information, or protected activity with the United States Equal Employment Opportunity Commission (EEOC). A charge of discrimination based on race, color, religion, national origin, sex, disability, or protected activity must be filed with Human Rights or with the EEOC within 300 days of the violation. A charge of age discrimination or discrimination based on genetic information must be filed with the EEOC within 180 days of the violation. These deadlines run from the last date of unlawful conduct and not from the date of the complaint to the State if resolved. Please contact the EEO officer for the Bureau of Human Resources at 605.773.4918 if you have any questions about harassment, unlawful discrimination, or this policy.