

SOUTH DAKOTA  DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE		POLICY NUMBER 100-10	PAGE NUMBER 1 OF 4
		DISTRIBUTION:	Public
		SUBJECT:	Staff Anti-Harassment and Discrimination Policy
RELATED STANDARDS:	<b>ACA 5-ACI-1C-09</b>	EFFECTIVE DATE:	September 01, 2024
		SUPERSESSION:	09/15/2023
DESCRIPTION: General Administration	REVIEW MONTH: August	 <b>KELLIE WASKO</b> <b>SECRETARY OF CORRECTIONS</b>	

## I. POLICY

It is the policy of the South Dakota Department of Corrections (DOC) to be committed to maintaining a workplace free of harassing, discriminatory, and offensive behavior. It is the policy of the DOC to treat all employees with dignity and respect, and to provide a workplace that is free from discrimination based on race, color, religion, national origin, sex, gender (including pregnancy, gender identity, gender expression, gender change, or transgender status), age (40 or older), genetic information, disability, parental status, political affiliation, membership in an employee organization, marital status, reprisal, or other non-merit factors. The DOC is committed to fair treatment and equal opportunity for all staff members.

## II. PURPOSE

The purpose of the Staff Anti-Harassment and Discrimination policy is to:

1. Provide a **written policy, procedure, and practice prohibiting sexual harassment** [ACA 5-ACI-1C-09].
2. Provide employees with a process to follow whereby they can file a complaint of unlawful discrimination or harassment.

## III. DEFINITIONS

None.

## IV. PROCEDURES

### 1. Conduct and Retaliation:

- A. Staff have the right to experience a workplace free from discrimination, harassment, or offensive behavior.
- B. DOC staff members are expected to conduct themselves in a manner consistent with this policy, and to maintain a work environment free from discrimination. All staff members are responsible for treating fellow staff, offenders, and the public with dignity and respect. Staff shall not practice discriminatory, harassing, or offensive behavior nor condone it in others.
  1. In regard to this, supervisors are responsible for ensuring staff they supervise comply with this policy and for clearly identifying behavior that is unlawful, or inappropriate in the workplace.
- C. Staff found to have engaged in harassing, discriminatory, or offensive behavior are subject to disciplinary action.

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- D. Staff who believe they have been subjected to discrimination, harassment, or offensive behavior through the conduct of another staff member must contact their supervisor or Bureau of Human Resources and Administration (BHRA) specialist to report the alleged conduct or act. Offenders may utilize the offender grievance process or contact supervisory staff. Members of the public may file a complaint with the secretary of corrections (SOC), warden, or associate warden of the institution.
- E. The DOC shall not retaliate against another who has filed a complaint alleging discrimination or harassment, or who has participated in an investigation or lawsuit based on charges of discrimination or harassment.
- F. Staff members are prohibited by DOC policy from harassing or discriminating against offenders.

## **2. The Bureau of Human Resources and Administration (BHRA) Anti-Harassment/Discrimination Policy:**

- A. The BHRA policy on Anti-Harassment/Discrimination applies to all DOC staff.

## **3. Scheduled Review of the BHRA Anti-Harassment/Discrimination Policy:**

- A. The BHRA Anti-Harassment/Discrimination policy and this policy will be made available to staff during basic and annual in-service training and through electronic dissemination upon annual review and approval by the SOC.
- B. DOC training staff will review the BHRA Anti-Harassment/Discrimination policy with staff during basic training and answer any questions presented.
- C. All staff have an affirmative responsibility to seek out their supervisor if they have questions regarding this policy or any related content.

## **4. Bureau of Human Resources and Administration Anti-Harassment/Discrimination Policy (from the Employee Handbook):**

- A. The State of South Dakota will not tolerate harassment, discrimination or offensive behavior based on race, color, religion, national origin, sex, pregnancy, age (40 years or older), genetic information, disability, or any other legally protected status or characteristic.
- B. 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.
- C. Harassment includes conduct that creates a hostile work environment or results in a "tangible employment action," such as hiring, firing, promotion or failure to promote, demotion, work assignments, benefits, or compensation decisions.
- D. 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.

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- E. 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 or discriminatory or offensive behavior are provided (these examples are not all-inclusive):
1. Unwelcome physical contact such as kissing, fondling, hugging, or touching.
  2. Demands for sexual favors, sexual innuendoes, suggestive comments, jokes of a sexual nature.
  3. Sexist put-downs, or sexual remarks about a person's body, sexual propositions, or persistent unwanted courting.
  4. Swearing, offensive gestures, or graphic language made because of a person's race, color, religion, national origin, sex, age, or disability.
  5. Slurs, jokes, derogatory remarks, email, or other communications relating to race, color, religion, national origin, sex, age, or disability.
  6. 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
  7. Refusing to hire someone because you know the applicant has the breast cancer gene.
- F. 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 equal employment opportunity (EEO) officer for the BHRA at (605) 773-4918.
- G. 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/her supervisor is allegedly involved in the harassment) and the agency's human resource manager.
- H. 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.
- I. The State will protect the privacy of harassment/discrimination allegations to the maximum extent possible, and information will only be shared with those individuals who need to know or if compelled by legal means. The State cannot guarantee complete privacy because it cannot conduct an effective investigation without revealing certain information to the alleged harasser and potential witnesses. However, the State will keep information as private as possible.
- J. 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).
- K. 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 three hundred (300) days of the violation.
- L. A charge of age discrimination or discrimination based on genetic information must be filed with the EEOC within one hundred eighty (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 and Administration at (605) 773-3148, if you have any questions about harassment, unlawful discrimination, or this policy.

## V. RESPONSIBILITY

The deputy secretary of corrections will review this policy annually and update as necessary.

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## **VI. AUTHORITY**

None.

## **VII. HISTORY**

September 2024

August 2023

May 2021

December 2019

November 2018

November 2017

November 2016

November 2015

November 2014

November 2013

August 2013

December 2012

## **ATTACHMENTS**

None.