

Conservation Administrative Manual			
Subject:	Sexual Harassment Prevention Policy		
Authoring Unit:	Equal Employment Opportunity	Section:	51000-51030
Date:	June 19, 2019		

POLICY STATEMENT

51000

It is the policy of the Department of Conservation (DOC) to provide a work environment where all individuals are treated with respect and dignity, free from discrimination, including but not limited to sexual harassment. All employees must conduct themselves with professionalism and courtesy toward others, including but not limited to members of the public, state employees and officers, contractors, vendors, and all those with whom they interact on the job.

APPLICABILITY

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This policy applies to all DOC employees regardless of their employment status. This policy also applies to non-employees such as applicants for employment, volunteers, contractors, and members of the general public that participate in DOC's programs and activities. This policy applies to any location that can be reasonably regarded as an extension of the workplace, such as on off-site social or business function or a non-DOC facility where DOC conducts business.

PURPOSE

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The purpose of this policy is to prevent all forms of sexual harassment in the workplace.

AUTHORITY

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This policy is pursuant to Title VII of the Civil Rights Act of 1964, (42 US Code Chapter 21), California Fair Employment and Housing Act (FEHA), and Government Code section 12900, et seq.

DEFINITIONS

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Sexual harassment, for the purpose of this policy, is defined as unwelcome and unwanted sexual advances, requests for sexual favors, and other visual, verbal, physical, or discourteous conduct (defined below) of a sexual nature that create an intimidating, hostile, or offensive work environment. Individuals of any gender can be the target of sexual harassment. Sexual harassment may involve harassment of a person of the same gender as the harasser, regardless of either person's sexual orientation, gender identity, or gender expression.

Discourteous Conduct of a sexual nature is conduct, in words or actions, of a sexual nature toward or witnessed by another DOC employee or other individual that:

(a) a reasonable person would find offensive; or

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(b) is unwelcome to the person whom such conduct is directed and that person has communicated, by words or actions, to the other person that the conduct is unwelcome.

There are two types of sexual harassment: Quid Pro Quo and Hostile Work Environment, as defined below.

Quid Pro Quo: (Latin for “this for that”) is a type of sexual harassment that occurs when a manager or supervisor:

- Demands a subordinate to submit to sexual advances as an explicit, implied term, or condition of employment decisions.
- Makes requests for sexual favors or other verbal or physical conduct of a sexual nature that is an explicit or implied term or condition of employment decisions.

Hostile Work Environment:

- Is a form of sexual harassment that occurs when unwelcome comments or conduct based on sex unreasonably interferes with an individual’s work performance or creates an intimidating, hostile, or offensive work environment.

Sexual harassment can occur in a variety of circumstances, including but not limited to:

- Unwelcome sexual advances, flirtation, teasing, sexually suggestive or obscene letters, notes, invitations, e-mails, voicemails or gifts.
- Posting, sending, downloading, distributing, or viewing derogatory, demeaning or sexually suggestive/explicit materials, photographs, posters, cartoons, calendars, graffiti or drawings in any medium including sending by electronic mail or by the use of the Internet.
- Ogling, leering, staring, or making sexual gestures.
- Making derogatory comments, jokes, and statements that are sexual in nature including innuendo’s, slurs, epithets, sexually explicit or graphic comments or discussion about an individual’s body or physical appearance, and noises such as exaggerated kissing or “cat” calls or making sexual advances such as repeated requests for dates, sexual favors, or sexual pressure.

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- Inappropriate conduct or derogatory comments consistently targeted at one gender, even if the content is not sexual.
- Unwelcome touching of any form.
- Impeding or blocking another's movements, or other interference with work; touching, pinching, patting, grabbing, or brushing up against another's body.
- Offering job benefits in exchange for sexual favors or as a means to coerce a sexual relationship, such as favors, employment benefits, promotions, favorable performance evaluations, favorable assigned duties, recommendations, etc.
- Any suggestion that submission to or rejection of sexual propositions will be a factor in employment decisions, evaluations, or participation in DOC's programs and activities.
- Expressing or implying threats of reprisal following a refusal to submit to a sexual request or advance, such as implying or withholding support for hiring promotion, changing assignment, threatening a poor performance report, or threatening failure on probation.
- Any sexual misconduct which has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating or hostile work environment.
- Stalking behavior that is directed at a specific person that involves repeated visual or physical proximity, nonconsensual communication, or verbal, written, or implied threats, or a combination thereof, that would cause a reasonable person fear. Stalking may include following an employee without legitimate business need, obtaining, or attempting to obtain private information about another employee, and/or showing up at someone's residence without an invitation. Stalking behaviors also may include persistent patterns of leaving or sending a person unwanted items or presents.

Actions like those described above are prohibited by this policy, even when they do not unreasonably interfere with an individual's work performance and do not create a hostile or intimidating work environment.

A. Provisions

The Equal Employment Office, managers, and supervisors responsible for implementing this policy will maintain the confidentiality and privacy of individuals

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reporting or accused of sexual harassment to the extent reasonably possible. There may be situations where confidentiality cannot be maintained such as when DOC is required by law to disclose information. In addition, DOC cannot guarantee confidentiality when it conflicts with DOC's obligation to investigate and take corrective action. DOC expects that any individual who participates in any part of the procedures under this policy will not reveal any information they learn during the course of the investigation or administrative inquiry.

ROLES AND RESPONSIBILITIES

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A. Employees

DOC must be made aware of sexual harassment concerns so that it may take appropriate corrective action. Consequently, any individual working or participating in the services or programs of DOC who believes he/she has been sexually harassed or has witnessed what he/she believes to be sexual harassment has an obligation to report the potential violation.

If the alleged harasser is the employee's manager/supervisor and the employee does not feel comfortable reporting the sexual harassment to that individual, employees can report the behavior to any supervisor or directly to the EEO Officer.

B. Managers and Supervisors

DOC expects managers and supervisors to promote and ensure a work environment free of sexual harassment by:

- Being fully aware and informed of the contents and expectations of this policy.
- Making sure individuals under their purview are aware of the contents and expectations of this policy.
- Ensuring individuals, they manage or supervise are not subject to sexual harassment.
- Taking timely and effective action to stop sexual harassment when they become aware of it.
- Consulting with the EEO Officer immediately about minor or major issues regarding sexual harassment.

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Managers and supervisors are expected to use reasonable care to prevent and promptly correct/report any discovered harassing behavior. When responding to a sexual harassment allegation, managers and supervisors must objectively review the complaint, regard it seriously, document the incident, and notify the EEO Officer. Managers and supervisors may be subject to corrective action or formal discipline for failing to carry out their duties in enforcing this policy.

C. Protection Against Retaliation

Retaliation and/or reprisals against an individual because of that individual's good-faith complaint, report, or participation in an investigation under this policy is against the law and will not be tolerated.

D. Options and Remedies

An individual who has witnessed, been subjected to, or who has knowledge of any sexual harassment has several options to address it. The steps that follow are not required to be completed in any specific order. However, individuals who engage early in an informal process are often effective in correcting the alleged sexual harassment. Individuals have the following specific options:

- Discuss at any time your issues and concerns regarding sexual harassment with the EEO Officer.
- Submit a verbal or file a written complaint to a supervisor.
- File a formal complaint with the EEO Office. A Discrimination Complaint form can be obtained from DOC's Intranet Website or by calling the EEO Office.
- File a sexual harassment complaint with the Equal Employment Opportunity Commission (<http://www.eeoc.gov/employees>) or the California Department of Fair Employment and Housing (<http://www.dfeh.ca.gov>). Individuals who wish to pursue filing with these agencies should contact them directly to obtain further information about their processes and time limits.

E. MANDATED TRAINING

California law (Government Code Section 12950.1) requires DOC to provide two hours of sexual harassment prevention training and prevention of

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harassment, discrimination, and retaliation to all employees at least every two years and/or within six months of hiring or promotion into a supervisory position. DOC is committed to providing interactive training that complies with legal requirements and practical guidance to maintaining a culture of mutual respect in the workplace.

Additionally, it is DOC's policy that all employees complete the online training, Preventing Workplace Harassment, every two years.

VIOLATIONS

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All employees must read this policy and acknowledge their responsibility to comply with and adhere to it. Employees who violate this policy may be subject to disciplinary action up to and including dismissal, and civil and/or criminal prosecution. DOC will review all alleged violations of this policy and take appropriate action.