

Conservation Administrative Manual			
Subject:	Discrimination, Harassment, and Retaliation Prevention Policy		
Authoring Unit:	Equal Employment Opportunity	Section:	50000-50045
Date:	June 19, 2019		

POLICY STATEMENT

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It is the Department of Conservation (DOC) policy to provide and maintain a work environment that is professional, courteous, and free from discrimination, harassment, and retaliation and to provide equal employment opportunities to all employees and applicants based on qualifications, merit, and efficiency. It is the policy of DOC that each manager and supervisor is responsible and accountable for implementing this policy within their area of responsibility. It is also the policy of DOC that employees and members of the public should be treated in a professional manner with respect and courtesy.

APPLICABILITY

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All DOC employees, regardless of employment status, are subject to this policy, as well as non-employees such as volunteers, student interns, or members of the general public or regulated community who participate in DOC's programs and activities. This policy applies in any location that can be reasonably regarded as an extension of the workplace, such as any off-site social or business function, or any other non-DOC facility where DOC conducts business.

PURPOSE

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This policy is to maintain an effective Equal Employment Opportunity (EEO) program and prevent and address discriminatory employment practices based on ancestry, age, color, disability (physical or mental), genetic information, sex/gender, sexual orientation, gender identity, gender expression, marital status, medical condition, military or veteran status, national origin, race, religion, pregnancy, childbirth, breastfeeding, and political affiliation. This policy provides a process by which allegations and complaints of discrimination are to be reported and addressed. This policy assures individuals that discrimination complaints will receive full and timely consideration and appropriate remedy without fear of harassment or retaliation.

PROVISIONS

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DOC operates in accordance with State and Federal laws that prohibit unlawful discrimination, harassment, or retaliation in employment or provisions of service based on an individual's protected status that include:

- Ancestry
- Age (40 and above)
- Color
- Disability (physical and/or mental)
- Genetic Information
- Sex/Gender
- Sexual Orientation

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- Gender Identity, Gender Expression
- Marital Status
- Medical Condition
- Military or Veteran Status
- National Origin
- Race
- Religion
- Pregnancy, Childbirth, Breastfeeding
- Political Affiliation

DOC is fully committed to protecting employee rights under the Family and Medical Leave Act (FMLA) and the California Family Right Act (CFRA).

DEFINITIONS & EXAMPLES

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- Discrimination is defined as the unequal treatment of an employee or applicant in any aspect of employment based on their protected status. Discrimination may include, but is not limited to, hostile or demanding behavior toward an individual because of their protected status.
- Harassment is defined as disrespectful, discourteous, or unprofessional conduct, based on the protected categories listed above. Harassment can be verbal, visual, or physical, refer to DOC's Sexual Harassment Prevention Policy for additional information regarding this aspect.
- Retaliation is defined as an adverse employment action taken against an employee or applicant for employment because that individual engaged in activity protected under this policy. Protected activities may include, but are not limited to, participating in an EEO process, reporting or assisting in reporting suspected violations of this policy, and/or cooperating in investigations or proceedings arising out of a violation of this policy.

Discrimination, harassment, or retaliation can take many forms. Examples include, but are not limited to, the following based on an individual's protected group status:

- Verbal conduct constituting derogatory comments, slurs, explicit jokes and comments, unwanted advances, epithets, explicit or graphic comments or discussion about an individual's body or physical appearance, and noises such as exaggerated kissing or "cat" whistles.
- Offensive or demeaning written communication such as letters, notes, and e-mails that are sent or forwarded.

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- Posting, sending, downloading, or viewing derogatory, demeaning or explicit materials, photographs, posters, cartoons, calendars, graffiti, or drawings in any medium including e-mail and the Internet.
- Retaliatory conduct such as reduction in pay, suspension, demotion, or denial of a merit salary increase, in response to an employee's reporting, opposing, refusing to submit to, or participating in an investigation of discrimination or harassment.
- Treating an employee differently such as not talking to an employee when otherwise required by job duties, or excluding the employee from job-related activities because of their protected status, or because they engaged in a protected activity under this policy.

ROLES AND RESPONSIBILITIES

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A. Employee Responsibility

DOC must be made aware of the discrimination, harassment, or retaliation so appropriate corrective action can be taken. Consequently, any individual working or participating in the services or programs of DOC who believes they have been subjected to, or has observed what they believe to be discrimination, harassment, or retaliation, has an obligation to report the potential violation to their supervisor or to the EEO Office.

B. Manager and Supervisor Responsibilities

Managers and supervisors shall ensure the work environment is free of discrimination, harassment, or retaliation by:

- Being fully aware and cognizant of the contents, substance, and expectations of this policy.
- Ensuring that individuals they manage or supervise are aware of the contents, substance, and expectations of this policy.
- Ensuring that individuals they manage or supervise are not subject to discrimination, harassment, or retaliation.
- Taking immediate and appropriate action to stop discrimination, harassment, and retaliation when they become aware of it.
- Consulting with the EEO Office immediately about any issues regarding discrimination, harassment, or retaliation.

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Supervisors and managers who learn of any potential violation of this policy are required to immediately report the matter to the EEO Officer, and must follow that officer's instructions as to how best to proceed.

C. Employer Responsibility

DOC will promptly look into the facts and circumstances of any alleged violation, as appropriate. Even in the absence of a formal complaint, DOC may initiate an investigation when it has reason to believe that one or more DOC policies may have been violated. Moreover, even where a complainant conveys a request to withdraw their initial formal complaint, DOC may continue the investigation to ensure that the workplace is free from discrimination, harassment, and retaliation. Anonymous complaints will also be investigated depending on the information and details provided. All investigations will be fair, impartial, timely, and completed by qualified personnel.

D. What can you do about Discrimination, Harassment, or Retaliation?

An individual has various choices to address discrimination, harassment, or retaliation. Individuals who engage early in an informal process are often more effective in correcting alleged discrimination, harassment, or retaliation. Individuals have the following specific options:

- Discuss at any time issues and concerns regarding discrimination, harassment, and retaliation with the department's EEO Officer. In lieu of filing with the EEO Officer, if the complaint involves the EEO Officer, the employee may file a complaint with the department's Chief Counsel or the Assistant Director, Division of Administration.
- File a verbal or written complaint with their supervisor. The supervisor, in conjunction with the EEO Office, may conduct an inquiry and take appropriate corrective action to end the discrimination, harassment, or retaliation. Employees who are uncomfortable filing a complaint with the supervisor can use any of the other processes listed in this policy.
- File a formal complaint with the EEO Office (916-324-9378). DOC's Discrimination Complaint form can be obtained from DOC's Intranet Website or by calling the EEO Office.
- File a 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>). A complaint can also be filed with the State Personnel Board Appeal Division (www.spb.ca.gov). Individuals who wish to pursue filing with these agencies should contact them directly to obtain further information about their processes and time lines.

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CONFIDENTIALITY

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To the extent possible, DOC will endeavor to keep the reporting of the applicant or employee's concerns confidential; however, complete confidentiality cannot be guaranteed when it interferes with DOC's ability to fulfill its obligations under this policy. All employees are required to cooperate fully with any investigation. This includes, but is not limited to, maintaining an appropriate level of discretion regarding the investigation and disclosing any and all information that may be pertinent to the investigation.

Persons charged with discriminatory, harassing, or retaliatory acts will be informed of the charge and allowed to respond once an investigation is initiated. Information gathered during the investigation regarding the complainant and charged offender(s) will be kept confidential to the extent required by law. Upon completion of the investigation, if misconduct is substantiated, DOC will take appropriate corrective and preventive action. Involved participants will be informed that State and Federal EEO regulatory agencies may require a report of discrimination complaints filed with DOC. The identity of the complainant and involved person(s) may be released to those agencies.

VIOLATIONS

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All employees will be held accountable for their conduct. Employees who violate this policy may be subject to disciplinary action, up to and including dismissal.

PROTECTION AGAINST RETALIATION

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Retaliation and/or reprisals against an individual who complains, reports, or provides information in an investigation about a violation under this policy are not only against the law, but doing so violates this policy and will not be tolerated.

GOVERNING RESOURCES

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All DOC EEO resources, including, but not limited to, the information contained in electronic files and the electronic files themselves, are subject to the following laws, regulations, and policies, either as listed below or as superseded and replaced:

- U.S. Equal Employment Opportunity Commission (EEOC)
- Title VII of the Civil Rights Act of 1964
- The Pregnancy Discrimination Act
- The Age Discrimination in Employment Act of 1967
- Title I of the Americans with Disabilities Act of 1990
- The Rehabilitation Act of 1973, Sections 501 and 505
- The State of California Government Code section 19795
- The Fair Employment and Housing Act (FEHA), Government Code sections 12900-12996

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- FEHA Regulations
- Whistleblower Protection Act, Government Code section 8547