

**STATE OF LOUISIANA  
DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONS  
CORRECTIONS SERVICES**

**Department Regulation  
No. A-02-010**



**1 November 2018**

**ADMINISTRATIVE  
Human Resources  
Sexual Harassment and Unlawful Discrimination Based Upon Sex**

1. **AUTHORITY:** Secretary of the Department of Public Safety and Corrections as contained in Chapter 9 of Title 36; Title VII of the Civil Rights Act of 1965; La. R.S. 42:341 – 345.
2. **REFERENCES:** Department Regulation Nos. A-02-001 "Employee Manual," A-02-028 "Training and Staff Development," and C-01-022 "Sexual Assault and Sexual Misconduct;" ACA Standards 2-CO-1C-11 (Administration for Central Agencies) and 4-4056 and 4-4082 (Adult Correctional Institutions).
3. **PURPOSE:** To state the Secretary's policy regarding sexual harassment and unlawful discrimination on the basis of sex.
4. **APPLICABILITY:** Deputy Secretary, Undersecretary, Chief of Operations, Director of Human Resources, Regional Wardens, Wardens, Director of Probation and Parole, Director of Prison Enterprises and all employees of Corrections Services. Each Unit Head shall be responsible for ensuring that appropriate unit written policy and procedures are in place to comply with the provisions of this regulation.
5. **POLICY:** It is the Secretary's policy to maintain a workplace free from sexual harassment and unlawful discrimination on the basis of sex from any source, to discourage such conduct and to remedy any violations.

The law and Department Regulations prohibit harassment or unlawful discrimination on the basis of sex or any other protected characteristic, with regard to terms, conditions and privileges of employment. The prohibitions against harassment, discrimination and retaliation are intended to complement and further these policies.

**6. DEFINITION:**

- A. **Sexual Harassment:** Pursuant to the Equal Employment Opportunity Commission Guidelines, unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when, for example:
  - 1) Submission to such conduct is made either explicitly or implicitly as a term or condition of an individual's employment;
  - 2) Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or

- 3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

**7. PROCEDURES:**

**A. Sexual Harassment**

- 1) Sexual harassment constitutes discrimination and is illegal under federal and state laws. Sexual harassment, either explicit or implicit, is strictly prohibited in the workplace and in any work-related setting outside the workplace, such as during business trips, business meetings and business-related social events.
- 2) Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include, but are not limited to:
  - a. Sexual jokes and innuendo;
  - b. Verbal abuse of a sexual nature;
  - c. Commentary about an individual's body, derogatory or stereotypical remarks/comments concerning sexual prowess or sexual deficiencies;
  - d. Leering, catcalls or touching;
  - e. Threatening, intimidating, insulting or obscene comments or gestures;
  - f. Display or circulation in the workplace of sexually suggestive objects, pictures or notes including but not limited to memoranda, letters or e-mail; and
  - g. Any other physical, verbal or visual conduct of a sexual nature.

**B. Retaliation is Prohibited**

The Department prohibits retaliation against any individual who reports any type of harassment or discrimination and/or participates in an investigation of such reports. Retaliation against an individual for reporting harassment or for participating in an investigation of a claim of harassment is a serious violation of this regulation and, like harassment itself, will be subject to disciplinary action.

**C. Posting, Training and Distribution**

- 1) This regulation shall be made readily available to serve as a source of instruction regarding the procedures to follow to file harassment or discrimination complaints.
- 2) Each Unit Head shall ensure that all new employees receive training relative to the contents of this regulation and aspects of sexual harassment during either orientation, in-service training or other designated time. The Sexual

Harassment Training Acknowledgement (Form A-02-010-A) and Receipt of Department Regulation No. A-02-010 "Sexual Harassment and Unlawful Discrimination Based Upon Sex" (Form A-02-010-C) shall be completed and filed in the employee's personnel file.

- 3) Newly appointed supervisors, from Lieutenant through Warden or comparable Headquarters, Probation and Parole, Prison Enterprises and all Human Resources staff shall attend mandatory Harassment Prevention Training within 90 days of accepting the position. See Department Regulation No. A-02-001 "Employee Manual" for additional information.
- 4) Each Unit Head shall ensure that all current employees receive training relative to the contents of this regulation through annual in-service training.

NOTE: See Department Regulation No. A-02-028 "Training and Staff Development" for more information on employee training.

**D. Reporting an Incident of Sexual Harassment or Retaliation**

- 1) The Department requires the reporting of all incidents of sexual harassment or retaliation, regardless of the offending individual's identity or position.
- 2) Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment. Therefore, the Department requires the prompt reporting of complaints or concerns so that rapid and constructive action can be taken.
- 3) The availability of the complaint procedure does not preclude individuals who believe they are being subjected to sexually harassing conduct from promptly advising the offending individual that the behavior is unwelcome and requesting that it be discontinued.
- 4) Under no circumstances shall this regulation hinder an employee from immediately filing a complaint with the EEOC prior to the complaint's resolution.
- 5) Persons who believe they have experienced or witnessed conduct that constitutes sexual harassment or retaliation as outlined in this regulation or who have concerns about such matters shall submit their complaints as follows:
  - a. The employee making the complaint shall complete an Alleged Sexual Harassment Report (Form A-02-010-B) and submit to the Unit Head or designee.
  - b. Should the employee make a complaint verbally, the employee's supervisor shall instruct the employee to immediately complete the

Alleged Sexual Harassment Report (Form A-02-010-B). The supervisor shall accept the report and file the complaint with the Unit Head or designee.

- c. If the employee refuses to complete the Alleged Sexual Harassment Report (Form A-02-010-B), the supervisor shall complete the report based upon the employee's statement and submit to the Unit Head or designee.
- d. If the complaint concerns the Unit Head, his Deputy, or an Assistant Warden or if the complainant fears a breach in confidentiality, the employee may submit the Alleged Sexual Harassment Report (Form A-02-010-B) directly to the Chief of Operations.
- e. The Unit Head or designee shall submit all Alleged Sexual Harassment Reports (Form A-02-010-B) received to the Director of Human Resources and the Chief of Operations within 72 hours of receiving the Alleged Sexual Harassment Report (Form A-02-010-B).
  - i. The Director of Human Resources shall ensure all complaints are tracked and reported as outlined below in Section 8.B. of this regulation.
  - ii. The Chief of Operations shall ensure all complaints are investigated as outlined below in Section 7.E. of this regulation.

**E. Investigation of Sexual Harassment or Retaliation**

- 1) In most cases, any investigation and/or corrective action shall be commenced at the unit level; however, for complaints that concern the Unit Head, his Deputy, or an Assistant Warden, any investigation shall be commenced by the Chief of Operations. This does not preclude the Unit Head from requesting investigative assistance from the Chief of Operations on an as-needed basis.
- 2) Any reported allegations of harassment or retaliation shall be investigated immediately and thoroughly in order to make a reasonable effort to determine the pertinent facts of the complaint. All investigations shall be completed as quickly as possible.
- 3) An investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge.
- 4) An informal conference, which may include the person filing the complaint and the alleged offender, may be utilized by the Unit Head or designee (or Chief of Operations) in an effort to resolve the complaint, depending on the nature and severity of the complaint. Employees participating in the conference may

choose to be accompanied by a co-worker or other representative. If the conference resolves the complaint, the investigation shall be discontinued.

- 5) If warranted, the employee accused of harassment or retaliation may be placed on suspension pending investigation status to ensure an effective investigation and/or a cessation of the threat of harassment or retaliation.
- 6) The Unit Head or designee shall notify the Chief of Operations of the outcome of each investigation and shall forward him a copy of the finalized investigative report within 72 hours of the conclusion of the investigation.
- 7) The Unit Head or Designee shall also notify the Director of Human Resources of the outcome of each investigation (for reporting purposes specified in 8(c)).
- 8) Confidentiality shall be maintained throughout the investigatory process to the extent possible, consistent with adequate investigation techniques and appropriate corrective action.

**F. Sanctions**

- 1) If a complaint has merit, the Unit Head or Chief of Operations (if the complaint concerns the Unit Head, his Deputy or an Assistant Warden) shall take appropriate measures that are reasonably calculated to end the harassment (based on the severity of the conduct.) This may include appropriate non-disciplinary and/or disciplinary action.
- 2) Sanctions include, but are not limited to, one or any combination of the following:
  - a. Non-Disciplinary Penalties:
    - i. Apology;
    - ii. Sensitivity training or other appropriate mandated training;
    - iii. Performance evaluation actions;
    - iv. Reassignment to another shift/unit;
    - v. Unit Head's Letter of Improvement
  - b. Disciplinary Penalties:
    - i. Reduction in pay;
    - ii. Demotion in rank;
    - iii. Suspension without pay;
    - iv. Dismissal.
- 3) Potential relief for the complainant may include:

- a. Accommodation to the grieved employee such as time off for counseling, etc.;
  - b. Reassignment to another shift/unit;
  - c. Other relief warranted due to the situation and agreed to by the Unit Head and complainant.
- 4) If the complaint has merit, the Unit Head or Chief of Operations (if the complaint concerns the Unit Head, his Deputy or an Assistant Warden) must respond with appropriate remedial action reasonably likely under the circumstances to prevent the conduct from reoccurring. This should be the basis for the disciplinary action imposed. Corrective action shall be taken promptly.

**G. Conclusion of the Investigation**

- 1) Upon conclusion of the investigation, the Unit Head or designee (or Chief of Operations) shall meet with and notify the complainant that the investigation has been concluded and advise the complainant to immediately report any further incident of sexual harassment or retaliation pursuant to this regulation.
- 2) A follow up meeting shall occur between the Unit Head or designee (or Chief of Operations) and the complainant to ensure that no further incidents of sexual harassment or retaliation have occurred. This follow up should occur no later than three months after the conclusion of the investigation. The follow up with the complainant shall be documented in the unit's investigation file and shall include any concerns, proposed or additional steps that may be necessary, and any action plans.

**H. Appeal Rights**

If an employee making a complaint does not agree with its resolution, the employee may file a complaint with the Equal Employment Opportunity Commission (EEOC).

**8. MONITORING REQUIREMENTS/REPORTS:**

- A. The Unit Head or designee (or Chief of Operations) shall ensure all documentation surrounding an alleged incident of sexual harassment or retaliation be maintained in the unit's investigation file.
- B. The Unit Head or designee (or Chief of Operations) shall ensure all finalized investigative reports as outlined in section 7.E. of this regulation are maintained for three years or for the duration of employment of any of the individuals involved, whichever is longer.
- C. Annual Reporting to the Division of Administration

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- 1) The Director of Human Resources shall ensure an annual report is submitted to the Division of Administration by February 1 for the previous calendar year to include the following:
  - a. The number and percentage of the employees completing the annual training requirements as outlined above in Section 7.C. of this regulation
  - b. The number of sexual harassment complaints received;
  - c. The number of sexual harassment complaints that were confirmed;
  - d. The number of sexual harassment complaints that resulted in a sanction as outlined above in Section 7.F. of this regulation; and
  - e. The amount of time it took to resolve each complaints.

Note\* The Director of Human Resources shall have access to applicable training records and/or database(s) mentioned above in C1(a) in order to comply with the reporting requirements.

- 2) This report shall be submitted to the Division of Administration on an annual basis beginning February 1, 2020.

James M. Le Blanc  
Secretary

This regulation supersedes Department Regulation No. A-02-010 dated 22 January 2010.

Forms:      A-02-010-A Sexual Harassment Training Acknowledgement  
              A-02-010-B Alleged Sexual Harassment Report  
              A-02-010-C Receipt of Department Regulation No. A-02-010 "Sexual Harassment and Unlawful Discrimination Based Upon Sex"