



**State of New Jersey
Department of Corrections
Policy Statement**

**Policy Number
ADM.005.001**

Page 1 of 8

Policy Title:

Prohibiting Discrimination In The Workplace

Approved and Issued By Marcus O. Hicks, Esq., Commissioner on November 17, 2020.

Note: This document is provided electronically for informational purposes only. Should you require an official, signed copy for any reason, contact the APPM Unit.

Effective Date: December 16, 1999	Revised: September 16, 2020	Enabling Authority: NJSA 30:1B-6
		Related Authority: NJAC 4A:7-3.1 NJAC 4A:7-3.2, NJSA 11A:7-3
Promulgating Office : Equal Employment Division Office of the Commissioner		Professional Association Standard cited: N.A.
Applicability: This policy applies to all employees and applicants for employment in New Jersey Department of Corrections.		
Supersedes: <i>ADM.005.001 Prohibiting Discrimination, Harassment or Hostile Environments in the Workplace</i> revision dated December 5, 2006		
Instructions: All affected Organizational Units within the New Jersey Department of Corrections shall be responsible for developing and implementing appropriate written Internal Management Procedures consistent with this Policy, as necessary.		
Review Schedule: This document is scheduled for annual review on or about November 30, 2021.		

I. PURPOSE

To establish and set forth policy for the New Jersey Department of Corrections (“NJDOC”) prohibiting discrimination in the workplace.

II. POLICY

A. Protected Categories

The State of New Jersey is committed to providing every State employee and prospective employee with a work environment free from discrimination or harassment. Under this policy, forms of employment discrimination or harassment based upon the following protected categories are prohibited and will not be tolerated: race, creed, color, national origin, nationality, ancestry, age, sex/gender, pregnancy, marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, disability.

Policy Title: Prohibiting Discrimination In The Workplace	Effective Date January 7, 2002 Revised September 16, 2020	Policy Number ADM.005.001 Page 2 of 8
--	--	--

To achieve the goal of maintaining a work environment free from discrimination and harassment, the State of New Jersey strictly prohibits the conduct that is described in this policy. This is a zero tolerance policy. This means that the State and its agencies reserve the right to take either disciplinary action, if appropriate, or other corrective action, to address any unacceptable conduct that violates this policy, regardless of whether the conduct satisfies the legal definition of discrimination or harassment.

B. Applicability

Prohibited discrimination/harassment undermines the integrity of the employment relationship, compromises equal employment opportunity, debilitates morale and interferes with work productivity. Thus, this policy applies to all employees and applicants for employment in State departments, commissions, State colleges or universities, agencies, and authorities (hereafter referred to in this section as “State agencies” or “State agency”). The State of New Jersey will not tolerate harassment or discrimination by anyone in the workplace including supervisors, co-workers, employees of Gubernatorial Transition Offices or persons doing business with the State. This policy also applies to conduct that occurs in the workplace and conduct that occurs at any location which can be reasonably regarded as an extension of the workplace (i.e., any field location, any off-site business-related social function, or any facility where State business is being conducted and discussed). This policy also applies to posts on any social media site and/or electronic device, personal or business, which adversely affect the work environment defined by the State Policy.

This policy also applies to third party harassment. Third party harassment is unwelcome behavior involving any of the protected categories referred to in section II(A) above that is not directed at an individual but exists in the workplace and interferes with an individual's ability to do their job. Third party harassment based upon any of the aforementioned protected categories is prohibited by this policy.

III. PROHIBITED CONDUCT

A. Defined

It is a violation of this policy to engage in any employment practice or procedure that treats an individual less favorably based upon any of the protected categories referred to in II(A) above. This policy pertains to all employment practices such as recruitment, selection, hiring, training, promotion, transfer, assignment, layoff, return from layoff, termination, demotion, discipline, compensation, fringe benefits, working conditions and career development.

It is also a violation of this policy to use derogatory or demeaning references regarding a person's race, gender, age, religion, disability, affectional or sexual orientation, ethnic background, or any other protected category set forth in section II(A) above. A violation of this policy can occur even if there was no intent on the part of an individual to harass or demean another.

Examples of behaviors that may constitute a violation of this Policy include, but are not limited to:

Policy Title: Prohibiting Discrimination In The Workplace	Effective Date January 7, 2002 Revised September 16, 2020	Policy Number ADM.005.001 Page 3 of 8
--	--	--

- Discriminating against an individual with regard to terms and conditions of employment because of being in one or more of the protected categories referred to in section II(A) above;
- Treating an individual differently because of the individual's race, color, national origin or other protected category, or because an individual has the physical, cultural or linguistic characteristics of a racial, religious or other protected category;
- Treating an individual differently because of marriage to, civil union to, domestic partnership with, or association with persons of a racial, religious, or other protected category; or due to the individual's membership in, or association with an organization identified with the interests of a certain racial, religious or other protected category; or because an individual's name, domestic partner's name, or spouse's name is associated with a certain racial, religious or other protected category;
- Calling an individual by an unwanted nickname that refers to one or more of the above protected categories, or telling jokes pertaining to one or more protected categories;
- Using derogatory references with regard to any of the protected categories in any communication;
- Engaging in threatening, intimidating, or hostile acts towards another individual in the workplace because that individual belongs to, or is associated with, any of the above protected categories;
- Displaying or distributing materials, in the workplace or outside of the workplace that has an adverse impact on the work environment including electronic communications that contains derogatory or demeaning language or images pertaining to any of the above protected categories.

B. Sexual Harassment

It is a violation of this policy to engage in sexual (or gender-based) harassment of any kind, including hostile work environment harassment, quid pro quo harassment, or same-sex harassment. For the purposes of this policy, sexual harassment is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Policy Title: Prohibiting Discrimination In The Workplace	Effective Date January 7, 2002 Revised September 16, 2020	Policy Number ADM.005.001 Page 4 of 8
--	--	--

Examples of prohibited behaviors that may constitute sexual harassment and are, therefore, a violation of this policy include, but are not limited to:

- Generalized gender-based remarks and comments;
- Unwanted physical contact, such as intentional touching, grabbing, pinching, brushing against another's body or impeding or blocking movement;
- Sexual physical contact that involves any form of coercion, force, or lack of consent, such as sexual assault;
- Verbal, written or electronic sexually suggestive or obscene comments, jokes or propositions including letters, notes, e-mail, text messages, invitations, gestures or inappropriate comments about a person's clothing;
- Visual contact, such as leering or staring at another's body; gesturing; displaying sexually suggestive objects, cartoons, posters, magazines or pictures of scantily-clad individuals; or displaying sexually suggestive material on a bulletin board, on a locker room wall, or on a screen saver;
- Explicit or implicit suggestions of sex by a supervisor or manager in return for a favorable employment action such as hiring, compensation, promotion, or retention;
- Suggesting or implying that failure to accept a request for a date or sex would result in an adverse employment consequence with respect to any employment practice such as performance evaluation or promotional opportunity; or
- Continuing to engage in certain behaviors of a sexual nature after an objection has been raised by the target of such inappropriate behavior.

IV. EMPLOYEE RESPONSIBILITIES

Any employee who believes that she/he or they have been subjected to any form of prohibited discrimination/harassment, or who witnesses others being subjected to such discrimination/Harassment, should promptly report the incident(s) to either a supervisor, or directly to the NJDOC's Equal Employment Division/Affirmative Action Officer (phone # (609) 826-5668), or to any other persons designated by the NJDOC to receive workplace discrimination complaints. A person who wishes to take action about prohibited sexual physical contact can file a criminal complaint with law enforcement of the municipality where the incident occurred. That person can also make a criminal report and a report to his/her or their supervisor/manager and/or Equal Employment Division/Affirmative Action Officer; one does not have to choose one or the other.

All employees are expected to cooperate with investigations undertaken pursuant to VII. below. Failure to cooperate in an investigation may result in administrative and/or disciplinary action, up to and including termination of employment.

Policy Title: Prohibiting Discrimination In The Workplace	Effective Date January 7, 2002 Revised September 16, 2020	Policy Number ADM.005.001 Page 5 of 8
--	--	--

V. SUPERVISOR RESPONSIBILITIES

Supervisors must make every effort to maintain a work environment that is free from any form of discrimination/harassment. Supervisors shall immediately refer allegations of prohibited discrimination/harassment to the NJDOC's Equal Employment Division/Affirmative Action Officer (phone # (609) 826-5668), or any other individual designated by the NJDOC to receive complaints of workplace discrimination/harassment. A supervisor's failure to comply with these requirements may result in administrative and/or disciplinary action, up to and including termination of employment. For purposes of this section and in the State of New Jersey Model Procedures for Processing Internal Complaints Alleging Discrimination in the Workplace ("Model Procedures"; N.J.A.C.4A:7-3.2), a supervisor is defined broadly to include any manager or other individual who has authority to control the work environment of any other staff member (for example, a project leader). N.J.A.C. 4A:7-3.1(e).

VI. DISSEMINATION

The NJ DOC shall annually distribute the policy described in this section, or a summarized notice of it, to all of its employees, including part-time and seasonal employees. The policy, or summarized notice of it, shall also be posted in conspicuous locations throughout the buildings and grounds of each State agency (that is, on bulletin boards or on the State agency's intranet site). The Department of the Treasury shall distribute the policy to statewide vendors/contractors, whereas each State agency shall distribute the policy to vendors/contractors with whom the State agency has a direct relationship.

VII. COMPLAINT PROCESS

The NJDOC shall follow the State of New Jersey Model Procedures for Processing Internal Complaints Alleging Discrimination in the Workplace with regard to reporting, investigating, and where appropriate, remediating claims of discrimination/harassment. See N.J.A.C. 4A:7-3.2 and N.J.S.A 11A:7-3. The NJDOC is responsible for designating an individual or individuals to receive complaints of discrimination/harassment, investigating such complaints, and recommending appropriate remediation of such complaints. In addition to the Equal Employment Division/Affirmative Action Officer, the NJDOC shall designate an alternate person to receive claims of discrimination/harassment.

All investigations of discrimination/harassment claims shall be conducted in a way that respects, to the extent possible, the privacy of all persons involved. The investigations shall be conducted in a prompt, thorough and impartial manner. The results of the investigation shall be forwarded to the Commissioner of the NJDOC to make a final decision as to whether a violation of the policy has been substantiated.

Where a violation of this policy is found to have occurred, the NJDOC shall take prompt and appropriate remedial action to stop the behavior and deter its reoccurrence. NJDOC shall also have the authority to take prompt and appropriate remedial action, such as moving two employees apart, before a final determination has been made regarding whether a violation of this policy has occurred.

Policy Title: Prohibiting Discrimination In The Workplace	Effective Date January 7, 2002 Revised September 16, 2020	Policy Number ADM.005.001 Page 6 of 8
--	--	--

The remedial action taken may include counseling, training, intervention, mediation, and/or the initiation of disciplinary action, up to and including termination of employment.

The NJDOC shall maintain a written record of the discrimination/harassment complaints received. Written records, consisting of the investigative report and any attachments, including witness statements, shall be maintained as confidential records to the extent practicable and appropriate and will maintain so indefinitely.

VIII. PROHIBITION AGAINST RETALIATION

Retaliation against any employee who alleges that they were the victim of discrimination/harassment, provides information in the course of an investigation into claims of discrimination/harassment in the workplace, or opposes a discriminatory practice, is prohibited by this policy. No employee bringing a complaint, providing information for an investigation, or testifying in any proceeding under this policy shall be subjected to adverse employment consequences based upon such involvement or be the subject of other retaliation.

Following are examples of prohibited actions taken against an employee because the employee has engaged in activity protected by this subsection:

- Termination of an employee;
- Failing to promote an employee;
- Altering an employee's work assignment for reasons other than legitimate business reasons;
- Imposing or threatening to impose disciplinary action on an employee for reasons other than legitimate business reasons; or
- Ostracizing an employee (for example, excluding an employee from an activity or privilege offered or provided to all other employees).

IX. FALSE ACCUSATIONS AND INFORMATION

The burden is on the complainant to articulate a sufficient nexus between the alleged conduct to a protected category pursuant to the policy. An employee who knowingly makes a false accusation of prohibited discrimination/harassment, or who knowingly provides false information in the course of an investigation of a complaint, will be subjected to administrative and/or disciplinary action, up to and including termination of employment. Complaints made in good faith, however, even if found to be unsubstantiated, will not be considered a false accusation.

X. CONFIDENTIALITY

All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality shall be maintained throughout the investigative process. In the course of an investigation, it may be necessary to discuss the claims with the person(s) against whom the complaint was filed and other persons who may have relevant knowledge or who have a legitimate need to know about the matter. In order to protect the integrity of the investigation, minimize the risk of retaliation against the individuals participating in the investigative process, and protect the important privacy interests of all concerned, the EEO/AA Officer/Investigator shall request that all persons interviewed, including witnesses, not discuss

Policy Title: Prohibiting Discrimination In The Workplace	Effective Date January 7, 2002 Revised September 16, 2020	Policy Number ADM.005.001 Page 7 of 8
--	--	--

any aspect of the investigation with others unless there is a legitimate business reason to disclose such information. Failure to comply with this confidentiality directive may result in administrative and/or disciplinary action, up to and including termination of employment.

XI. ADMINISTRATIVE AND/OR DISCIPLINARY ACTION

Any employee found to have violated any portion or portions of this policy may be subject to appropriate administrative and/or disciplinary action which may include, but which shall not be limited to: referral for training, referral for counseling, written or verbal reprimand, suspension, reassignment, demotion or termination of employment. Referral to another appropriate authority for review for possible violation of State and Federal statutes may also be appropriate.

XII. TRAINING

All NJDOC units shall provide all new employees with training on the policy and procedures set forth in this section within a reasonable period of time after each new employee's appointment date. Refresher training shall be provided to all employees, including supervisors, within a reasonable period of time. NJDOC shall also provide supervisors with training on a regular basis regarding their obligations and duties under the policy and regarding procedures set forth in this section.

State employees responsible for managing and investigating complaints of harassment or discrimination, in consultation with the Division of EEO/AA and another organization with expertise in response to and prevention of sexual violence, such as the Department of Law and Public Safety and the New Jersey Coalition Against Sexual Assault, shall receive additional training. Each State employee who receives such additional training shall complete a refresher course every three years.

Policy Title: Prohibiting Discrimination In The Workplace	Effective Date January 7, 2002	Policy Number ADM.005.001
	Revised September 16, 2020	Page 8 of 8

XIII. CROSS REFERENCE DOCUMENTS AND POLICIES

Document/ Policy Number	Title	Effective/ Revision Date
ADM.005.EED.001	Procedures for Processing Internal Complaints Alleging Discrimination, Harassment or Retaliation in the Workplace	October 2020 revised
ADM.010.SOC.01	Use of Social Media	<i>Pending</i>

XIV. APPLICABLE FORMS

Form Number	Form Title	Effective/ Revision Date