

<p style="text-align: center;"><b>GEORGIA DEPARTMENT OF CORRECTIONS</b>  <b>Standard Operating Procedures</b></p>		
<b>Policy Name:</b> Unlawful Harassment (Includes Sexual Harassment)		
<b>Policy Number:</b> 104.46	<b>Effective Date:</b> 6/30/17	<b>Page Number:</b> 1 of 7
<b>Authority:</b> Commissioner	<b>Originating Division:</b> Administration and Finance Division (Human Resources)	<b>Access Listing:</b> Level I: All Access

**I. Introduction and Summary:**

The Georgia Department of Corrections (GDC) is committed to maintaining a harassment-free workplace. GDC prohibits and will not tolerate harassment of a sexual nature and/or harassment based on race, color, creed, national origin, ancestry, citizenship, religion, political opinions or affiliations, age, disability, genetic information, gender, pregnancy, childbirth or related conditions, military or veteran status, or other status protected by federal, or state law or regulation. Such harassment violates an individual's fundamental rights and personal dignity, and undermines the integrity of the workplace.

**II. Authority:**

- A. Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunity Act of 1972;
- B. Age Discrimination in Employment Act of 1967, as amended;
- C. Americans with Disabilities Act of 1990, as amended;
- D. O.C.G.A.: §42-5-36, Confidential Information Supplied by Inmates;
- E. GDC SOPs: 104.64 Adverse Actions (Classified Employees) and 104.65 Adverse Actions (Unclassified Employees); and
- F. ACA Standard: 2-CO-1C-03.

**III. Definitions:**

Since harassment can take many forms, it is not possible to provide a complete list of prohibited conduct. While not exhaustive, the following definitions and examples are illustrative of the types of conduct that will not be tolerated in the workplace:

- A. **Sexual Harassment** - Unwanted sexual attention of a persistent or offensive nature made by a person who knows, or reasonably should know, that such attention is unwanted. Sexual harassment includes conduct of a sexual nature that is sufficiently severe or pervasive to unreasonably interfere with an employee's job performance or create an intimidating, hostile, or offensive working environment.

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1. While sexual harassment encompasses a wide range of conduct, some examples of conduct that are specifically prohibited include:
  - a. Promising (directly or indirectly) to reward an employee for complying with a sexually-oriented request;
  - b. Threatening (directly or indirectly) to retaliate against an employee for refusing to comply with a sexually oriented request;
  - c. Denying (directly or indirectly) an employment-related opportunity to an employee for refusing to comply with a sexually-oriented request;
  - d. Engaging in sexually suggestive physical contact, including touching another employee in a way that is unwelcome, or restricting an employee's movement;
  - e. Displaying, storing, or transmitting pornographic or sexually-oriented materials;
  - f. Engaging in indecent exposure;
  - g. Making obscene gestures or leering;
  - h. Making sexual or romantic advances toward an employee and persisting despite the employee's rejection of the advances;
  - i. Using sexually-oriented language, or making inappropriate propositions, jokes, or remarks, including graphic verbal commentary about an individual's body or dress;
  - j. Inquiring, commenting, or gossiping about someone's sexual preferences, activities, deficiencies or prowess; and
  - k. Sending sexually suggestive or obscene letters, notes, or invitations.
2. As these examples illustrate, prohibited sexual harassment can take many forms - physical, verbal, visual, and/or electronic - and can be physical and/or

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psychological in nature. It can involve males harassing females or other males, and females harassing males or other females. It can also involve harassment by a person in a greater position of authority harassing a subordinate, harassment by individuals in positions of lesser or equal authority, or harassment by persons doing business with or for GDC. In addition, sexual harassment can include conversation and/or conduct between consenting participants that is observed or overheard by another employee who finds the behavior hostile and/or offensive.

3. Sexual harassment does not apply to a consensual relationship between employees so long as the relationship does not enhance or jeopardize the job opportunities of any employee. Employees should recognize the risks and complications that arise from intimate relationships with other employees and proactively address any concerns that might arise. At a minimum, employees are expected to ensure that the relationship does not jeopardize job performance, create a conflict of interest, or result in employment-related favoritism.

**B. Other Types of Harassment** - Harassment is also prohibited when it is based on any other protected status, such as race, color, creed, national origin, ancestry, citizenship, religion, political opinions or affiliations, age, disability, genetic information, gender, pregnancy, childbirth or related conditions, military or veteran status, or other status protected by federal, state, or local law or regulation. Such harassment includes, but is not limited to, conduct similar to that described above as well as:

1. Threats, epithets, derogatory comments, or slurs;
2. Derogatory posters, photographs, cartoons, drawings, or gestures; or
3. Assault, unwanted touching, or blocking someone's movement.

**C. Unlawful Retaliation** - Unfavorable employment action taken, unfavorable condition created, or other action taken for the purpose of intimidation, which is directed toward an employee as a result of that employee's having reported in good faith an allegation of unlawful harassment or having provided information and assistance

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during an investigation of alleged unlawful harassment or unlawful retaliation.

**IV. Statement of Policy and Applicable Procedures:**

- A. GDC's policy of maintaining a harassment-free workplace applies to everyone and includes Georgia Correctional Industries. GDC will not permit employees or others in the workplace to be harassed in the course of their work by supervisors, coworkers, or third parties, such as vendors or customers. Any employee who engages in prohibited harassment will be subject to prompt disciplinary action, up to and including termination of employment. Employees are expected to be aware of and to refrain from any conduct or behavior that could be construed as harassment.
  
- B. GDC prohibits and will not tolerate retaliation against anyone for raising a concern about, assisting in an investigation of, and/or filing a complaint concerning discrimination and/or harassment. If an employee believes that an act of retaliation has occurred, the employee must notify GDC as soon as possible in accordance with this policy. GDC will act promptly to assure compliance with this rule prohibiting retaliation.
  
- C. Policy Administration:
  1. The Commissioner's Statement Prohibiting Unlawful Harassment should be permanently displayed on Official Bulletin Boards of the GDC;
  2. Supervisors must take proactive steps to ensure their work environments are free from any unlawful harassment and to educate their staff regarding appropriate conduct;
  3. All employees shall be required, as a condition of their employment with GDC, to read and become familiar with GDC's policy regarding unlawful harassment;
  4. Annually at the beginning of the Fiscal Year, all employees shall be directed to complete a written acknowledgment of the prohibition of unlawful harassment (Attachment 1, Commissioner's Statement Prohibiting Unlawful Harassment) which will be forwarded to Corrections Human Resources Management (CHRM);

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5. Compliance with GDC's Unlawful Harassment policy shall be a condition of the contract for contractors, and a condition of service for volunteers and interns. Volunteers and interns will be required to execute a written acknowledgement of the prohibition of unlawful harassment, prior to beginning their service.

6. Any employee, contractor, intern or volunteer who has any questions concerning this procedure should contact the CHRM Compliance Section.

**D. Reporting and Management Action:**

1. Employees are required to report events of unlawful harassment and/or unlawful retaliation against themselves or others.
  - a. If any employee believes that unlawful harassment or retaliation has occurred in violation of this policy, that employee is required to report such activity as soon as possible in accordance with this procedure.
  - b. The reporting of an alleged act of unlawful harassment or unlawful retaliation shall not relieve an employee of his/her obligation to follow lawful orders, comply with departmental policies or to perform duties.
  - c. Reports of unlawful harassment or unlawful retaliation may be made using the chain of command, to the Director of Human Resources (HR) at 478-992-5211, or to the Director of the Office of Professional Standards (OPS) at 478-992-5341.
  - d. Such reports may be submitted in writing and mailed to P.O. Box 1529, Forsyth, GA. 31029, by telephone using the above contacts, or in person.
2. An Appointing Authority may suspend, transfer, or reassign personnel involved to prevent any harassment or retaliation, or to facilitate the investigation. For emergency situations of a severe nature, a subordinate Appointing Authority, after consultation with the Director of HR, will take appropriate actions to protect the alleged victim and/or to deter the alleged violator from any further harassment of the alleged victim. The Director of HR or authorized Designee shall report all actions of this nature and any subsequent change in status or assignment to the Director of OPS.

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3. Unless otherwise directed by the Director of HR, no disciplinary action shall be taken against the alleged violator until the investigation by the Internal Investigations Unit has been completed, a written report has been issued, and necessary action has been taken in accordance with this procedure.

E. Investigations:

1. Upon receiving a complaint, GDC will conduct a prompt, thorough, and objective investigation of the allegations. All state employees are expected to cooperate in these investigations. Investigations will be conducted in as confidential a manner as possible, and all employees involved in the process are expected to refrain from discussing the matter outside of the investigation process.
2. Complaints of unlawful harassment or retaliation will be referred to GDC's Office of Professional Standards (OPS). All complaints of unlawful harassment or unlawful retaliation shall be investigated in the manner and to the extent directed by the Director of OPS or any member of his/her staff, who will consult with Legal Services and with the Director of HR, if appropriate.
3. If the initial complaint does not specify facts sufficient to sustain the original allegation of unlawful harassment or unlawful retaliation, the Director of OPS may request additional information from the complainant, or, in consultation with Legal Services and/or the Director of HR, may determine that the allegations shall not be investigated further.
4. Counseling and other assistance shall be offered to the alleged victim through CHRM.
5. The investigator who conducts the investigation will present a written report of the investigation to the Director of OPS. All investigative reports must include a statement from the person reporting the alleged harassment or retaliation. After reviewing the written report, the Director of OPS will forward a final report to the affected Assistant Commissioner or Chief of Staff, the Director of Human Resource, and Legal Services for consideration.
6. Reports concerning employee unlawful harassment or unlawful retaliation complaints will be treated as "confidential matters" to the extent permitted by law.

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**F. Review and Disposition:**

1. After reviewing the final report from OPS, Legal Services shall make a recommendation, based on a preponderance of the evidence standard, as to whether the facts support a finding that unlawful harassment or unlawful retaliation has occurred.
2. If Legal Services recommends that the facts do not support a finding of unlawful harassment, unlawful retaliation, or other policy violation, and it is determined by the Director of HR that no action should or could be taken at that time, the matter can be closed.
3. If Legal Services recommends that the facts do support a finding of unlawful harassment, unlawful retaliation, or other policy violation, the Director of HR will recommend disciplinary action and/or other corrective actions to the Appointing Authority.
4. The Director of HR, or authorized Designee will provide written notice to the complaining party and subject employee of the completion of the investigation as well as any information deemed necessary. Notice should be given as soon as is reasonably practical, provided that if a disciplinary action is to be initiated, no parties will be notified until all disciplinary actions are served.
5. An employee may appeal an adverse action arising from an allegation of unlawful harassment or retaliation in accordance with SOP 104.65 Adverse Actions (Unclassified Employees) and SOP 104.64 Adverse Actions (Classified Employees).

**V. Attachments:**

Attachment 1, Commissioner's Statement Prohibiting Unlawful Harassment

**VI. Record Retention of Forms Relevant to this Policy:**

Upon completion, Attachment 1, Commissioner's Statement Prohibiting Unlawful Harassment shall be retained permanently in the employee's official and local personnel file.