	Division/Section	Executive Division
	Chapter No./Name	DCFS Departmental Policy
	Part No./Name	2 – Civil Rights
	Section No./Name	2-6 Sexual Harassment Policy
	Document No./Name	2-6 Sexual Harassment Policy
	Effective Date	December 18, 2019

I. STATEMENT OF POLICY


The Department of Children and Family Services (DCFS) and all Bureaus/Division/Sections under its jurisdiction are committed to providing its employees a work environment free from sexual harassment. DCFS has formulated this policy to define sexual harassment and conduct of a sexual nature that is prohibited in the workplace, and the procedure for effectively reporting conduct which constitutes sexual harassment.

The purpose of this policy statement is to afford a uniform approach to the investigation and resolution of sexual harassment complaints. This procedure shall apply to all Bureaus/Division/Sections of DCFS and their subordinate elements, their employees, vendors, contractors and any applicant for employment. It is in no way intended to replace or supplant any other regulatory agency designed to investigate such charges. Nothing in this policy or the attendant procedures shall limit the right of a complainant to file his/her complaint with any other agency designed to operate in such a manner; i.e. Louisiana Department of Civil Service, Louisiana Commission on Human Rights or Federal Equal Employment Offices at the regional and national levels. This procedure is designed primarily to accommodate the internal processing of sexual harassment complaints within DCFS.

All DCFS employees have a right to work in an environment free from discrimination, including freedom from sexual harassment. All employees are required to comply with federal, state and local laws, government regulations and executive orders, which relate to sexual harassment. All employees must refrain from offensive or inappropriate conduct of a sexual nature within the workplace. Managers and supervisors are responsible for discussing this policy with subordinates and ensuring that the workplace is free of sexual harassment.

Prohibited Conduct

Sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or inappropriate conduct of a sexual nature. The behavior constitutes sexual harassment when the conduct explicitly or implicitly affects an individual's employment or the holding of office, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment and shall not be tolerated. Sexual harassment can take many forms, including unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature. Sexual harassment can involve behavior by a person of either gender against a person of the same or opposite gender. Sexual harassment may include conduct of any manager, administrator or supervisor towards a subordinate employee or conduct of one employee towards another employee of equal or greater rank. It may also include words or conduct by a vendor, client or visitor to the Department. An employee may be the victim of sexual harassment because he/she has been affected by inappropriate behavior towards a co-worker. Sexual harassment can occur at the daily job duty site, a conference, during travel for work, etc. Sexual harassment is determined by the effect (or result) the harassment has on the victim or their interpretation of the behavior, not the intent of the perpetrator.

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Unwelcome sexual words or conduct constitute sexual harassment when:

- Submission to such conduct is explicitly/implicitly a term or condition of employment; or
- Submission to or rejection of such conduct is used as a basis for employment decisions (i.e., continued employment, evaluations, wages, advancement, assigned duties, shifts or any other condition of employment or career development); or
- 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.

Sexual harassment includes, but is not limited to, the following:

- Unwelcome sexual flirtations, advances or propositions;
- Unwelcome sexual teasing, jokes, remarks or inquiries;
- Unwelcome sexual looks or gestures;
- Verbal or written abuse of a sexual nature;
- Requests for sexual favors;
- Graphic, verbal or sexual comments about an individual or to describe an individual's body;
- Unwelcome physical contact (i.e., touching, rubbing against, leaning over, brushing, pinching);
- Sexually degrading words and demeaning or inappropriate terms (i.e., referring to a person as "Babe", "Honey", etc.)
- Sexual or insulting noises;
- Using crude and offensive language;
- Discussing sexual activities or exploits;
- Inappropriate commenting on a person's attributes, and/or
- Displaying sexually suggestive objects, statements, graffiti, books, magazines, photographs, cartoons or pictures.

Employees should understand that the verbal and physical behavior described in this policy is always inappropriate in the workplace and therefore, violates the Department's policy, although such

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behavior may not be actionable in a court of law as a civil action. The totality of the circumstances will be considered, including the pervasiveness, offensiveness and unwelcome nature of the conduct. Each situation must be addressed on a case-by-case basis.

Retaliation

No hardship, loss, benefit or penalty may be imposed on an employee in response to:

- Filing or responding to a complaint of discrimination or harassment;
- Appearing as a witness in the investigation of a complaint, and;
- Serving as an investigator of a complaint.

Retaliation or attempted retaliation in response to lodging a complaint or invoking the complaint process is a violation of this policy.


In the event it is determined that an act of sexual harassment has been committed, DCFS will implement corrective action and take disciplinary action against the perpetrator. The Department will not tolerate any retaliation, reprisals or intimidation directed toward the complaining party, witnesses or anyone else as a result of the filing or investigation of a sexual harassment complaint. Any such retaliation, reprisals or intimidation will be considered a violation of this policy and will result in disciplinary action, up to and including termination. In addition to disciplinary action, other appropriate measures, including training and follow up inquiries, will be utilized to ensure that the harassment does not recur.

Refer to [DCFS Civil Rights Policy 2-03, Non-Discrimination in Employment](#), for additional information on non-discrimination in employment and filing a complaint of discrimination in employment with the Bureau of General Counsel - Civil Rights Section.

II. PROCEDURES

Employees who experience such conduct should clearly communicate to the alleged harasser that the behavior is unwelcome either verbally, in writing, or through a third party. The third party can be his/her supervisor. If the supervisor is the alleged harasser, then the behavior should be reported to the Bureau of General Counsel - Civil Rights Section. Any employee experiencing or witnessing sexual harassment by anyone in the Department, including any manager, supervisor, administrator, co-worker, vendor, client or visitor, shall immediately report the inappropriate conduct. Any such complaint shall be reduced to writing. Complaints may be made to the employee's supervisor or the Bureau of General Counsel - Civil Rights Section. A written record of the date, time, and nature of the incident and name(s) of witnesses should be provided.


When a supervisor receives a sexual harassment complaint, immediate contact should be established with the Bureau of General Counsel - Civil Rights Section:

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Bureau of General Counsel - Civil Rights Section
 Department of Children and Family Services
 Post Office Box 1887
 Baton Rouge, LA 70821
 Telephone: (225) 342-0309
DCFS.BureauofCivilRights@LA.GOV

Investigation of Complaint

- All reports of sexual harassment will immediately be reported to the Bureau of General Counsel - Civil Rights Section, either by the employee or the employee's supervisor. The Bureau of General Counsel - Civil Rights Section will direct the investigatory process.
- The Department will investigate all complaints. "Informal" complaints or requests to withhold an investigation (unless or until a future occurrence) will be treated the same as a formal complaint and investigated immediately.
- Generally, to prevent further occurrences or to preserve the integrity of the investigation, temporary reassignments, transfers or other personnel actions permissible under the Civil Service Rules will be initiated by DCFS Human Resources.
- The investigation will be thorough and include interviews with the complainant, the accused, witnesses and other individuals possessing relevant information. Records and other documentation will be reviewed.
- The investigative process will be documented, thus requiring that all involved prepare written statements or provide verbal statements which will be recorded.
- Persons called upon during the investigation are required to answer all questions truthfully and cooperatively.
- The investigative process will be conducted expeditiously and professionally with appropriate emphasis on the rights of all involved.
 - If at any time during the investigation, the investigator becomes aware that, in addition to the allegations of sexual harassment, there exists credible evidence that the employee has been a victim of a sexually related crime as provided in Title 14 of the Louisiana Revised Statutes of 1950 or other source of criminal law, the investigator shall assist the employee with reporting the crime to state or local law enforcement authorities.
- The investigative process will also be conducted in a confidential manner with only those in a need-to-know position involved.

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- The complaining employee and accused will be apprised of the outcome of the investigation along with the appropriate member of DCFS management.

Disciplinary Action

Any employee of the Department of Children and Family Services who has been found to have committed sexual harassment against anyone, shall be subject to disciplinary action, which may range from reprimand to dismissal, in accordance with decision of the appointing authority. If the remedial training is mandated by the appointing authority the offender must attend training to ensure that sexual harassment does not recur.

* Potential Personal Financial Responsibility Pursuant to La. R.S. 42:351 & 353

Any employee of the Department of Children and Family Services, who has been found to have committed sexual harassment in the workplace, against anyone and in any way, shall be subject to potential personal financial liability. When there has been a determination that sexual harassment has occurred, the state should consider certain factors in determining whether the alleged sexual harasser should be required to reimburse all or a portion of the settlement or judgment. The process and factors to be considered in making this determination, authorize the Attorney General to file suit against a public servant for reimbursement and indemnification. **

Time Frame and Prohibitive Factors

In all cases involving alleged sexual harassment, complaints filed with DCFS Bureaus/Divisions/Sections or with federal agencies must be made within 300 calendar days from the date of the alleged incident. Complaints filed with the Civil Service Commission must be made within thirty (30) calendar days from the date of the alleged incident.

Training


Senate Concurrent Resolution (SCR) 107 of the 2012 Regular Session requires all "public agencies" to provide a minimum of one hour of education and training on sexual harassment each year, effective January 1, 2013. The Department has chosen to use the sexual harassment training provided on LEO by Department of State Civil Service. Each employee must complete the training annually. All new hires must complete the training within ninety (90) days of their date of hire.

III. FORMS AND INSTRUCTIONS

DCFS Sexual Harassment Complaint [Frm](#) / [Ins](#)

Receipt of Non-Discrimination Policies and Statements Acknowledgement [Frm](#) / [Ins](#)

[DCFS * Civil Rights ** Complaint Dismissal Form](#)

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IV. REFERENCES

Definitions

Complainant/Charging Party – Person alleging the harassment.

DCFS - Department of Children and Family Services.

EEOC – Equal Employment Opportunity Commission.

EEO Specialist – A designated person in the DCFS Bureau of General Counsel, Civil Rights Section, responsible for EEO functions under the direction of the Appointing Authority.

Respondent – The organizational entity and/or individual specifically identified as party to an alleged act of discrimination by complainant.

Workplace - the location, facility or place where an employee may be expected to perform any task in the course and scope of his or her assigned job duties for the Department. For the purposes of this policy, "workplace" is defined to mean any permanent or temporary location, facility, telework center, building, job-site, event, vehicle or watercraft where the employee is carrying out assigned duties and responsibilities related to his/her employment with DCFS.

The Civil Rights Act (CRA) of 1866: A federal law that declared all persons born in the United States are citizens, without regard to race, color, or previous condition. As citizens they could make and enforce contracts, sue and be sued, give evidence in court, and inherit, purchase, lease, sell, hold, and convey real and personal property.


Title VII of the Civil Rights Act of 1964, as amended (Title VII): A federal law that prohibits discrimination based upon race, color, sex, religion, or national origin.

The Equal Employment Opportunity Act of 1972: This federal law amended Title VII to include state and local governments and applies to all employers, public and private, whether or not they receive federal fund.

The Equal Pay Act (EPA) of 1963: A federal law that protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination.

The Civil Rights Act (CRA) of 1991: This federal law amends CRA of 1866, Title VII, ADEA, and ADA and stipulates that any intentional discrimination (sex, race, national origin, religion, disability) is unlawful and allows compensatory damages and a jury trial.

LA Revised Statutes (R.S.) [23:312](#), [23:323](#), [23:332](#), [23:342](#), [23:352](#), [23:961](#), and [23:962](#): These state laws prohibit discrimination against employees based on age, disability, race, color, religion, sex,

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national origin, pregnancy, childbirth and related medical conditions, Sickle Cell trait and political activity.

LA R.S. [23:967](#): A state law prohibiting an employer from taking reprisals against an employee who in good faith discloses or threatens to disclose illegal work-related practices, provides information or testimony before a public body investigating any such illegal activities, or objects or refuses to participate in an illegal act.