DEPARTMENT OF CORRECTIONS

Policy Number: 103.302
Title: Harassment and Discrimination Prohibited
Effective Date: 2/18/20

PURPOSE: The Minnesota Department of Corrections (DOC) does not tolerate any form of discrimination or harassment based on protected class in its workplaces and programs. The DOC also prohibits retaliation against any person who opposes, reports, or participates in an investigation of protected class discrimination and harassment.

To foster and maintain workplaces that are free from discrimination and harassment, the DOC has adopted the State of Minnesota's Harassment and Discrimination Prohibited Policy (HR/LR Policy #1436), which should be read in conjunction with this policy. This policy outlines responsibilities of DOC staff and establishes the procedures for reporting, investigating, and responding to violations of it and the state policy.

APPLICABILITY: Department-wide, including all applicants, employees, contractors, student workers, vendors, volunteers, and third parties who have interactions with the department.

DEFINITIONS: [**NOTE:** See definitions in the state Harassment and Discrimination Prohibited policy for the same terms used in this policy.]

Appointing authority – a warden or manager who has been designated by the commissioner of corrections as an authority for personnel transactions.

Designated contacts – those persons identified in this policy or the state policy as persons to whom allegations of protected class discrimination, harassment, and retaliation should be reported.

Retaliation – conduct or communication that intimidates, threatens, stigmatizes, harasses, or negatively affects the employment of someone because they have opposed, made a good-faith report of, or participated in an investigation into protected class discrimination or harassment. Retaliation also includes conduct or communication that could prevent or deter someone from opposing, reporting, or participating in an investigation of alleged discrimination or harassment.

State policy – the State of Minnesota's HR/LR Policy #1436, "Harassment and Discrimination Prohibited."

PROCEDURES:

A. Training

As assigned, DOC employees, contractors, volunteers, and student workers must complete all training on this policy and the state policy and acknowledge or document their progress.

B. Reporting Procedures

1. Any DOC employee, contractor, volunteer, or student worker who witnesses, experiences, or has knowledge of an incident of protected class discrimination, harassment, or retaliation must report it. The report must be made to one of the following designated contacts:
   a) Any DOC manager or supervisor;

b) The DOC's affirmative action manager/designee;

c) Any staff person in the DOC's office of professional accountability (OPA);

d) Any DOC human resources (HR) director (the agency HR director, regional HR directors (RHRDs), and assistant HR directors (AHRDs)) or

e) Any other person or office identified in the state policy.

2. To facilitate a prompt and thorough investigation, the DOC encourages but does not require persons reporting protected class discrimination, harassment, or retaliation to complete the form attached to this policy or the online reporting form located on OPA's iShare page.

C. Responsibilities of Designated Contacts

Upon receiving reports or complaints of protected class discrimination, harassment, or retaliation, designated contacts must take prompt and appropriate action, to include the following:

1. Thank the complainant for bringing the issue forward, assure them the report or complaint will be taken seriously, and advise them that the OPA will follow up with them.

2. If the complainant has not done so, encourage them to complete the report form attached to this policy or the online reporting form on OPA's iShare page. If the complainant declines to fill out the report form, complete it to reflect all information disclosed by the complainant. At minimum, attempt to ascertain and record on the form the following information:

   a) Reporting person's name, job title, work location, supervisor's name, and preferred telephone number for follow-up;

   b) The name, job title, and supervisor of the person (or persons) who allegedly engaged in the discrimination or harassment;

   c) A brief description of the alleged conduct including, if possible, where and when it occurred; and

   d) The names of any individuals who might have witnessed the conduct.

3. Immediately report the allegations by forwarding the completed form to the OPA director.

4. Comply fully with the agency's complaint and investigation procedures and, unless otherwise directed, maintain confidentiality by not discussing the matter with anyone other than the appointing authority, the agency's affirmative action manager, the OPA director, the investigator assigned to look into the allegations, or an HR director.

D. Complaint Review and Investigation

With regard to complaints of protected class discrimination, harassment, or retaliation arising under this policy, the OPA's responsibilities for complaint review and investigation are the same as outlined in section D of Policy 103.218, "Office of Professional Accountability," subject to the following additions:

1. As soon after receiving a report of alleged discrimination, harassment, or retaliation as is practicable, the OPA Director/designee must:
   a) Review the report;

   b) Acknowledge receipt of the complaint or report, and follow up as needed to clarify or expand upon the information provided by the complainant;

   c) Determine whether the allegations, if assumed to be true, describe conduct that potentially violates this policy or the State policy or constitutes another form of misconduct;

   d) Decide whether the allegations should be investigated, and if so, by whom;

   e) If investigation is warranted, consult with the appointing authority, the RHRD/AHRD, and/or the director of HR to determine whether contact between the alleged victim and alleged perpetrator should be limited through reassignment, investigatory leave, or other means;

   f) If investigation is warranted, assign the matter to an OPA investigator; and

   g) Advise the complainant whether the DOC will investigate the allegations.

2. If an investigation is opened, the OPA investigator must:
   a) Complete the investigation within 60 days of the decision to investigate, or within the period of time specified by the OPA director;

   b) Forward the completed investigation report to the appointing authority for review and decision making in accordance with sections E and F of Policy 103.225, "Fact-Finding Process and Discipline Administration;"

   c) Notify the complainant that the investigation has been completed; and

   d) Report disposition of the complaint to Minnesota Management and Budget within 30 days of a decision on the merits.

3. Copies of all reported violations, investigation reports, and communication with the involved parties are retained by the appropriate RHRD.

E. Post-Investigation Measures

Whenever allegations of protected class discrimination, harassment, or retaliation are sustained, the appointing authority must:

1. In consultation with the agency affirmative action manager, develop and implement a remedial action plan aimed at preventing future instances of similar misconduct;

2. Remind affected employees of the availability of conflict resolution options and the employee assistance program; and

3. Meet with the employee responsible for the misconduct and their supervisor to reinforce the department's expectations of maintaining a work environment free from discrimination, harassment, and retaliation.

INTERNAL CONTROLS:

A. All training is documented and retained in the agency-approved electronic training management system.

B. Copies of all reported violations, investigation reports, and communication with the involved parties are retained by the appropriate RHRD.

ACA STANDARDS: 4-JCF-6D-06, 4-4056, 4-APPFS-3E-06, 4-APPFS-3E-16

REFERENCES:
Minn. Stat. § 43A.01, subd. 2
Minn. Rule 3905.0500
MMB HR/LR Policy #1436. Harassment and Discrimination Prohibited
Policy 103.220, "Personal Code of Conduct of Employees"
Policy 103.218, "Office of Professional Accountability"
Policy 103.225, "Fact-Finding Process and Discipline Administration"
Policy 103.300, "Sexual Harassment Prohibited"

REPLACES: All facility policies, memos, or other communications regarding this topic, whether verbal, written, or transmitted by electronic means

ATTACHMENTS: Potential Misconduct Report Form (103.302A, external iShare link to OPA)

APPROVALS:
Deputy Commissioner, Community Services
Deputy Commissioner, Organizational Services
Assistant Commissioner, Facility Services
Assistant Commissioner, Office of Strategic Planning, Implementation, and Employee Development