

OCR Office of Civil Rights

CALIFORNIA DEPT. OF CORRECTIONS &
REHABILITATION
Office of Civil Rights
Mission Statement

The Office of Civil Rights (OCR) serves all employees of the Department of Corrections and Rehabilitation by ensuring effective processes for the filing, investigation and resolution of complaints, developing policy, providing technical assistance and training to all CDCR staff.

The mission of the OCR is to create and maintain a working environment free of discrimination for all California Department of Corrections and Rehabilitation employees applicants, and contractors.

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Assistant Secretary
Office of Civil Rights

Discrimination Complaint Hotline
1-800-272-1408

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State of California
Department of Corrections and Rehabilitation
Office of Civil Rights
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Sexual Harassment is Against the Law

Sexual Harassment in the workplace is a violation of the law. *It is the policy of CDCR to provide a work environment free of discrimination and harassment, including zero tolerance for conduct that could lead to Sexual Harassment.*

Definition of Sexual Harassment

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that interferes with work performance by creating an intimidating, hostile, or offensive work environment. Some examples that constitute sexual harassment are as follows:

- ✓ Unwanted sexual advances
- ✓ Offering employment benefits in exchange for sexual favors
- ✓ Making or threatening reprisals after a negative response to a sexual advance
- ✓ Visual conduct, e.g. leering, making sexual gestures, displaying sexually explicit objects or pictures, cartoons or posters
- ✓ Verbal conduct, e.g. making or using derogatory comments, epithets, slurs and jokes
- ✓ Verbal sexual advances or propositions.

- ✓ Verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes or invitations
- Physical conduct, e.g. touching, assault, impeding or blocking movement

Department's Obligation to:

- ✓ Take all reasonable steps to prevent discrimination and harassment from occurring.
- ✓ Develop and implement a sexual harassment prevention policy.
- ✓ Provide training to its employee's on its sexual harassment policy.
- ✓ Take immediate and appropriate action to stop conduct that may be in violation of its sexual harassment policy.

Liability: As a Department we may be liable for sexual harassment even if we are not aware of the harassment. It is imperative that when an allegation of sexual harassment is filed, we take immediate and appropriate action to stop the conduct that may be in violation of the Department's policy and/or State or Federal law.

The Department may avoid liability if the harasser is a rank and file employee and if the Department had no knowledge of the harassment and if there was a program to prevent harassment.

If the harasser is a rank and file employee and the Department was aware of the harassment, liability may be avoided if we

take immediate and appropriate corrective action to stop the harassment.

Harassers, including both supervisory and non-supervisory personnel, may be held personally liable for harassing an employee or co-worker or for aiding and abetting harassment.

Additionally, both State and Federal law requires the Department to take "all reasonable steps to prevent harassment from occurring." If the Department fails to take such steps, it can be held liable for harassment.

A victim may be entitled to damages even though no employment opportunity has been denied and there is no actual loss of pay or benefits.

Typical Sexual Harassment Cases

The three most common types of sexual harassment complaints filed with the Department are those which:

- ✓ An employee is fired or denied a job or an employment benefit because he/she refused to grant sexual favors or because he/she complained of harassment. Retaliation for complaining about harassment is illegal, even if it cannot be demonstrated that the harassment actually occurred
- ✓ An employee quits because he/she can no longer tolerate an offensive work environment, referred to as a "constructive discharge." If it is proven
- ✓ that a reasonable person in the victim's position, under like conditions, would resign to escape the harassment, the employer

✓ may be held responsible for the resignation as if the employee had been discharged.

✓ An employee is exposed to an offensive work environment. Exposure to various kinds of behavior or to unwanted sexual advances alone may constitute harassment.

Preventing Sexual Harassment

A program to eliminate sexual harassment from the workplace is not only required by law (CA Gov't Code § 12950.1, every two years to all supervisors), but is the most practical way to avoid or limit liability if harassment should occur despite preventive efforts.

Training of All Staff in the Workplace

All employees should be made aware of the seriousness of violations of the sexual harassment policy. Supervisory personnel should be educated about their specific responsibilities. Rank and file employees must be cautioned against using peer pressure to discourage harassment victims from using the complaint process.

Complaint Process

An employee within the Department has the right to file a complaint of sexual harassment by five methods:

- ✓ With the local EEO Coordinator.
- ✓ With the Office of Civil Rights.
- ✓ With the CA Dept. of Fair Employment and Housing, or
- ✓ With the U.S. Equal Employment Opportunity Commission.
- ✓ Or with the State Personnel Board to appeal a Departmental action or finding.