

PATIENT RESTRICTED

Coalinga State Hospital

OPERATING MANUAL

SECTION – HUMAN RESOURCES
ADMINISTRATIVE DIRECTIVE NO. 907
(Replaces A.D. No. 907 dated 5/11/06)

Effective Date: April 17, 2007

SUBJECT: SEXUAL HARASSMENT

I. PURPOSE

To provide a work environment for employees and a living environment for Individuals that is free from any form of sexual harassment. All sexual harassment is unprofessional and discourteous, and may lead to interruption or damage to careers or harm to the well being of employees. All employees have the right to work in an environment that is free from all forms of discrimination, including sexual harassment.

II. AUTHORITY

Department of Mental Health (DMH) Special Order No 412.03; Civil Rights Act of 1994, Title VII Section 703; California Government Code Sections 12940 and 12950.1.

III. POLICY

Coalinga State Hospital (CSH), as a part of DMH, shall not tolerate sexual harassment of employees by managers, supervisors, or co-workers. In adapting this zero tolerance sexual harassment policy, CSH shall take appropriate action against employees found to have violated this administrative directive. Further, CSH will not tolerate sexual harassment by non-employees who engage in sexual harassment of employees in the workplace. CSH will take reasonable measures to prevent/correct non-employees' violations of this policy.

IV. METHOD

A. Sexual harassment is defined as unsolicited and unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or visual conduct of a sexual nature that creates an intimidating, offensive, or hostile working environment or that interferes with work performance. Such conduct may constitute harassment under any one of three circumstances:

1. Submission to that conduct or communication is made either explicitly or implicitly a term or condition of employment.
2. Submission or rejection of that conduct or communication is used as a basis for employment decisions affecting the employee. This conduct is known as "quid pro quo" sexual harassment and usually involves some type of threat or reward.

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3. Such conduct or communication has the potential to affect an employee's work performance negatively and/or create an intimidating, hostile, or otherwise offensive working environment. This type of conduct is known as "hostile environment" sexual harassment.
 4. Whether or not conduct constitutes sexual harassment may depend on how that conduct is viewed by the employee who is subjected to it. Any employee, who either initiates or persists in conduct that is viewed by another as being sexual in nature, assumes the risk of liability regardless of the employee's intent.
- B. Reciprocal attraction and consensual relationships are generally not considered to be sexual harassment. However, the Hospital does not condone romantic or sexual consensual relationships between its employees when one of the involved employees has the potential ability to control, influence, or affect the career, salary, and/or work environment of the other employee. If such a relationship occurs, corrective action should be promptly taken. This action may include, but is not limited to, lateral transfers of one or both employees into different units or positions. Any and all steps necessary to remove one employee from the potential control, influence, or power of the other employee should be taken.

V. EXAMPLES

The following are examples of inappropriate behavior that violate DMH and CSH's sexual harassment policy. These examples are not an all inclusive list of prohibited behavior under this policy.

- A. Physical assaults of a sexual nature such as:
1. Rape, sexual battery, molestation, or attempts to commit these assaults.
 2. Intentional physical contact which is sexual in nature such as touching, pinching, patting, grabbing, brushing against, or poking another employee's body.
- B. Sexual advances, propositions, or other comments such as:
1. Sexually-oriented gestures, noises, remarks, jokes, sexually derogatory comments, slurs, epithets, or comments about a person's sexuality or sexual experience directed at or made in the presence of any employee who indicates or has indicated in any way that such conduct in his or her presence is unwelcome.
 2. Preferential treatment or promise of preferential treatment to an employee for submitting to sexual conduct, including soliciting or attempting to solicit any employee, to engage in sexual activity for compensation or reward.

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3. Subjecting, or threatening to subject an employee to unwelcome sexual attention or conduct or intentionally making the performance of an employee's job more difficult because of that employee's sex.
 4. Making either direct or indirect inappropriate written or electronic media (suggestive or obscene letters, notes, e-mails, Internet/computer communications, and invitations), verbal, physical, and/or visual contact with sexual or sexist overtones.
 5. Continuing to express sexual interest after being informed that the interest is unwelcome.
 6. Engaging in implicit or explicit coercive sexual behavior used to control, influence, or affect a career, salary, and/or work environment of another employee.
 7. Misuse of authority to effect job benefits such as any coercive sexual behavior which is used to control, influence, or affect the career, salary, and/or work environment of another employee (for example offering favors or employment benefits such as promotions, favorable performance evaluations, duties, shifts, recommendations, reclassifications, etc., in exchange for sexual favors).
 8. Physical conduct such as leering, blocking normal movement, or interference with work.
 9. Subjecting women or men in non-traditional work environments to hazing (this may include being dared or asked to perform unsafe work practices, having tools and equipment stolen, etc).
- C. Sexual or discriminatory displays or publications anywhere in the Hospital's workplace by employees such as:
1. Displaying pictures, posters, calendars, graffiti, objects, promotional materials, reading materials, electronic media (e-mail, computer/Internet, etc.), or other materials that are sexually suggestive, demeaning or pornographic. Bringing into the work environment or possessing any such material to read, display.
 - a. A picture is sexually suggestive if it depicts a person posed for the obvious purpose of displaying or drawing attention to sexually anatomical areas of his or her body, or is not fully clothed, and the display is not conducive to the work environment.
 - b. Any displays which are conducive or appropriate to the work environment might include an anatomical medical chart, etc.

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2. Reading or otherwise publicizing in the work environment materials that are in any way sexually revealing, sexually suggestive, sexually demeaning, or pornographic.
 3. Displaying signs or other materials purporting to segregate an employee by sex in any area of the workplace (other than rest rooms and similar semi-private lockers/changing rooms, etc.).
- D. Each situation of sexual harassment is unique. Questions about whether a particular situation constitutes sexual harassment and questions on the interpretation of this policy should be directed to the Equal Employment Opportunity (EEO) Office at CSH.

VI. RETALIATION

Retaliation is conduct in response to an employee's reporting, opposing, refusing to submit to, or participating in the investigation of harassment.

A. Examples of Retaliation for Sexual Harassment Complaints:

1. Disciplining, changing work assignments of, providing inaccurate work information to, or refusing to cooperate or discuss work-related matters with any employee because that employee has complained or resisted harassment, discrimination, or retaliation, or participated in a complaint alleging sexual harassment.
2. Making reprisals, threats of reprisal, or implied threats of reprisal following a negative response. For example, withholding an appointment, promotion, transfer, or change of assignment; or initiating a rejection on probation or adverse action; suggesting a poor performance report will be prepared; or suggesting probation will be failed if requests for sexual favors are not met.
3. Intentionally pressuring, falsely denying, lying about, or otherwise covering up or attempting to cover up conduct described in any item above.

B. Prohibition of Retaliatory Actions:

This policy prohibits retaliation of any kind against individuals who file sexual harassment charges or participate in an investigation. Individuals working for the state, including managers and supervisors, shall not stop, impede, threaten, or coerce a person from filing a complaint or participating in the investigation process. An employee filing a sexual harassment complaint or assisting in the investigation of such a complaint will not be adversely affected in the terms and conditions of employment, nor discriminated against or discharged because of the complaint.

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VII. EMPLOYEE RESPONSIBILITY

- A. An employee who perceives the comments, gestures, or actions of another employee or supervisor to be sexually harassing is strongly encouraged to communicate to that person that such behavior is unwelcome, offensive, in poor taste, and/or inappropriate. However, failure to express to the perpetrator that the behavior is unwelcome does not prevent the employee from filing a complaint nor does it in any way exonerate the alleged harasser. If an employee feels threatened or has difficulty expressing disapproval, informal assistance and counseling should be sought from the EEO Office.
- B. Employees have the responsibility to cooperate in the investigation and/or resolution of complaints of sexual harassment. This obligation is part of his/her responsibility as an employee of the Hospital.

VIII. MANAGEMENT/SUPERVISOR RESPONSIBILITY

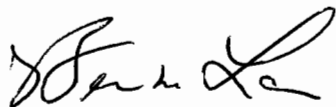
- A. Each manager and supervisor has an absolute obligation and responsibility to take immediate action to protect all employees from any form of sexual harassment and retaliation. Managers and supervisors are also responsible for taking direct, effective action to stop sexual harassment of which they are aware, and for taking proactive steps to identify and prevent harassment of which they should be aware.
- B. The manager's and supervisor's responsibility for ensuring an environment free from harassment and discrimination requires that all allegations (including rumors and/or third party complaints) and observations shall be immediately reported to the EEO Office. The manager and/or supervisor shall be responsible for notifying the EEO Office of all allegations of sexual harassment and retaliation. The manager and/or supervisor shall record and document the complaint and conduct an immediate preliminary inquiry to determine the validity of the allegations. The manager/supervisor shall provide a copy of the reports of the inquiry to the EEO Office regardless of the supervisor's findings. Under this policy, ignorance of harassment is not necessarily an acceptable defense for inaction if a manager and/or supervisor, through reasonable care, should have been aware of the problem.
- C. Corrective measures that are taken in response to harassment must effectively stop the harassment and ensure that the workplace will remain free of harassment. If warranted under the circumstances, managers and supervisors may be subject to disciplinary action for failing to carry out their duties in enforcing this policy even if they have not personally engaged in the harassment.

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- D. Failure to promptly report such incidents or claims of harassment may be regarded as a violation of this policy and may subject a manager and/or supervisor to disciplinary action.
- E. The Executive Director, and the EEO Officer, shall ensure that all employees are familiar with the hospital's Sexual Harassment Policy. This policy shall be distributed as part of all New Employee Orientations (NEO), when related training is conducted, and when the policy is revised.
- F. All supervisors are required to receive at least two hours of sexual harassment prevention training and education by January 1, 2006 and once every two years thereafter. Additionally, all new supervisors must receive sexual harassment prevention training and education within six months of assuming a new supervisory position.

IX. FILING COMPLAINTS OF HARASSMENT

Complaints of sexual harassment or retaliation will be accepted in writing or orally. Anonymous complaints shall be taken seriously and addressed to every extent possible based on the information provided. Any person covered by this policy who has observed behavior that constitutes a violation of this policy shall report it to his/her designated manager and/or supervisor and/or the EEO Officer. Sexual harassment and retaliation are considered forms of discrimination. For the process to file a complaint.



BEN MCLAIN
Executive Director (Acting)

Cross Reference(s):

A.D. No. 909 Discrimination Policy
DMH Special Order 413.03 Discrimination Complaints