

Number: 2014-06

Date Issued: September 17, 2014

Expires: Until Rescinded

To: All Department of Fish and Wildlife Staff

Subject: Sexual Harassment Prevention Policy

POLICY

This update supersedes only the August 21, 2008, Director's Bulletin of the Sexual Harassment Prevention portion of the Equal Opportunity and Sexual Harassment Prevention Policies.

In accordance with State and federal laws, it is the policy of the Department of Fish and Wildlife (Department) to provide its employees, job applicants, and members of the public with a work and business environment free from sexual harassment. Sexual harassment is a form of discrimination and is against the law.

During the course of employment, regardless of their position within the Department, employees are expected to interact with all persons in a professional manner and avoid any behavior that could be construed as being of a sexual nature. Sexually harassing conduct and/or behavior can negatively impact work productivity, diminish morale, inflict emotional or physical harm, and/or cause other disruptive conditions in the workplace. Managers and supervisors are required to ensure a workplace that is free from sexual harassment.

PURPOSE

The purpose of this policy is to provide all employees, job applicants, and members of the public with a uniform method of addressing allegations and complaints of sexual harassment in the workplace. The Department affirms its moral and legal obligation to ensure that all employees, job applicants, and members of the public are provided a harassment free work and business environment to achieve their goals and function effectively in the workplace.

The purpose of this policy is also to prevent misconduct before a violation of the law occurs and to define the roles and responsibilities of management and employees within the Department relative to the Sexual Harassment Prevention Policy and the discrimination complaint process described below.

All employees should be made aware of the seriousness of violations of the Sexual Harassment Prevention Policy. All employees are expected to adhere to a standard of conduct, and understand their responsibility to maintain an environment free from sexual harassment. Managers and supervisors will understand their responsibility to enforce conduct that is respectful of all persons within the work environment.

DEFINITION OF SEXUAL HARASSMENT

Sexual harassment is defined as unsolicited and/or unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or written conduct of a sexual nature directed to persons of the same or opposite sex, whether motivated by sexual desire or otherwise. Such conduct has the purpose or effect of substantially interfering with a person's work performance or creating an intimidating, hostile, or otherwise offensive environment.

Examples of sexual harassment include, but are not limited to:

- Implication that submission to such conduct is a condition of employment, advancement, or receipt of any other privilege or benefit;
- Leering, making or sending sexual jokes or sexually suggestive remarks, or making sexual gestures;
- Making offensive, negative or demeaning remarks about a person's gender or physical appearance;
- Deliberate and unwelcome touching, hugging, and patting or blocking a person's movement;
- Displaying offensive sexual illustrations or pictures in the workplace;
- Unwelcome pressure for dates or sex (this may include situations that began as reciprocal relationships, but which later ceased to be reciprocal).

The intent of the person accused of sexual harassment is of secondary importance: the impact of the offensive behavior on the offended person is the primary factor in determining if sexual harassment occurred.

The individual does not necessarily have to be the one to whom the remark or conduct is directed, but may be someone in the same room who overhears and is offended by the comment or behavior.

RETALIATION

The Department prohibits employees from imposing (changing the terms, conditions, or privileges of employment of an employee) or threatening to impose reprisals against complainants for exercising their rights, and/or individuals participating in an inquiry or legal proceeding concerning sexual harassment matters. Employees will be held accountable for retaliation and will be subject to inquiry or investigation and immediate and appropriate corrective action if it is determined that retaliation has occurred. Managers and supervisors are expected to ensure a workplace that is free of retaliation.

ZERO TOLERANCE

As part of the commitment to providing an environment free from harassment and retaliation, the Department will maintain a zero tolerance policy against sexually harassing conduct and/or behavior. Employees do not necessarily need to violate State or federal sexual harassment laws, regulations, rules, guidelines, or executive orders to be in violation of the Department's Sexual Harassment Prevention Policy. Employees will be held accountable for their conduct and any employee that fails to adhere to the

Department's policies will be subject to inquiry or investigation, and if it is determined through the investigatory process that a violation has occurred, the Department will take immediate and appropriate corrective action.

ROLES AND RESPONSIBILITIES

Employees

All Department employees are required to:

- Adhere to the Department's Sexual Harassment Prevention Policy and procedures, applicable State and federal laws, and the discrimination complaint process.
- Not engage in, condone, tolerate, or leave uncorrected conduct that violates the Sexual Harassment Prevention Policy.
- Avoid imposing or threatening to impose reprisals against complainants and/or individuals participating in an inquiry or legal proceeding concerning sexual harassment matters.
- Report any Sexual Harassment Prevention Policy violations to a supervisor, manager, or the Office of Equal Employment Opportunity (EEO).
- Cooperate with any investigation conducted by EEO.

Failure by an employee to adhere to the above responsibilities may result in corrective and/or disciplinary action, up to and including dismissal from the Department, regardless of rank, level, or classification.

Managers and Supervisors

Managers and supervisors are in key positions to make an impact in terms of correcting inappropriate behavior in the workplace and ensuring that a discrimination free workplace is maintained.

All Department managers and supervisors are required to:

- Maintain and promote a work environment free from harassment, retaliation, and unprofessional or disrespectful conduct related to this policy.
- Adhere to the policy and procedures, applicable State and federal laws, discrimination complaint process, and ensure that they are communicated to all employees under their supervision that sexual harassment in the workplace will not be tolerated.
- Inform employees about how to pursue their rights if harassed, promptly notifying EEO for guidance and assistance in the proper handling of the complaint.
- Take all complaints seriously. Do not shrug off, minimize the complaint, or otherwise discourage employees from reporting such complaints.
- Immediately inform EEO of any sexual harassment complaints you have received, or any sexual harassment you have observed. EEO will act as the lead

for the Department on any allegations of sexual harassment, and directions from EEO are to be strictly followed. Do not investigate any such allegations.

- Immediately report and forward all sexual harassment complaints to EEO, even if the occurrence is not directly within their line of supervision or responsibility.
- Be responsible for acts of sexual harassment between employees in the workplace where the managers and supervisors know or should have known of the conduct, unless they can show they took timely and appropriate action. Ignorance is not an acceptable defense for inaction of a manager or supervisor if, through reasonable care, they should have been aware of the conduct.
- Be responsible for sexual harassment by non-employees where the manager, supervisor, or lead person knew or should have known of the conduct, and failed to take timely and appropriate corrective action. In reviewing these cases, the extent of the manager's and supervisor's control and any other legal responsibility which they have with respect to the conduct of such non-employees, will be taken into consideration.
- Ensure that employees under their supervision annually receive a copy of this policy, read it, and then sign the attached acknowledgment form. Copies of the acknowledgement form are to be placed in each employee's official personnel file.
- Attend mandated sexual harassment prevention training.

Failure by a manager or supervisor to adhere to the above responsibilities may result in corrective and/or disciplinary action, up to and including dismissal from the Department, regardless of rank, level, or classification.

PREVENTION

Prevention is the best tool to ensure a work and business environment free from harassment or retaliation. All employees, especially managers and supervisors, must understand the seriousness and consequences of sexual misconduct and retaliation, and refrain from such activities.

COMPLAINT PROCESS

An employee, job applicant, or member of the public is not required to confront the person(s) engaged in the conduct believed to be in violation of the Department's policy at any time before or after filing a complaint. If the complaint involves manager(s) or supervisor(s) in the employee's direct chain-of-command, the employee may report the behavior to any uninvolved manager, supervisor, or directly to EEO.

The Department will attempt to resolve sexual harassment complaints at the lowest level possible. Complaints will be handled in an impartial and confidential manner in compliance with departmental policy and State and federal law.

Department of Fish and Wildlife
DEPARTMENTAL BULLETIN

An employee, job applicant, or member of the public who believes his or her rights have been violated, may file an internal discrimination complaint directly with EEO. The Discrimination Complaint Form can be found on the Department's intranet by visiting: <http://dfgintranet/portal/DirectorsOffice/EEO/tabid/85/Default.aspx>, or you may contact EEO at 1416 9th Street, 12th Floor, Sacramento, CA 95814, or at the below number.

CONTACT

If you have any questions regarding this policy or require additional information, please contact the Office of Equal Employment Opportunity at (916) 651-9315 or eeo@wildlife.ca.gov.

Signed original on file

Charlton H. Bonham
Director

Attachment: Acknowledgment

DEPARTMENT OF FISH AND WILDLIFE
ACKNOWLEDGMENT OF DEPARTMENTAL BULLETIN 2014-XXX

I acknowledge that on _____, I received a copy of Departmental Bulletin 2014-06, "Sexual Harassment Prevention Policy". I also acknowledge that I have read Departmental Bulletin 2014-06.

Employee's Name (Please Print)

Division/Region/Branch

Employee's Signature

Date

Please submit the completed Acknowledgment to your supervisor/manager. Your supervisor/manager will ensure that the Acknowledgment is placed in your official personnel file.