

ADM-11.32, "Sexual Harrassment," March 1, 2008

SCDC POLICY/PROCEDURE

NUMBER: ADM-11.32

TITLE: EMPLOYEE SEXUAL HARASSMENT

ISSUE DATE: March 1, 2008

RESPONSIBLE AUTHORITY: DIVISION OF HUMAN RESOURCES

OPERATIONS MANUAL: ADMINISTRATION

SUPERSEDES: ADM-11.32 (May 1, 2002)

RELEVANT SCDC FORMS/SUPPLIES: 16-111

ACA/CAC STANDARDS:4-ACRS-7E-07, 4-ACRS-7E-05, 4-4056

STATE/FEDERAL STATUTES:Title VII, 1964 Civil Rights Act

THE LANGUAGE USED IN THIS POLICY/PROCEDURE DOES NOT CREATE AN EMPLOYMENT CONTRACT BETWEEN THE EMPLOYEE AND THE AGENCY. THIS POLICY/PROCEDURE DOES NOT CREATE ANY CONTRACTUAL RIGHTS OR ENTITLEMENTS. THE AGENCY RESERVES THE RIGHT TO REVISE THE CONTENTS OF THIS POLICY/PROCEDURE, IN WHOLE OR IN PART. NO PROMISES OR ASSURANCES, WHETHER WRITTEN OR ORAL, WHICH ARE CONTRARY TO OR INCONSISTENT WITH THE TERMS OF THIS PARAGRAPH CREATE ANY CONTRACT OF EMPLOYMENT.

PURPOSE: To provide a productive and safe working environment free of intimidation, hostility, or offensive pressures of a sexual nature and to comply with the Equal Employment Opportunity Commission guidelines regarding Sex Discrimination under Title VII of the 1964 Civil Rights Act.

POLICY STATEMENT: It is the policy of the South Carolina Department of Corrections (SCDC) that all employees should experience a working environment free from all forms of discrimination, including sexual harassment. Accordingly, SCDC will not tolerate sexual harassment by managers, supervisors, or co-workers. An allegation of sexual harassment will be treated as a serious matter. The management of SCDC will, therefore, take all reasonable steps to investigate, determine the validity of, and resolve any complaint concerning sexual harassment, to include imposing corrective action on any employee who is found to have sexually harassed any other employee. The Agency's 'NO TOLERANCE' policy statement (Attachment 1) will be posted in a conspicuous area in each institution/office. (4-ACRS-7E-07, 4-ACRS-7E-04, 4-4056)

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SPECIFIC PROCEDURES:

1. FILING A SEXUAL HARASSMENT COMPLAINT:

1.1 General Information: Complaints regarding sexual harassment can be made by an employee directly to the Division of Human Resources, Employee Relations Branch or directly to his/her immediate supervisor who will give him/her an SCDC Form 16-111, "Sexual Harassment/Hostile Work Environment Complaint," to file said complaint. A copy will be forwarded to the Division of Human Resources, Employee Relations Branch, or to another appropriate state and federal agency responsible for handling complaints regarding sexual harassment, i.e., South Carolina Human Affairs Commission, Equal Employment Opportunity Commission. (4-ACRS-7E-04, 4-4056)

1.2 Filing a Formal Complaint:

1.2.1 Each Division Director and Warden will be required to maintain a sufficient stock of SCDC Form 16-111, "Sexual Harassment/Hostile Work Environment Complaint," throughout his/her area or institution. Forms will also be maintained in the Division of Human Resources, Employee Relations Branch for distribution as requested.

1.2.2 Any employee desiring to file a formal complaint should complete SCDC Form 16-111, "Sexual Harassment/Hostile Work Environment Complaint." Upon completion, the original must be submitted directly to the Division of Human Resources, Employee Relations Branch and the copy retained by the employee.

1.2.3 Should an employee approach his/her supervisor or another employee in his/her direct chain-of-command to verbally discuss an allegation of sexual harassment, the supervising authority will be required to provide the employee with an SCDC Form 16-111, "Sexual Harassment/Hostile Work Environment Complaint." The supervisor will remove the pink copy of the form and complete Section I. The supervisor will then be required to submit the pink copy to the supervising Warden or Division Director. The Warden or Division Director will then complete Section II of the form; contact the Division of Human Resources, Employee Relations Branch via telephone to advise them that an employee has approached him/her regarding a potential sexual harassment charge; and forward the pink copy of SCDC Form 16-111 to the Division of Human Resources, Employee Relations Branch.

1.2.4 At a minimum, the Sexual Harassment Complaint form should include the following information:

- Specific nature of the complaint, including dates, times, witnesses, and number of previous incidents if this is not the first;
- A description of any actions any individuals attempted to address and resolve the problem; including the complainant; and
- A recommendation of how the complaint can be resolved.

(Special Note: SCDC Form 16-111, "Sexual Harassment/Hostile Work Environment Complaint," may also be used to file complaints of hostile work environment and sex discrimination as defined by the Equal Employment Opportunity Commission guidelines regarding sex discrimination under Title VII of the 1964 Civil Rights Act. It will be the responsibility of the Division of Human Resources, Employee Relations Branch to determine if the complaint is covered under federal statutes defining sexual harassment. If the complaint is deemed to be a bonafide sexual harassment complaint, it will be investigated in compliance with specific investigative procedures described in Procedure 2., below. If the complaint is determined to be a problem other than sexual harassment, it will be addressed through SCDC Policy/Procedure ADM-11.04, "Employee Corrective Action," as deemed appropriate.)

2. INVESTIGATIVE PROCEDURES:

2.1 The Division of Human Resources, Employee Relations Branch is the authorized investigating authority into all allegations of sexual harassment.

2.2 Upon receipt of any "Sexual Harassment/Hostile Work Environment Complaint" form, the Division of Human Resources, Employee Relations Branch will notify the complainant in writing of the receipt of the complaint and advise the complainant about the investigation procedures.

2.3 The Division of Human Resources, Employee Relations Branch will follow the below listed investigative procedures:

- Interview witnesses named by the complainant and other individuals who may have relevant information pertaining to the complaint;
- Prepare and submit a summary report with recommendations to the responsible supervising Director's staff member for appropriate action, if action is necessary. If corrective action is recommended and determined to be warranted, the procedures outlined in SCDC Policy/Procedure ADM-11.04, "Employee Corrective Action," will be followed with the concurrence of the Division of Human Resources, Employee Relations Branch.

2.4 Investigations should be completed within 45 calendar days of receipt of a formal written complaint. The Division of Human Resources, Employee Relations Branch may extend the completion date if necessary with written notification to the complainant. (4-ACRS-7E-04, 4-4056)

2.5 During the investigative review, the Division of Human Resources, Employee Relations Branch may consult with the Division Director of Investigations or designee to determine whether any criminal activity

is involved and whether the complaint would be more appropriately investigated by the Division of Investigations or by the South Carolina Law Enforcement Division. If the complaint is referred to the Division of Investigations, the employee will be notified by the Division of Human Resources, Employee Relations Branch.

2.6 During the investigative review, the complainant may not be transferred, reassigned, or given any change of status without the approval of the Division of Human Resources, Employee Relations Branch.

3. CONFIDENTIALITY:

3.1 Investigations of sexual harassment will be held in the strictest confidence to protect the interests of both the complainant and the accused. Only those employees specifically identified throughout these procedures will be made aware of an investigation into allegations of sexual harassment.

3.2 Employees may file a complaint of sexual harassment without fear of retaliation. Substantiated incidents of retaliation will be cause for corrective action pursuant to SCDC Policy/Procedure ADM-11.04, "Employee Corrective Action," up to, and including, termination.

3.3 Deliberate willful false allegations of sexual harassment will not be condoned and will be grounds for corrective action consistent with SCDC Policy/Procedure ADM-11.04, "Employee Corrective Action," up to, and including, termination.

4. DEFINITIONS:

Complainant refers to the employee filing the sexual harassment complaint.

Sexual Harassment refers to unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where: submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

SIGNATURE ON FILE

—
s/Jon E. Ozmint, Director

ORIGINAL SIGNED COPY MAINTAINED IN THE DIVISION OF POLICY DEVELOPMENT.

PLEASE POST

PLEASE POST

ATTACHMENT 1

POLICY STATEMENT

SEXUAL HARASSMENT

The South Carolina Department of Corrections is committed to providing a hostility free workplace for all employees as required by Title VII of the Civil Rights Act of 1964, particularly as it pertains to Sexual Harassment.

The Equal Employment Opportunity Commission (EEOC) defines Sexual Harassment as follows:

Unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

(1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment,

(2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or

(3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Investigation and corrective action taken to address Sexual Harassment are outlined in SCDC Policy/Procedure ADM-11.32, "Sexual Harassment" and SCDC Policy/Procedure ADM-11.04, "Employee Corrective Action." For further information, please refer to the SCDC Form 16-111, "Sexual Harassment/Hostile Work Environment Complaint Form," available in all institutions and divisions of the Agency, or call the Division of Human Resources, Employee Relations Branch, at 803-896-8527.

SIGNATURE ON FILE

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s/Jon E. Ozmint, Director