


<p align="center"><b>STATE OF VERMONT</b>  <b>AGENCY OF HUMAN SERVICES</b>  <b>DEPARTMENT OF CORRECTIONS</b></p>	<p><b>Title: Reporting and Investigating Unlawful Discrimination, Sexual Harassment, and Retaliation in the Workplace.</b></p>	<p align="right">Page 1 of 4</p>
<p><b>Chapter: Personnel</b></p>	<p align="center"><b># 118.02</b></p>	<p><b>Supersedes #118.02</b> (dated 08/21/1995)</p>
<p><b>Attachments, Forms &amp; Companion Documents:</b></p> <p>1.</p>		
<p><b>Local Procedure(s) Required:</b> No.  <b>Applicability:</b> All staff (including contractors and volunteers)  <b>Security Level:</b> "B" – Anyone may have access to this document.</p>		
<p><b>Approved:</b></p> <p align="center">  <span style="margin-left: 200px;"><u>2/18/15</u></span> <span style="margin-left: 100px;"><u>2/22/15</u></span> </p> <hr/> <p><b>Andrew A. Pallito, Commissioner</b>                      <b>Date Signed</b>                      <b>Date Effective</b></p>		

**PURPOSE**

To provide all State of Vermont Department of Corrections (DOC) employees and supervisors with procedures for reporting and investigating unlawful discrimination, sexual harassment and retaliation claims.

**POLICY**

The Vermont Department of Corrections is opposed to and prohibits without qualification the harassment of anyone on the basis of gender, unlawful discrimination, and any retaliation arising from such behavior.

**AUTHORITY**

42 U.S.C. §147; State of Vermont Personnel Policies and Procedures 3.1 – Sexual Harassment (effective March, 1, 1996); 28 V.S.A. §103.

**REFERENCE**

28 C.F.R. §115; 21 V.S.A., Chapter 5 (Employment Practices), State of Vermont Personnel Policies and Procedures.

## DEFINITIONS

Sexual Harassment<sup>1</sup>: Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by a person directed towards another. It also includes, repeated verbal comments or gestures of a sexual nature to a person by another, including demeaning reference to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.<sup>2</sup>

Unlawful Discrimination: Unfair or unequal treatment of an individual (or group) based on age, disability, ethnicity, gender, marital status, national origin, race, religion, and sexual orientation.<sup>3</sup>

Retaliation: When an employer or individual fires, demotes, harasses, or otherwise retaliates against an individual for filing a charge of discrimination, participating in a discrimination proceeding, or otherwise opposing discrimination.<sup>4</sup>

## PROCEDURAL GUIDELINES

1. **Any employee who believes (s)he has been the subject of unlawful discrimination, sexual harassment or retaliation shall report the alleged act(s) as soon as possible to anyone of the following:**
  - a. The immediate supervisor;
  - b. Any Department management staff;
  - c. Any support coordinator;
  - d. The Department of Human Resources (DHR) administrator assigned to the Department of Corrections (DOC);
  - e. Any member of the Department of Personnel Labor Relations staff, 10 State Street, Montpelier, Vermont.
2. **For any complaint based upon an actual or perceived disability, the employee may first contact the DHR Administrator assigned to the DOC.**
3. **To process a complaint, the following applies:**
  - a. All complaints received by supervisors, managers or DHR staff pertaining to unlawful discrimination, sexual harassment, or retaliation will be referred

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<sup>1</sup> The Vermont Department of Corrections incorporates by reference the State of Vermont's definition of sexual harassment found in the Vermont Personnel Policies 3.1.

<sup>2</sup> 28 C.F.R §115.5 (2012).

<sup>3</sup> 42 U.S.C. §2000 (2012); 29 U.S.C. §209 (2012); 29 U.S.C. §623 (2012); 42 U.S.C. §12112 (2012); 29 U.S.C. §791 (2012); 29 U.S.C. §202 (2012); 42 U.S.C. §19812 (2012).

<sup>4</sup> U.S. Equal Opportunity Commission. (n.d.). *Facts about Retaliation*. Retrieved November 24, 2014, from <http://www1.eeoc.gov/laws/types/facts-retal.cfm?renderforprint=1>

immediately to the DHR administrator assigned to the DOC who will coordinate with the appointing authority to ensure that a timely and complete review of the complaint is made. A report of any investigation will be provided to the appointing authority and the Commissioner of the Vermont Department of Corrections or designee. The appointing authority, after consultation with the DHR administrator assigned to the DOC, will identify and take steps to promptly remedy the unlawful discrimination, sexual harassment or retaliation and prevent its recurrence.

- b. The appointing authority or designee shall issue a written response to the complainant acknowledging the complaint and providing notice if applicable, that any prohibited activity is expected to cease (a copy of the response shall be provided to the Personnel Administrator). An investigation will be done promptly and a written response will normally take place within thirty (30) days.
- c. Complainants should be notified that confidentiality cannot be guaranteed if a complaint results in a grievance, discipline, or other litigation of the complainant.
- d. The DHR and appointing authorities shall ensure that an investigation is conducted when any instance of sexual harassment comes to their attention, even in the absence of a complaint.
- e. If the appointing authority or any member of the agency/department personnel unit is named in the complaint, the complainant or his or her representative shall bring the complaint to the attention of the DHR administrator assigned to DOC who shall notify the Secretary of Administration or Commissioner of DHR to determine the appropriate personnel to be responsible for investigating the charge.
- f. Any intimidation, harassment or interference for filing a complaint or assisting in an investigation and/or intentionally filing a false complaint of sexual harassment will be subject to appropriate discipline, up to and including dismissal.

**4. The use of this procedure does not preclude any victim of unlawful discrimination, sexual harassment or retaliation from pursuing any other legal remedy. To explore other remedies, employees may also contact the following:**

- a. Equal Employment Opportunity Commission  
1 Congress Street  
Boston, MA 02114
- b. Vermont Human Rights Commission  
14-16 Baldwin Street  
Montpelier, VT 05633-6301
- c. Vermont Attorney General's Office  
109 State Street  
Montpelier, VT 05609-1001

d. Vermont State Employees Assn., Inc.  
155 State Street  
Montpelier, VT 05601

5. This directive also incorporates by reference the policies outlined in Directive #122.01.