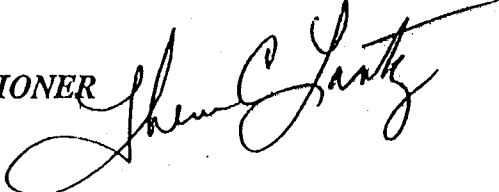




STATE OF CONNECTICUT
DEPARTMENT OF CORRECTION
24 Wolcott Hill Road
Wethersfield, Connecticut 06109

MEMORANDUM

TO: ALL EMPLOYEES OF THE DEPARTMENT OF CORRECTION and
UCONN HEALTH CENTER CORRECTIONAL MANAGED HEALTH
CARE PROGRAM

FROM: THERESA C. LANTZ, COMMISSIONER 

DATE: JUNE 26, 2003

SUBJECT: ZERO TOLERANCE

On June 23, 2003 the United States District Court approved a Stipulated Agreement entered into by the parties to two lawsuits dealing with allegations of sexual harassment in the Department of Correction and the manner in which complaints of sexual harassment, retaliation, and related sexual misconduct are handled. Attached to this letter are the following:

- 1. A synopsis of the provisions contained in the Stipulated Agreement; and*
- 2. A copy of proposed revisions to the DOC's Administrative Directive 2.2 on sexual harassment which will be implemented in the near future.*

The signing of this Agreement represents a positive new direction for the Connecticut Department of Correction. As Commissioner, I am very pleased that we have been able to reach a mutual resolution of the major issues raised in these lawsuits. I am fully committed to providing all employees with a workplace that is free from sexual harassment, sexually offensive misconduct, and retaliatory actions against those individuals who have submitted a complaint of such behavior. Misconduct of this nature cannot and will not be tolerated. Violations of the sexual harassment policy will be dealt with in a timely and meaningful fashion, with discipline rendered as appropriate. I expect all employees to commit themselves to maintaining a professional workplace and to conduct themselves accordingly. Diligently addressing this intolerable behavior must be our mutual goal as we continue to move the agency forward.

TCL/jab
Attachments

Administrative Directives

The Department's Administrative Directive 2.2, concerning sexual harassment and retaliation, has been revised. Administrative Directive 2.2, Administrative Directive 2.6, concerning discipline, and all other directives relating to the investigation, remediation and discipline of sexual harassment and retaliation shall be vigorously enforced.

Sexual Harassment Investigations

The Department's rules and practices for investigating and punishing sexual harassment and retaliation have been revised. Specifically:

- Complainants have the right to be interviewed about the complaint at a private, off-site location;
- Complaints may be made orally or in writing and may be submitted to a variety of different persons and entities;
- Complaints must ordinarily be submitted within 60 days of the act, omission or incident complained of ("the 60-day rule"); however, some complaints made after that time may be accepted and investigated by the Affirmative Action Unit, especially where the complaint alleges ongoing or continuing misconduct by the same alleged wrongdoer(s);
- In no event may counseling or discipline be used as a form of retaliation or punishment for the filing of the complaint;
- For a period of 90 days after the appointment of the PCSW Consultant (see below), the above 60-day rule shall not apply to bar the filing of any complaints concerning sexual harassment, retaliation or related misconduct, no matter how old the act, omission or incident complained of, and there shall be no counseling or discipline imposed for any related late-filed Incident Report;
- At the time of a complaint, the Director of the Affirmative Action Unit shall notify the complainant in writing of the complainant's right to file a state or federal discrimination complaint with the CHRO and/or the EEOC;
- The Department's investigators shall fully enforce Administrative Directive 2.17.5.A.18, providing that "Each Department employee shall ... [c]ooperate fully and truthfully in any inquiry or investigation conducted by the Department of Correction," and Directive 2.17.5.B.27, prohibiting "[l]ying or giving false testimony during the course of a departmental investigation." Persons found to have violated these Directives, who are not dismissed from their employment, shall not, within a one-year period following the final imposition of discipline against them, be eligible for promotion;

NOTICE RE: SEXUAL HARASSMENT AND RETALIATION
FEDERAL COURT SETTLEMENT

As a result of two pending federal lawsuits, the Commissioner has agreed to institute positive changes to the way that sexual harassment and retaliation are investigated, prevented and disciplined at the Department of Correction. These changes have been approved and will be enforced by the federal court, and they are set forth in a "Stipulated Agreement" which will be in effect for the next four years. The entire Stipulated Agreement may be found at the Department of Corrections website, www.doc.state.ct.us/, and at the Department's Affirmative Action Unit, the Human Resources Unit, the Commissioner's Office, and the Warden's office at each Department facility. This Notice sets forth the central features of the Agreement.

Class Certification

The Court has certified a plaintiff class defined as: "All female employees of the Connecticut Department of Correction and all female employees of the UConn Health Center, Correctional Managed Health Care." These class members may bring an action to enforce the Stipulated Agreement if the Department fails to comply with its terms. Class counsel are:

Antonio Ponvert III, Esq.
Koskoff, Koskoff & Bieder, P.C.
350 Fairfield Ave.
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and

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- Investigators shall assess the credibility of all witnesses as necessary to resolve witnesses' conflicting factual accounts. Every effort will be made to resolve "he said, she said" situations;
- For the purpose of tracking, investigating and disciplining repeat offenders, the Affirmative Action Unit shall compile and maintain records identifying Department employees against whom complaints of sexual harassment, retaliation or related misconduct have been made in the past;
- The Director of the Affirmative Action Unit may recommend "remedial measures" (consistent with law and applicable collective bargaining agreements) to protect the complainant from harassing or retaliatory acts during and after the investigation and disciplinary process. These remedial measures include, but are not limited to: counseling alleged harassers, transferring alleged harassers, placing alleged harassers on administrative leave, and offering the complainant, where available, an administrative transfer to the same shift at another facility. No complainant shall be transferred in connection with a complaint of sexual harassment or retaliation to a shift that is different from the complainant's current shift unless the complainant agrees in writing to such a shift change;
- If, at any point before the Department reaches a final resolution of the complaint, the complainant pursues legal or administrative remedies with the CHRO and/or the EEOC and/or any other legal or administrative body, the Department shall continue with the investigation, and shall impose discipline if appropriate;
- Investigations shall (except in extraordinary circumstances) be completed within 60 days of the complaint. Discipline, if any, shall be imposed by the Commissioner within 25 days after the completion of the investigation;
- Complainants shall be promptly notified when the investigation and disciplinary imposition process has concluded, and shall be informed of the final discipline ordered. Where appropriate, the complainant may also be provided with a copy of the Affirmative Action Unit Director's Final Investigation Report and the Commissioner's letter(s) of discipline. At the conclusion of any disciplinary appeal process, the complainant shall be notified of the final discipline imposed, if any;
- The complainant shall be notified promptly of any delay in the investigation or disciplinary process.

PCSW Consultant

The position of "Permanent Commission on the Status of Women Sexual Harassment Consultant" ("PCSW Consultant") shall be created. The PCSW Consultant shall be hired and supervised by the PCSW, an independent State agency. The Consultant shall:

- provide an independent outside review of all sexual harassment and retaliation investigations and Department policies and regulations, and make specific written findings and recommendations to the Commissioner;
- provide a quarterly written report to the Commissioner and the PCSW, with a copy to class counsel, (a) summarizing the complaints and investigations of sexual harassment and retaliation filed or pending that quarter, and (b) making any findings and recommendations that the Consultant deems relevant;
- receive a copy of each and every pending and future complaint concerning sexual harassment and retaliation;
- upon a complainant's request, attend and/or conduct interviews of complainants, accused persons and witnesses;
- be permitted to interview investigators about the nature and scope of the investigation, and shall be permitted to review each investigation file and each investigation report prior to its issuance. The Consultant shall also be permitted to make specific recommendations for any appropriate changes to such reports or further investigation;
- review recommended remedial measures and discipline, if any, prior to their issuance, and make specific recommendations for any appropriate changes to any remedial measures or discipline ordered.

Advisory Committee

The Commissioner shall establish an Advisory Committee on Women's Issues, which shall: (a) provide a forum for employees to express their views concerning sexual harassment and retaliation, and (b) review, discuss and offer recommendations to enhance the employment policies, practices and working conditions of women employees at the Department.

The Advisory Committee shall be chaired by the Director of Affirmative Action, it may include representatives from the Office of the Attorney General and the PCSW, and it shall include employees from various levels of the Department and worksites, including at least three members of the plaintiff class. The Commissioner shall appoint the remaining members of the Committee from among employees who respond to a general notice soliciting candidates.

Working Group on Sexual Harassment

The Commissioner shall also establish a "Working Group on Sexual Harassment," which shall consist of outside experts and advisors in the field of sexual harassment and women in public safety employment. The members of the Working Group shall be chosen, in equal numbers, by the Commissioner, the PCSW and the Attorney General.

The Working Group on Sexual Harassment will assist the Department and the PCSW Consultant in the review of existing Department policies, procedures and practices, and in the development of recommendations and best practices to address and correct any sexual harassment, retaliation, related misconduct and sexually hostile working conditions within the Department.

Investigation and Punishment of Off-Site Misconduct

The Commissioner shall gather and transmit to the Director of the Affirmative Action Unit notice concerning the arrest of any Department employee for assaulting, threatening or in any way injuring a female or for having engaged in any other conduct that constitutes sexual harassment or retaliation off duty or outside of the workplace.

The Department shall investigate all of these cases, shall make findings and recommendations, and shall determine appropriate remedial measures.

Training

The Department shall, with the advice and consent of the PCSW, contract the services of an expert sexual harassment training provider to assist the Department with developing, delivering, evaluating, and monitoring sexual harassment training with the Department's Center for Training and Staff Development (CTSD).

The training provider will be on contract for a period of four years. It shall monitor the Department's training protocols and programs, train the Department's in-house sexual harassment trainers, assist with the development of a lesson plan, conduct joint training with CTSD staff for at least one full training year, conduct specialized training courses related to sexual harassment, and monitor and audit classes conducted by Department staff to ensure quality and integrity.

The Department shall provide three hours of Sexual Harassment Prevention and Response Training to all employees as part of the employees' required pre-service training and one hour of annual refresher training.

Compliance Report

The Affirmative Action Unit Director and the Commissioner shall collect, compile and evaluate data concerning sexual harassment and retaliation at the Department and concerning all aspects of the complaint, investigation and disciplinary process, and shall, at least quarterly, present their findings in a written Compliance Report.

The primary purpose of the Compliance Report is (1) to inform all interested parties concerning the Department's compliance with the terms, conditions and requirements of the Stipulated Agreement, and (2) to measure the effectiveness of the Department's ongoing efforts to eradicate sexual harassment and retaliation.

The Compliance Report shall be made available to all Department employees, and shall be mailed to class counsel and to the Court. It shall be accompanied by a written statement, signed by the Director of the Affirmative Action Unit and the Commissioner of the Department of Correction, certifying the accuracy and completeness of the Report and the underlying data, certifying that the Department is in compliance with each and every provision of the Stipulated Agreement, and explaining, where necessary, any deviation from, or failure to comply fully with, any provision of the Agreement.

Restroom Issues

The Commissioner shall take all steps necessary to provide adequate restroom facilities and restroom breaks for all employees of the Department of Correction at each and every Department facility. Restroom facilities and restroom breaks shall be provided to employees of the Department such that employees shall ordinarily receive restroom relief within 20 minutes from the time of a request for same.

There shall be a speedy mechanism for reporting breaches of this standard to the Warden of the facility involved, or, at the discretion of the complainant, to the Affirmative Action Unit. Any violation of this standard may be treated as an incident of sexual harassment, retaliation or related misconduct, and shall, if the complainant files a complaint, be appropriately addressed, remedied and disciplined as set forth in this Agreement.

No Effect on Employee's Individual Injunctive Relief or Money Damages Claims

The Stipulated Agreement does not resolve, and shall have no effect on, any individual employee's claims for (a) individual injunctive relief or (b) money damages related to sexual harassment, retaliation or related misconduct, including those claims already asserted in the federal complaints, and any claims that may be brought in the future.