

Division of Public Defender Services  
Administrative Human Resources Policies & Procedures

<b>Policy # 104</b>	<b>SEXUAL HARASSMENT</b>
<b>Effective</b>	<b>October 2019 in accordance with PA 19-16 and 19-93</b>

***POLICY***

The Division of Public Defender Services is committed to providing a work environment in which all people are treated with respect and dignity. It is the policy of the Division to provide its employees and clients with a workplace free of sexual harassment, retaliation and related misconduct.

Sexual harassment of any sort by management, supervisors, employees and clients is prohibited whether in the workplace, at assignments outside the workplace, at Division sponsored events or elsewhere.

The Division shall investigate and provide appropriate discipline, remedial measures and resolution for each complaint and each reported violation of this policy. Any employee who engages in conduct prohibited by this policy shall be subject to discipline, up to and including dismissal.

All employees are expected to participate in this effort. All managers and supervisors are responsible for insuring that the workplace is free of sexual harassment, monitoring working conditions to detect and stop sexual harassment and the reporting of complaints to Human Resources.

***GENERAL INFORMATION***

Sexual harassment is a form of misconduct that undermines the integrity of the employment relationship and the professionalism and efficiency of the Division. This policy shall protect both employees and non-employees including clients, volunteers and interns, regardless of the source of sexual harassment. This policy prohibits sexual harassment by employees against other employees and against non-employees involved with the Division. This policy should not prohibit normal, courteous, respectful, pleasant and non-coercive interactions.

During the 2019 legislative session Public Acts [19-16](#) & [19-93](#) were enacted. In accordance with the Acts all employees are required to obtain the following training:

New Employees hired after October 1, 2019	Receive two (2) hours of training within six (6) months of hire
Existed employees prior to October 1, 2019	Receive two (2) hours of training before October 1, 2020

***DEFINITIONS***

**Sexual Harassment:** Any unwelcome sexual advance, request for sexual favors, disparagement or hazing on the basis of gender, gender identity or sexual orientation, conduct, verbal or physical, that is of a sexual nature or that is addressed to sexual attributes when:

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- A. Submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
- B. Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting the individual;
- C. Such conduct has the purpose or effect of creating an intimidating, hostile or offensive working environment;
- D. Such conduct substantially and adversely affects the working conditions of an employee or persons involved with the operation of the Division or clients of the Division.

**Examples of Sexual Harassment:** Include but are not limited to the following illustrations:

- A. Verbal, physical, graphic or written conduct
- B. Unwelcome touching, sexual abuse, or sexual advance;
- C. Verbal abuse of a sexual nature;
- D. Graphic or suggestive comments about an individual's appearance or actions;
- E. Sexually degrading words to describe an individual;
- F. Display of sexually suggestive objects or pictures in the workplace;
- G. Ridicule or embarrassment of a person because of an individual's gender or sexual identity;
- H. Implicit or explicit threats or insinuations that an employee's refusal to submit to sexual advances will adversely affect the employees employment, evaluation, wages, advancement, assigned duties or any other condition of employment.
- I. Implicit or explicit threats or insinuations that a client's refusal to submit to sexual advances will adversely affect the client's case or representation.
- J. Engaging in sexually suggestive or explicit conversation, body movements, gestures, and so forth that is unwelcome or offensive to any individual hearing or witnessing such conduct;
- K. Engaging in sexually suggestive physical contact or touching another individual in a way that is unnecessary and unwelcome;
- L. Displaying, storing, or transmitting pornographic or sexually oriented materials using Division equipment;
- M. Making sexual or romantic advances toward an employee, client or another individual in the workplace and persisting despite the individuals rejection of the advances;
- N. Using crude and offensive language, or making sexually explicit jokes.
- O. Making a decision concerning an employee's terms or conditions of employment on the basis of an employee's refusal to submit to sexual advances or any kind of sexual harassment as defined herein or threatening or insinuating that such refusal will adversely affect an employee's terms and conditions of employment in any way.

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- P. Making a decision concerning a client's case on the basis of an client's refusal to submit to sexual advances or any kind of sexual harassment as defined herein or threatening or insinuating that such refusal will adversely affect a client's case or representation in any way
- Q. Making a decision concerning an employee's terms or conditions of employment or stating or insinuating that any term or condition of employment will be favorably affected by an employee's willingness or appearance of willingness to tolerate sexual advances or other Sexual harassment, as defined herein.
- R. Making a decision concerning a client's case or representation or stating or insinuating that representation will be favorably affected by an employee's willingness or appearance of willingness to tolerate sexual advances or other Sexual harassment, as defined herein.

**Related Misconduct:** Failure of a supervisor or manager to comply with the requirements for detecting, reporting and intervention set forth in policy.

**Terms and Conditions of Employment:** Working conditions and benefits of all kinds, including but not limited to assignment, promotional and training opportunities, treatment and discipline.

**RETALIATION**

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Any conduct that constitutes retaliation as defined in this policy is strictly prohibited. Any intimidation, threat, coercion, discrimination or other restraint against an employee, client, volunteer, intern or other individuals involved with the Division because the individual:

- A. Made a written or verbal complaint of sexual harassment, retaliation, or related misconduct;
- B. Resisted or opposed any conduct that violates this policy;
- C. Refused to participate in or condone any conduct that violates this policy; or,
- D. Testified at, assisted in, participated in any investigation, or proceeding concerning sexual harassment

The following specific conduct, when engaged in because the employee, client or other individual has refused to participate in sexual harassment or because an employee, client or other individual has reported, complained of, or otherwise opposed any violation of this policy, are examples of retaliation that violates this policy. The following examples of retaliatory conduct may also constitute Sexual harassment:

- A. Taking any adverse action against an employee with regard to any term or condition of employment;

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- B. Taking any adverse action against an client or individual with regard to any term or condition of their representation or activities concerning the Division;
- C. Subjecting an employee or other individual to a hostile work environment in any way;
- D. Subjecting a client to a hostile environment regarding their legal matters;
- E. Selectively disciplining the employee or selectively threatening to impose discipline against the employee;
- F. Holding the employee to a higher standard of performance than other employees;
- G. Denying the employee training opportunities; transfers or promotions;
- H. Giving the employee unfair or inaccurate performance evaluations;
- I. Informing other employees with the exception of Managers or Supervisors who need to know that an employee has made a complaint or identifying an employee as the person who made a complaint;
- J. Refusing to investigate when the employee, client or individual reports violations of rules, regulations or policies or refusing to take corrective action when such violations are found to have occurred;
- K. Taking adverse action toward a individual who has participated in or supported an investigation of a complaint of a violation of this policy or who has refused to participate in a violation of this policy;
- L. Failing to report violations of this policy

***EMPLOYEE RESPONSIBILITY***

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An employee shall not engage in behavior that constitutes sexual harassment, retaliation or related misconduct. The Division of Public Defender Services will not tolerate violations of this policy and strongly encourages victims of sexual harassment to report such harassment as soon as possible after it occurs. Any employee who witnesses sexual harassment, retaliation or related misconduct or who becomes aware that an employee, client or individual has been subjected to sexual harassment, retaliation or related misconduct should report same to a supervisor, manager or Director of Human Resources as soon as possible.

***MANAGER OR SUPERVISOR RESPONSIBILITY***

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Each manager or supervisor has a responsibility to maintain a workplace free of any form of sexual harassment, retaliation or related misconduct, to monitor working conditions and to take prompt action to correct and report violations or suspected violations of this policy.

Any manager or supervisor who witnesses conduct that violates this policy or receives a report of conduct that is alleged to violate this policy shall immediately report such conduct to the Director of Human Resources.

Failure of a manager or supervisor to take action upon witnessing or receiving a report of sexual harassment or sexual misconduct committed by a client or employee of another individual

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against an employee, client or another individual of the Division constitutes a violation of this policy.

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***PROCEDURES***

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Employees are urged to report all incidents of sexual harassment of which they are aware. Employees who report sexual harassment and employees who assist in investigating such reports will not suffer adverse job consequences as a result of their reports or assistance. The following established procedures encourage employees to report incidents of sexual harassment. These procedures are designed to:

- A. Make the reporting process as simple as possible.
- B. Maintain confidentiality of the matter to the maximum extent permitted by law. Employees, clients, individuals, supervisors and managers should be aware that investigators, witnesses, the employee accused of harassment, union representatives, others involved in investigating and resolving the complaint, and imposing discipline will have to be made aware of the complaint and pertinent information in order to investigate and resolve the complaint effectively. All individuals who received information pertinent to a sexual harassment complaint through the investigative process may use or disseminate that information only to the extent necessary to resolve the complaint, and otherwise it shall be confidential. Anyone involved in the investigation who is an employee of the Division who uses or disseminates such information will be in violation of this policy and will be subject to disciplinary action.
- C. Build employee confidence in the complaint resolution process by:
  - 1) Ensuring that all complaints are investigated;
  - 2) Facilitating the prompt, efficient, effective resolution of complaints;
  - 3) Protecting the rights of all parties involved; and
  - 4) Keeping the complainant apprised of the status of the matter.

Sexual harassment in the workplace may involve not only the supervisor, manager or employee misconduct but also misconduct by individuals who are not employees that victimize an employee while the employee is acting within the scope of their employment. The policies and procedures set forth in this policy are intended for use in responding to all situations in which an employee, client or other individual of the Division has been harassed in the workplace.

The policies and procedures contained in this policy are also to be used when a supervisor or manager becomes aware of an alleged incident involving sexual harassment by a Division employee of an individual who is not an employee. The supervisor or manager must report this allegation immediately to the Director of Human Resources who will consult with the Chief and Deputy Public Defender to determine what action will be taken.

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### ***COMPLAINT PROCESS***

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The Division shall investigate and remedy sexual harassment, retaliation and related misconduct that is brought to its attention whether or not an employee has made a complaint. The following procedures apply to complaints:

- A. A complaint of sexual harassment, retaliation or related misconduct shall be made within thirty (30) days of the conduct complained of; however, the Director of Human Resources has discretion to accept and investigate complaints made after the thirty (30) days and shall do so for the good cause shown. The Director shall accept and investigate such complaints without a showing of good cause for delay if they allege ongoing or continuous misconduct that has continued by the same alleged wrongdoer(s) within the thirty (30) day period.
- B. It is the policy of the Division to investigate all complaints of sexual harassment, retaliation and related misconduct, it is imperative that when supervisors or managers are advised either verbally or in writing of an allegation, they immediately notify the Director of Human Resources.
- C. Allegations of sexual harassment, retaliation and other related misconduct are reviewed in accordance with the Employment Discrimination Complaint Resolution Process mentioned later in this policy. This process includes the following elements:
  - 1) Confidential counseling and procedures for resolution by the Human Resources Department.
  - 2) A guarantee of non-retaliation for the exercise of rights granted pursuant to the procedure.
  - 3) Advisement of legal options to file formal complaints with the Equal Employment Opportunity Commission (EEOC), Connecticut Commission on Human Rights and Opportunities (CHRO) and the United States Department of Labor(USDOL).
  - 4) A timeframe not exceeding 90 days for filing, processing, and attempted resolution of such matters.
  - 5) Periodic training for appropriate staff on counseling and investigation.

### ***FILING A COMPLAINT***

Employees who feel they have been the victims of sexual harassment, retaliation or related misconduct should contact the Human Resources Department (860-509-6433). At the initial meeting, the employee will be advised of their rights under State and Federal laws, given a copy of the complaint resolution procedure, and informed of the confidentiality of the proceedings. The following will occur in the processing of the complaint:

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- A. The complainant will sign a written complaint and file with Human Resources within 30 calendar days of the alleged act. If employee declines to reduce to writing, the Human Resources Department will summarize the complaint and indicate complainant declined to provide written statement.
- B. The complaint will be provided with the written complaint and will sign to its accuracy.
- C. The Human Resources Department shall send the complainant(s) written acknowledgement of receipt of complaint.
- D. The complaint must contain:
  - 1) Full name of complainant
  - 2) Full name of accused
  - 3) Complaint statement, which should include a brief precise description of the alleged acts.
  - 4) The dates and location of alleged acts
  - 5) Date complaint is filed.

**Reporting and Investigation of Alleged Incidents of Sexual Harassment in the Workplace:**

The Human Resources Department shall conduct and complete a fair, objective, comprehensive, and to the extent possible, confidential investigation into every complaint of sexual harassment, retaliation or related misconduct. The complaint may request that investigations be conducted at a confidential off site location. The Chief Public Defender and Director of Human Resources may consider placing the alleged harasser on administrative leave or working with the respective bargaining Unit to transfer the alleged harasser during the investigation.

The investigation will begin within 15 business days of the receipt of the complaint and should be completed within thirty (30) days; however the time to investigate may be extended for good cause, upon three (3) days written notice to the complaint.

As part of the investigative process into a complaint of sexual harassment, an employee accused of engaging in sexual harassment will be given the information required to enable a response to the allegation(s). Union representatives, managers and others involved with the investigation may have to be made aware of the complaint and the pertinent information. Sharing of complaint and information will be made on a need to know basis and shall be covered by the confidentially section of this policy.

The Division shall comply with CHRO regulations that require resolution of complaints within ninety (90) days unless good cause is shown for a longer period for resolution.

The complainant shall be informed that the investigation is complete. During the process, the Human Resources Department will keep the complainant informed as to progress and any actions that are being taken.



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A final investigative report will be done, if allegations are substantiated, the Human Resources Department shall notify the subject of the investigation and hold a pre-disciplinary meeting with the employee and their representative. After said meeting, the Human Resources Department shall make recommendations to the Chief Public Defender as to disciplinary action.

During the investigation, the complainant may request to be moved to another location. The complainant may also request in lieu of being moved that the employee charged with the allegations be moved to another location. The Division will work with the respective union and will comply as the collective bargaining agreement permits.

The Human Resources Unit will notify the complainant that the investigation has been completed. Upon request, the complainant shall be provided with the final report.

***DISCIPLINARY ACTION***

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If an investigation substantiates that an employee, supervisor or manager has:

- a) Engaged in conduct prohibited by this policy
- b) Failed to cooperate fully and truthfully in an investigation
- c) To have lied or given false testimony during the course of an investigation
- d) Filed a false complainant

Shall be subject to discipline appropriate to the violation, including discipline up to and including dismissal. An individual who is the victim of the alleged misconduct under this policy shall not be subject to discipline solely for choosing not to pursue a complaint or because a complaint is not substantiated.

Any supervisor or manager who is found after investigation to have:

- A. Engaged in a related misconduct as defined in this policy
- B. Been negligent in pursuing appropriate action to enforce this policy; or
- C. Failed to comply with the obligations it imposes on supervisors and managers,

Shall be subject to discipline appropriate to the violation up to and including dismissal.

The Director of Human Resources and the Chief Public Defender may take other remedial action such as, counseling, training, EAP, or transfer in addition to any disciplinary action which may be taken.

**Confidentiality:** Employees are urged to report all incidents of sexual harassment of which they are aware. Employees who report sexual harassment and employees who assist in the investigation of reports of alleged sexual harassment will not suffer adverse job consequences as a result of their reports or assistance. The identity of the complainant and the facts and circumstances of a complaint and/or investigation shall to the extent possible (requirements of State and Federal laws, collective bargaining agreements etc. will be taken into consideration), be kept confidential and shared only on a need to know basis.

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To assist employees, clients or other individuals that may be reluctant to report or assist in the investigative process, the Division has established the following procedures to encourage the reporting and assistance of employees in addressing alleged discrimination. The procedures will accomplish the following:

- A. Make the process of reporting the incident or issue simple.
- B. Maintain confidentiality of the matter to the maximum extent permitted by law and the respective collective bargaining agreements.
- C. As part of the investigative process into a complaint of sexual harassment, an employee accused of engaging in sexual harassment will be given the information required to enable a response to the allegation(s). Union representatives, managers and others involved with the investigation may have to be made aware of the complaint and the pertinent information. Sharing of complaint and information will be made on a need to know basis and shall be covered by the confidentially section of this policy.
- D. All individuals who receive information pertinent to an alleged discrimination complaint through the investigative process may disseminate that information only to the extent required to resolve the complaint, otherwise it shall be considered confidential.
- E. Anyone investigating a complaint for the Division or any employee involved in the process who uses or disseminates such information in violation of this policy may be subject to disciplinary action.

It is the Division's goal to have employee confidence in the complaint resolution process by ensuring that all complaints are investigated; to facilitate the prompt, efficient, and effective resolution of complaints; protecting the right of all parties involved and finally to keep the complainant appraised of the status of the matter.

**Complaint Resolution Process:** It is the intent of the Division to attempt to resolve complaints of alleged sexual harassment at the lowest level. The following are included in the resolution process:

- A. Upon completion of the investigation, the Human Resources Unit substantiates the claims of sexual harassment, the Unit shall promptly attempt to resolve the complaint.
  - 1) The Human Resources Unit will attempt to resolve the matter between the parties in an effort to mediate, mitigate or conciliate the complaint.
  - 2) This process shall be completed within 75 days of the filing date of the complaint.
  - 3) If the parties to the complaint agree on a resolution by way of conciliation, the terms of such resolution shall be set forth in a written agreement.

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- 4) The results of this process may include apology, additional training, transferring either the complaint or the harasser, EAP attendance or disciplinary action.
- B. If the complaint is not substantiated or dismissed and the complainant feels adversely affected by the decision, they may appeal the decision within 15 calendar days to the Chief Public Defender. Any complainant adversely affected by the dismissal of the complaint retains the right to pursue a remedy through other channels and legal proceedings
- C. Advise ment of legal options to file formal complaints with the [Equal Employment Opportunity Commission \(EEOC\)](#), [Connecticut Commission of Human Rights and Opportunities \(CHRO\)](#) and the [United State Department of Labor \(US DOL\)](#).
- D. A time frame not exceeding 90 days for filing, processing and attempted resolution of the matter(s).

***PROTECTION FROM ADVERSE ACTION***

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No employee, client or other individual of the Division shall be intimidated, threatened, coerced, discriminated, harassed or otherwise retaliated against because of tiling a complaint, opposing any sexual harassment practice, testifying or participating in any manner in an investigation or proceeding. Violations of this section shall be reported immediately in writing to the Human Resources unit. If there is a conflict with reporting the violation to the Human Resources Unit, it shall be reported to the Chief Public Defender.