

**THE DISTRICT OF COLUMBIA  
DEPARTMENT OF YOUTH REHABILITATION SERVICES  
POLICY AND PROCEDURES MANUAL**

<b>POLICY NUMBER:</b>	<b>DYRS-012</b>
<b>RESPONSIBLE OFFICES:</b>	<b>Agency-wide</b>
<b>EFFECTIVE DATE OF POLICY:</b>	<b>January 8, 2013</b>
<b>SUPERSEDES POLICY:</b>	<b>N/A</b>
<b>SUBJECT:</b>	<b>Sexual Harassment in the Workplace</b>

**I. PURPOSE**

The mission of the District of Columbia Department of Youth Rehabilitation Services ("DYRS") is to improve public safety and give court-involved youth the opportunity to become more productive citizens by building on the strengths of youth and their families in the least restrictive, most homelike environment consistent with public safety. DYRS will provide the nation's best continuum of care for court-involved youths and their families through a wide range of programs that emphasize individual strengths, personal accountability, skill development, family involvement, and community support. It is critical to the mission of this Agency, particularly given our responsibility of maintaining public safety and safe and secure facilities for our youth, that our managers and employees engage in professional behavior at all times. As such, DYRS is implementing a zero tolerance policy for sexual harassment, consensual intimate relationships with a subordinate and/or someone that you either directly or indirectly supervise; and retaliation.

This policy establishes guidelines to implement procedures for reporting, filing, investigating, and resolving claims of sexual harassment and/or retaliation for reporting sexual harassment within DYRS.

**II. GENERAL POLICY**

It is the policy of DYRS to value the rights of all employees and third parties doing business with or carrying out the goals and objectives of DYRS. Each person has a right to be in a work environment or to receive services free from discrimination and harassment. Any and all forms of sexual harassment in the workplace are strictly prohibited. DYRS's policy adheres to the following provisions stated in DCMR § 4-102.1: It shall be the policy of the Government of the District of Columbia in connection with any aspect of District government employment to do the following:

1. To prohibit sexual harassment
2. To prohibit retaliation for filing Equal Employment Opportunity (EEO) complaints
3. To provide equal employment opportunity for all persons
4. To prohibit discrimination in employment because of race, color, religion, national origin, sex, age, marital status, personal appearance, sexual orientation, gender identity or expression, family responsibilities, matriculation, political affiliation, genetic information and disability.
5. To prohibit retaliation

Under no circumstance shall any employee, supervisor, manager, or other person acting on his or her behalf, or under his or her direction, retaliate against, harass, or coerce an employee because that employee has filed or asserted a claim of sexual harassment, assisted another person in filing or asserting a claim of sexual harassment, opposed sexual harassment, been a witness in a sexual harassment investigation, or challenged an allegation of sexual harassment on or off the premises of DYRS.

### **III. AUTHORITY**

This policy is governed by all applicable District of Columbia and Federal laws including: DYRS Establishment Act, D.C. Official Code §§ 2-1515.01 *et seq.* (2001 & Supp. 2011); District Personnel Manual, D.C. Mun. Regs. tit. 6-B § 200.1 *et seq.*; Title VII of the Civil Rights Act of 1964, as amended (PL 88-352, § 703; 42 U.S.C. §§ 2000e-2, *et seq.*); The District of Columbia Human Rights Act of 1977, as amended, DC Official Code §§ 2-1401.01 *et seq.* (2001 & Supp. 2011); Title IV, Chapter 1 of the DC Municipal Regulations, D.C. Mun. Regs. tit. 4 §§ 100.1 *et seq.*; and Mayor's Order 2004-171 (October 20, 2004), Sexual Harassment.

### **IV. SCOPE**

The policies herein shall apply to all DYRS employees, contractors, vendors, and individuals providing services to DYRS youth and families.

### **V. DEFINITIONS**

#### **Sexual Harassment**

As stated in the Mayor's Order 2004-171:

1. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when any one of the following criteria is present:
  - 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 a basis for employment decisions affecting the individual.
  - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.
2. Conduct that may create an intimidating, hostile or offensive work environment includes, but is not limited to:
  - a. Sexually oriented or sexually degrading language describing an individual or his/her body, clothing, hair, accessories or sexual experiences
  - b. Sexually offensive comments or off-color language, jokes, or innuendo that a reasonable person would consider to be of a sexual nature, or belittling or demeaning to an individual or a group's sexuality or gender

- c. The display or dissemination of sexually suggestive objects, books, magazines, photographs, music, cartoons, or computer internet sites or references
  - d. Unnecessary and inappropriate touching or physical contact, i.e. brushing against a colleague's body, touching or brushing a colleague's hair or clothing, massages, groping, patting, pinching, and hugging, that a reasonable person would consider to be of asexual nature
  - e. Leering or sexually suggestive gestures or sounds, e.g., whistling or kissing noises
  - f. Workplace sexual comments, conduct, displays, and suggestions between two willing parties that would cause a reasonable third party to be offended
  - g. Any unwanted repeated contact, including but not limited to, in person or telephone, for romantic or sexual purposes
  - h. Sexual assault.
3. Sexual harassment may be committed by persons of either gender against persons of the same or different gender.
  4. In addition to the prohibition of sexual harassment between co-workers, any act of sexual harassment or inappropriate conduct of a sexual nature between employees and clients or other parties involved with DYRS shall not be tolerated.
  5. Sexual harassment is unlawful and prohibited during working hours or in the workplace, including but not limited to activities or events such as conferences, work functions, office holiday parties (on or off-site), and business trips.

## **VI. Roles and Responsibilities of DYRS Staff in Preventing Sexual Harassment**

1. All DYRS staff members shall use their best efforts to help ensure a workplace that is free of sexual harassment by complying with this policy and fulfilling the following responsibilities:
  - a. Refraining from engagement in any act that could constitute sexual harassment or any inappropriate conduct of a sexual nature
  - b. Reporting any known incidents of sexual harassment to any supervisor or manager with whom the employee feels comfortable or to the appropriate Equal Employment Opportunity (EEO) counselor (*See Section VII.*)
  - c. Cooperating in the investigation of sexual harassment complaints
  - d. Maintaining complete confidentiality when providing information during the investigation of a complaint
2. In addition to complying with all mandates outlined in this policy, managers and supervisors are responsible for the following behaviors:
  - a. Modeling appropriate behavior by refraining from engaging in any inappropriate conduct of a sexual nature or acts that could constitute sexual harassment.
  - b. Monitoring the work environment to ensure that acceptable standards of conduct are observed at all times.
  - c. Promoting the agency's sexual harassment policy within their individual administrations.

- d. Treating all complaints or concerns of sexual harassment seriously and taking immediate action to ensure that an investigation is conducted, or that other appropriate action is taken, pursuant to the procedures set forth in Section VII below.
- e. Documenting and reporting all sexual harassment allegations and complaints to the appropriate chain of command and the EEO counselor.
- f. Maintaining the confidentiality of individuals who make a sexual harassment complaint. This means that the complaint shall be discussed only with those who have a legitimate administrative or legal reason to know about the complaint.

## **VII. Reporting Sexual Harassment Allegations and Filing Complaints**

1. Any employee, who believes that he or she is being subjected to sexual harassment, should immediately take action by electing to do one of the following:
  - a. Within one hundred and eighty (180) days inform his or her DYRS supervisor or manager or another DYRS manager of the incident and, if desired, request that the supervisor or manager resolve this issue through an informal process.
  - b. Within one hundred and eighty (180) days, consult with or file a formal complaint with the DYRS EEO Officer to initiate an investigation, or consult with any EEO Counselor at any District of Columbia Agency.
  - c. File a complaint directly with the District's Office of Human Rights (OHR) or with the appropriate federal agency, such as the Equal Employment Opportunity Commission (EEOC).
2. In the event that an employee is being subjected to harassment by his or her immediate supervisor, s/he may inform **any** other DYRS supervisor or manager outside of his or her chain of command, or one of the Agency's EEO counselors.
3. If the complainant is comfortable doing so, s/he should advise the alleged harasser that s/he views the harasser's comments, conduct, displays, or suggestions to be offensive, and thereby requests that the harasser cease the activity.
  - If the complainant does not feel comfortable addressing the alleged harasser, s/he may inform any DYRS supervisor or manager of the circumstances. In any event, the alleged harasser shall be promptly informed of the allegation (see *Section IX*).
4. Any supervisor or manager who has been informed of a sexual harassment allegation shall immediately complete **all** of the following tasks:
  - a. Report the allegation, including any documentation such as incident reports, to the DYRS EEO Officer, and the alleged harasser's supervisor and/or the appropriate chain of command. Documentation shall be forwarded within 24 hours of the complaint through the appropriate chain of command, including the EEO Officer and a copy to the General Counsel.

- b. Notify the alleged harasser of the allegation, and inform the harasser that if such conduct is occurring that it must immediately stop.

A supervisor or manager's failure to comply with these reporting requirements shall be considered cause for corrective or adverse action, up to and including termination.

5. The EEO Officer, in consultation with the Office of the General Counsel, shall make the final determination regarding appropriate steps to resolve the complaint.
6. An employee who believes s/he is being subjected to sexual harassment, or is acting on behalf of another employee (with or without the employee's consent), may elect to file a formal complaint requesting an investigation into the allegation.
  - a. The complainant shall complete and submit a Sexual Harassment Formal Complaint Form to **any** DYRS supervisor or manager or to the DYRS EEO Officer, or to any EEO counselor at any other District of Columbia agency.
  - b. The completed form must be submitted within 180 days from the time that the alleged incident occurred and must include the following information:
    - i. Specific allegations
    - ii. Name of the alleged harasser
    - iii. Any efforts made to resolve the matter
    - iv. Names of potential witnesses
7. Within 48 hours of receiving a formal complaint of sexual harassment, the supervisor or manager shall forward copies of the completed form through the alleged harasser's chain of command, to the Office of the General Counsel, and to the EEO Officer.

A supervisor or manager's failure to comply with this reporting requirement shall be considered cause for corrective or adverse action up to and including termination.

8. DYRS's EEO Officer shall promptly initiate investigations of sexual harassment allegations.
  - a. A DYRS EEO counselor shall notify the alleged harasser that a formal complaint has been filed, and that s/he has the right to provide a written response to the complaint within 2 business days of notification.
  - b. A DYRS EEO counselor shall separately interview the complainant, the alleged harasser, and any witnesses.
  - c. All parties to the investigation shall be treated with dignity and respect.
9. If the EEO counselor's investigation reveals that the complaint cannot be resolved internally within 60 days, DYRS shall refer the matter to OHR.
10. Complainants filing directly with OHR must do so within one (1) year of the alleged incident. Complainants filing directly with the EEOC must do so within one hundred and eighty (180) days of the alleged incident

11. All DYRS employees are expected to cooperate fully and promptly with requests from investigators for interviews and other information.
  - a. If an employee who alleges, or is alleged to be the victim of sexual harassment, declines to assist or participate in the investigation of the allegation, DYRS may unilaterally initiate and conduct an investigation.
  - b. Any employee who, upon the direct request of DYRS, declines to participate in an investigation, may be subject to disciplinary action.
12. Within 21 calendar days of a complaint being filed, The EEO Officer shall provide the complainant with written notification of the final disposition of the investigation.
13. Pending final resolution of a sexual harassment complaint, DYRS may at its own discretion, or upon the request of a complainant, take one or more of the following prompt personnel actions (that are administrative rather than disciplinary) on a temporary basis that does not result in any adverse employment action:
  - a. Transfer
  - b. Reassignment of duties
  - c. Mandatory administrative leave with pay
  - d. Other measures that do not result in reduction of pay or loss of employee benefits.
14. If the results of an investigation reveal that an employee has engaged in inappropriate behavior of a sexual nature, the employee shall be subject to disciplinary action up to and including termination.
  - a. If either DYRS or an appropriate law enforcement authority determines that a sexual assault (a knowing, intentional, nonconsensual touching of a sexual nature) has occurred, DYRS shall discipline the alleged harasser, up to and including termination of employment.
15. Any employee who believes that s/he has witnessed or knows of harassment should immediately take one of the following actions:
  - a. Inform his or her supervisor or manager, the alleged harasser's supervisor, or another DYRS manager, and request an informal process to resolve the complaint, pursuant to steps # 2-5 above.
  - b. File a formal complaint pursuant to step # 6 above.

*Note: DYRS's authority to investigate sexual harassment complaints is limited to complaints lodged by or against individuals who are DYRS employees at the time the complaint is filed.*

## **VIII. Confidentiality**

1. Sexual harassment investigations and any ensuing information or documents are subject to privacy and privilege rights and shall remain confidential.

- a. The complaint shall be discussed only with those who have a legitimate administrative or legal reason to know about the complaint.
  - b. Information related to a complaint may still be subject to disclosure as required by District or federal law.
2. The investigator(s) and DYRS staff participating in the investigation shall make reasonable efforts to protect the identity of the alleged harasser and the complainant, as well as witnesses for either party.

*Note: DYRS is not precluded from reporting a suspected illegal or improper act, or conduct related to the investigation, to an appropriate law enforcement, or legal organization, or from cooperating in any related investigation.*

#### **IX. Rights of the Alleged Harasser**

Persons accused of sexual harassment deserve the full protections afforded them under the law, including, but not limited to, the presumption of innocence, unless and until there is a finding of culpability.

The following actions shall be afforded to the person accused of sexual harassment:

1. Prompt advisement that a complaint has been made
2. Relevant information related to the specific substance of the complaint
3. An opportunity to respond to the allegations during the investigation
4. Information on the type of procedure that the complainant chose for pursuing the complaint
5. An opportunity to have his or her questions answered before the commencement of any review or investigation.
6. An opportunity to have their union representative present during the questioning if so desired.

#### **X. Prohibition Against Retaliation**

Employees are encouraged to report sexual harassment or any other form of discrimination, and shall do so without fear of retaliation. DYRS shall take appropriate steps to protect an employee's assertion of rights under law.

1. Retaliation includes, but is not limited to the following circumstances:
  - a. Arbitrary discipline, unwarranted change of work assignments, providing inaccurate work information, or failing to cooperate or discuss work-related matters with any employee because that employee has complained about, been a witness to or resisted harassment or discrimination
  - b. Intentionally pressuring, falsely denying, lying about, or covering up or attempting to cover up any conduct such as that described in the item above.
2. Retaliatory behavior shall be considered cause for corrective or adverse action, up to and including termination.

#### **XI. Consensual Relationships/Favoritism**

Consistent with DYRS Policy No. DYRS-010, Employee Conduct, sexual/intimate relationships between employees and supervisors in the employee's chain of command are strictly prohibited. While the agency recognizes that such relationships may arise in a consensual manner, any such relationship shall be immediately reported up the supervisor's chain of command and to the DYRS EEO Officer so that proper steps – including, but not limited to, transferring the employee out of the supervisor's chain of command – can be taken to prevent favoritism and/or conflicts of interest that may undermine the Agency's mission. Favoritism based upon the granting of sexual favors can create an unlawful hostile work environment and/or constitute quid pro quo harassment.

A supervisor or manager's failure to immediately report any such relationship shall be considered cause for corrective or adverse action, up to and including termination.

#### **XII. Applicability of Personnel Rules**

Any proposed personnel action instituted under the instant policy remains subject to the District of Columbia Personnel Regulations as set out in the District of Columbia Personnel Manual.

#### **XIII. Resolution of Claim**

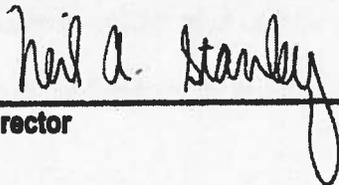
If, after a claim of sexual harassment is resolved, the employee feels unable to continue in his or her job, s/he may apply for a transfer. Transfers will be accomplished in accordance with applicable laws and regulations and will be determined on a case-by-case basis, depending on availability and the employee's general skill area.

#### **XIV. Contact Information**

DYRS Office of Human Resources  
8400 River Road  
Laurel, MD 20724  
Telephone - (202) 299-3100

DYRS EEO Counselors – Please see the Agency's online directory for contact information

**Approval of the Agency Director:**



**Director**