

NH DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE DIRECTIVE	CHAPTER <u>Personnel</u> STATEMENT NUMBER <u>2.15</u>
SUBJECT: DISCRIMINATION POLICY PROPONENT: <u>Lisa Currier,</u> <u>Administrator</u> <i>Name/Title</i> <u>Human Resources</u> <u>271-5640</u> <i>Office</i> <i>Phone #</i>	EFFECTIVE DATE <u>04/15/09</u> REVIEW DATE <u>04/01/10</u> SUPERSEDES PPD# <u>2.15</u> DATED <u>09/01/03</u>
ISSUING OFFICER: <hr/> <i>William Wrenn, Commissioner</i>	DIRECTOR'S INITIALS: _____ DATE: _____ APPENDIX ATTACHED: YES _____ NO _____
REFERENCE NO: See reference section on last page of PPD.	

I. PURPOSE:

To provide both policy and procedure regarding any grievance an employee or prospective employee may have concerning alleged discrimination in employment on the basis of age, sex (including sexual harassment, pregnancy, childbirth, and related medical conditions), sexual orientation, race, color, religious creed, marital status, physical or mental disability, or national origin, and to implement grievance procedures of the Americans with Disabilities Act (ADA).

NOTE: Any sexual harassment complaints will be handled in accordance with the State's sexual harassment policy. See PPD 2.39.

II. APPLICABILITY:

To all Department of Corrections personnel and prospective personnel

III. POLICY:

It is the policy of the Department of Corrections that no qualified individual in this department shall be denied the right to work, advance, or gain benefits related thereto, or be subjected to harassment or discrimination by reason of age, sex (including sexual harassment, pregnancy, childbirth, and related medical conditions), sexual orientation, race, color, religious creed, marital status, physical or mental disability, or national origin.

IV. PROCEDURE:

- A. Individuals believing that they have been discriminated against or harassed on the basis of age, sex, race, creed, color, marital status, physical or mental handicap, or national origin, may file a complaint in writing with the Division Director/Warden within thirty (30) days of the alleged discriminatory act or, if a personnel matter, within thirty (30) days of the effective date of the grieving decision. Said complaint shall be signed, under oath, by the complainant and delivered in person or mailed, return receipt requested, to the Division Director/Warden. The complainant will be advised of their administrative rights, including:
1. The right to present their complaint to the Division Director/Warden.
 2. The right to have the alleged discrimination investigated.

3. The right to appeal an adverse decision to the Commissioner of Corrections
4. The right to file actions with the Equal Employment Opportunity Commission, a Federal agency, or the New Hampshire Commission for Human Rights, a State agency.
- B. Upon receiving a report, the Division Director/Warden will initiate an investigation to look into the facts of the complaint.
- C. The investigation shall include:
 1. All potential evidence, records, documents, and other relevant materials
 2. Statements of all witnesses
 3. A thorough review of the circumstances under which the alleged discrimination occurred
 4. All policies and procedures, as well as common practices and customs related to the complaint and departmental rules related to the alleged complaint.
- D. The investigation shall result in a written report forwarded to the Division Director/Warden.
- E. The Division Director/Warden shall review the investigation, hold such additional hearings, and collect and document such additional evidence, as they deem appropriate.
- F. The Division Director/Warden shall issue its findings as soon as possible, but within 30 days after initial filing.
- G. The Division Director/Warden shall put its findings in writing and transmit said findings to the Commissioner. In addition to said findings, the Division Director/Warden will provide a copy of the complaint, any documentation used as evidence at the hearing, their analysis as to its findings, and disposition of the case.
- H. All decisions of the Division Director/Warden may be appealed to the Commissioner.
- I. Appeals shall be filed in writing within twenty (20) days after the decision rendered by the Division Director/Warden.
- J. The Commissioner may:
 1. Return the case to the Division Director/Warden for further evidence or findings.
 2. Remand for further investigation or for rehearing.
 3. Uphold the decision.
 4. Reverse the decision.
 5. Reopen for reconsideration providing that:
 - a. New and material evidence has been made available that was not readily available when the decision was issued.
 - b. Previous decision involves erroneous interpretation of the law, rule, or misapplication of established policy.
- K. The complainant has no absolute right to a hearing before the Commissioner. Such hearings shall be determined as appropriate solely at the discretion of the Commissioner.
- L. Complainants, representatives, and/or witnesses shall be free from interference, coercion, discrimination, or reprisal at any stage of the process of a complaint.
- M. The complainant may request, at any time, to have various allegations of discrimination consolidated for matters of expediency and efficiency.
- N. The department's Human Resource Administrator shall maintain a record regarding all incidences of alleged discrimination. Such record shall include:
 1. Any and all written reports
 2. The complaint
 3. Any written decisions, reports, analysis, and recommendations
 4. The investigations file
 5. All written statements by prospective witnesses
 6. All recordings and notes of the hearing and any amendments to the complaint.
- O. The record shall not contain any information that has not been made available to the complainant except in situations where the department has a security or institutional safety issue that would preclude such disclosure.
- P. At all times, the Division Directors, Wardens, Commissioner, or designees shall seek solutions on an informal basis.
- Q. All information, names, witnesses, and the facts alleged shall be kept confidential and

- divulged only to those individuals or agencies necessary in carrying out the intent of this policy.
- R. All employees shall cooperate with the individuals, committees, and officials charged with implementing this policy.

REFERENCES:

Standards for the Administration of Correctional Agencies
Second Edition Standards

Standards for Adult Correctional Institutions
Fourth Edition Standards

Standards for Adult Community Residential Services
Fourth Edition Standards
4-ACRS-7E-01

Standards for Adult Probation and Parole Field Services
Third Edition Standards

Other

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