

	WEST VIRGINIA DIVISION OF JUVENILE SERVICES	<u>POLICY NUMBER:</u> 	<u>PAGES:</u> 7
<u>CHAPTER:</u> Administration and Management	<u>REFERENCE AND RELATED STANDARDS:</u> WV Code Chapter §§ 49-5-16a and 49-5E-1 et seq.; WV Code §5-11-1, et. seq.; Title VII, Civil Rights Act of 1964, §106.11; 42 U.S.C. §2000c-2(a) EEOC Guidelines 29 C.F.R. §1604.11(a)(1)(2)(3); ACA-3-JTS 1C-07-1; ACA-3-JDF 1C-05-1; ACA 3-JCRF-1C-04		
<u>SUBJECT:</u> Prohibited Workplace Harassment			
<u>DATE:</u> April 1, 2012			

POLICY

It is the policy of the Division of Juvenile Services that all employees shall conduct themselves in a professional manner in all their interactions with colleagues, residents, and the public in general and to ensure that employees of the Division work in an environment which is free from unlawful workplace harassment and discrimination as well as non-discriminatory hostile workplace harassment.

CANCELLATION

This policy has been reviewed and supersedes Policy 149.00 dated October 1, 2007.

APPLICABILITY

This Policy applies to ALL Division of Juvenile Services' employees, contract employees, volunteers and interns.

DEFINITIONS

1. **Nondiscriminatory Hostile Workplace Harassment:** A form of harassment commonly referred to as "bullying" that involves verbal, non-verbal or physical conduct that is not discriminatory in nature but is so atrocious, intolerable, extreme and outrageous in nature that it exceeds the bounds of decency and creates fear, intimidates, ostracizes, psychologically or physically threatens, embarrasses, ridicules, or in some other way unreasonably over burdens or precludes an employee from reasonably performing her or his work.

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2. **Unlawful Workplace Harassment:** Unwelcome, unlawful conduct pertaining to an individual's race, color, religion, gender, national origin, age, disability, military status, pregnancy, or related medical conditions that unreasonably interferes with an individual's job performance or creates an intimidating, hostile or offensive working environment. For the purposes of this policy, the term "unlawful harassment" includes, but is not limited to:
- a. Offensive remarks, jokes or slurs;
 - b. Offensive pictures, drawings, photographs or written materials;
 - c. Foul or obscene language;
 - d. Offensive e-mail or voice mail, or the use of the internet in a manner inconsistent with the provisions of this policy and 154.00 Computer, Internet and Email Use, including, but not limited to, downloading and viewing sexually explicit web sites;
 - e. Offensive sexual remarks, sexual gestures, sexual advances or requests for sexual favors, regardless of the gender of the individual(s) involved;
 - f. Offensive or unwelcome verbal or physical conduct/contact (including touching);
 - g. Harassment related to an individual's sexual orientation; and
 - h. As it pertains to sexual harassment, submission to or rejection of unwelcome, unlawful conduct by an individual is used as the basis for employment decisions affecting such individual, including, but not limited to, threatening a reprisal or retaliating against an employee for refusing to respond to a sexual advance or a request for a sexual favor or for reporting a violation of this policy.

PROCEDURES

1. Division Roles and Responsibilities – The Division will:
 - i. Address ways to maintain an environment free of any conduct which constitutes unlawful workplace harassment;
 - ii. Identify steps to prevent and correct unlawful workplace harassment and retaliation;

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- iii. Provide a process whereby employees feel comfortable in reporting incidents of workplace harassment without fear of retaliation;
- iv. Sensitize employees to the subject through disseminating the Unlawful Workplace Harassment Policy to all existing and new employees, as well as through orientation, training, and;
- v. Ensure a prompt response to all allegations of workplace harassment.

2. The EEO Coordinator's Responsibilities are to:

- a. Ensure the policy is disseminated and communicated to all Division employees;
- b. Ensure training for supervisors and employees to sensitize them to the subject;
- c. Ensure the posting of the policy on bulletin boards in all facilities of the Division;
- d. Inquire and obtain information needed to conduct a thorough inquiry into the complaint of allegations of workplace harassment;
- e. Monitor complaints and actions taken in response to all allegations of harassment.

3. The Supervisor's Responsibilities are to:

- a. Address behavior that may lead to complaints of workplace harassment and counsel an alleged offending employee as necessary; and
- b. Report complaints of workplace harassment to the EEO Coordinator and communicate steps taken to address and correct any concerns raised.
- c. Work to eliminate those misunderstandings or communication problems which could lead to the creation of workplace harassment.

4. All Division Employees' Responsibilities are to:

- a. Read and adhere to the Division's policy and procedures and refrain from actions that may constitute workplace harassment and maintain a work environment free of harassment, discrimination and retaliation; and
- b. Inform the EEO Counselor or EEO Coordinator of any discrimination or conduct which may be viewed as workplace harassment.

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5. EEO complaints can be presented to:
 - a. their immediate supervisor,
 - b. the facility EEO Counselor,
 - c. the Division's EEO Coordinator,
 - d. the Department's (DMAPS) EEO Coordinator,
 - e. the State EEO Office,
 - f. the West Virginia Human Rights Commission, or
 - g. the Equal Employment Opportunity Commission.

6. An EEO complaint form can be obtained from the facility's EEO counselor, the Division's EEO Coordinator, from the State EEO Office or can be found on the State EEO office's website at: www.eeo.wv.gov.

7. Investigation of an EEO Complaint
 - a. Complaints filed with the Facility EEO Counselor, Division or Department EEO Coordinators or through the State EEO Office are investigated by the Division and, upon completion, presented to the Division Director.
 - b. Complaints filed with the West Virginia Human Rights Commission (www.wvf.state.wv.us/wvhrc) or U.S. Equal Employment Opportunity Commission (www.eeoc.gov) will be investigated by those agencies respectively.
 - c. The EEO investigative team (EEO Coordinator and/or designees), assigned by the Division Director, will conduct a prompt and impartial investigation into the complaint of any allegations of unlawful conduct and review the totality of the circumstances to determine whether the alleged conduct constitutes unlawful workplace harassment.
 - d. Any interference, coercion, restraint or reprisal against a person complaining of unlawful workplace harassment is strictly prohibited.

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- e. All information in an EEO complaint shall be held in the strictest confidence and shall be disclosed only to appropriate individuals on a need-to-know basis to investigate and resolve the matter.
- f. The EEO investigators shall acknowledge in writing to the complainant, the receipt of their complaint within five (5) working days of such receipt.
- g. To obtain all relevant information, the EEO investigators shall promptly interview the complainant, witnesses and the accused. An investigation shall be conducted and a confidential written report made to the Division Director, or designee and forward a copy to the State EEO Director within 45 calendar days of acknowledged receipt of the complaint.
- h. Staff shall cooperate with the EEO investigators to ensure that an impartial and thorough inquiry into the complaint is conducted. Staff shall be truthful, complete and accurate in written and oral responses, reports, and statements.
- i. Refusal of any staff member to cooperate in an investigation of a complaint or to provide information requested as part of the investigation may be grounds for disciplinary action up to and including dismissal. Staff shall not discuss any aspect of the investigation with other employees of the Division of Juvenile Services or other individuals involved in the investigation.
- j. Extensions of the time frames provided may be granted when necessary on an individual basis by the State EEO Director.
- k. The EEO investigative team shall prepare a report of the investigation after considering:
 - i. The validity of the complaint;
 - ii. The credibility of the individuals involved;
 - iii. Any other complaints filed against the accused;
 - iv. Statements of individuals interviewed regarding the complaint;
 - v. All other relevant matters tending to prove or disprove the allegations.

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1. The EEO investigative team will submit the investigation findings to the Division Director, who will make the final determination of the corrective action, if any, within fifteen (15) calendar days of receipt of investigative results. The severity of any disciplinary action will be determined by the seriousness of the offense and may include, but is not limited to, the following:
 - i. A verbal warning documented in writing and placed in an administrative file;
 - ii. A written reprimand that is placed in the employee file;
 - iii. An employee transfer when warranted;
 - iv. Suspension, demotion and/or termination.
- m. The Division's EEO Coordinator will provide written notice to the complainant(s) of the outcome of the investigation.
- n. In the case of a complaint validated by an appropriate investigation, the appointing authority shall periodically check with the complainant to ensure that the harassment has stopped and that no retaliation has occurred.
- o. Documentation of all investigations and any corrective actions taken will be maintained by the Division's EEO Coordinator.
8. The Division will make every effort to ensure that all actions are applied in a consistent and fair manner. Allegations of unlawful workplace harassment will be reviewed on a case-by-case basis on presented facts.
9. No employee will be penalized for reporting inappropriate and unlawful harassing behavior on the part of another employee, vendor, or other third party.
10. Training will be provided for all staff to sensitize them to the subject of workplace harassment, to include the Division of Personnel's policy on Prohibited Workplace Harassment (DOP-B6) and this policy.
11. Each facility will have in place an operational policy and procedural plan to ensure the standards and practices of this policy are followed.

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RIGHTS RESERVED

The Director reserves the right to modify, suspend or cancel any provision herein in part or entirety, without advance notice, unless prohibited by law.

APPROVED:

Dale Humphreys
Director

April 1, 2012
Date