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GOVERNOR

# State of Alabama Department of Corrections

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JOHN Q. HAMM  
COMMISSIONER

August 19, 2022

**ADMINISTRATIVE REGULATION  
NUMBER**

206

**OPR: INSPECTOR GENERAL**

## **HARASSMENT AND DISCRIMINATION**

### **I. GENERAL**

This Alabama Department of Corrections (ADOC) Administrative Regulation (AR) establishes the responsibilities, policies, and procedures for fair and equitable treatment of all individuals and prohibits and requires the reporting of harassment, sexual harassment, and discrimination.

### **II. POLICY**

It is the policy of the ADOC to:

- A. Strictly prohibit any form of harassment, whether based on sex, race, color, religion, national origin, age, sexual orientation, ancestry, or disability.
- B. Strictly prohibit any form of discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment, on the basis of sex, race, color, religion, national origin, age, sexual orientation, ancestry, or disability
- C. Strictly prohibit harassment and sexual harassment by any employee.
- D. Swiftly investigate and seek resolution of any complaint made under this regulation.
- E. Strictly prohibit any form of reprisal or retaliation against complainants under this regulation.

### **III. DEFINITION(S) AND ACRONYM(S)**

- A. **Discrimination:** Adverse treatment or consideration based on class or category, such as sex, race, color, religion, national origin, age, sexual orientation, ancestry, or disability, rather than on individual merit.
- B. **Employee:** For this AR only, an employee is a person employed by the ADOC in a full-time, part-time, or temporary position in the state's classified or unclassified service.
- C. **Equal Employment Opportunity (EEO) Officer:** The ADOC employee assigned to review, investigate, and resolve complaints of harassment, sexual harassment, and discrimination.
- D. **Harassment:** Any discriminatory or unwelcomed conduct that is based on an individual's sex, race, color, religion, national origin, age, sexual orientation, ancestry, or disability, and the displaying of signs, pictures, cartoons, written statements or other materials that belittle or discriminate against any individual based on the individual's sex, race, color, national origin, age, sexual orientation, ancestry, or disability. For the purposes of this AR, "harassment" includes physical and verbal harassment.
- E. **Individual:** Employees, contractors, volunteers, vendors, customers, visitors, and other persons involved with the ADOC.
- F. **Physical Harassment:** Pushing, shoving, touching, or other intentional acts committed in whole, or in part, because of the individual's sex, race, color, religion, national origin, age, sexual orientation, ancestry, or disability.
- G. **Reprisal/Retaliation:** Any punishment, adverse consideration, or undeserved treatment as a result of filing a complaint.
- H. **Sexual Abuse:** Sexual acts or contact committed by force, persuasion, inducement, or enticement.
- I. **Sexual Contact:** The touching of another individual or of the individual's intimate parts and/or clothing covering the individual's intimate parts for the purpose of sexual arousal or gratification.
- J. **Sexual Harassment:** Any unwelcome conduct of a sexual nature, including sexual advances, requests for favors, remarks, sounds, gestures, physical contact, and display or circulation of material that is subjectively or objectively offensive. For the purposes of this AR, "sexual harassment" includes sexual abuse and sexual contact. Other examples of sexual harassment can include, but are not limited to, the following:
  - 1. Demeaning references to one's gender.
  - 2. Comments about one's body or clothing.
  - 3. Repeated staring, comments, or propositions of a sexual nature.

4. Jokes about sex or gender-specific traits.
  5. Conversations filled with sexually suggestive innuendos or double meanings.
  6. Display or transmittal of sexually suggestive images, objects, messages, or gestures.
  7. Suggestions, requests for, or demands for acts of an intimate nature.
  8. Touching or attention of a sexual nature.
  9. Requests for sex in exchange for favors.
- K. Verbal Harassment: Making statements which contain derogatory descriptions or stereotypes based on race, sex, color, national origin, age, sexual orientation, ancestry, or disability.

#### **IV. RESPONSIBILITIES**

- A. It is the responsibility of all ADOC employees to comply with this AR.
- B. It is the responsibility of all individuals to comply with this AR, and failure to adhere to this regulation may result in being removed and/or barred from an ADOC facility.
- C. Wardens and Division Directors are responsible for ensuring the implementation and adherence to this policy. Wardens and Division Directors are also responsible for designating, in consultation with the Office of the Inspector General (OIG), a supervisory level employee to serve as an EEO Officer and for ensuring that the EEO Officer attends EEO Officer training provided by the OIG.
- D. ADOC employees and other affected individuals are responsible for reporting incidents of harassment, sexual harassment, and discrimination as prescribed in the procedures below.
- E. The EEO Officer receiving a complaint of harassment, sexual harassment, and/or discrimination is responsible for reviewing, investigating, and seeking resolutions to the complaint.

#### **V. PROCEDURES**

- A. Employees must disclose any experience or witnessing of harassment, sexual harassment, or discrimination, either through a verbal report or, preferably, through a written complaint, as directed in this AR.
- B. Verbal Reporting of Harassment, Sexual Harassment, and Discrimination

1. Employees who experience or witness any form of harassment, sexual harassment, or discrimination must notify their immediate supervisor, provided that the immediate supervisor is not the alleged perpetrator.
2. If the alleged perpetrator is the immediate supervisor, or if the immediate supervisor is not available, then the employee must report the harassment, sexual harassment, or discrimination to the next highest ranking official, or if necessary, to the Commissioner/Designee.
3. Any supervisor who receives a verbal report of harassment, sexual harassment, or discrimination shall promptly document and forward it to the Institutional/Divisional EEO Officer and Warden or Division Director.
4. If the verbal report is against the Institutional/Divisional EEO Officer, Warden, or Division Director, the receiving supervisor shall forward the documentation to the Departmental EEO Officer.
5. If the verbal report is against the Departmental EEO Officer, the receiving supervisor shall forward the documentation to the Inspector General.
6. All verbal reports of harassment, sexual harassment, or discrimination shall be investigated by the EEO Officer who receives the written documentation from the supervisor.

C. Complaints

1. Complaints should be made in writing.
2. All complaints will be handled in a timely and confidential manner to:
  - a. Protect the confidentiality of the employee who files the complaint;
  - b. Encourage the reporting of any incident of sexual harassment;
  - c. Protect the reputation of any employee wrongfully charged with sexual harassment.
3. Information concerning a complaint will not be released during the investigation, except as necessary for conducting the investigation.
4. Parties involved in the investigation are not permitted to discuss the subject of the investigation outside of the investigation at any time.

- D. Any individual who believes he/she has been harassed or sexually harassed, has witnessed harassment or sexual harassment, or believes that adverse decisions concerning his/her employment, or another's employment were based on unlawful discrimination, should file a complaint. The filing and investigation of complaints consists of up to three (3) steps:
1. **Step One - Complaint:** The complaint shall be submitted to the Institutional/Divisional EEO Officer on ADOC Form 206, *Harassment and Discrimination Complaint Form*.
    - a. The complaint shall be submitted within five (5) working days of the occurrence of the incident causing the complaint. In addition to the complaint form, the employee may present written statements or affidavits from witnesses.
    - b. The Institutional/Divisional EEO Officer shall respond, in writing, to the complaint within five (5) working days.
  2. **Step Two - Appeal:** An employee who is not satisfied with the Institutional/Divisional EEO Officer's response to his/her complaint may, within five (5) working days of receiving the response to the complaint, file an appeal to the Warden or to the Division Director, as applicable.
    - a. The appeal shall be filed on ADOC Form 206, *Harassment and Discrimination Complaint Form*. A copy of the original complaint and response should be attached.
    - b. The Warden or Division Director shall, after investigating the complaint, respond to the employee's appeal, in writing, within seven (7) working days.
  3. **Step Three - Final Appeal:** An employee who is not satisfied with Warden's or Division Director's response to his/her appeal may, within five (5) working days of receiving the response to the appeal, submit a final appeal to the Departmental EEO Officer.
    - a. The final appeal shall be filed on ADOC Form 206, *Harassment and Discrimination Complaint Form*. A copy of the original complaint and appeal, and the responses to each, shall be attached.
    - b. The Departmental EEO Officer shall, after review of the complaint and appeal and their responses, determine if further investigation is appropriate, including whether to meet with the employee to discuss the complaint.

- c. After concluding any further investigation, the Departmental EEO Officer shall submit his/her findings and a recommendation for solution, in writing, to the Commissioner/designee within seven (7) working days.
  - d. The Commissioner/designee shall, within ten (10) working days, respond in writing to the Departmental EEO Officer either approving the recommended solution or directing another solution.
  - e. The Departmental EEO Officer shall, within five (5) business days of receipt of the Commissioner's response, notify the Warden or Division Director, Institutional/Divisional EEO Officer, and the complainant, in writing, of the resolution.
  - f. The Warden or Division Director will direct the implementation of the resolution.
  - g. An employee who is dissatisfied with the complaint resolution provided by the Commissioner may appeal the Department's decision directly to the State Personnel Department Director.
4. In the event the complaint is against the Institutional/Divisional EEO Officer, the complaint shall be submitted to the Warden or Division Director. The appeal, if any, shall be handled by the Departmental EEO Officer, and the final appeal, if any, shall be handled by the Inspector General. The timelines for the filing of the complaint, appeal, and final appeal shall remain the same.
  5. Any employee who desires to file a complaint of harassment, sexual harassment, or discrimination against an immediate or a higher-level supervisor can file the complaint directly with the Departmental EEO Officer. When using this exceptional complaint procedure, the employee must justify bypassing his/her Institutional/Divisional EEO Officer and Warden or Division Director. The appeal, if any, shall be handled by the Inspector General, and the final appeal, if any, shall be handled by the Commissioner/Designee. The timelines for the filing of the complaint, appeal, and final appeal shall remain the same.
  6. Under no circumstances shall an individual's complaint of harassment, sexual harassment, or discrimination be filed with or appealed to the alleged perpetrator.
  7. If an individual feels that the Commissioner of the ADOC has subjected him or her to unlawful discrimination, harassment, or sexual harassment, he or she should report these allegations to the

- E. All Wardens, Directors, and Associate/Deputy Commissioners shall endeavor to interact with the complainant employee in such a manner as to try to prevent any fear of restraint, interference, reprisal, retaliation, or coercion as a result of the employee complaining of harassment, sexual harassment, or discrimination.

**VI. DISPOSITION**

Any forms used will be disposed of and retained according to the Departmental Records Disposition Authority (RDA).

**VII. FORMS**

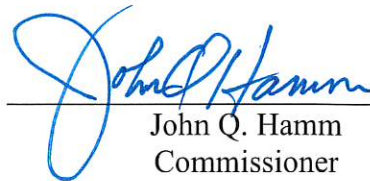
ADOC Form 206, *Harassment and Discrimination Complaint Form*.

**VIII. SUPERSEDES**

This AR supersedes AR 206, *Harassment and Discrimination*, dated January 27, 2004, and AR 228, *Employee Sexual Misconduct and Sexual Harassment*, dated December 30, 2004, as amended.

**IX. PERFORMANCE**

- A. Title VII of the Civil Rights Act of 1964, as amended.
- B. Age Discrimination in Employment Act of 1967, as amended.
- C. Rehabilitation Act of 1973, as amended.
- D. The Americans with Disabilities Act of 1990.

  
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John Q. Hamm  
Commissioner

**HARASSMENT AND DISCRIMINATION  
Complaint Form**

Name \_\_\_\_\_

Date \_\_\_\_\_

Institution/Division \_\_\_\_\_

Job \_\_\_\_\_

Classification \_\_\_\_\_

Supervisor's Name \_\_\_\_\_

Section/Shift \_\_\_\_\_

Nature of  
complaint \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Remedy

Sought \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Signature of Complainant

\_\_\_\_\_  
Signature of Responder

Date

Title

Step	Date Filed	Date Completed
1 – Complaint		
2 – Appeal		
3 – Final Appeal		

Decision at Step \_\_\_\_\_:



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ADOC Form 206, August 19, 2022