



# OREGON YOUTH AUTHORITY

## Policy Statement

### Part 0 - Mission, Values, Principles



Subject:

#### Harassment-free Workplace

Section – Policy Number:

0-3.0

Supersedes:

0-3.0 (07/18)  
0-3.0 (01/16)  
0-3.0 (02/06)  
I-D-1.2 (01/96)

Effective Date:

10/29/2021

Date of Last Review/Revision:

None

#### Related Standards and References:

- 42 USC §2000d, [Title II](#) and [Title VI](#) of [Civil Rights Act of 1964](#)
- [ORS 659A.030](#) (Discrimination because of race, religion, color, sex, national origin, marital status or age prohibited)
- [ORS Chapter 240](#) (State Personnel Relations)
- [ORS 243.305](#); ORS 243.315 (Affirmative Action)
- Department of Administrative Services, Chief Human Resource Office (DAS-CHRO) 50-010-01 ([Discrimination and Harassment-Free Workplace](#)); 50-010-03 [Maintaining a Professional Workplace](#)
- [OAR 105.040.001](#) (Equal Employment Opportunity and Affirmative Action)
- American Correctional Association, *Standards for Juvenile Correctional Facilities*; 4-JCF-3A-02 (Sexual Harassment)
- Collective Bargaining Agreements ([AFSCME Local 191](#), [SEIU](#))
- [OYA policy](#): 0-2.1 (Professional Standards)  
0-2.4 (Conflict of Interest)  
0-3.1 (Equal Employment Opportunity and Affirmative Action)  
0-5.0 (Violence-free Workplace)
- [OYA form](#): YA 8600 (OYA Complaint Form)

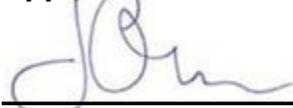
#### Related Procedures:

- None

#### Policy Owner:

Human Resources Administrator

#### Approved:

  
 \_\_\_\_\_  
 Joseph O'Leary, Director

#### I. PURPOSE:

OYA recognizes that harassment in any form undermines the agency's mission. This policy defines and prohibits all forms of harassment in the workplace, articulates management's responsibilities, and provides remedies for staff, volunteers, and others working in the agency if they have experienced harassment by a coworker.

#### II. POLICY DEFINITIONS:

**Harassment:** A form of offensive treatment or behavior which to a reasonable person creates an intimidating, hostile or abusive work environment. Harassment

may include, but is not limited to, verbal harassment, such as racial epithets, ethnic or sexual jokes, inappropriate use of sexually explicit language, demeaning and derogatory comments; physical harassment, such as unwanted touching, physical interference with normal work or movement, or assault; visual or audio harassment, such as derogatory or sexually or racially offensive posters, degrading songs, cartoons, or drawings in any form, including written, computer generated or telephonic; and sexual harassment.

**HR designee:** A Human Resources manager or Human Resources assistant designated by the agency who is responsible for receiving reports of discrimination, harassment, or sexual assault.

**Protected class:** As defined by federal, state, local law or policy, include, but not limited to, race, color, religion, sex, age, marital status, national origin, physical or mental disability, injured worker, a person who uses leave covered under OFLA/FMLA, sexual orientation, gender identity and pregnancy.

**Protected class harassment:** Includes unwelcome, unwanted and offensive conduct or comments made based on protected class with the purpose or effect of unreasonably creates a hostile work environment. Harassment based on protected class may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance.

**Racial harassment:** An incident or a series of incidents intended or likely to intimidate, offend or harm an individual or group because of their ethnic origin, color, race, religion or nationality, and a racist incident is any incident that is perceived to be racist by the victim or any other person. Racial harassment can include racial slurs, offensive or derogatory remarks about a person's race or color, or the display of racially offensive symbols. Examples include derogatory name calling; verbal threats, insults, and racist jokes; display of racially offensive material; exclusion from normal workplace conversation or activities; physical attack; and encouraging others to commit any such act.

**Sexual assault:** Any unwanted contact of a sexual nature perpetrated to an individual through the use of physical force, as defined in ORS 163.305 to 163.467 or 163.525.

**Sexual harassment:** An incident or a series of incidents including, but not limited to, any advance, request for sexual favors or other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made whether explicitly or implicitly a term or condition of an individual's employment;
2. Submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting that individual; or
3. Such conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Examples of sexual harassment include but are not limited to: unwelcome, unwanted or offensive touching or physical contact of a sexual nature, such as closeness, impeding or blocking movement, assaulting or pinching; gestures;

innuendoes; teasing, jokes, and sexual talk; intimate inquiries; persistent unwanted courting; sexist put-downs or insults;

### **III. POLICY:**

OYA values its workforce and believes that staff have the right to work in an environment that is free from harassment. OYA values, promotes and welcomes diversity, and that all people will be treated with dignity and respect. The foundation of the Positive Human Development (PHD) culture is physical and psychological safety and security for all staff. Harassment violates human dignity, undermines integrity, and diminishes morale and does not support the agency's mission or align with its culture of PHD, diversity, equity, and inclusion. OYA maintains a work environment free from behavior, action, or language that may be perceived as harassment. Staff have the responsibility to conduct themselves in compliance with this policy by using PHD principles such as being self-aware and getting perspective to maintain an environment that is free from harassment. Abusive, demeaning, or hostile behavior will not be tolerated and is subject to this policy's complaint process.

This policy applies to all OYA staff, including executive team, managers, and non-management staff. It also applies to OYA contractors, interns, and volunteers.

Any harassment based on race, color, national origin, physical or mental disability, age, religion, sex, sexual orientation, gender identity, marital status, or other protected class is a violation of state and federal law and unacceptable conduct, and will not be tolerated. Staff that have been subjected to harassment that is a violation of state or federal law, have the option to pursue any of the complaint processes described in this policy.

It is the responsibility of each staff member to promote a positive and affirming workplace environment free from intimidation, harassment, and discrimination. OYA encourages staff to take action if they experience unwelcome behavior. Staff have the right to communicate such concerns in the manner they feel is most safe, and are encouraged to do so. This may include advising the offending person about the person's behavior.

OYA is committed to promoting a professional work environment for staff. It is not the intent of OYA to interfere with social interaction or relationships freely entered into between staff, unless those interactions or relationships have a negative impact on morale, workplace performance, or the work environment.

OYA recognizes that staff who work directly with youth are at risk of experiencing harassing behavior by youth. While harassing behavior of any type is not tolerated within OYA, staff response to situations involving youth will be according to OYA policy that defines appropriate action in those situations.

All staff must participate in harassment and discrimination training upon initially being hired or appointed, and annually thereafter.

OYA must provide its staff and volunteers this policy and DAS statewide policy 50.010.01 Discrimination and Harassment-free Workplace. Staff and volunteers must read and acknowledge their understanding of the policies. OYA will provide

an opportunity for staff and volunteers to have questions answered about the policies through the Human Resources Office.

#### **IV. GENERAL STANDARDS:**

- A. Harassment in any form is prohibited, whether between management staff and subordinates, lead workers and subordinates, contractors, the public, or coworkers.
- B. A substantiated incident of any form of harassment or retaliation for reporting harassment or failure to cooperate in an investigation will result in corrective action. Corrective action may include disciplinary action up to and including dismissal of staff, or termination of volunteer service.
- C. Staff must intervene and report any youth harassment they observe or hear of. Staff must:
  - 1. Ask the offending person to leave the area;
  - 2. Remove the youth from the area following local protocols; and
  - 3. Notify the Professional Standards Office (PSO) and the Human Resources Office.
- D. Management responsibilities (including executive-level staff)
  - 1. Management staff are held to a higher standard and are expected to be proactive in creating and maintaining a discrimination- and harassment-free workplace. Management staff must exercise appropriate measures to prevent and promptly correct any discrimination, workplace harassment, protected class harassment, or sexual harassment they know, or should know about. This includes immediately notifying the appropriate assistant director, deputy director, or director, and the Human Resources administrator or HR designee.
  - 2. Management staff must ensure an OYA Complaint Form (YA 8600) is available to staff who wish to file alleged violations under Department of Administrative Services (DAS) policy 50-010-03 Maintaining a Professional Workplace.
  - 3. Management staff will consult with the Human Resources Office regarding observed or reported harassment allegations.
    - a) The reporting management staff, and the Human Resources administrator/designee will determine the best approach to address the questionable behavior, and determine any corrective action to be taken.
    - b) OYA will provide confidentiality to the greatest extent possible for both the complainant and the alleged

respondent during its investigations of harassment allegations.

4. Because management staff are in a position of power relative to the staff they supervise, management staff must avoid developing close personal relationships with any staff member who reports directly or indirectly to them.

For purposes of this policy, close personal relationships are defined as dating, sharing living accommodations, and intimate or sexual relationships.

- a) If such a relationship does develop, the management staff must immediately notify the appropriate assistant director, deputy director or director, and the Human Resources administrator of the relationship. The workplace reporting structure will be evaluated. If possible, an alternative reporting structure, work assignment, or work location may be considered for either party in the relationship based on agency operational need. Availability of these alternative options is not assured.
- b) Failure to make such close personal relationships immediately known may result in disciplinary action up to and including dismissal from OYA service. (See OYA policy 0-2.4 Conflict of Interest.)

5. Management staff are expected to communicate this policy to their subordinates and to provide leadership in carrying out its intent.
6. Management staff that are aware, know, or should have known of workplace harassment and fail to report such behavior or fail to take immediate and appropriate corrective action will be subject to disciplinary action up to and including dismissal.

#### D. Staff responsibilities

##### 1. Addressing harassing behavior:

- a) Staff as a victim of harassment

Staff are encouraged to notify any manager or Human Resources staff. They are also encouraged to request the offending person to stop the harassing behavior. It is recommended that the notification be documented.

- b) Staff as a witness of harassment

Staff must inform management or Human Resources staff of the harassing behavior. It is recommended that they complete an OYA Complaint Form (YA 8600). Managers must notify Human Resources of the harassing behavior.

2. If the offending person is a management staff, the reporting staff must report the behavior to any management staff or Human Resources staff.

E. Complaint process

1. Staff may pursue the complaint process described in part IV of this policy for any alleged harassment.
2. The following process delineates how an internal harassment complaint is filed.

a) Staff:

- (1) Report incident(s) to their supervisors/managers, any other management staff, or the Human Resources administrator/designee. The complaint may be oral or written.
- (2) AFSCME- or SEIU-represented staff may have union representation during this process.

b) Supervisor or manager: Document the report and immediately contact the appropriate supervisor/manager and Human Resources administrator/designee regarding the oral or written complaint. Human Resources, the manager, and victim will work together to develop a safety plan to protect the reporter's and victim's physical safety and professional reputation.

c) Human Resources Administrator/designee: Initiate an investigation.

- (1) All complaints will be taken seriously, and an investigation must be initiated as quickly as possible.
- (2) All parties are expected to cooperate with the investigation and keep information regarding the investigation confidential.
- (3) Record the complaint in writing.
- (4) Inform the alleged harasser about the complaint.
- (5) Investigate the complaint.
- (6) Determine whether the allegation is substantiated.
- (7) Take immediate corrective or disciplinary action if the allegation is substantiated.

- (8) Respond to the complainant and alleged harasser in writing once the investigation and appropriate action is taken, if a complaint is substantiated.
- (9) All involved staff must be notified by Human Resources once the investigation is completed.

F. Harassment that is a violation of state or federal law

If the alleged harassment is a violation of state or federal law (harassment based on race, color, national origin, physical or mental disability, age, religion, sex, sexual orientation, gender identity, or marital status), the complainant may pursue any complaint process described in section E above or listed below, as appropriate.

Human Resources must notify the alleged harasser and all witnesses that retaliating against a person for making a report of discrimination, workplace harassment, sexual harassment, workplace intimidation or sexual assault will not be tolerated.

1. Grievance process

- a) Classified represented staff may file a grievance in accordance with the SEIU collective bargaining agreement, or the AFSCME collective bargaining agreement, whichever is applicable to the represented staff.
- b) Classified unrepresented, unclassified unrepresented, management, executive service, temporary employees, or volunteers may not file a grievance through a collective bargaining agreement, but may file a complaint in accordance with this policy.

2. Staff may also choose to pursue a harassment complaint with the entities described below.

- a) The OYA Human Resources Office, the DAS Chief Human Resources Office, the Oregon Bureau of Labor and Industry (BOLI), or the Equal Employment Opportunity Commission (EEOC) to determine if the harassing behavior is illegal.
- b) Directly with any of the following agencies:
  - (1) Oregon Bureau of Labor and Industry (BOLI)  
Civil Rights Division  
800 NE Oregon Avenue #32  
Portland OR 97323  
503-731-4106 (voice or TDD)
  - (2) Equal Employment Opportunity Commission (EEOC) Seattle District Office  
909 First Avenue, Ste. 400

Seattle, WA 98104-1061  
206-220-6883 (voice) 206 220-6882 (TTD)

**V. LOCAL OPERATING PROTOCOL REQUIRED: NO**