



Discrimination, Harassment and Sexual Harassment

This directive establishes policy relating to the review process and procedures for resolving claims of alleged discrimination and harassment, including sexual harassment, for the Department of Environmental Protection (Department/DEP).

The Department maintains that every employee has a right to a workplace free of discrimination, and harassment, including sexual harassment. Title VII of the Civil Rights Act prohibits discrimination and harassment by any person who is present in the workplace, even if not employed by the Department.

Employee Responsibilities

The Department has zero tolerance for all forms of harassment and discrimination. Employees should refrain from any behavior that is or has the potential to be, perceived as discrimination or harassment. As part of the onboarding process for new hires, all employees receive training on this topic and are required to take a refresher course annually. Employees are also made aware of the definition of discrimination and harassment, including sexual harassment as contained in this directive, and in DEP Directive 435, Conduct of Employees and Rule 60L-40.001, Florida Administrative Code.

Each employee shall be given a reasonable opportunity to discuss this policy and the issues of discrimination, and harassment including sexual harassment with management (his/her immediate Supervisor, Bureau Chief, Assistant Division Director, Division/Office Director), Department Human Resource Officer or designee, the Office of General Counsel and/or the Office of Inspector General. It is the employee's responsibility to seek clarification or ask questions to ensure a clear understanding of the directive.

Management's Responsibilities

Management is expected to create and maintain a work environment free of unwanted conduct of a sexual nature which could result in an offensive, intimidating and/or hostile workplace as well as any form of discrimination or harassment. Managers shall ensure equality of opportunity for all employees, and report complaints of discrimination and harassment, including sexual harassment to the offices designated below.

Complaint Filing

Any employee, person or entity regulated by or doing business with the Department claiming to be aggrieved by discrimination and harassment, including sexual harassment as defined in this directive should immediately report the matter.

Allegations of discrimination and harassment, including sexual harassment must be made by employees or management to the Department Human Resource Officer or designee, or the General Counsel or the Inspector General whom the Department has designated to receive complaints. All personal identifying information will remain confidential in accordance with the laws of the state.

Employees are not required to report the matter to their immediate supervisor.

Allegations of discrimination and harassment, including sexual harassment may be initially reported in a variety of ways, including in-person, via telephone, through postal or electronic mail, or by following the instructions as found on form DEP 54-102, Discrimination and Harassment Complaint Form. All complaints will be reduced to writing and signed by the complainant.

The filing of a complaint pursuant to this procedure shall not preclude the complainant from also filing a complaint with the Florida Commission on Human Relations (FCHR) or the Federal Equal Employment Opportunity Commission (EEOC).

If a complaint is filed with either the FCHR or the EEOC, and the Department undertakes an investigation to provide information to the FCHR or EEOC, the Department is not required to conduct an investigation otherwise required in these procedures, however, the Department shall discipline an employee who has committed sexual harassment regardless of the manner of investigation conducted.

If an employee is in a position covered by a collective bargaining agreement, which provides for an alternative procedure for making a complaint covered by this directive, the employee may use the alternative procedure in lieu of, but not in addition to, the procedure provided by this directive.

If the procedure in this directive conflicts with the collective bargaining agreement, the collective bargaining agreement should be followed.

Investigation of Complaint

Once a complaint is received it must be reported by management to the Department's Human Resource Officer, the General Counsel or the Inspector General.

All allegations of misconduct will be investigated by the Office of Inspector General as provided in DEP 290, Internal Investigations. Complaints will be assigned to the appropriate Office of Inspector General staff member for investigation. The investigator assigned will investigate all specific allegations, interview any witnesses, including co-workers, supervisors and the complainant and respondent.

According to Executive Order No.19-11 (readopting Executive Order 17-319), the Department should take steps to eliminate further contact between the complainant and the subject of the complaint until the conclusion of the investigation.

Upon completion of an internal investigation with a sustained finding, the final investigative report will be distributed by the Office of Inspector General to the Director or Management authority of the subject employee(s) and the Bureau of Human Resource Management (HR) for review and appropriate response.

After discussion and approval by the Department's Human Resource Officer or his/her designee, a written decision, either dismissing the complaint or taking appropriate corrective or disciplinary action, will be rendered by management. The Complainant and Respondent will receive a written copy of the final investigative report.

Post-Investigation

Upon completion of the investigation a representative from HR will follow-up with the Complainant and address any steps that have been taken by the Department. Additionally, other available resources such as the Employee Assistance Program will be discussed with the Complainant. All personal identifying information will remain confidential in accordance with the laws of the state.

Disciplinary Action

Any employee of the Department who has discriminated, harassed or retaliated against another employee is in violation of this directive and shall be subject to disciplinary action up to and including dismissal.

Any supervisory or managerial employee who has knowledge of discrimination or harassment and fails to immediately report the matter to the persons the Department has designated to receive the complaints, shall be subject to disciplinary action up to and including dismissal.

Any employee who knowingly files a false complaint of discrimination or harassment against another employee shall be subject to disciplinary action up to and including dismissal. Disciplinary actions will be administered in accordance with applicable Florida Statutes, personnel rules and Department regulations.

Definitions

Complainant. The individual(s) who has (have) filed a discrimination or harassment complaint.

Department. The Florida Department of Environmental Protection.

Director. Any member of senior management.

Discrimination. The action of making an adverse employment decision or an action that has the effect of disparate treatment for any protected classes, based on age, race, color, sex (including sexual orientation or gender identity), religion, national origin, disability (mental or physical), marital status or political affiliations.

Employee. An individual employed by the Department in the Senior Management Service, Selected Exempt Service, Career Service or Other Personal Services category.

Management. An individual with authority to undertake or recommend employment decisions affecting the employee even if the individual does not have the final say; or the individual has authority to direct the employee's daily work activities even if that individual does not have the authority to undertake or recommend tangible job decisions (i.e., decisions that significantly change another employee's employment status such as hiring, firing, promoting, demoting and reassigning the employee.)

Respondent. The individual(s) who is(are) the subject of a discrimination or harassment complaint.

Retaliation. Any adverse job action, threat, intimidation or coercion that is likely to deter a reasonable person from making a complaint, cooperating in the review/investigation of a complaint, participating in any proceeding arising from a complaint or otherwise informing the Department that someone is engaging in discrimination or harassment, including sexual harassment.

Sexual Harassment. Unwelcome conduct of a sexual nature and may include sexual advances, request for sexual favors, or other verbal or physical conduct of a sexual nature directed toward an employee or applicant. This conduct becomes unlawful when:

- Submission to such conduct is either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for an employment decision affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment.

Any questions about this directive should be directed to the Bureau of Human Resource Management.

This directive is being updated to combine the provisions of DEP 400, Sexual Harassment and to convert the document to the new format, remove reference to the Employee Handbook and correct minor editing errors. These directives supersede the versions dated January 9, 2019 and April 16, 2018.

AUTHORITY

[State Employment](#), Chapter 110, Florida Statutes

[Public Officers and Employees: General Provisions](#), Chapter 112, Florida Statutes

[Discrimination in the Treatment of Persons; Minority Representation](#), Chapter 760, Florida Statutes

Sexual Harassment, [Equal Employment Opportunity and Affirmative Action](#), Rule 60L-40, Florida

Administrative Code

[Title VII of the Civil Rights Act of 1964](#)

Forms for this directive are accessible via the DEP Forms portal.

DEP 54-102, Discrimination and Harassment Complaint form