

**Missouri Department of
Natural Resources
Administrative Policies and Procedures**

Chapter 1 Employee Relations Affirmative Action and Employee Relations Policy

| | | |
|---|-----------------------|-----------------------|
| Non-Discrimination/Anti-Harassment Policy and Complaint Procedures | Effective date | Revised |
| Number: 1.02-03 | March 29, 2002 | April 29, 2016 |

The Department of Natural Resources (DNR) is committed to providing a work environment in which all individuals are treated with respect and dignity. Employees have the right to work in a professional atmosphere that promotes equal employment opportunities and prohibits unlawful discriminatory practices, including harassment and retaliation. Therefore, employees of the Department of Natural Resources will treat one another and all those with whom they come into contact during the course of business equitably and fairly regardless of age, ancestry, color, disability, genetic information, military/veteran status, national origin, pregnancy, race, religion, or sex (including sexual orientation and gender identity).

REFERENCES

- Missouri Sunshine Law, Chapter 610, Revised Statutes of Missouri
- Executive Order 10-24
- Executive Order 15-04
- Missouri Human Rights Act, Chapter 213, Revised Statutes of Missouri
- Age Discrimination in Employment Act
- The Civil Rights Act of 1964
- Americans with Disabilities Act Amendment Act
- Genetic Information Non-Discrimination Act
- Uniformed Services Employment and Reemployment Rights Act
- Pregnancy Discrimination Act
- Equal Pay Act
- Lilly Ledbetter Fair Pay Act
- Section 105.055, Revised Statutes of Missouri

Related DNR Policy

- Employee Relations: 1.02
- Discipline: 1.08
- Discipline Procedures: 1.08-01



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KEY TERMS

The following explanations of key terms used in this policy are for general reference purposes only and are not intended as a substitute for any legal definitions nor as an authorization for employees to violate any applicable state or federal law.

Appointing authority: A person with the authority to approve hiring staff and to approve or deny other personnel related transactions. In the department, the appointing authority to direct personnel action is the Human Resources Program Director.

Covered Individuals - People who have engaged in a protected activity or are members of a protected category. . Individuals who have a close association with someone who has engaged in such protected activity may also be covered individuals.

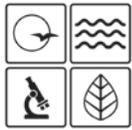
Hostile Work Environment: When discriminatory or harassing conduct creates a work environment that would be intimidating, abusive, hostile, or offensive to reasonable people, or has the purpose or effect of unreasonably interfering with an individual’s employment. Most instances of hostile work environment involve pervasive harassment that has a cumulative effect.

Other Harassment: Any physical or verbal conduct or actions that are inappropriate in the workplace, are based on the status of a covered individual, and:

- Has the purpose or effect of unreasonably interfering with an individual's work performance;
- Has the purpose or effect of creating an intimidating, hostile or offensive work environment; or,
- Otherwise adversely affects an individual’s employment opportunities.

Power-differentiated Relationship: Any supervisor-subordinate relationship in which one employee directly or indirectly supervises another employee or makes decisions concerning another employee’s terms, conditions or privileges of employment.

Protected Activity - Opposition to a practice believed to be unlawful. Such opposition includes reporting to your employer or an outside party, usually a regulatory agency with some authority to take action, that you believe your employer is engaging in an unlawful activity. One example of protected activity is participation in an employment discrimination proceeding. Participation is protected activity even if the proceeding involved claims that ultimately were found to be invalid.



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Protected Categories: Categories of individuals protected by law and/or executive order from any form of discrimination identified as: Age, ancestry, color, disability, genetic information, military/veteran status, national origin, pregnancy, race, religion, or sex (including sexual orientation and gender identity).

Quid Pro Quo Sexual Harassment: Behavior that involves express or implied demands for sexual favors in exchange for some benefit or to avoid some detriment in the workplace.

Retaliation - Occurs when an employer takes an action intended to deter someone from participating in a protected activity or against a covered individual because he or she engaged in a protected activity.

Sexual Harassment: Usually involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature. Sexual harassment can occur if:

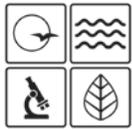
- Submission to such conduct is made either explicitly or implicitly a term or condition of employment;
- Submission to or rejection of such conduct by an individual is used as a basis for employment decisions; or
- Such conduct has the purpose or effect of substantially interfering with an individual’s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

Unlawful Discrimination: Any unfair treatment based on a protected category.

GENERAL PROVISIONS

This policy is designed to ensure that DNR employees neither engage in nor are subjected to unlawful discrimination, harassment, or retaliation involving other employees, applicants for employment, or non-employees who interact with DNR (e.g. vendors, members of the public, customers). The Office of Employee Relations is available to assist employees with, and investigate claims of, unlawful discrimination, harassment, or retaliation.

Employees shall cooperate with internal investigations or investigations with the appropriate authority. The Office of Employee Relations, Human Resources Program and other appropriate individuals designated by Human Resources have the authority to conduct such investigations. Employees shall respond truthfully during the course of such investigation. Any employee found to have intentionally provided misleading or false statements will be subject to disciplinary action.



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Individuals who are unsure if their concern rises to the level of unlawful discrimination, harassment, or retaliation, but feel they have experienced unfair treatment should contact the Office of Employee Relations for advice and options.

All DNR employees have a responsibility to report any violation of this policy to a manager, supervisor, or the Office of Employee Relations. All managers and supervisors are responsible for immediate action when any violation of this policy is alleged or occurs, whether or not a written complaint is received. Any supervisor or manager who observes or receives a complaint of this nature shall immediately inform the Office of Employee Relations, and shall not retaliate against the complainant. A manager or supervisor’s failure to take immediate appropriate action may result in disciplinary action.

Equal Employment Opportunity

The Department of Natural Resources ensures equal employment opportunity without unlawful discrimination or harassment on the basis of all protected categories. All employees of the department are to have the opportunity to work in an environment free from harassment, unlawful discrimination, and retaliation. The Department of Natural Resources will make every reasonable effort to ensure all employees are familiar with these policies and are aware that complaints alleging violations of such policies will be investigated and resolved appropriately.

Any employee with questions or concerns about these policies should discuss with their chain of command, Office of Employee Relations or the Human Resources Director.

Discrimination and Harassment

Unlawful discrimination and harassment are strictly prohibited.

Managers and supervisors shall not participate in intimate relationships with their subordinates or with employees involved in a power differentiated relationship. Employees and supervisors/managers who find themselves involved in situations such as this should promptly report this involvement to their chain of command and/or the Human Resources Director for discussion and appropriate action.



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Title VII of the Civil Rights Act of 1964 recognizes two types of sexual harassment: a) quid pro quo; and, b) hostile work environment. Sexual harassment may include a range of subtle or not-so-subtle behaviors and may involve individuals of the same or different gender. Depending on the circumstances, these behaviors may include (but are not limited to): unwanted sexual advances or requests for sexual favors; sexual jokes and innuendo; verbal abuse of a sexual nature; commentary about an individual’s body; leering, whistling or touching; insulting or obscene comments or gestures; display in the workplace of sexually suggestive objects or pictures; and, other physical, verbal or visual conduct of a sexual nature.

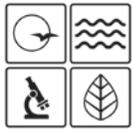
Although this policy focuses on conduct in the workplace, the policy also covers conduct that may occur outside the actual workplace at conferences, meetings or other extra-curricular events and through informal contact. If such behaviors occur outside the workplace, but have the purpose or effect of having a negative impact on the employee and/or the workplace, the department has an obligation to investigate and/or address such incidents.

Harassing conduct can be limited to a single occurrence or to systematic conduct which includes epithets, slurs or negative stereotyping; threatening, intimidating or hostile acts; disparaging jokes; and written or graphic material that denigrates or shows hostility or aversion toward an individual or group based on their membership in a protected category. Any harassing material found anywhere on the Department’s premises, regardless of whether the perpetrator placed these materials on the premises during work time or used state equipment to do so, may be considered harassing conduct. Additionally, harassing conduct aimed at an employee perpetrated by another employee will be considered harassing conduct, regardless of the type of media used to transmit the harassing conduct (e.g. state owned equipment or personal device).

Retaliation

Retaliation is strictly prohibited.

Any employee who retaliates or attempts to retaliate will be subject to discipline. Managers and supervisors are responsible for ensuring retaliation does not occur. Any individual who believes they have been subjected to retaliation should report such activity to the Office of Employee Relations, the appointing authority, and/or their chain of command.



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False Allegations

Employees who make false and/or malicious complaints of harassment, discrimination or retaliation (as opposed to complaints that, even if erroneous, are made in good faith) will be subject to appropriate disciplinary action.

Complaint and Investigation Procedures

Any employee who believes that the conduct of a supervisor, manager, coworker, employee or non-employee constitutes harassing or discriminatory behavior and/or inappropriate conduct as described in this policy has a responsibility to immediately [Report the incident](#) (s). Individuals who believe they have been subjected to or have witnessed such conduct should report the incident(s) to the Office of Employee Relations and/or their chain of command.

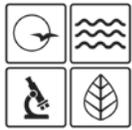
While a complaint may be made verbally to the Office of Employee Relations or an employee's chain of command, employees are strongly encouraged to submit a written statement on the [Discrimination/ Harassment Complaint Form](#) to the Office of Employee Relations as soon as possible to record all relevant facts. The complaint should be submitted as soon as possible. Generally, the Office of Employee Relations will not investigate claims more than 300 days old, consistent with state and federal law. However, claims that are older than 300 days should still be discussed with the Office of Employee Relations.

The complaint should include a statement of the specific act of discrimination, the effect on the employee, and all witnesses to the event.

The department encourages prompt reporting of such complaints or concerns in order for a thorough and timely investigation to occur. A representative from the Office of Employee Relations will have a discussion with the complainant to determine the extent and nature of the complaint. The Office of Employee Relations representative may:

- a) Request additional written documentation;
- b) Tape the conversation for transcription purposes; and/or,
- c) Determine if the complaint is appropriate.

The Office of Employee Relations representative will interview the complainant, all appropriate witnesses, the individual(s) accused of the alleged act(s), and review documentation provided by all appropriate parties and applicable departmental records.



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The Office of Employee Relations representative will prepare a written investigative report. The report will contain information relative to witness interviews, documentation of the incident, conclusions based on the evidence, and a recommended outcome. If necessary and appropriate, the investigative findings may be used to determine disciplinary action. This report shall be shared with appropriate levels of management including the department's legal counsel and the appointing authority. The investigative report or any other documentation gathered during the investigation, as well as any disciplinary or other confidential personnel action taken as a result of complaints made according to this policy will not be disclosed to any individual without a business need to know.

The Office of Employee Relations will usually provide the complainant and accused with written notification acknowledging the completion of the investigation, as well as the findings of the investigation.

When appropriate, conflict resolution services may be made available to all parties.

The Equal Employment Opportunity Commission and the Missouri Commission on Human Rights.

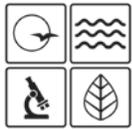
Nothing in this policy prevents any party from pursuing remedies or resolution through local, state or federal agencies or the courts.

The Office of Employee Relations will serve as the department's representative in cases filed with the Equal Employment Opportunity Commission or the Missouri Commission on Human Rights.

Confidentiality

Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action. Complaints of discrimination, investigative reports, recommendations and all investigative materials are considered closed confidential records under Missouri's Sunshine Law.

Investigative files will be maintained in the Office of Employee Relations.



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Training and Access to this Policy

It is imperative that all Department of Natural Resources employees recognize discrimination, harassment and retaliation and understand their responsibilities for reporting and addressing such matters. To assist with these expectations, the following will occur:

- All department staff will receive training related to this policy every two (2) years, or as otherwise required by the Office of Administration;
- All new employees shall receive training related to this policy during New Employee Orientation; and,
- All department staff will sign an acknowledgement of receipt of this policy.

All employees shall have access to this policy and procedure. This policy will be posted on the department’s Intranet site. Any supervisor or manager with employees who do not have immediate and regular access to the Intranet are to keep a current copy of this policy in an accessible and central location for those staff to easily obtain and review.

(POLICY ACKNOWLEDGEMENT)