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Applicability: All DDSN State Employees, Contracted Personnel and
Volunteers

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PURPOSE

The purpose of this directive is to define specific prohibited workplace conduct and to outline the protocols in place for reporting and investigating discrimination and harassment, sexual harassment, retaliation, and hostile work environment.

I. STATEMENT OF POLICY

The South Carolina Department of Disabilities and Special Needs (DDSN) is committed to maintaining a work environment that is free from all forms of discrimination and harassment, sexual harassment, retaliation, and hostile work environment. DDSN prohibits any workforce

member from engaging in the acts and/or behaviors categorized by this directive, including all forms of discrimination and harassment, sexual harassment, retaliation, and hostile work environment, with respect to employment.

Federal and state laws prohibiting discrimination include but are not limited to: Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1975 (ADEA), and the Americans with Disabilities Act of 1990 (ADA) and the South Carolina Human Affairs Law. This directive is intended to be consistent with federal and state discrimination laws. Discrimination in violation of this directive is subject to appropriate discrimination laws.

Any unacceptable, unprofessional, offensive, discriminatory, harassing, sexually harassing, or retaliatory conduct that violates this directive or this directive's intent, even if not considered unlawful, is wholly prohibited. This directive applies to all employees, contracted personnel, and volunteers, and all conduct in DDSN workplaces, and at all DDSN sponsored events occurring outside of the workplace.

II. GENERAL PROVISIONS

A. **Definitions:** For purposes of this directive, the following definitions shall apply:

1. **Hostile Work Environment** – Situation in which one employee's behavior within a workplace creates an environment that is difficult or uncomfortable for another person to work in due to discrimination and harassment, sexual harassment and/or retaliation.
2. **Protected Activity** – Employee's opposition to any practice made an unlawful practice by Title VII or employee's participation in an investigation, proceeding, or hearing under Title VII.
3. **Workplace** – Any area in which employees work or work-related activities occur to include travel, field sites, state buildings, other facilities, and vehicles or other conveyances used for travel while on department business.

B. **Anti-Discrimination Training:** In an effort to ensure all DDSN employees understand the severity of the issue of harassment and discrimination, all employees shall complete initial Anti-Harassment and Anti-Discrimination training within 90 days of employment with DDSN and no less than annually thereafter. Existing DDSN employees, contracted personnel and volunteers must receive this training within 90 calendar days of approval of this directive.

III. PROHIBITED WORKPLACE CONDUCT

Prohibited conduct in the workplace includes, but is not limited to, the following:

A. **Discrimination and Harassment**

1. Discrimination is any unfair treatment or harassment because of race, color, religion, sex, gender, age, disability, pregnancy (including childbirth or related medical conditions), or national origin.

2. Harassment consists of substantial and unreasonable words, gestures, or actions that are intended to frighten, alarm, or abuse another person, and/or cause a reasonable person mental or emotional distress. Harassment includes conduct by an employee that creates an intimidating, hostile or offensive work environment or interferes with an employee's work performance. Harassing conduct is characterized as unwanted, unwelcome, and non-consensual.
3. The discriminatory and/or harassing conduct may be between, but is not limited to: employee to employee, employee to supervisor, supervisor to employee, employee to non-employee or non-employee to employee. An employee is prohibited from harassing anyone by use of the employee's position or state-owned equipment.
4. Examples of discriminatory and/or harassing conduct includes, but is not limited to, the following:
 - a. Use of "hate speech," slurs, negative stereotyping, threatening and/or intimidating words or gestures, yelling, or any hostile conduct related to one of the protected characteristics described above; and/or,
 - b. Distribution, display or discussion of any written, graphic or sexually explicit material that ridicules, denigrates, insults, belittles or shows hostility or aversion toward an individual or group. This includes e-mail, text messages, and social media posts.
 - c. Physically threatening or intimidating actions like pushing, shoving, and blocking another's path with intent to intimidate.

B. Sexual Harassment

Sexual harassment in any form is prohibited under this directive. Sexual harassment is a form of discrimination and is unlawful under Title VII of the Civil Rights Act of 1964. According to the Equal Employment Opportunity Commission (EEOC), sexual harassment includes unsolicited and unwelcome sexual advances, requests for sexual favors and/or other verbal or physical conduct of a sexual nature, when such conduct is:

- (a) Made explicitly or implicitly a term or condition of employment;
 - (b) Is used as a basis for an employment decision; and/or
 - (c) Unreasonably interferes with an employee's work performance by creating an intimidating, hostile or otherwise offensive working environment.
1. Examples of sexual harassment include, but are not limited to, the following:
 - a. Sexual innuendoes, suggestive comments, jokes and/or questions of a sexual nature, sexual propositions, lewd remarks or threats, references to gender-specific traits, or requests for any type of sexual favor, including repeated and unwelcomed requests for dates;

- b. The distribution, display or discussion of any written or graphic material, physical or digital, that is sexually suggestive or shows hostility toward an individual or group because of sex, suggestive or insulting sounds, leering, staring, whistling, obscene gestures or content in letters; and/or,
- c. Unwelcome, unwanted physical contact like touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling, forced sexual intercourse or assault.

C. Retaliation

No hardship, loss of benefit and/or other penalty may be imposed on an employee as punishment for filing or responding to a bona fide complaint of discrimination/harassment, sexual harassment or hostile work environment, appearing as a witness in the investigation of a complaint, or serving as an investigator. Retaliation or attempted retaliation is a violation of this directive and anyone who does so is subject to appropriate action, up to and including termination. Lodging a valid complaint will in no way be used against the employee or have an adverse impact on the complainant's employment status.

D. Hostile Work Environment

- 1. A hostile work environment exists where any harassing conduct creates an offensive and/or unpleasant working environment. Anyone in the work place is capable of creating a hostile work environment including, but not limited to, supervisors, other employees, or supported individuals.
- 2. Harassment which creates a hostile work environment may include, but is not limited to, unwanted sexual or discriminatory verbiage, unwelcome distribution of sexually explicit or discriminatory materials, and/or nonconsensual physical contact.

IV. WORKPLACE RELATIONSHIPS

- A. Supervisors may not have a romantic or sexual relationship with a subordinate, nor may they threaten or imply that an employee's response to sexual advances or any other harassing behaviors will, in any way, influence that employee's continued employment or career development.
- B. If a romantic relationship exists between peers, the parties must be aware that one or both may be moved to a different work unit or other actions may be taken. Although having a consensual romantic relationship with another employee is not harassment, harassment may occur if either person in the relationship engages in conduct in the workplace that is inappropriate or unwelcome.
- C. Employees may not provide DDSN sponsored services to family members or to individuals with whom they have a romantic or sexual relationship.

V. MANAGEMENT/SUPERVISORY ACTION

Managers and supervisors shall:

- A. Take appropriate measures to prevent, identify, and stop discrimination and harassment, sexual harassment, retaliation, and hostile work environment, and/or retaliation;
- B. Take all reasonable steps to protect the person/people targeted by discrimination and harassment, sexual harassment, retaliation, and hostile work environment, and/or retaliation; and
- C. A manager or supervisor who becomes aware of an incident of alleged discrimination and harassment, sexual harassment, retaliation, and hostile work environment, and/or retaliation shall forward the information regarding the incident to the DDSN Office of Human Resources.

VI. REPORTING PROHIBITED WORKPLACE CONDUCT

DDSN encourages the reporting of all perceived incidents of prohibited workplace conduct including unacceptable and offensive conduct, regardless of the offender's identity or position within DDSN. If any employee believes he/she is being treated in an unlawful, discriminatory manner or is being harassed, sexually harassed, is subject to a hostile work environment or is the target of retaliation, the employee should inform the individual/offender that such conduct is unwelcome and immediately report the conduct to their supervisor, the DDSN Office of Human Resources, or another member of management.

This directive is not intended to limit in any way the right of an employee to report incidents perceived as unlawful to an appropriate policing authority.

A. Complaint Procedures

A complaint may be made verbally or in writing. If made in writing, the employee should use the Formal Complaint Form available on the DDSN's Application Portal and submit it to DDSN's Office of Human Resources. If the complaint is made verbally, the employee will be strongly encouraged to complete the Formal Complaint Form to assist DDSN in its investigation of the alleged violation within ten (10) calendar days. The Formal Complaint Form will be held confidential as allowed by law. All supervisors and other management-level employees having knowledge of complaints or allegations of harassment or discrimination are required to contact DDSN's Office of Human Resources immediately. Any workforce member who witnesses a violation of this directive should report the violation in the same manner as outlined above. Failure by a knowledgeable or witnessing party to report a violation of this directive will result in appropriate action, up to and including that party's termination.

B. Investigations and Confidentiality

DDSN will take all necessary action to promptly and impartially complete an investigation into all complaints of prohibited conduct. An appropriate DDSN official will normally conduct the investigation, but another impartial investigator may be designated in certain circumstances.

DDSN will maintain confidentiality in its investigation to the extent possible. However, DDSN cannot guarantee complete confidentiality of the prohibited conduct allegation and the identity of the complainant. Nor, can DDSN guarantee complete confidentiality of the alleged perpetrator.

Employees are expected to cooperate both with internal investigations and external investigations conducted by appropriate policing authorities. Refusal to cooperate during an investigation will result in appropriate action, up to and including termination. Upon completion of the investigation, DDSN will communicate the findings to the complainant and any other necessary and appropriate parties.

To effectively investigate and resolve complaints associated with violations of this directive, DDSN requests and advises that those with knowledge of such violations report them within 120 calendar days of the occurrence of the alleged conduct.

VII. CORRECTIVE ACTIONS

A. Disciplinary Action

In accordance with DDSN directive 413-01-DD: Standards of Disciplinary Action, a finding of discrimination, harassment, and/or sexual misconduct will be addressed on a case by case basis. Consequences for violating this directive will depend upon the facts and circumstances of each particular situation. The severity of the corrective action will depend on the frequency and/or severity of the offense and any history of past discriminatory, harassing and/or sexual misconduct. An employee found to have engaged in prohibited conduct may be subject to disciplinary action, up to and including, termination.

B. False Reports

Filing groundless and malicious complaints is an abuse of this directive and is strictly prohibited. Such actions are subject to appropriate action, up to and including termination.



Barry D. Malphrus
Vice Chairman



Gary C. Lemel
Chairman

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