



STATE OF NEW JERSEY
OFFICE OF THE GOVERNOR
CN-001
TRENTON
08625

JIM FLORIO
GOVERNOR

September 9, 1993

Dear State Employee:

As you are probably aware, I recently signed an Executive Order directing Personnel Commissioner Cimino to investigate how to eradicate sexual harassment from the government workplace. I signed this order because sexual harassment is personally offensive and intolerable, as well as repugnant to the basic principles of equality and dignity.

In response, the Commissioner issued dozens of recommendations, all of which will be fully implemented. I am pleased to announce that the first recommendation to take effect is the establishment of a uniform anti-sexual harassment policy for all of state government.


Employees in the 19 principal State departments, State colleges and universities and State authorities and instrumentalities are now required to comply with the provisions set forth in this policy.

The policy clearly defines sexual harassment behavior, and mandates that all State employees receive training, through the Human Resource Development Institute, in order to recognize the behavior and understand the diversity and complexity of sexual harassment issues.

Prevention through education is just one of our weapons for combating sexual harassment. We're also making it less complicated and traumatic for employees to file sexual harassment complaints. And, we're putting offenders on notice by adopting a formal disciplinary procedure, and referring cases, when appropriate, for criminal prosecution.

This policy and the scope of our training will make New Jersey a leader among states in ridding the workplace of crude innuendoes, sexual coercion and other trademarks of this offensive behavior. Our State government work environment must be -- and will be -- one in which every person is treated with full respect and encouraged to reach their fullest potential.

Sincerely,



Jim Florio
Governor

New Jersey State Library

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SUBJECT: SEXUAL HARASSMENT IN THE WORKPLACE

AUTHORIZED BY:  Jim Florio, Governor

 Anthony Cimino,
Commissioner

EFFECTIVE DATE: 9/1/93

PURPOSE

In recognition of the dignity and worth of each person in State employment, this policy concerning sexual harassment is promulgated State-wide. All employees—female or male—shall be permitted to work in an environment free from all forms of unlawful discrimination and conduct which can be considered harassing, coercive or disruptive, including sexual harassment. Sexual harassment is a form of employee misconduct which undermines the integrity of the employment relationship. Sexual harassment debilitates morale and interferes with work productivity and, therefore, will not be tolerated.

COVERAGE

This policy applies to all employees in State departments, colleges and authorities and prohibits such conduct by or towards all employees.

Independent contractors, vendors and all other parties engaged in a business relationship with the state of New Jersey are expected to adhere to the spirit and intent of this policy.

DEFINITIONS

Sexual harassment is defined as: unwelcomed sexual advances, requests for sexual favors and other verbal or physical conduct based on gender when:

Submission to such conduct is made 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 employment decisions 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 including, but not limited to:

Gender Harassment: Generalized gender-based remarks and behavior;

Seductive Behavior: Inappropriate, unwanted, offensive physical or verbal sexual advances;

Sexual Bribery: Solicitation of sexual activity or other sex-linked behavior by promise of reward;

Sexual Coercion: Coercion of sexual activity by threat of punishment; and

Sexual Assault: Gross sexual imposition like touching, fondling, grabbing or assault.

MEMORANDUM

TO: THE PRESIDENT

FROM: [Name]

SUBJECT: [Topic]

1. [Detailed text of the memorandum]

CONCLUSION

2. [Text of the conclusion section]

3. [Text of the conclusion section]

4. [Text of the conclusion section]

Very truly yours,

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AUTHORITY

Title VII of the Civil Rights Act of 1964 as amended; N.J.S.A.10:5-1 et.seq.;
N.J.S.A.11A:1-1 et.seq.; N.J.A.C.4A:7-1.3.

RESPONSIBILITIES

***Managerial/Supervisory**

In order to ensure the integrity of the work environment, managerial and/or supervisory personnel are required to ensure adherence to and compliance with this policy; and, upon being informed of possible sexual harassment, are required to take appropriate immediate action in response, including informing employees of their right to file a discrimination complaint with their Affirmative Action Officer.

***Employee**

Employees are encouraged, whether directly or through a third party, to notify the alleged harasser that the behavior in question is offensive and unwelcome. However, failure to do so would not preclude filing a complaint.

Employees are encouraged to promptly report all alleged incidents of sexual harassment.

There are various ways in which employees may file discrimination complaints, including sexual harassment, either concurrently or sequentially:

1. Affirmative Action Office

(The complainant may initiate a sexual harassment or other discrimination complaint directly with the Division of Equal Employment Opportunity and Affirmative Action, Department of Personnel, if filing the complaint with the appointing authority would pose a conflict of interest by virtue of the alleged harasser having any involvement in the intake, investigative or decision-making process.)

2. Other Forums

(See "Sexual Harassment Complaint Processes Available to NJ State Employees" attached)

TRAINING

Recognizing the diversity and complexity of sexual harassment issues and the State workforce, education and training will be provided to equip all employees and supervisors to act effectively in the work environment, free from sexual harassment.

Those individuals administering the response process to sexual harassment complaints shall receive additional training and education on an ongoing basis.

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To the extent possible, the sexual harassment investigative proceedings will be conducted in a manner to protect the confidentiality of the complainant, the alleged harasser and all witnesses. All parties involved in the proceedings will be advised to maintain strict confidentiality, from the initial meeting to the final agency decision, to safeguard the privacy and reputation of all involved.

RETALIATION

It shall be a violation of this policy for any employee to take reprisals against any person because she/he has filed a complaint, testified or assisted in any proceeding under this policy. Threats, other forms of intimidation, and/or retaliation against the complainant or any other party based on involvement in the complaint process may be cause for disciplinary action.

PROTECTION OF ALL PARTIES

All complaints will be addressed.

The alleged harasser will be notified once a formal complaint is filed with the Affirmative Action Office or with the Division of Equal Employment Opportunity and Affirmative Action in the Department of Personnel.

A finding of no probable cause as a result of an investigation does not necessarily establish that an accusation is false. However, this policy shall not be used to intentionally bring frivolous or malicious charges against any employee.

REMEDIAL ACTION

Remedial action for employees found in violation of this policy may be progressive in nature and include:

- Referral to counseling;
- Oral reprimand;
- Written reprimand;
- Reassignment;
- Suspension (with or without pay);
- Termination;
- Referral to the criminal justice system for possible violation.

DOCUMENTATION

It will be the responsibility of the Division of Equal Employment Opportunity and Affirmative Action in the Department of Personnel to receive and collect data regarding complaints filed under this policy.

INCIDENTS INVOLVING VENDORS

Procedures shall be developed to address incidents of sexual harassment involving independent contractors or vendors conducting business with the state of New Jersey.

The following information is being furnished to you for your information.

The information is being furnished to you for your information and is not to be distributed outside your organization.

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SECRET

DISTRIBUTION

The distribution of the policy shall consist of:

Distribution to all current employees

Distribution to all new hires

Reissuance of a general policy statement at least once per year to all employees.

The state of New Jersey is committed to maintaining a heightened awareness of the personal dignity of others by fostering a work environment free of sexual harassment.

Attachment

ADDENDUM TO POLICY

SEXUAL HARASSMENT COMPLAINT PROCESSES

AVAILABLE TO NEW JERSEY STATE EMPLOYEES

1. SUPERIOR COURT OF NEW JERSEY

Can bring directly in New Jersey Superior Court, claim of N.J. Law Against Discrimination (N.J.L.A.D), N.J.S.A. 10:5-1, et. seq. violation.

Can also bring N.J.L.A.D. claim in Federal Court if plaintiff is bringing a Title VII or 42 U.S.C. §1983 claim there.

* Statute of Limitations (period of time in which plaintiff must file action or else be barred from filing suit) (2 or 6 years) Montells v. Haynes case pending before N.J. Supreme Court. Statute of Limitations under N.J.L.A.D. is an open issue.

Remedies Available

Depending on the claims and the proofs and who the defendants are, the available remedies under NJLAD are...

1. Compensatory damages for lost wages.
2. Compensatory damages for medical or psychiatric expenses.
3. Injunctive relief.
4. Punitive damages (damages to punish for malicious wrongdoing).
5. Attorney fees.

2. NEW JERSEY DIVISION ON CIVIL RIGHTS ("DCR")

Must file complaint within 180 days.

Can get an adversarial hearing after 6 months with the Office of Administrative Law.

Either transfer to OAL or wait for a probable cause determination by the DCR.

A Deputy Attorney general will represent plaintiff once the DCR completes its investigation and finds probable cause unless defendant is a New Jersey state agency represented by a deputy. It is an open question as to who represents plaintiffs in that situation

Case can be referred over to the Federal Agency, the EEOC.

If the Division on Civil Rights makes a determination of no probable cause, the moving party's only recourse under the NJLAD is to appeal the decision to the New Jersey Superior Court, Appellate Division.

Remedies Available

Compensatory, punitive, injunctive and or equitable relief.

3. FEDERAL COURT - TITLE VII

Plaintiff must within 300 days of harassment incident file a complaint with the EEOC.

EEOC issues a "right to sue" letter and within 90 days receipt of the "right to sue" letter, plaintiff must file Title VII complaint in Federal District Court.

Remedies Available

Compensatory.

Punitive damages (depending on who defendant is).

Equitable relief.

Attorney fees.

4. 42 U.S.C. §1983 - Federal Statute creating a remedy for a constitutional deprivation by a person acting under color of State law.

Can be brought in State or Federal district court against State employee—not against State agency.

Must be brought within 2 years of incident.

1. Introduction

2. Methodology

3. Results

4. Discussion

5. Conclusion

The purpose of this study is to investigate the effects of the independent variable on the dependent variable. The study is designed to explore the relationship between the two variables and to determine the extent to which the independent variable influences the dependent variable.

The study is conducted using a quantitative research design. The data is collected through a series of experiments and is analyzed using statistical methods. The results of the study are presented in the following sections.

The study is organized as follows. The first section provides an overview of the research and its objectives. The second section describes the methodology used in the study. The third section presents the results of the study. The fourth section discusses the implications of the findings. The final section concludes the study and provides recommendations for future research.

The study is based on a sample of participants who were recruited from a variety of sources. The participants were randomly assigned to two groups: an experimental group and a control group. The experimental group received the treatment, while the control group did not. The results of the study are presented in the following sections.

The results of the study show that there is a significant difference between the two groups. The experimental group performed significantly better than the control group. This suggests that the treatment has a positive effect on the dependent variable.

The results of the study are consistent with the hypothesis. The independent variable has a positive effect on the dependent variable. This suggests that the treatment is effective in improving the outcome. The results of the study are discussed in the following sections.

The study has several limitations. First, the sample size was relatively small, which may have affected the results. Second, the study was conducted in a laboratory setting, which may not be representative of real-world conditions. Third, the study did not control for all possible confounding variables. These limitations are discussed in the following sections.

The study has several implications. First, the results suggest that the treatment is effective in improving the outcome. This has important implications for practice and policy. Second, the results suggest that the independent variable has a positive effect on the dependent variable. This suggests that the treatment is effective in improving the outcome. The results of the study are discussed in the following sections.

References

Appendix

Remedies Available

Compensatory damages.

Punitive damages.

Injunctive relief.

Attorney fees.

5. DEPARTMENT OF PERSONNEL - MERIT SYSTEM BOARD

*** (N.J.S.A. 11A:7, et. seq., N.J.A.C. 4A:7-3.2, et. seq.)**

Employee first brings complaint to departments' or colleges' Affirmative Action Officer within 20 days of incident.

Affirmative Action Officer investigates and issues report.

Department head or college president issues a written decision on the complaint. Department head or college president has 45 days from date of complaint to issue a decision.

Department head or college president may find discipline appropriate.

Employee can appeal department head's or college president's decision to the Division of EEO/AA within the Department of Personnel within 20 days of receipt of the decision.

Employee can appeal from Division of EEO/AA (Department of Personnel) decision within 20 days to the Merit System Board.

Can appeal Merit System Board's decision within 45 days to the New Jersey Superior Court, Appellate Division because Merit System Board's opinion is a final agency decision.

Remedies Available

Equitable relief.

2. THE PROBLEM OF THE FUTURE

The first part of the paper is devoted to a discussion of the problem of the future. It is argued that the future is not a fixed entity, but rather a process that is constantly changing and evolving.

One of the main reasons for this is the fact that the future is not a single point in time, but rather a range of possibilities.

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3. THE PROBLEM OF THE PAST

The second part of the paper is devoted to a discussion of the problem of the past. It is argued that the past is not a fixed entity, but rather a process that is constantly changing and evolving.

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6. UNION CONTRACTUAL GRIEVANCE

First step is to submit a written grievance with 30* days of harassment on a "grievance form" provided by the State which will contain a general description of relevant facts of the grievance to the designated representative of each party.

Complainant can proceed with or without union representation.

If grievance is appealed to the second step and department head or designee determines grievance resolution not within authority of department, grievance may be forwarded to Office of Employee Relations for determination within 10* days.

Within 20* days from receipt of grievance, the Office of Employee Relations must respond in appropriate fashion.

** Time frames may vary with each union contract.*

7. STATE COLLEGE PROCESS

* N.J.A.C. 9:6A-7.4 applies to New Jersey state college unclassified employees.
Career employees follow procedure in #5.

Employee first brings complaint to departments' or colleges' Affirmative Action Officer within 20 days of incident.

