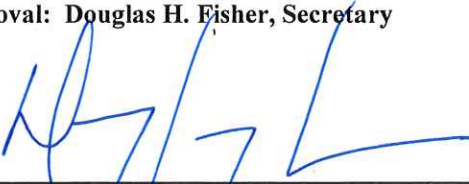


NEW JERSEY DEPARTMENT OF AGRICULTURE

POLICY

<b>Subject: Discrimination in the Workplace</b>	<b>Number: 1.131</b> <b>Page 1 of 13</b>
<b>Approval: Douglas H. Fisher, Secretary</b> 	<b>Effective Date: 03/01/00</b> <b>Revised: 07/01/03</b> <b>Revised: 06/03/05</b> <b>Revised: 01/10/18</b> <b>Update EEO Info: 5/11/2020</b> <b>Revised: 8/18/2020</b>

**I PURPOSE**

To establish the Department policy on discrimination, harassment or hostile environments in the workplace.

**II AUTHORITY**

Secretary of Agriculture  
NJ State Policy Prohibiting Discrimination in the Workplace  
NJAC 4A:7-1.1 et seq.  
Executive Order No. 106

**III POLICY**

- A. It is the policy of the Department of Agriculture that discrimination, harassment, or hostile environment in the workplace is unacceptable and shall not be condoned or tolerated.
- B. Each Department employee has a primary responsibility to maintain high standards of honesty, integrity, impartiality, and conduct. Personnel management within the Department shall be consistent with merit systems rules and principles. Each employee has the right to work in an environment that is free from harassment, discrimination, hostility and intimidation.
- C. The Department of Agriculture adopts the New Jersey State Policy Prohibiting Discrimination in the Workplace which will be distributed to all employees on an annual basis and the new hires as part of the orientation package. The acknowledgement of receipt form is incorporated into this policy and will be maintained in the employee's personnel file. The State policy is also available online as part of the Department's Policy.

**IV PROCEDURE**

The Department of Agriculture adopts the New Jersey State Model Procedures for Internal Complaints Alleging Discrimination in the Workplace. This Procedure will be distributed to all employees on an annual basis and to new hires as part of the orientation package. The acknowledgement of receipt form is incorporated into this policy and will be maintained in the employee's personnel file. It is also available online as part of the Department's Policy.

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**V DEFINITIONS**

Affectional or Sexual Orientation- Male or female heterosexuality, homosexuality or bisexuality by inclination, practice, identity or expression, having a history thereof or being perceived, presumed or identified by others as having such an orientation.

Age- An individual's years of age, which for purposes of NJ Law, can be anyone 18 years of age or over.

Ancestry- Refers to a person's ethnic origin or descent, heritage or the place of birth of a person's parents or ancestors before their arrival in the United States.

Atypical hereditary cellular or blood trait- Sickle cell trait, hemoglobin C trait, thalassemia trait, TaySachs trait or cystic fibrosis trait (See N.J.S.A. 10:5-5 et seq.).

Color- Discrimination which occurs when individuals are treated differently than others who are similarly situated, because of the color of their skin. This kind of discrimination can occur in conjunction with race discrimination or it can occur in the absence of race discrimination when members of the same race are treated differently because of their skin color.

Creed- See "Religion."

Disability- Suffering from physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a service or guide dog, wheelchair or any other remedial appliance or device, or from any mental, psychological or developmental disability resulting from the anatomical, psychological, physiological or neurological conditions which prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques. Disability shall also mean suffering from AIDS or HIV infection.

Ethnicity- See "Ancestry."

Familial Status- Being the natural parent of a child, the adoptive parent of a child, the foster parent of a child, having a "parent and child relationship" with a child as defined by state law, or having sole or joint legal or physical custody, care, guardianship, or visitation with a child, or any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

Genetic Information- The information about genes, gene products, or inherited characteristics that may derive from an individual or family member.

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Liability for Service in the Armed Forces of the United States- Subject to being ordered as an individual or member of an organized unit into active service in the Armed Forces of the United States by reason of membership in the National Guard, Naval Militia, or a reserve component of the Armed Forces of the United States, or subject to being inducted into such armed forces through a system of national selection service.

Marital Status- The legal status of being married, single, separated, divorced or widowed.

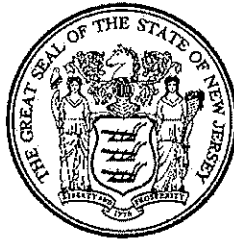
National Origin- The country of an individual's birth.

Race- An individual's classification into one of the following categories: Black or African American not of Hispanic Origin, White not of Hispanic Origin, Hispanic or Latino, American Indian or Alaskan Native, Asian or Pacific Islander.

Religion (Creed)- All aspects of religious observance, practice and belief or non-belief.

Sex/Gender- The character of being male or female.

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**NEW JERSEY STATE**  
**POLICY PROHIBITING DISCRIMINATION IN THE WORKPLACE**

**I. POLICY**

a. Protected Categories

The State of New Jersey is committed to providing every State employee and prospective State employee with a work environment free from prohibited discrimination or harassment. Under this policy, forms of employment discrimination or harassment based upon the following protected categories are prohibited and will not be tolerated: race, creed, color, national origin, nationality, ancestry, age, sex/gender, pregnancy, marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability.

To achieve the goal of maintaining a work environment free from discrimination and harassment, the State of New Jersey strictly prohibits the conduct that is described in this policy. This is a zero tolerance policy. This means that the State and its agencies reserve the right to take either disciplinary action, if appropriate, or other corrective action, to address any unacceptable conduct that violates this policy, regardless of whether the conduct satisfies the legal definition of discrimination or harassment.

b. Applicability

Prohibited discrimination/harassment undermines the integrity of the employment relationship, compromises equal employment opportunity, debilitates morale, and

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interferes with work productivity. Thus, this policy applies to all employees and applicants for employment in State departments, commissions, State colleges or universities, agencies, and authorities (hereafter referred to in this section as “State agencies” or “State agency”). The State of New Jersey will not tolerate harassment or discrimination by anyone in the workplace including supervisors, coworkers, employees of Gubernatorial Transition Offices, or persons doing business with the State. This policy also applies to conduct that occurs in the workplace and conduct that occurs at any location that can be reasonably regarded as an extension of the workplace (any field location, any off-site business-related social function, or any facility where State business is being conducted and discussed). This policy also applies to posts on any social media site and/or electronic device, personal or business, that adversely affects the work environment defined by the State Policy.

This policy also applies to third party harassment. Third party harassment is unwelcome behavior involving any of the protected categories referred to in (a) above that is not directed at an individual but exists in the workplace and interferes with an individual’s ability to do his or her job. Third party harassment based upon any of the aforementioned protected categories is prohibited by this policy.

**II. PROHIBITED CONDUCT**

a. Defined

It is a violation of this policy to engage in any employment practice or procedure that treats an individual less favorably based upon any of the protected categories referred to in (a) above. This policy pertains to all employment practices such as recruitment, selection, hiring, training, promotion, transfer, assignment, layoff, return from layoff, termination, demotion, discipline, compensation, fringe benefits, working conditions, and career development.

It is a violation of this policy to use derogatory or demeaning references regarding a person’s race, gender, age, religion, disability, affectional or sexual orientation, ethnic background, or any other protected category set forth in (a) above. A violation of this policy can occur even if there was no intent on the part of an individual to harass or demean another.

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Examples of behaviors that may constitute a violation of this policy include, but are not limited to:

- Discriminating against an individual with regard to terms and conditions of employment because of being in one or more of the protected categories referred to in (a) above;
- Treating an individual differently because of the individual’s race, color, national origin, or other protected category, or because an individual has the physical, cultural, or linguistic characteristics of a racial, religious, or other protected category;
- Treating an individual differently because of marriage to, civil union to, domestic partnership with, or association with persons of a racial, religious, or other protected category; or due to the individual’s membership in or association with an organization identified with the interests of a certain racial, religious, or other protected category; or because an individual’s name, domestic partner’s name, or spouse’s name is associated with a certain racial, religious, or other protected category;
- Calling an individual by an unwanted nickname that refers to one or more of the above protected categories, or telling jokes pertaining to one or more protected categories;
- Using derogatory references with regard to any of the protected categories in any communication;
- Engaging in threatening, intimidating, or hostile acts toward another individual in the workplace because that individual belongs to, or is associated with, any of the protected categories; or
- Displaying or distributing materials, in the workplace or outside of the workplace that has an adverse impact on the work environment, including electronic communications, that contains derogatory or demeaning language or images pertaining to any of the protected categories.

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b. Sexual Harassment

It is a violation of this policy to engage in sexual (or gender-based) harassment of any kind, including hostile work environment harassment, quid pro quo harassment, or same-sex harassment. For the purposes of this policy, sexual harassment is defined, as in the Equal Employment Opportunity Commission Guidelines, as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when, for example:

- 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.

Examples of prohibited behaviors that may constitute sexual harassment and are, therefore, a violation of this policy include, but are not limited to:

- Generalized gender-based remarks and comments;
- Unwanted physical contact, such as intentional touching, grabbing, pinching, brushing against another's body, or impeding or blocking movement;
- Sexual physical contact that involves any form of coercion, force, or lack of consent, such as sexual assault;

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- Verbal, written, or electronic sexually suggestive or obscene comments, jokes, or propositions, including letters, notes, e-mail, text messages, invitations, gestures, or inappropriate comments about a person’s clothing;
- Visual contact, such as leering or staring at another's body; gesturing; displaying sexually suggestive objects, cartoons, posters, magazines, or pictures of scantily-clad individuals; or displaying sexually suggestive material on a bulletin board, on a locker room wall, or on a screen saver;
- Explicit or implicit suggestions of sex by a supervisor or manager in return for a favorable employment action such as hiring, compensation, promotion, or retention;
- Suggesting or implying that failure to accept a request for a date or sex would result in an adverse employment consequence with respect to any employment practice such as performance evaluation, or promotional opportunity; or
- Continuing to engage in certain behaviors of a sexual nature after an objection has been raised by the target of such inappropriate behavior.

### **III. EMPLOYEE RESPONSIBILITIES**

Any employee who believes that she/he or they have been subjected to any form of prohibited discrimination/harassment, or who witnesses others being subjected to such discrimination/harassment, should promptly report the incident(s) to a supervisor or directly to the State agency’s Equal Employment Opportunity/Affirmative Action Officer or to any other persons designated by the State agency to receive workplace discrimination complaints. A person who wishes to take action about prohibited sexual physical contact can file a criminal complaint with law enforcement of the municipality where the incident occurred. That person can also make a criminal report and a report to his/her or their supervisor/manager and/or Equal Employment Opportunity/Affirmative Action Officer; one does not have to choose one or the other.

All employees are expected to cooperate with investigations undertaken pursuant to VI below. Failure to cooperate in an investigation may result in administrative and/or disciplinary action, up to and including termination of employment.

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**IV. SUPERVISOR RESPONSIBILITIES**

Supervisors shall make every effort to maintain a work environment that is free from any form of prohibited discrimination/harassment. Supervisors shall immediately refer allegations of prohibited discrimination/harassment to the State agency’s Equal Employment Opportunity/Affirmative Action Officer, or any other individual designated by the State agency to receive complaints of workplace discrimination/harassment. A supervisor’s failure to comply with these requirements may result in administrative and/or disciplinary action, up to and including termination of employment. For purposes of this section and in the State of New Jersey Model Procedures for Processing Internal Complaints Alleging Discrimination in the Workplace (“Model Procedures”; N.J.A.C. 4A:7-3.2.), a supervisor is defined broadly to include any manager or other individual who has authority to control the work environment of any other staff member (for example, a project leader). N.J.A.C. 4A:7-3.1(e)

**V. DISSEMINATION**

Each State agency shall annually distribute the policy described in this section, or a summarized notice of it, to all of its employees, including part-time and seasonal employees. The policy, or summarized notice of it, shall also be posted in conspicuous locations throughout the buildings and grounds of each State agency (that is, on bulletin boards or on the State agency’s intranet site). The Department of the Treasury shall distribute the policy to Statewide vendors/contractors, whereas each State agency shall distribute the policy to vendors/contractors with whom the State agency has a direct relationship.

**VI. COMPLAINT PROCESS**

Each State agency shall follow the State of New Jersey Model Procedures for Processing Internal Complaints Alleging Discrimination in the Workplace with regard to reporting, investigating, and where appropriate, remediating claims of discrimination/harassment. See N.J.A.C. 4A:7-3.2 and N.J.S.A. 11A:7-3. Each State agency is responsible for designating an individual, or individuals, to receive complaints of discrimination/harassment, investigating such complaints, and recommending appropriate remediation of such complaints. In addition to the Equal Employment

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Opportunity/Affirmative Action Officer, each State agency shall designate an alternate person to receive claims of discrimination/harassment.

All investigations of discrimination/harassment claims shall be conducted in a way that respects, to the extent possible, the privacy of all the persons involved. The investigations shall be conducted in a prompt, thorough, and impartial manner. The results of the investigation shall be forwarded to the respective State agency head to make a final decision as to whether a violation of the policy has been substantiated.

Where a violation of this policy is found to have occurred, the State agency shall take prompt and appropriate remedial action to stop the behavior and deter its reoccurrence. The State agency shall also have the authority to take prompt and appropriate remedial action, such as moving two employees apart, before a final determination has been made regarding whether a violation of this policy has occurred.

The remedial action taken may include counseling, training, intervention, mediation, and/or the initiation of disciplinary action up to and including termination of employment.

Each State agency shall maintain a written record of the discrimination/harassment complaints received. Written records, consisting of the investigative report and any attachments, including witness statements, shall be maintained as confidential records to the extent practicable and appropriate and will maintain so indefinitely.

**VII. PROHIBITION AGAINST RETALIATION**

Retaliation against any employee who alleges that she/he or they were the victim of discrimination/harassment, provides information in the course of an investigation into claims of discrimination/harassment in the workplace, or opposes a discriminatory practice, is prohibited by this policy. No employee bringing a complaint, providing information for an investigation, or testifying in any proceeding under this policy shall be subjected to adverse employment consequences based upon such involvement or be the subject of other retaliation.

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Following are examples of prohibited actions taken against an employee because the employee has engaged in activity protected by this subsection:

- Termination of an employee;
- Failing to promote an employee;
- Altering an employee’s work assignment for reasons other than legitimate business reasons;
- Imposing or threatening to impose disciplinary action on an employee for reasons other than legitimate business reasons; or
- Ostracizing an employee (for example, excluding an employee from an activity or privilege offered or provided to all other employees).

**VIII. FALSE ACCUSATIONS AND INFORMATION**

The burden is on the complainant to articulate a sufficient nexus between the alleged conduct to a protected category pursuant to the State Policy. An employee who knowingly makes a false accusation of prohibited discrimination/harassment or knowingly provides false information in the course of an investigation of a complaint, will be subjected to administrative and/or disciplinary action, up to and including termination of employment. Complaints made in good faith, however, even if found to be unsubstantiated, shall not be considered a false accusation.

**IX. CONFIDENTIALITY**

All complaints and investigations shall be handled, to the extent possible, in a manner that will protect the privacy interests of those involved. To the extent practical and appropriate under the circumstances, confidentiality shall be maintained throughout the investigative process. In the course of an investigation, it may be necessary to discuss the claims with the person(s) against whom the complaint was filed and other persons who may have relevant knowledge or who have a legitimate need to know about the matter. In order to protect the integrity of the investigation, minimize the risk of retaliation against the individuals participating in the investigative process, and protect the important privacy interests of all concerned, the EEO/AA Officer/investigator shall request that all persons interviewed, including witnesses, not discuss any aspect of the investigation with others, unless there is a legitimate business reason to disclose such information.

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**X. ADMINISTRATIVE AND/OR DISCIPLINARY ACTION**

Any employee found to have violated any portion or portions of this policy may be subject to appropriate administrative and/or disciplinary action which may include, but which shall not be limited to: referral for training, referral for counseling, written or verbal reprimand, suspension, reassignment, demotion, or termination of employment. Referral to another appropriate authority for review for possible violation of State and Federal statutes may also be appropriate.

**XI. TRAINING**

All State agencies shall provide all new employees with training on the policy and procedures set forth in this section within a reasonable period of time after each new employee's appointment date. Refresher training shall be provided to all employees, including supervisors, within a reasonable period of time. All State agencies shall also provide supervisors with training on a regular basis regarding their obligations and duties under the policy and regarding procedures set forth in this section.

State employees responsible for managing and investigating complaints of harassment or discrimination, in consultation with the Division of EEO/AA and another organization with expertise in response to and prevention of sexual violence, such as the Department of Law and Public Safety and the New Jersey Coalition Against Sexual Assault, shall receive additional training. Each State employee who receives such additional training shall complete a refresher course every three years.

Issued: December 16, 1999

Revised: June 3, 2005

Revised: September 5, 2013

Revised: September 11, 2019

Revised: August 19, 2020

See N.J.A.C. 4A:7-3.1, N.J.A.C. 4A:7-3.2 and N.J.S.A. 11A:7-3

**New Jersey State Policy Prohibiting  
Discrimination in the Workplace  
And  
Procedures for Processing Internal Complaints Alleging  
Discrimination in the Workplace**

**NEW JERSEY DEPARTMENT OF AGRICULTURE  
Acknowledgement of Receipt**

The State of New Jersey is committed to providing every employee with a workplace free from unlawful discrimination.

Every employee is required to read and become familiar with the "New Jersey State Policy Prohibiting Discrimination in the Workplace" (Policy) and the "New Jersey State Model Procedures for Internal Complaints Alleging Discrimination in the Workplace" (Procedures).

Any questions you may have about the State Policy or Procedures should be directed to Mr. Christopher Laregina, EEO/AA Officer.

**Please sign this Acknowledgement of Receipt form to confirm receipt of the Policy and Procedures. Failure to sign the form does not relieve an employee of the responsibility to understand and adhere to the provisions of the Policy and Procedures.**

A copy of the signed form will be placed in your personnel file.

\_\_\_\_\_  
Employee's Name (Please Print)

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date