



DEPARTMENT OF TRANSPORTATION POLICY/PROCEDURE

SUBJECT: Sexual Harassment on NJDOT Construction Projects	Effective Date: July 1, 2000	Commissioner Approval: Sponsor Approval: Contact Telephone #: 609-530-3009
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I. PURPOSE

To state the policy and procedure whereby NJDOT shall enforce contractual provisions which prohibit sexual harassment on construction sites by employees of contractors performing construction, reconstruction, or rehabilitation of roads and bridges in accordance with the current applicable edition of the NJDOT "Standard Specifications for Road and Bridge Construction" and for which a NJDOT Resident Engineer is assigned.

II. DEFINITIONS

- A. Contractor – means an organization, individual, partnership, firm, or corporation contracting with the Department for performance of construction work.
- B. Complaint – means any contractor's employee who alleges and/or files a complaint of sexual harassment with NJDOT.
- C. Complaint – means the current NJDOT Sexual Harassment Complaint form.
- D. Resident Engineer – means a field representative of NJDOT having a direct supervision of the administration of the contract.
- E. Respondent – means an individual against whom a complaint or allegation of sexual harassment has been filed.
- F. Sexual Harassment – means any unwelcome sexual advances, requests for sexual favors, including repeated offensive sexual flirtation, propositions, continual or repeated abuse of a sexual nature, verbal or written sexually related comments about an individual's body, display of sexually suggestive objects or pictures, or any uninvited physical contact or touching such as patting, pinching, or constant brushing against another's body. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature also constitute sexual harassment when:
 - 1. submission to such conduct is made either explicitly or implicitly a term or condition of employment;
 - 2. submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or

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3. such conduct has the purpose or effect of unreasonably and substantially interfering with the work performance of the individual, or creating an intimidating, hostile, or offensive working environment.

III. POLICY STATEMENT

It is the policy of the NJDOT that it shall enforce to the maximum extent possible the provisions contained in all Department construction project contracts which provide that all contractors' employees have a right to work in an environment free from sexual harassment. The NJDOT prohibits any and all forms of sexual harassment in the work place or on the job site.

No contractor, supervisor or employee shall threaten or insinuate either explicitly or implicitly that any employee's submission to or rejection of sexual advances will have any effect on that persons employment, job assignment, training, evaluation, promotion, wages or other term or condition of employment or future job opportunity. Contractors are responsible for ensuring and maintaining a work environment which is free from sexual harassment.

Any contractor whose employee sexually harasses another employee shall be subject to disciplinary action. Contractors who fail to adequately and expeditiously investigate sexual harassment claims at the request of the NJDOT may be subject to enforcement proceedings and such sanctions as are authorized by law. Contractors are required to provide detailed written reports to NJDOT when so requested which shall describe the investigation and corrective actions taken by contractors in all instances of sexual harassment allegations. Contractors shall also be responsible for ensuring, to the maximum extent possible, that no retaliation, reprisal, or intimidation be directed against any complainant or other employee who provides information to any person or agency investigating an allegation or complaint of sexual harassment.

When investigating or otherwise handling sexual harassment complaints, the NJDOT will fully protect the privacy interests of all parties involved. Confidential information given to investigators will be respected as such.

IV. PROCEDURE

Complainant

1. May report a complaint of sexual harassment to any of the following:

- contractor representative
- union
- Resident Engineer/Resident Engineer staff
- Director of Civil Rights

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- NJ Division on Civil Rights (NJDCR)
- US Equal Employment Opportunity Commission (EEOC)

Contractor

2. Upon notification of a complaint, investigate and document complaint within ten (10) calendar days, providing a written statement for the file which indicates the following information:
 - Parties to the complaint;
 - Date of complaint;
 - Description of the complaint;
 - Parties and/or person(s) involved in resolution proceedings;
 - Resolution or corrective action taken; and
 - Resolution form signed by complainant and company representative.
3. Contractor maintains written record of all complaints and resolutions. Documentation shall be made available to the NJDOT during the course of its compliance reviews or random audits.

Resident Engineer

4. Receives complaint and/or allegations of sexual harassment from complainant or from any other person at the job site.

Resident Engineer Staff

5. With knowledge of a complaint or instance of sexual harassment from complainant or from any other person at the job site, immediately notifies the Resident Engineer of said complaint or allegations.

Civil Rights Field Representative or other NJDOT Employees

6. With knowledge of a complaint or instances of sexual harassment from complainant or from any other person at the job site, immediately notifies the Resident Engineer, Supervisor, Contract Compliance, Director of Civil Rights/Affirmative Action, and contractor of said complaint or allegations.

Note: In instances where the Director or the Resident Engineer receives a complaint that a NJDOT employee is sexually harassing any person on the construction site, he or she will refer the complaint to the NJDOT Affirmative Action Officer for review, investigation and resolution.

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Resident Engineer and/or Director of Civil Rights

7. In those cases deemed to be of utmost urgency, and particularly where the safety and welfare of any individual is at risk, take immediate action within scope of authority to ensure that the work environment is free of harassment, intimidation and coercion, (including ordering the separation of the alleged "harasser" and "harassee").

Resident Engineer

8. Immediately completes an NJDOT Employment Discrimination Fact Finding Form or a detailed written report while or after interviewing complainant; immediately forwards the original to the Director, Division of Civil Rights/Affirmative Action and simultaneously sends copies to those individuals in his or her chain of command and the contractor.

9. Immediately contacts appropriate contractor manager/supervisor and contractor's EEO Officer. Informs them of the allegations and attempts to resolve matter.

10. Requires contractor to submit a written report to the Department within ten (10) calendar days, per NJDOT's Special Contract Provisions.

11. Monitors and reports to the Director of Civil Rights on the investigation progress to ensure timely completion of contractor's investigatory report.

12. Upon receipt of contractor's investigatory report, transmits within one (1) business day a copy to those in chain of command and the Director of Civil Rights.

Director of Civil Rights/Affirmative Action

13. Receives copies of all documentation, including the NJDOT Employment Discrimination Fact Finding Form and the contractor's investigatory report from Resident Engineer.

14. Consults with Resident Engineer and other individuals, if necessary, to obtain additional relevant information.

15. If contractor's investigatory report is inadequate, request the Resident Engineer to have contractor correct cited deficiencies and/or have Title VI Liaison/Supervisor, Contract Compliance Unit conduct an independent investigation.

16. If Title VI Coordinator/Contract Compliance Unit personnel conduct an independent investigation, establish a time limit of no more than twenty (20) working days to complete investigation and report.

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17. Receives and reviews the contractor's revised investigatory report or the independent report prepared by the Title VI Liaison/Supervisor of Compliance and approves findings, conclusions and recommendation(s).

Note: In instances where either report is unacceptable, and/or probable cause is found take all necessary actions to remedy and resolve outstanding issues and concerns.

18. Disseminate report to all affected parties at interest, including Director of Construction and Materials, Regional Construction Engineer, Resident Engineer, and the USDOT, Federal Highway Administration.

V. AUTHORITY

- A. N.J.S.A. 27:1A-5
- B. N.J.S.A. 10:1, 10:2
- C. US Equal Employment Opportunity Commission
- D. Title VI and VII of the Civil Rights Act of 1964, as amended,
- E. 23 CFR Section 230.401 et seq.
- F. 23 CFR U.S.C. § 140(a)
- G. Executive Order 11246
- H. Supplemental Specifications' Special Contract Provisions for Investigating, Reporting and Resolving Employment Discrimination and Sexual Harassment Complaints
- I. N.J. State Policy Prohibiting Discrimination, Harassment or Hostile Environments in the Workplace

VI. RELATED POLICIES/PROCEDURES

Policy and Procedure No. 209, "Sexual Harassment"

Policy and Procedure No. 207, "Equal Employment Opportunity/Affirmative Action"

