WORKPLACE DISCRIMINATION AND HARASSMENT POLICY

PURPOSE: It is imperative that managers, supervisors, employees and applicants of sub-
recipient organizations comply with federal and state laws and regulations governing harassment
and discrimination. There is a need to insure that the agency’s work environment, at all levels, is
free from sexual or any other form of harassment or discrimination. In order to insure this
purpose, this policy will provide guidance by defining harassment and/or discrimination and by
outlining reporting procedures that should be followed when confronted with harassment.

1. SCOPE: Applicable to all Crime Commission members, staff members, applicants of
sub-grant recipients, individuals doing business with the Commission, students and guest
instructors of the Training Center.

2. POLICY: It is the policy of the Nebraska Commission on Law Enforcement and
Criminal Justice (Nebraska Crime Commission) that all women and men are to be treated
fairly and equally, with dignity and respect. Any form of work place harassment or
discrimination is contrary to this policy and will be regarded as possible discrimination on
the basis of race, color, religion, age, sex, disability, or national origin and may be treated
as violations of applicable state and federal laws. See Addendum. It will be considered
a violation of this policy for any employee, student, guest instructor or individual doing
business with Nebraska Crime Commission or Training Center to engage in work place
harassment or discrimination, or for any supervisory personnel to knowingly permit work
place harassment or discrimination.

3. DEFINITIONS:

A. Workplace Discrimination:

For the purpose of this policy, “work place discrimination” is defined as a less
favorable treatment towards an individual or a group of individuals at work,
usually based on their protected class, including, but not limited to, race, color,
national origin, sex, religion and disability, contrary to law.

B. Workplace Harassment:

For the purpose of this policy, "work place harassment" is defined as sexual
harassment, retaliatory harassment or any inflammatory comments, jokes, printed
material, and/or innuendo based in whole or in part on gender, race, color,
religion, age, disability, or national origin, when such conduct has the purpose or
effect of creating an intimidating, hostile, or offensive working environment,
and/or such conduct interferes unreasonably with a person’s work or employment opportunities. This may include third-party situations where one individual is offended by the interaction, conduct or communications between others. Normal, courteous, mutually respectful, non-coercive interactions which are acceptable to both individuals are not considered to be harassment.

C. Sexual Harassment:

For the purpose of this policy, “sexual harassment” is defined as any unwelcome sexual advances, requests for sexual favors, and either verbal or physical conduct of a sexual nature, when: (1) Submission to such conduct is made, either explicitly or implicitly, a term of an individual’s employment, or a condition to receipt of services by a recipient of the agency’s services, or submission to, or rejection of, such conduct by an individual is used as the basis for employment or agency decisions affecting an employee or a recipient of the agency’s services, or (2) Such conduct has the purpose or effect of unreasonably interfering with an employee’s work performance or the receipt of services by a recipient of the agency’s services, or of creating an intimidating, hostile, or offensive environment.

Examples of sexual harassment may include, but is not limited to, such actions as any form of inflammatory comments, jokes, kidding, printed material, and/or innuendo; subtle pressure for sexual activity; physical contact such as patting, pinching, or brushing against another’s body; and demands for sexual favors. Requests for sexual activity accompanied by implied or overt promises or preferential treatment or threats concerning an individual’s employment status may also be considered sexual harassment.

D. Retaliatory Harassment:

For the purposes of this policy, “retaliatory harassment” is defined as any harmful action taken against a person for making, assisting and/or being a witness in a complaint of workplace harassment or discrimination. Harmful action includes any action that would dissuade a reasonable person from making or supporting a charge of harassment or discrimination.

E. Disability Discrimination:

For purposes of this policy, “disability discrimination” is defined as less favorable treatment of any person by an employee or representative of the Nebraska Commission on Law Enforcement and Criminal Justice or the Nebraska Law Enforcement Training Center on the basis of a disability.

4. NOTIFICATIONS: All Commission members, employees, sub-grant applicants, and students and guest instructors at the Training Center will be notified of the Nebraska
Crime Commission’s policy on workplace harassment and discrimination and will be provided with a copy of the policy. The Nebraska Crime Commission policy will also be accessible on Commission’s website. Additionally, all employees and students will be provided with an explanation of their rights in making complaints pursuant to this policy.

5. INDIVIDUAL RESPONSIBILITIES: Individuals covered under the scope of this operating instruction are responsible for:

A. Complying with the spirit and letter of this operating instruction.

B. If comfortable, promptly telling any offending party that the conduct is unwelcome and asking them to stop.

C. If receiving a request to stop his or her conduct, immediately comply with it and do not retaliate against the employee for rejecting the conduct.

D. Follow the reporting procedures as outlined in this operating instruction.

E. Report any incident of harassment or discrimination that is observed or witnessed, even if incident is in another department.

F. Keep the information on a “need to know” basis in order for the agency to complete a fair investigation.

6. SUPERVISOR RESPONSIBILITIES:

A. Supervisors are to assure that all employees under his or her supervision are informed of the policy.

B. Training Center personnel are to assure that all students under their supervision are informed of the policy.

C. Any supervisor who receives a complaint alleging work place harassment or discrimination, or who is otherwise aware of a situation involving work place harassment or discrimination, will immediately report that complaint as outlined in section 8.

D. Any supervisor receiving a complaint alleging work place harassment or discrimination will immediately notify the complainant of the Commission’s operating instruction concerning work place harassment and discrimination, and of the complainant’s rights concerning the pursuit of such allegations. This notification will be achieved by giving the complainant a copy of this operating instruction.

E. Unless otherwise required by this OI or by law, any supervisor receiving a complaint or report of work place harassment or discrimination will take proper care to protect the identity of the complainant(s) and of the accused party or
parties and will hold the allegations in confidence pending appropriate action by
the executive director or his or her designee

F. Any supervisor should cooperate fully with any ongoing investigation regarding a
harassment incident.

7. PROCEDURES: Individuals who feel they are being harassed or discriminated against
are strongly encouraged to report all such situations to his or her supervisor. If the
supervisor is unavailable or the employee believes that it would be inappropriate to
contact that person, the employee should immediately contact his/her next level manager
or the human resource officer. If the individual who feels they have been discriminated
against is not an employee of the Commission, they are strongly encouraged to report all
such situations to the Executive Director or the Personnel Officer of the Commission.

The grants division chief should be contacted in the event that the allegations are
connected to a DOJ funded sub-grantee or a participant/client of the sub grantee. In the
event that it is not appropriate to contact the grants division chief, the executive director
of the Crime Commission or his or her designee should be contacted. If an employee of
the Crime Commission receives a complaint of workplace harassment or discrimination,
he or she should forward the complaint to either the personnel officer or where
appropriate, the grants division chief.

For complaints occurring within the Training Center that involve students, the deputy director of
training should be contacted.

A. The agency will promptly investigate all complaints.

1. Unless connected to a DOJ funded sub-grantee or to the Training Center students,
all complaints should be brought to the attention of the human resource officer or
if the alleged complaint involves that individual, to the executive director.

2. Complaints may be made in written or electronic form, telephonically or in
person. Complaints forwarded by a supervisor must be in written or electronic
form.

3. In reporting allegations of workplace harassment or discrimination, complainants
should state specific facts including, where practical, the identity of the person(s)
who committed such workplace harassment and/or discrimination; the date, time,
and place of the alleged conduct; what was done or said; and, the identity of any
witnesses who were present.

4. The complainant will be provided written or electronic notice acknowledging
receipt of the complaint and an explanation that the matter will be resolved within
45 business days of receipt of the complaint.
B. **INFORMAL RESOLUTION:**

1. Upon receipt of the complaint, the personnel officer, grants division chief, designee of the executive director or the deputy director of training may seek informal resolution of the complaint by bringing the offensive behavior to the attention of the accused party or parties and by securing a written agreement that the behavior will not be repeated. If such informal resolution is accomplished and no further investigation is required, then the personnel officer, deputy director or designee will submit a written report to the executive director.

2. If the offending party, or parties, denies the allegation, or if an informal resolution of the matter cannot be achieved, or the personnel officer, deputy director or executive director designee does not hold an informal resolution meeting, the steps outlined section C will be followed. The complainant will be informed of the status of any informal resolution action.

C. **INVESTIGATION OF THE COMPLAINT:** Once received, the personnel officer, grants division chief, deputy director of training or executive director designee will take steps to promptly and thoroughly investigate the allegation(s) and proceed as follows:

1. Advise the complainant of this operating instruction and of the complainant's rights concerning pursuit of such allegations as set forth.

2. Provide the complainant with an estimated completion date of the investigation. Where practicable the investigation should be completed within 45 business days of receipt of the complaint.

3. Except as otherwise provided by this OI or as may be reasonably necessary to successfully complete an investigation of work place harassment allegations or discrimination, take necessary precautions to protect the identity of the complainant(s) and of the accused party or parties, and will endeavor to hold the allegations or work place harassment or discrimination in confidence.

4. Advise the individual who has been accused of work place harassment or discrimination of the allegations contained in the complaint and allow an opportunity for the accused individual(s) to respond to allegations brought before them in a formal meeting before the conclusion or resolution of the complaint. A work place harassment complaint against an employee will be held in the strictest confidence.

5. At the end of the investigation prepare and submit to the executive director a written report of the investigation and if practicable, notify the complainant of his/her findings. Such findings shall include whether the allegations are founded or unfounded and if founded, whether the complained behavior constitutes workplace harassment or discrimination.
6. After review of the written report, and any necessary follow up, the executive
director or designee will render a final decision regarding the complaint.

7. Documentation pertaining to the complaint, investigation, and final report will be
maintained by the personnel officer or designee.

8. Information concerning a complaint will only be released to authorized
individuals.

D. DISCIPLINARY ACTION: If the allegations of the complaint are substantiated,
the executive director, or where appropriate, the director of the Training Center,
will take prompt corrective action to end the complained behavior and appropriate
discipline will be administered as necessary. The complainant and the accused
individual will be provided with letters of the findings from the investigation and
disposition of the case. The individual who makes a complaint of harassment or
discrimination will, at all times, be protected from any form of employee, student
or management retaliatory discrimination and all information will be kept as
confidential as necessary and appropriate.

E. RIGHTS OF COMPLAINANT:

1. In the event that an individual covered by this operating instruction believes that
he/she has been, or is being subjected to, workplace harassment or
discrimination, that party will have the right to report alleged workplace
harassment or discrimination to his/her supervisor, manager or personnel officer
for purposes of prompt investigation and appropriate action. The individual who
believes he/she is being subjected to workplace harassment or discrimination is
couraged to directly inform the offending person(s) that such conduct is
offensive and must stop.

2. If the aggrieved person does not wish to communicate directly with the offending
person(s), or if direct communication has been ineffective, then the aggrieved
person is encouraged to immediately report the alleged workplace harassment or
discrimination as set out in section 8.

3. The personnel officer, grants division chief, deputy director of training or
executive director designee will consult with the complainant regarding the
allegations. If the complainant is dissatisfied with Crime Commission’s action in
response to a complaint of workplace harassment or discrimination, the
complainant may contact outside agencies for the purpose of requesting an
independent investigation of the allegations.

4. While the Crime Commission encourages all individuals covered under this OI to
avail themselves of the procedures outlined herein, it is not intended to impair or
limit the rights of anyone to seek assistance or see available remedies provided
under state or federal law through an appropriate a state or federal agency. Such organizations may include:

Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW, Washington, DC 20531

Equal Employment Opportunity Commission, 303 E. 17th Ave, Suite 510, Denver, Colorado 80203

Nebraska Equal Opportunity Commission, Nebraska State Office Building, 301 Centennial Mall South, 5th Floor, PO Box 94934, Lincoln, NE 68509-4934 (402) 471-2024

____________________________________

Distribution: Commission staff
Replaces O.I. #42, Dated January 25, 2013

Addendum

A. Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color, or national origin in the delivery of services (42 U.S.C. § 2000d), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart C; see also Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English
Proficient Persons, 67 Fed. Reg. 41,455 (June 18, 2002);

B. The Omnibus Crime Control and Safe Streets Act of 1968, which prohibits discrimination on the basis of race, color, national origin, religion, or sex in the delivery of services and employment practices (42 U.S.C. § 3789(c)(1)), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart D;

C. Section 504 of the Rehabilitation Act of 1973, which prohibits discrimination on the basis of disability in the delivery of services and employment practices (29 U.S.C. § 794), and the DOJ implementing regulations at 28 C.F.R. Part 42, Subpart G;

D. Title II of the Americans with Disabilities Act of 1990, which prohibits discrimination on the basis of disability in the delivery of services and employment practices (42 U.S.C. § 12132), and the DOJ implementing regulations at 28 C.F.R. Part 35;

E. Title IX of the Education Amendments of 1972, which prohibit discrimination on the basis of sex in educational programs (20 U.S.C. § 1681), and the DOJ implementing regulations at 28 C.F.R. Part 54;

F. The Age Discrimination Act of 1975, which prohibits discrimination on the basis of age in the delivery of services (42 U.S.C. § 6102), and the implementing regulations at 28 C.F.R. Part 42, Subpart I;

G. The DOJ regulations on the Equal Treatment for Faith-Based Organizations, which prohibit discrimination on the basis of religion in the delivery of services and prohibit organizations from using DOJ funding on inherently religious activities (28 C.F.R. Part 38);


I. Nebraska State Personnel Rules