I. Authority
In accordance with AS 44.28.030 and 22 AAC 05.155, Federal and State EEO laws, the Department of Corrections shall develop and adopt policies and procedures that are consistent with laws for the guidance, governance and administration of correctional facilities, programs and field services.

II. References
Alaska Statutes
AS 18.80.220, AS 18.80.255, AS 23.10.440, AS 39.52.110-120
Alaska Administrative Code
Administrative Order No. 75, Administrative Order No. 81
Standards for Adult Local Detention Facilities 3rd Edition 1991
3-ALDF-1C-23
4-4056
Standards for Adult Probation and parole Field Services 3rd Edition 1998
3-3068

III. Purpose
To provide examples of prohibited conduct, as well as reporting and investigation requirements for line staff, supervisors, managers and human resources personnel in order to maintain a professional, respectful, and safe environment in DOC offices, facilities and other work-related settings.

IV. Application
All employees of the Department of Corrections, persons assigned to other Departments working with Department of Corrections staff, as well as any person working in a DOC facility or office.

V. Definitions
Sexual Harassment
Sexual harassment is any unwelcome sexual advance, request for sexual favor, and other verbal or physical conduct of a sexual nature, when such conduct has the purpose or effect of unreasonably interfering with a person’s work performance, or creates an intimidating, hostile or offensive working environment.

VI. Policy
Sexual harassment, whether verbal, physical or environmental, is expressly prohibited in all DOC offices, facilities and other work-related settings and is a violation of the Department’s code of conduct and code of ethics. It is the policy of the Department of Corrections to prevent sexual harassment and take steps to eliminate non-professional behavior before it escalates to harassing behavior.

VII. Procedures
A. Sexually harassing behavior:

1. Sexually harassing behavior includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
   a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
   b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or
   c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

2. Examples of sexually harassing behavior include, but are not limited to, items such as those listed below:
   a. Unwelcome letters, telephone calls, email messages with sexual overtones or sexual content.
   b. Demands for sexual favors in exchange for favorable treatment or continued employment.
   c. Unwelcome sexual advances or propositions.
   d. Sexual jokes or humor with sexual overtones or that are based on gender.
   e. Verbal abuse of a sexual nature.
   f. Graphic or verbal commentaries about an individual's body, sexual prowess or sexual deficiencies.
   g. Leering, whistling, pinching, massaging or other inappropriate touching or sounds.
   h. Unnecessary touching or brushing against another's body.
   i. Implied or overt sexual threats.
   j. Sexual assault, coerced sexual acts, or rape.
   k. Suggestive, insulting, obscene or demeaning comments or gestures of a sexual nature.
   l. Display in the work place of sexually suggestive acts, objects, or pictures.

3. Sexual harassment can occur from male to female, female to male, male to male, and female to female. It may occur from supervisor to subordinate, subordinate to supervisor, or coworker to coworker. In addition, third parties not directly involved can be negatively affected by a hostile work environment.

B. Conduct requirements

1. Sexually harassing behavior is expressly prohibited in the work place and in other work-related settings such as business trips, court appearances, Department-sponsored social events, and other business-related settings.

2. All employees are responsible for monitoring their own behavior to ensure that they do not engage in behavior that is or may be reasonably perceived to be sexual harassment.
3. All employees have an affirmative obligation to promptly report any violations of this policy. Failure to meet this obligation may result in disciplinary action up to and including dismissal from State service.

4. All employees responsible for directing or supervising the work of others have an affirmative obligation to monitor the behavior of their subordinates to ensure that they do not engage in behavior that is or may be perceived to be sexual harassment; to promptly report violations of this Policy and Procedure; and to take appropriate action to eliminate sexually harassing behavior from the work environment. Failure to meet this obligation may result in disciplinary action up to and including dismissal from State service.

5. Consenting romantic or sexual relationships between employees or between a supervisor (including lead workers and foremen) and a subordinate may lead to unforeseen consequences.
   a. Each employee should be aware of the possible risks of a consensual romantic or sexual relationship. It is incumbent on each employee involved in such a relationship not to allow it to interfere in any way with the maintenance of a professional atmosphere in the workplace.
   b. Employees who enter into a dating, romantic or sexual relationship with another DOC employee where there is a difference in rank or authority between the persons involved should realize that if a complaint of sexual harassment is subsequently made, it will be difficult to defend against such charges on grounds of mutual consent.
   c. The DOC may alter the responsibilities and/or assignments of coworkers engaged in a consenting relationship to diminish the professional contact they may have with each other when the romantic or sexual relationship could reasonably be expected to, or in fact does, interfere with the maintenance of a professional work environment.
   d. Dating, romantic, or sexual relationships between supervisors (including lead workers and foremen) and subordinates within the direct supervisory chain of command of the supervisor are prohibited under Policy and Procedure 202.15 (Standards of Conduct). If such a relationship exists or develops, staff involved shall report it to the office or facility manager to discuss the arrangements (e.g., shift or supervisory reassignments) required to comply with this rule.

C. Reporting allegations of sexual harassment
1. The Department of Corrections strongly encourages employees who believe they are being harassed to clearly and promptly notify the instigator orally or in writing that his or her behavior is unwelcome.
2. If for any reason an individual does not wish to confront the instigator directly or, if such confrontation does not successfully end the unwanted communication or behavior, the individual should promptly report his or her allegations to a higher level supervisor, to a Departmental EEO Representative (see Policy and Procedure 201.02), or to the Senior
Management Consultant assigned to the Department. An initial report may be made orally or in writing.

3. A supervisor or EEO Representative who receives a report of sexual harassment will make every reasonable effort to forward the complaint to the Senior Management Consultant and, through their chain of command, appropriate Director within twenty-four (24) hours of receipt of the report.

4. The DOC does not impose a time frame or deadline for reporting allegations of sexual harassment; however, failure to make a prompt report may make it difficult to investigate and confirm the allegations. In addition, statutes of limitation do constrain the time period for instituting legal action.

D. Formal investigations of sexual harassment allegations

1. Allegations of sexual harassment brought to the attention of DOC will be promptly investigated.

2. Confidentiality will be maintained throughout the investigatory process to the extent practical and appropriate under the circumstances.
   a. Individuals who are interviewed should be cautioned and directed not to talk with others about the matters discussed during the investigative process.
   b. The investigative interviewer will distribute information as appropriate to persons who have the right or ability to respond to, corroborate or deny any allegation.
   c. Failure to abide by the confidentiality requirements may subject an individual to discipline or to civil liability.

3. An individual under investigation is entitled to know of any allegation of misconduct made against him or her, and to have an opportunity to respond to those allegations. An individual under investigation who is a member of a collective bargaining unit is entitled to a union representative as provided in the collective bargaining agreement and otherwise in DOC policies and procedures.

4. The investigator will take the wishes of the complainant into account; however, it is ultimately the DOC’s responsibility to determine how to investigate allegations of sexual harassment in order to ascertain the relevant facts in connection with the complaint.

5. The investigator may recommend segregating the complainant from the alleged instigator while the investigation is underway which may require, for example, a temporary reassignment or transfer of one or both parties.

6. On completion of the investigation, the investigator will communicate the findings to the Senior Management Consultant and the appropriate executive head.

7. Interfering with or obstructing an investigation is prohibited. Employees who do so will be subject to disciplinary action up to and including dismissal from State service.

E. Disposition of a complaint

1. Complaint confirmed
   If the Superintendent or Chief Probation Officer in consultation with the Senior Management Consultant reaches the conclusion that the
allegations have been substantiated and discipline and/or corrective action is warranted, the complainant, the instigator, and the appropriate Division Director shall be notified of that determination.

2. Complaint not confirmed
   a. If the Superintendent or Chief Probation officer in consultation with the Senior Management Consultant determines that the allegations have not been substantiated and that sexual harassment did not occur, the complainant, the alleged instigator, and the immediate supervisor of both parties shall be notified of that determination.
   b. If the investigation results in a finding that the complaint wrongly accused another employee of sexual harassment intentionally or frivolously, the complainant may be subject to disciplinary action, up to and including dismissal from State service.

3. In the event that the Superintendent or Chief probation officer and the Senior Management Consultant are unable to agree on a finding or a course of action, the matter shall be referred to the Commissioner or his or her designee and the Director of the Division of Personnel & Labor Relations, Department of Administration, and/or the Attorney General as necessary, and determine the appropriate action to be taken.

F. Retaliation against an individual for reporting or participating in an investigation of allegations of sexual harassment is expressly prohibited. Any person found to have engaged in retaliation will be subject to disciplinary action, up to and including dismissal from State service.

G. Notice to employees of their rights under Alaska and U.S. laws prohibiting sexual harassment shall be posted in each Department facility and office.

VIII. Implementation
This Policy and Procedure is effective 14 days following the date signed by the Commissioner. Each manager shall incorporate the directions outlined in this document into local policy and procedure. All local policies and procedures must conform to these directions; any deviation must be approved in writing by the Division Director.

9/10/07  
Date  
Joseph D. Schmidt, Commissioner  
Department of Corrections

Authority
Administrative Order 75    Administrative Order 81
AS 18.80.200-220

Applicable Forms to this Policy:
201.09A