

Chapter: At-Will Employment and Equal Employment Opportunity
Rule: Inappropriate Sexual Conduct

Effective Date: 12/1/11
Page: 1 of 3
New

ACA Standard(s): N/A

(a) **Policy.**

The Texas Juvenile Justice Department (TJJD) has established procedures to provide a safe, professional, and pleasant work environment. Intimidating, offensive, or harassing sexual conduct interferes with our work and our services to the youth and the public. All inappropriate sexual conduct is strictly prohibited and will not be tolerated. This policy applies to employees, contractors and contractor's employees, volunteers, delivery persons, vendors, and any other person having contact or doing business with TJJD.

Per PRS.02.03, TJJD staff shall not retaliate against an employee for filing a complaint through the employee grievance system or through an outside agency.

(b) **Applicability.**

See PRS.35.01 of this title (relating to Disciplinary Action) and PRS.35.03 of this title (relating to Employee Grievances).

(c) **Rules.**

(1) Inappropriate sexual conduct is conduct of a sexual nature that is debilitating to morale, that interferes with job performance, or that in any way has a negative impact on a safe, professional and pleasant work environment. It can occur in many ways, all of which are unacceptable. Inappropriate sexual conduct includes:

- (A) no employee, male or female, should see or hear unwelcome and unsolicited sexual comments or conduct. In particular, this includes verbal, visual, or physical conduct of a sexual nature, or unwelcome requests for sexual favors, that occurs when:
 - (i) submission to the conduct or request is an obvious or subtle condition of employment; or
 - (ii) rejection of or agreement with the conduct or request is used to make an employment decision; or
 - (iii) the conduct or request has the purpose or effect of interfering with work performance or of creating an intimidating, hostile, or offensive work environment.
- (B) off-color jokes, sexual horseplay or teasing, sexual innuendo, and other obscene, lewd, or sexually suggestive remarks or gestures; or
- (C) sexually suggestive workstation wallpaper or screen-savers, calendars, posters, T-shirts, cartoons, drawings, or other sexually suggestive displays; or
- (D) touching or threatening to touch another in an unprofessional manner; or
- (E) inquiring about another person's sex life or discussing sexual conduct that is unrelated to work; or
- (F) using demeaning or inappropriate terms related to gender in reference to another person.

(2) Inappropriate sexual conduct can occur both within and outside the immediate work environment:

- (A) the immediate work environment includes offices, living units, break rooms, reception and file areas, parking lots, storage areas, copy rooms, kitchens, and any other location where business is conducted; or

(B) outside the immediate work environment includes places where interpersonal contact is related to business travel, work-related social functions, meetings, conventions, or any place where inappropriate sexual conduct could occur.

(3) Inappropriate sexual conduct does not include occasional compliments of a socially acceptable nature.

(d) **Procedures for Reporting and Investigation.**

(1) Any employee who feels that he/she has been subject to inappropriate sexual conduct must report it immediately in accordance with PRS.35.03.

(2) Any employee who observes or learns about conduct that may have been inappropriate sexual conduct directed toward another employee must report it immediately. This includes conduct by an individual who is not a TJJJ employee, such as customers, volunteers, contract personnel, consultants, vendors, and service and delivery persons.

(A) Immediately report any inappropriate sexual conduct to your immediate supervisor, the human resource administrator, the superintendent, or the chief of complaints resolution in central office.

(B) If one of the persons listed above is alleged to have engaged in the behavior, report such conduct to one of the other listed person.

(3) Upon information of a credible allegation of inappropriate sexual conduct, a supervisor of the person accused and/or a supervisor of the person making the accusation shall immediately ensure appropriate steps are taken to prevent any inappropriate conduct while the allegation is being investigated. Such steps may include, but are not limited to any or all of the following:

(A) temporarily re-assigning the accused or the accuser to a different shift or work station;

(B) counseling the accused that TJJJ prohibits all forms of inappropriate sexual conduct as well as retaliation against one who has made a good faith report of inappropriate sexual conduct; or

(C) placing the accused on leave with or without pay pending the outcome of the investigation.

(4) All complaints and reports will be taken seriously and will be processed pursuant to PRS.35.03 and be investigated to gather facts about the alleged occurrence.

(5) To the extent possible, confidentiality will be maintained and disclosed as needed to investigate and resolve the matter or as required by law.

(e) **Investigation Results.**

(1) After an investigation has been finalized, a decision will be made, and if appropriate, disciplinary action, which may include termination, will be taken.

(2) Retaliation is prohibited against any employee who reports inappropriate sexual conduct, even if the report was in error. Retaliation against any employee who assists in the investigation of the complaint is strictly prohibited and appropriate disciplinary action will be taken. Cooperation in any inappropriate sexual conduct investigation is expected as part of an employee's job duties.

(3) Deliberately making a false accusation of inappropriate sexual conduct is prohibited.
