

Administrative Policy No. 18.66

Subject:	Discrimination, Harassment, and other Inappropriate Behaviors
Information Contact:	Human Resources Division
Authorizing Source:	Civil Rights Act of 1964 , as amended Chapter 49.60 RCW Chapter 357-34 WAC Governor's Executive Order 89-01
Effective Date:	July 1, 2005
Revised:	February 3, 2023 ¹ Housekeeping update 3/15/2023
Approved By:	<u>Original signed by Wendy Long</u> Senior Director, Human Resources Division
Sunset Review Date:	February 3, 2027

Purpose

This policy identifies and prohibits behaviors that are inconsistent with a safe and harassment free work environment and identifies behaviors that Department of Social and Health Services (DSHS) will not tolerate.

The safe and harassment free work environment includes those situations where a third party interacts with DSHS personnel to include clients, customers, and those within the community.

DSHS is committed to providing equal employment opportunities and a workplace that is free from all forms of discrimination and harassment, including sexual harassment, retaliation, and other inappropriate behaviors.

This DSHS policy is part of the agency's overall efforts to provide a workplace free from discrimination and retaliation, pursuant to local, state, and federal laws prohibiting discrimination. This policy is also a part of DSHS's commitment to equity, diversity, access and inclusion, and a workplace that is free from harassment, disrespect, and divisiveness.

DSHS does not tolerate discrimination, harassment, or inappropriate behaviors of any kind. Through this policy, the supplemental trainings, and documents DSHS will educate its

employees and work to prevent these behaviors from occurring. When behaviors, actions or lack of actions that might violate this policy are substantiated, appropriate action will be taken.

Actions that do NOT violate this policy include the appropriate exercise of supervisory responsibilities. These responsibilities include, but are not limited to:

- Providing direction or feedback about an employee's job performance and behavior
- Monitoring and follow-up actions on job performance
- Guidance to change or adjust job priorities.

Scope

This policy applies to all DSHS employees, applicants for employment, board members, managers, supervisors, interns, and volunteers (whether paid or unpaid), contractors, vendors, customers, and all persons conducting business with DSHS.

In addition, this policy applies to those situations where a third party interacts with DSHS personnel beyond those listed above to include clients, customers, and those within the community.

If a provision of this policy is in conflict with a collective bargaining agreement, the CBA will supersede the provision in which it conflicts.

This policy will undergo review once every three years for changes and effectiveness.

Additional guidance:

[Administrative Policy 18.17](#) – Relationships and the reporting structure

Policy Requirements

A. Prohibited actions:

1. Prohibited actions described below in Section A may include, but are not limited to verbal, non-verbal, and physical behaviors, actions, or conduct. More specific examples of behaviors and conduct that might violate this policy can be found [here](#).
2. **The following actions are prohibited:**
 - a. **Discrimination:** Discrimination is the act of treating a person, or group of people, differently based on federal and state protected class status. Protected class status includes age, race, color, creed, gender, sexual orientation, gender identity or expression, religion, national origin, honorably discharged veteran or military status, marital status, disability, sex, or any other characteristic that is protected by law. Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on race, color, religion, sex, and national origin.

- b. **Sexual harassment:** Sexual harassment is defined as unwelcome language or conduct of a sexual nature, or language or conduct that is because of sex or gender, when:
 - i. Such language or conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment (this can happen even if the complaining party is not the intended target of the sexual harassment);
 - ii. Such conduct is made either explicitly or implicitly a term or condition of employment; or,
 - iii. Submission to or rejection of such conduct is used as the basis for employment decisions.
 - c. **Other forms of harassment:** Harassment is a form of discrimination. It consists of unwelcomed verbal, non-verbal, or physical conduct that denigrates, shows hostility or aversion toward an individual because of their protected class status, such as race, color, creed religion, gender, sexual orientation, gender identity or expression, national origin, marital status, age, honorably discharged veteran or military status, disabled veteran status, genetic information, or the presence of any physical, mental or sensory disability (including use of a trained dog guide or service animal), or that of their relatives, friends, or associations. While not prohibited by law, DSHS also prohibits these same forms of harassment toward an individual because of their status as a victim of domestic violence, sexual assault, or stalking.
 - d. **Inappropriate behaviors:** Inappropriate behavior means behaviors that create a disrespectful, intimidating, or offensive environment or that interfere with an employee's work performance. It is the policy of DSHS that all employees have the right to conduct their work activities in an environment that is free from any form of inappropriate behavior. Inappropriate behavior does not include behaviors based on a person's protected group status that are covered in section A.2 of this policy.
 - e. **Retaliation:** Retaliation occurs when an employee suffers an adverse employment action, such as termination, loss of promotion, demotion, etc. Retaliation against any person for filing a complaint about any prohibited behavior including allegations of discrimination or harassment, for cooperating or participating in an investigation of such a complaint, including serving as an investigator, or for opposing discriminatory employment practices will not be tolerated. Retaliation could include, but is not limited to, harassment or adverse employment actions.
3. Actions that violate this policy are not limited to the physical workplace. Violations can occur during travel, at events sponsored by DSHS, or via phone, email, text, social media, or any form of electronic communication to include virtual meetings such as zoom or teams. Such behavior can also occur outside of scheduled work

time. Persons covered by this policy who engage in discrimination, harassment, and other inappropriate behavior outside of the workplace or outside of work hours will be subject to action to include disciplinary action as outlined in section F of this policy.

B. Violations when a third party is involved (clients, customers, public)

Review DSHS administrative policy 18.67 Workplace and Domestic violence/Reasonable Safety Accommodation. Safety measures and plans must be implemented at the time of the reported violation to ensure the safety of the DSHS personnel. Additional measures should be considered to address the actions of the clients.

C. Supervisor/employee personal relationships

Review [DSHS administrative policy 18.17](#), relationships and the reporting structure for personal relationships for the guidance and the requirements to mitigate potential conflicts of interest at the DSHS resulting from employee relationships and reporting structure.

D. Roles and responsibilities

1. Everyone covered by this policy is responsible for:

- a. Exhibiting appropriate behavior, creating and maintaining a work environment free from discrimination and harassment, and complying with this policy.
- b. Completing sexual harassment awareness and prevention trainings. Employees are responsible for taking the training within six months of their initial hire per [WAC 357-34-100](#). Training to be completed on an annual basis or as DSHS has deemed appropriate. Supervisors and managers must complete training as outlined in section 2.
- c. Reading and complying with this policy.
- d. Notifying a supervisor, the office of justice and civil rights (OJCR) or HRD immediately when they observe behavior that violates this policy.
- e. Consulting with management, the OJCR, or HRD to help determine whether a potential violation is required to be reported and, if not, the program may resolve the issue at the local level. If the behavior requires reporting, the alleged policy violation should be reported as outlined in Section D below.
- f. Reporting potential violations of this policy as provided in section B of [Administrative Policy 18.89 Investigations](#), the OJCR, or to the HRD using the contact information found below in this policy.
- g. Reporting allegations of inappropriate behaviors this policy as provided in section B of [Administrative Policy 18.89 Investigations](#).

2. Additional Responsibilities for Managers and Supervisors:

- a. Modeling appropriate behavior.
- b. Completing training for managers' roles and responsibility regarding sexual

harassment per [WAC 357-34-105](#). Training to be completed on an annual basis or as DSHS has deemed appropriate.

- c. Providing each employee with a copy of the Nondiscrimination Policy brochure (DSHS 171) upon hire.
- d. Ensuring new employees receive training on this policy within the first six months of their employment and annually thereafter or as DSHS has deemed appropriate.
- e. Ensuring staff review this policy annually and the review is documented in the employee's personnel file.
- f. Stopping and reporting all observed and reported allegations of behaviors which may violate this policy. If a complaint is reported to a supervisor or manager, they must handle the complaint as provided in Section E of this policy.
- g. Consulting with the assigned HR manager and appointing authority to determine appropriate action calculated to stop harassment and discriminatory behavior, or other inappropriate behavior, that is observed or of which they become aware.
- h. In situations where a person discloses prohibited actions have occurred against them but do not want to make a formal complaint, or when the complaining party changes their mind and retracts the complaint, the manager or supervisor is still obligated to act upon the information and follow the reporting process contained in Section E.
- i. Appointing authorities are responsible to ensure appropriate corrective or disciplinary action has been taken when harassment, discriminatory behavior, or inappropriate behavior occurs, and to provide closure to the complainant. This may include following up with the complainant to ensure the conduct has stopped and there had been no retaliation.

3. Human resources division is responsible for:

- a. Providing consultation on a case-by-case basis.
- b. Providing training to prevent harassment, discrimination, and inappropriate behavior of a sexual nature in the workplace.

4. The office of justice and civil rights is responsible for:

- a. Evaluating and, where necessary, determining the investigative approach for all violations of this policy.
- b. Providing technical assistance and consultation on a case-by-case basis.
- c. Partnering with HRD in updating training to prevent harassment, discrimination, and inappropriate behavior of a sexual nature in the workplace.
- d. Reviewing the effectiveness of this policy that may include data points.

E. Reporting

1. Anyone covered by this policy who is subjected to prohibited behaviors as described in this policy may tell the offending individual directly that the behavior is unwelcome and attempt to resolve the issue at the lowest level. If they are not comfortable doing so, or if an attempt has been unsuccessful, they should report the alleged policy violation as outlined below.
2. Violations of this policy may be reported by anyone to the OJCR employee investigations unit using any of the following approaches:
 - EMAIL: iraucomplaints@dshs.wa.gov
 - VOICE: (360) 725-5821 or 1-800-521-8060
 - TTY: (360) 586-4289 or 1-800-521-8061
 - FAX: (360) 586-0500
3. For assistance, please reach out to your HRD business partner, OJCR, or your supervisor.
4. The filing of an initial complaint and subsequent investigation will be maintained as confidential information to the extent possible and as required by law.
5. Any employee, contract staff, or volunteer who observes or is subjected to a violation of this policy may contact their supervisor, appointing authority, the OJCR or the HRD.
6. Reporting harassment to DSHS does not prevent a person covered by this policy from also making a complaint in a different forum. All persons covered by this policy have the right to file discrimination, harassment, and retaliation complaints with outside agencies, such as the Washington State Human Rights Commission (WSHRC) and the United States Equal Employment Opportunity Commission (EEOC). There may also be applicable local laws preventing harassment and county or city agencies that can investigate claims of harassment. Reports may be made to:
 - **Washington State Human Rights Commission (WSHRC)**
www.hum.wa.gov; 1-800-233-3247
 - **US Equal Employment Opportunity Commission (EEOC)**
www.eeoc.gov; 1-800-669-4000, 1-844-234-5122 (ASL Video Phone)
7. Written or verbal allegations will be promptly investigated as outlined in [18.89 investigations](#).
8. Substantiated allegations will result in appropriate corrective or disciplinary action, up to and including dismissal.

F. Penalty for violations of this policy

1. Managers, supervisors, and employees who fail to take prompt and immediate steps to prevent and/or report alleged violations of this policy, may be subject to corrective or disciplinary action, up to and including dismissal.

2. Non-employees may be subject to other appropriate departmental action, including but not limited to termination of volunteer activities, or cancellation of contracts.

¹ Corrected RCW reference in authorizing sources