




Policy Title	Workplace Harassment Prevention
Effective Date	September 6, 2022
Supersedes	August 3, 2018
Approval	 State Personnel Director
References	Discipline Policy 29 U.S.C. §794 29 U.S.C. Part 1625, Part 1626 42 U.S.C. § 2000ff 42 U.S.C. Chapter 21 Subchapter VI §2000e 42 U.S.C. Chapter 126 §12101 et seq. 29 C.F.R. §1606 et seq. IC 22-9-2 IC 22-9-5 Governor’s Policy Statement, August 3, 2018

PURPOSE

The work environment is to be characterized by mutual respect, safety, and civility. Employees should not be subject to harassment or discrimination due to race, color, creed, religion, sex, national origin, age, sexual orientation, gender identity, and physical or mental disability. This policy outlines available procedures so that alleged violations of this policy can be promptly investigated and addressed.

SCOPE

This policy applies to all employees under the authority of the Governor and Lieutenant Governor of Indiana. Separately elected officials are encouraged to adopt this or a similar policy concerning workplace harassment.

POLICY STATEMENT

The State of Indiana (hereinafter the State) will strive to maintain an environment free from Sexual Harassment and Harassment Based on Protected Class.

Each employee has the right to work in a professional environment that promotes equal opportunities and prohibits Sexual Harassment and Harassment Based on Protected Class. Workplace harassment, whether verbal, physical or environmental, is unacceptable and will not be tolerated in State Government. The State will not tolerate workplace harassment, whether engaged in by fellow employees, supervisors, officers, outside clients or other non-employees who conduct business with the State. The State encourages reporting of all incidences of alleged harassment, regardless of who the alleged harasser may be or their

status. To further encourage a working environment free of harassment and intimidation, the State will provide appropriate annual training of its workforce.

DEFINITIONS

Harassment Based on Protected Class: The persistent and unwelcome verbal or physical conduct because of an individual's protected status that: (1) has the purpose or effect of creating an intimidating, hostile, or offensive working environment; (2) has the purpose or effect of unreasonably interfering with an individual's work performance; or (3) otherwise adversely affects an individual's employment opportunities. The behavior does not need to be intentional to be considered harassment.

Examples of such conduct include, but are not limited to, the following: using code words; verbal abuse; inflammatory comments; microaggressions; jokes; gestures; repeated reference to a person's Protected Class; assault; display in the workplace of suggestive objects or pictures; distribution of materials in the workplace that contain suggestive language or pictures; treating a person differently because of the individual's protected status. This behavior is not acceptable in the workplace itself nor in other work-related settings such as virtual meetings, business trips, and business-related social events, whether or not the behavior occurs during assigned work hours. Conduct described here which occurs off-duty and impacts the effective operation of State Government workplaces is also unacceptable and may result in disciplinary action.

Protected Class: A person's race, color, creed, religion, sex, national origin, age, sexual orientation, gender identity, and physical or mental disability.

Retaliation: Any instance where an employee is punished for reporting or participating in an investigation of harassment. Retaliation can include any adverse job action, such as discipline, demotion, dismissal, salary reduction, and job or shift reassignment.

Sexual Harassment: Any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. The behavior does not need to be intentional to be considered Sexual Harassment.

Examples of conduct of a sexual nature include, but are not limited to, the following: unwanted sexual advances; demands for sexual favors in exchange for favorable treatment or continued employment; repeated sexual jokes, flirtations, advances or propositions; verbal abuse of a sexual nature; graphic, verbal commentary about an individual's body, sexual prowess or sexual deficiencies; leering; whistling; touching; pinching; assault; coerced sexual acts; suggestive, insulting, obscene comments or gestures; and display in the workplace of sexually suggestive objects or pictures. This behavior is unacceptable in the workplace itself and in other work-related settings such as virtual meetings, business trips, and business-related social events, whether or not the behavior occurs during assigned work hours. Conduct described here which occurs off-duty and impacts the effective operation of State Government workplaces is also unacceptable and may result in disciplinary action.

RESPONSIBILITIES

Employees are responsible for:

- Demonstrating mutual respect, safety, and civility toward others;
- Complying with all provisions of this policy to prevent harassment in the workplace;

- Completing all training requirements related to this topic annually and as otherwise required by the employing agency;
- Reporting harassment to appropriate officials;
- Not retaliating against any person for reporting or participating in the investigation of a complaint under this policy; and
- Cooperating in any investigations into allegations of harassment.

Agencies are responsible for:

- Distributing the Policy Statement (including this document containing the Responsibilities and Procedures on Workplace Harassment Prevention) to employees;
- Complying with the prohibitions of this policy against harassment;
- Ensuring all employees under its authority receive the required training on this topic annually;
- Establishing a workplace free of harassment by enforcing the provisions of this policy and acting promptly when prohibited conduct, objects, or pictures are discovered;
- Processing any allegations of harassment brought to the agency's attention;
- Not retaliating against any person for reporting or participating in the investigation of a complaint under this policy;
- Communicating with human resource representatives to discuss the outcomes of an investigation into alleged harassment; and
- Implementing any disciplinary or other action imposed as a result of an investigation into harassment.

Indiana State Personnel Department is responsible for:

- Investigating, or assigning an investigator to investigate, any allegations of harassment submitted to such contact promptly, completely, and thoroughly;
- Making appropriate recommendations concerning discipline or other actions necessary to remedy the harassment; and
- Advising all affected parties of the outcome of the investigation.

PROCEDURES

A. Reporting a Complaint

While the State encourages individuals who believe they are being harassed to firmly and promptly notify the offender that the behavior is unwelcome, the State also recognizes that a confrontation may not be the best approach due to power and status disparities between an alleged harasser and a target; therefore, the following steps should be followed in reporting a workplace harassment complaint:

1. Notification of Appropriate Staff or Agency

Individuals who believe they have been subject to Sexual Harassment or Harassment Based on Protected Class, or individuals (including third parties) who have knowledge of Sexual Harassment or Harassment Based on Protected Class, should report the incident and/or alleged harasser to one or more of the following persons or agencies who have been identified to receive complaints of workplace harassment:

- Agency AA/EEO/ADA Coordinator
- Agency or Local Human Resources Director
- Agency Head or other Leadership Staff
- Supervisor/Manager
- Employee Relations Division, INSPD

855-773-4647, Option 4

EmployeeRelations@spd.IN.gov

2. Description of Misconduct

An accurate, written record of objectionable behavior or misconduct is needed to resolve a complaint of workplace harassment. Verbal reports of harassment must be reduced to writing by either the complainant or the individual(s) designated to receive complaints. Individuals who believe they have been or currently are being harassed should maintain a record of objectionable conduct to effectively participate in investigations and corroborate their allegations.

3. Time Frame for Reporting Complaints

The State encourages a prompt reporting of complaints so response and appropriate action may be taken. However, due to the sensitivity of these problems and because of the emotional toll such misconduct may have on an individual, no time limit will be instituted for reporting workplace harassment complaints. Late reporting of complaints will not, in and of itself, preclude the State from investigating.

4. Protection Against Retaliation

Retaliation is a serious violation of this policy and should be reported immediately. Any person found to have engaged in behavior constituting Retaliation against another individual for the good faith reporting of harassment or for participating in an investigation involving allegations of harassment may be disciplined up to and including dismissal from employment.

B. Investigating the Complaint

1. Confidentiality

Any allegation of workplace harassment that is properly reported will be promptly investigated in as discreet a manner as practicable to protect the privacy of persons involved. The State will use its best efforts to maintain confidentiality throughout the investigatory process to the extent appropriate under the circumstances. In most cases, the alleged harasser must be notified of the complaint made against them to be afforded the right to respond.

2. Identification of Investigators

Complaints will be investigated by INSPD. In addition, other individuals may be included in reviewing the investigation and outcomes at the discretion of the agency head or designee or the designee of the INSPD Director.

3. Investigation Process

In pursuing the investigation, the investigator will identify themselves to the involved parties and notify the alleged harasser of the investigation and the nature of the complaint. The investigator will thoroughly investigate the matter by interviewing the individual making a claim of harassment, the alleged harasser, and any witnesses with relevant information associated with the claim. Investigators will also review communications, documents, or other evidence supporting or refuting a claim of harassment.

C. Resolving the Complaint

A report of the findings of the investigation shall be compiled with all supporting documentation attached and forwarded to the agency head's designee and to INSPD's Employee Relations Division. In determining whether the alleged conduct constitutes a violation of this or any other policy, the totality of the circumstances, such as the nature of the conduct, the context in which the alleged incident(s) occurred, and individual credibility will be considered.

1. Sanctions

If the investigation results in a finding that a violation of this policy has been substantiated, then disciplinary action may be imposed up to and including dismissal from employment. If the investigation results in a finding that no violation of this policy has been substantiated, but the

conduct is inappropriate, unprofessional, or violates another policy, then disciplinary action may be imposed.

The findings of the investigation shall be communicated to the complainant and the alleged harasser. The State's findings do not, in any way, affect the complainant's right to pursue a complaint for Sexual Harassment or Harassment Based on Protected Class with any appropriate state or federal authority.

It is the responsibility of all state employees to cooperate fully with any investigation covered under this policy. Failure to cooperate with investigations may result in disciplinary action.

Although the State's ability to discipline a non-employee harasser is limited, any state employee who has been subjected to workplace harassment by a non-state employee should file a complaint so that the situation can be investigated and action may be taken.

2. False Accusations

If an investigation results in a finding that the complainant falsely accused another of workplace harassment knowingly or in a malicious manner, the complainant may be disciplined up to and including dismissal from employment.

D. Maintaining a Written Record of the Investigation

The State will maintain a written record of each complaint and how it was investigated and resolved. Records shall be maintained by INSPD and by the agency employing the parties. If disciplinary action is taken, a record of that disciplinary action shall be maintained in the employee's personnel file in accordance with any applicable retention schedules.