



WI Human Resources Handbook Chapter 440 Overview

Stacie Meyer, DMA Equity & Inclusion Officer

Overview

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https://dpm.wi.gov/Hand%20Book%20Chapters/WHRH_Ch_440.pdf



Introduction

The State of Wisconsin is committed to providing and sustaining work environments free from bullying, discrimination, harassment, hostility, and retaliation for reporting suspected violations of this policy. It is the policy of the State of Wisconsin to ensure compliance with federal and state laws prohibiting discrimination or harassment. This handbook chapter outlines the non-discrimination policy applicable to all agencies. The policy specifically prohibits discrimination, sexual harassment, and harassment against any class of citizen because of age, race, religion, creed, color, disability, sex, physical condition, developmental disability, military or veteran status, sexual orientation, gender identity or expression, national origin, marital or familial status, pregnancy, genetic information, arrest or conviction record, use or non-use of lawful products outside the workplace or political affiliation.

Respectful Workplace Policy

Sec 440.030

The State of Wisconsin is committed to promoting a respectful workplace and does not tolerate conduct or behavior that is bullying, discriminatory, harassing, or retaliatory in nature, regardless of whether the behavior is linked to a protected class or status. Violation of this policy is prohibited specifically by State of Wisconsin work rules and may result in disciplinary action. ([See Chapter 410 – Employee Work Rules and Discipline Procedure of the Wisconsin Human Resources Handbook for more information.](#)) All complaints are taken seriously and will be reviewed and addressed. A complaint may be referred by HR to another source for consideration if the issue or complaint does not fall within the purview of this policy.

The State will not tolerate acts of retaliation against anyone who, in good faith, reports, assists another individual with reporting, or participates in fact-finding or investigation of suspected violations of this handbook chapter.



Retaliation is not tolerated

The State will not tolerate acts of retaliation against anyone who, in good faith, reports, assists another individual with reporting, or participates in fact-finding or investigation of suspected violations of this handbook chapter.

DMA's SHR P&P 3.140

DMA Equity & Inclusion Strategic Plan & Complaint Procedure

https://dma.wi.gov/wp-content/library/StateHR/practice_procedure/P&P3.140_Equity_&_Inclusion_Strategic_Plan_&_Complaint_Procedure6.9.2022.pdf

DMA plan reinforces Chapter 440 including complaint procedure outlined in Chapter 440



Definitions, Statutes & Other Authorities Supporting Policies

Wis. Stats. 230.04(13m)

Requires establishment of progressive discipline

Allows progressive discipline to be accelerated for severe cases

Harassing an employee while on duty falls within purview of accelerated discipline

WI Fair Employment Act, s.111.321, Wis. Stats.

Prohibits employment discrimination based on age, race, color, disability, marital status, sex, national origin, ancestry, arrest record, conviction record, military service, use or nonuse of lawful products off the employer's premises during nonworking hours, or declining to attend a meeting or participating in communication about religious matters or political matters.

Age Discrimination in Employment Act, 29 U.S.C. s. 623

Prohibits not hiring or discharging or making adverse/negative compensation or other employment related decisions based on age

Definitions, Statutes & Other Authorities Supporting Policies

Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. s.794(a) and

Americans with Disabilities Act., 42 U.S.C.

s. 12112

Prohibits adverse employment decisions towards individuals with disabilities

Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C.s.431.1

Prohibits discrimination and adverse employment actions based on connections with uniformed services (military). Does not have to be someone who actually served.

Title VII of the Civil Rights Act of 1964, 42 U.S.C. ss. 2000e-2

Employers may not discharge, refuse to hire, discriminate against an individual because of their race, color, religion, sex, or national origin

Definitions, Statutes & Other Authorities Supporting Policies

Genetic Information Nondiscrimination Act, 42 U.S.C. ss. 2000ff-1

Employers cannot discriminate against applicants or employees based on genetic information

2019 Executive Order 1, Relating to Prohibiting Discrimination in State Employment, effective January 7, 2019

Policy of the administration that discrimination & harassment should be prevented against any class of citizen because of age, race, religion, color, disability, sex, physical condition, developmental disability, military or veteran status, sexual orientation, gender identity or expression, national origin, marital or familial status, genetic information, or political affiliation

2019 Executive Order 1

Required Department of Administration to develop nondiscrimination policy for all agencies including internal complaint procedure.

Resulted in DMA's adoption of Complaint Policy outlined in Chapter 440

Definitions, Statutes & Other Authorities Supporting Policies

Sec. 440.040 Definitions and Acronyms

This section of WI Human Resources Handbook Chapter 440 provides numerous definitions used throughout the chapter

Equity & Inclusion (EI) Designee (Allisa Brown, Steve Janisch, Lori Roy)

An agency human resources employee with the authority and training to facilitate the agency intake and fact-finding process

Equity and Inclusion (EI) Officer (Stacie Meyer, Jayne Swingen if Stacie unavailable)

An agency human resources employee with the authority, training, and primary responsibility to oversee and respond to agency Respectful Workplace Complaints, issues or requests

Roles & Responsibilities

Employees

All employees are responsible for discouraging and refraining from participating in conduct which violates the Respectful Workplace Policy

- Report Incidents
- Cooperate with fact-finding



Roles & Responsibilities (Cont)

Management

Expected to maintain work environment free from bullying, discrimination, harassment and/or retaliation.

- Treat employees fairly & consistently
- Be aware of workplace behavior
- Intervene when observe policy violations, report, document, follow-up; enact corrective actions up to and including termination
- Report violations to EI Officer or HR designee
- Notify appointing authority when employee reports possible criminal activity related to this policy which may include but is not limited to hate crimes, sexual contact, stalking & battery



Roles & Responsibilities (Cont)

Management Prohibited From:

- Discouraging a person from reporting concerns related to this policy
- Requiring adherence to a chain of command to bring concerns forward
- Failing to act when a complaint or concern is brought to their attention



Roles & Responsibilities (Cont)

Equity & Inclusion (EI) Designee (Allisa, Steve, Lori)

Treat employees fairly & consistently

- Manage complaint process to ensure complaints are handled consistently, efficiently and timely
- Receive complaints, conduct intake interviews and/or fact finding, and/or delegate to appropriate personnel
- Provide EI Officer with recommendations for corrective action



Roles & Responsibilities (Cont)

Equity & Inclusion (EI) Officer (Stacie/Jayne)

- Monitor the confidential complaint mailbox
- Review all complaints to ensure complaints are handled appropriately and consistently
- Provide recommendations for corrective action
- Conduct intake interviews/fact-finding
- Provide resources, assistance, and training to employees and managers
- Identify specific respectful workplace trends and areas of concern within the agency
- Communicate trends and concerns to DOA Bureau of Equity & Inclusion for review/consultation

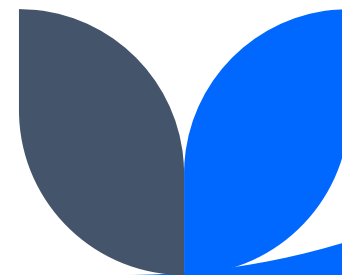


Roles & Responsibilities (Cont)

Appointing Authority (Maj Gen Paul Knapp)

In addition to management roles and responsibilities, also responsible for:

- Providing a confidential email box for submission of complaints/concerns
- Transparency and proactive management of workplace issues
- Ensure cooperation with the process, review findings, make final decisions on course of corrective action if warranted (terminations are TAG's determination)
- Ensure written notification of any corrective action(s) taken, including implementation timelines are followed
- Ensure complaint process is administered fairly and consistently for all employees



Roles & Responsibilities (Cont)

Bureau of Equity & Inclusion (BEI)

- Provide consultation to agencies on workplace matters
- Assist with situations where there maybe be a conflict of interest with HR staff, high profile infractions, conduct involve egregious violations, highly complex case, limited agency staff to conduct investigation
- Write policies and oversee complaint process
- Monitor agency cases to ensure compliance with policy/procedure
- Aid with agency training



Complaint Procedure

WI HR Handbook Chapter 440 – pg 8

https://dpm.wi.gov/Hand%20Book%20Chapters/WHRH_Ch_440.pdf

DMA P&P 3.140 Equity & Inclusion Strategic Plan and Complaint Procedure

https://dma.wi.gov/wp-content/library/StateHR/practice_procedure/P&P3.140_Equity_&_Inclusion_Strategic_Plan_&_Complaint_Procedure6.9.2022.pdf

Complaint Procedure (Cont)

- Mechanism to raise concerns/behaviors defined by Respectful Workplace Policy
- Employees and Management expected to be proactive/seek advice from EI Officer/Designee to discuss concerns
- All concerns are addressed, but not all complaints result in formal intake or fact finding; some issues will be resolved in alternate manner (training, mediation, etc.)
- Efforts will be made to keep all information confidential, information disclosed will only be on a “need-to-know” basis

Complaints Procedure (Cont)

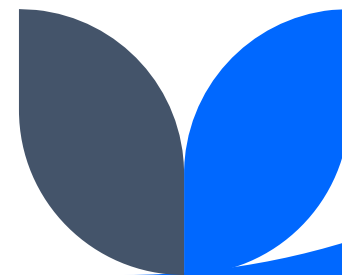
Complaint Filing

- Employees who believe they have been subject to discrimination, harassment, hostile work environment, or any form of unwelcome behavior are encouraged to first talk to the individual(s) who is/are causing the issue to stop the behavior
- If employee not comfortable talking to individual/s, or behavior doesn't stop, or there is retaliatory behavior, employees are expected to report behavior to member of management, HR, or EI Officer/designee as soon as possible
- When employee brings concern forward, they may be advised to complete Respectful Workplace Complaint Form [DOA-15812](#)
- DOA-15812 after completed by employee should be submitted electronically to any member of management, EI Officer/designee or HR Manager
 - DMAStateComplaints@widma.gov
- If employee does not want to complete the form, form will be completed by manager or HR/EI professional to document employee's concern.
 - If completed by manager, they must immediately forward to EI Officer/designee

Complaints Procedure (Cont)

Complaint Review

- Complaints should be reviewed by EI Officer within 5 business days of filing
 - Clarify nature of allegations
 - Examine details of incident reported
 - Gain an understanding of relief sought by individual
 - Request additional information from complainant if form is incomplete or insufficient
- If no evidence to support pursuing the complaint with an intake, claim will be closed
- If complaint presents unique sensitivity or conflict of interest, EI Officer may refer to BEI



Complaints Procedure (Cont)

Intake Interview

- EI Officer or designee will schedule intake interview or assign to manager
 - Clarify nature of allegations
 - Take place at time/location comfortable for the complainant, ideally within 2 weeks
- Written document outlining complaint process information and reference and referral options will be shared (Attachment 3 of WHRHB Chapter 440)
- Complainant may have a support person attend intake meeting for moral support
 - This may be a DEOC member
- Interviewer will collect pertinent information based on Respectful Workplace Checklist ([DOA-15814](#))
 - Interview will be documented in Question/Answer format
- EI Officer will determine if there is enough information to support closing the case or determine if fact-finding is required



Complaints Procedure (Cont)

Fact-Finding

- EI Officer or designee will schedule and conduct interviews with witnesses and/or respondents to gather additional facts
 - Preferably within 30 days when possible
- Written document outlining complaint process information and reference and referral options will be shared (Attachment 3 of WHRHB Chapter 440) with witnesses and/or respondents
- Employees participating in this process may have a support person attend interview meeting for moral support
 - This may be a DEOC member
- EI Officer and other members of management deemed necessary will determine if information collected calls for closing the case or referring for further action, such as disciplinary investigation



Complaints Procedure (Cont)

Closing

- Determination has been made that information collected is sufficient or insufficient to support a finding that actions of the respondent(s) violated this policy
- Complaint closures will include a written summary if possible, within 60 days and will include responsive action if appropriate.
 - Responsive action may be informal resolution, training, climate assessment, disciplinary investigation or other
- Complainant will be notified when intake/fact-finding process has been completed and file is closed. Other participants may be notified if appropriate.
- EI Officer/designee will ensure that responsive action has been taken by following up with HR, management, or other affected parties



Complaints Procedure (Cont)

Disciplinary Investigations

- Any time during the process, if it is determined the State of WI work rules may be violated, the complaint may be forwarded to HR for work rule investigation
- Federal EEO and State EEO work together on some complaints at DMA
 - Ultimately, the lead will generally be taken by the entity that can impose consequences for negative actions

Enterprise Mediation

- Some employee issues, concerns, or disputes may be resolved outside of the complaint process. Enterprise mediation is available through the Department of Administration <https://dpm.wi.gov/Bulletins/DPM-0529-EI.pdf>
- DMA also has a couple of trained mediators



Additional Resources

Employees have the right to file at State or Federal levels

- Employees can file formal complaint of discrimination, harassment, or retaliation at any time by contacting either or both agencies below. If this occurs, DMA will provide information as requested from either of these entities.

State of WI, Dept. of Workforce Development
Equal Rights Division
201 E. Washington Ave., Room A100
P.O. Box 8928
Madison, WI 53708
(608) 266-6860
<https://dwd.wisconsin.gov/er/>

U.S. Equal Employment Opportunity Commission (EEOC)
310 West Wisconsin Avenue, Suite 800
Milwaukee, WI 53203-2292
(414) 297-1111
<http://www.eeoc.gov/>

