

STAFF PERSONNEL
Series 400

Policy Title: SEXUAL HARASSMENT POLICY

Code: 401.13

I. Policy Statement

The sexual harassment of any employee or recipient of the services of this agency is absolutely forbidden. This agency has designated the superintendent as the official who is responsible for receiving and investigating complaints of sexual harassment. Any employee, supervisor or manager who is made aware of an alleged incident of sexual harassment will take action to bring the matter to the attention of the most appropriate management authority, who will, in turn, take immediate action pursuant to this policy.

II. Definition

According to the Equal Employment Opportunity Commission, unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of sexual nature constitutes sexual harassment 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. Additionally, the Equal Employment Opportunity Commission states that a person who is qualified for but denied an employment benefit because of another's submission to sexual harassment may be protected by Title VII of the 1964 Civil Rights act.

III. Distribution

Because prevention is the best tool for the elimination of sexual harassment, this policy will be disseminated to all employees of the department. Managers and supervisors are expected to take appropriate steps to make all departmental employees aware of it.

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IV. Investigation and Resolution

A. Filing

- a. Employees who believe they are being subjected to illegal sexual harassment are encouraged to file complaints through the department's grievance procedure. Due to the sensitivities associated with this subject, any step normally a part of the grievance procedure may be bypassed if the complainant feels it is necessary to do so. If an employee so chooses, she/he may bypass the department procedure entirely and file a sex discrimination claim directly with the Idaho Human Rights Commission and/or the Equal Employment Opportunity Commission (EEOC);
- b. Applicants for employment and service recipients may file sexual harassment charges in letter form with the designated agency official or may file with the Idaho Human Rights Commission and/or EEOC.

B. Confidentiality

1. Due to damage that could result to the career and reputation of any person falsely or in poor faith accused of sexual harassment, all investigations and hearings surrounding such matters will be designed to the maximum extent possible to protect the privacy of and minimize suspicion toward the accused as well as the complainant. Only those persons responsible for investigating and enforcing civil rights matters will have access to confidential communications.
2. Any employee aware of or suspecting the occurrence of sexual harassment will be expected to report the matter through the most confidential and direct means possible to preserve morale and discipline in the work unit.

Steps Include:

- b. Making a statement of known facts in writing to the designated agency official;
- c. Avoiding discussing the matter with coworkers and persons not directly responsible for investigating the matter.

C. Investigation Procedure

When an allegation of sexual harassment is made of any employee, the designated agency official will take immediate steps to:

1. Obtain a statement of grievance from the complainant regarding the times, dates, places, and circumstances surrounding the allegations;
2. Discuss the matter with the accused;
3. Obtain statements of witnesses or possible witnesses, if any;
4. Prepare a report of the investigation and submit it to the highest management authority in the agency.

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1. Action and Resolution

Based on the report, management shall take immediate and appropriate corrective action. In determining whether conduct constitutes sexual harassment, the management will look at the record as a whole and at the totality of the circumstances, such as the nature of the alleged sexual advances and the context in which they occurred. The determination of the legality of a particular action will be made from the facts, on a case by case basis.

1. If there appears to be no foundation to the allegation:

1. No record shall be made of the allegation in either the accused or accuser's personnel records.

2. A reiteration of the policy against sexual harassment may be appropriate.

3. Bad faith allegations or use of this policy for unintended purposes may result in disciplinary action against the accuser.

a. If a foundation for the allegation exists, disciplinary action against the offending employee will follow. The disciplinary action will be commensurate with the scope and severity of the occurrence, and may include, but is not limited to, demotion, suspension, dismissal, warnings or reprimands. Additionally, every effort shall be made to provide appropriate relief for the victim.

Date of Adoption:

8-17-81

Readopted: 7/19/99, 7/19/04

Legal Reference:

Related Reference: