

**Idaho Department of
Juvenile Corrections
Administrative
Policy/Procedure**

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SUBJECT: HARASSMENT AND DISCRIMINATION

CATEGORY: HUMAN RESOURCES

Policy

The Idaho Department of Juvenile Corrections (IDJC) is committed to providing a work environment in which all individuals are treated with dignity and respect. Every employee has the right to work in a professional atmosphere promoting equal employment opportunities and prohibiting unlawful discriminatory practices, including harassment. The goal is to provide a workplace where employees can feel reasonably safe and where they are treated respectfully, creating the freedom to focus on getting work done.

It is the policy of the IDJC to ensure equal employment opportunity for all individuals. Discrimination or harassment based on race, color, religion, sex, national origin, age, disability, marital status, citizenship, genetic information, pregnancy, military status, or any other characteristic protected by law is prohibited.

This policy may not be used as a basis for excluding and/or separating individuals, by any protected characteristic, from participating in business related social activities or discussions to avoid allegations of harassment. The law and this policy prohibit disparate treatment based on any protected characteristic regarding terms, conditions, and/or privileges of employment.

Operating Procedures

I. Scope

- A. This policy applies to all employees of the IDJC, including agency leadership, as well as individuals in contact with IDJC employees (e.g., applicants, outside businesses, clients, consultants, contractors, customers, elected officials, etc.).
- B. Prohibited conduct as outlined in this policy is unacceptable in the workplace and in any work-related setting outside of the workplace, including business-related meetings, trips, or events.

II. Definitions of Harassment

- A. Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 (ADEA), and/or the Americans with Disabilities Act of 1990 (ADA).
- B. The Equal Employment Opportunity Commission (EEOC) defines harassment as unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability, or genetic information. Harassment becomes unlawful where (1) enduring the offensive conduct becomes a condition of continued employment, or (2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing

a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals in violation of these laws.

- C. Harassing conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures (e.g., written or graphic material that is displayed on the employer's premises and/or circulated in the workplace during business or while using company equipment via email, phone, voicemail, text message, social networking media, etc.), and interference with work performance. Harassment includes "off-work" activities as well.
- D. Harassment can occur in a variety of circumstances, including, but not limited to, the following:
 - 1. The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.
 - 2. The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct.
 - 3. Unlawful harassment may occur without economic injury to, or discharge of, the victim.
- E. Sexual harassment may involve individuals of the same or different gender. Sexual harassment includes unwelcome or unwanted sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when, for example:
 - 1. Submission to such conduct is made either explicitly or implicitly a term or condition of employment;
 - 2. Submission to or rejection of such conduct is used as the basis for employment decisions; or
 - 3. Such conduct results in unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.
 - 4. Example behaviors may include but are not limited to:
 - a. unwanted sexual advances or requests for sexual favors;
 - b. jokes and innuendo or verbal abuse of a sexual nature;
 - c. commentary regarding an individual's body, sexual prowess or deficiencies;
 - d. leering, whistling, or touching;
 - e. insulting or obscene comments and gestures;
 - f. display of sexually suggestive pictures or objects;
 - g. and other visual, verbal, or physical conduct that is sexual in nature.

III. Respectful Workplace Defined

The examples outlined in this policy concerning sexual and other forms of workplace harassment are illustrative of conduct that may constitute harassment, but are not an exhaustive list. Other acts may constitute harassment depending on the circumstances of the specific situation. A single incident may or may not constitute harassment but would require investigation of the facts, on a case-by-case basis.

IV. Reporting Procedure

- A. Individuals who believe, in good faith, that they are subject to or have witnessed any of the types of prohibited conduct outlined in this policy should promptly advise the offender that their behavior is unwelcome and request that it be discontinued. Often, this will result in a quick resolution to the problem. The IDJC recognizes, however, that an individual may prefer to pursue the matter through a more formal process, and/or may be uncomfortable approaching the alleged harasser.
- B. Individuals who believe, in good faith, that they have been subject to or have witnessed conduct prohibited by this policy should discuss their concerns with an immediate supervisor, human resources, or a member of management. Employees may also use the IDJC problem-solving procedures for employees to address a concern. Furthermore, employees have the right to file a complaint with the State of Idaho Division of Human Resources and/or the State of Idaho Human Rights Commission.
- C. The IDJC encourages prompt reporting of concerns so that action can be taken before relationships become irreparably strained. All complaints of harassment, discrimination, or retaliation must be investigated promptly. The investigation may involve individual interviews with the parties involved and/or those individuals who may have observed the alleged conduct or have other relevant knowledge. Employees are expected to fully cooperate with the individual(s) conducting the investigation.
- D. Any supervisor or manager who is made aware of an alleged incident of discrimination, or sexual harassment or other harassment, under this policy must **immediately** contact HR (or the Director, if the complaint involves HR, or the Deputy Attorney General, if the complaint involves the Director).

V. Investigating Complaints

- A. Supervisors, managers, and Division Administrators are required to address and report discrimination or harassment that they are aware is occurring, even if a complaint is not made.
- B. Investigations are conducted in accordance with the Investigations - Administrative (910) policy/procedure. Investigation of a complaint will normally include conferring with the parties involved and any named or apparent witnesses. All employees are protected from coercion, intimidation, retaliation, interference, or discrimination for filing a complaint or assisting in an investigation.
- C. HR informs the complainant of their rights and works with Legal Services to conduct a prompt, comprehensive and objective investigation of the complaint.
- D. The complaining employee's supervisor is contacted by HR or Legal Services as warranted.
- E. The complaining employee, the victim, the alleged offender, any witnesses to the alleged conduct, or victims of similar conduct that the IDJC has reason to believe may exist are interviewed.

- F. At the completion of the investigation, the resulting determination is documented and discussed with the complaining employee, the victim, the alleged offender and, where appropriate, others directly involved; however, details of any specific employment actions taken are not discussed.

VI. Retaliation Prohibited

- A. The IDJC encourages employees to promptly report all perceived incidents of discrimination or harassment. Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit; or opposing employment practices that they reasonably believe discriminate against individuals in violation of these laws.
- B. Retaliation against any individual who makes a good-faith complaint regarding discrimination or harassment, or who participates in the investigation of a related complaint, is expressly prohibited. Acts of retaliation should be reported immediately. The IDJC will not tolerate retaliation and will take prompt and immediate steps to eliminate retaliation.

VII. Corrective Action

- A. If it is determined that harassment or discriminatory action occurred, management, in accordance with the Corrective and Disciplinary Action for IDJC Employees (325) policy/procedure and the Prison Rape Elimination Act (PREA) Compliance (613) policy/procedure, will take immediate necessary and reasonable action to ensure that the harassment or discrimination is stopped and does not reoccur.
- B. Corrective action may include, but is not limited to, training, referral to counseling, and/or disciplinary action, as appropriate, based on the circumstances. The complainant is informed that action was taken; however, details regarding the action are not shared.
- C. Safeguards, where possible, are put in place to ensure that no further harassment or discrimination against the complainant or victim occurs, whether by managers, co-workers, or non-employees, and no form of retaliation against the complainant or victim is tolerated.

VIII. Confidentiality

- A. The IDJC recognizes and respects an employee's right to privacy. An employee's complaint will remain confidential throughout the investigatory process to the extent consistent with allowing adequate investigation and appropriate corrective action.
- B. Employees are expected to maintain confidentiality during the investigative process to ensure a fair and unbiased investigation.

IX. Training

All IDJC employees must receive training regarding discrimination and harassment avoidance upon initial hire and on an annual basis.

X. Notification Posting

- A. HR ensures that employee notification postings, complying with both federal and state laws, are visible in an area readily accessible by all staff.

- B. HR ensures that employees are regularly made aware of the expectations of a respectful workplace, free from harassment and discrimination, pursuant to this policy.
- C. The IDJC makes this policy available for review through the Intranet.

Reference: [Glossary of Terms and Acronyms](#)
Title VII of the Civil Rights Act of 1964, Idaho Code, 67-5315, 5309; 18-7901
Equal Employment Opportunity Commission (EEOC)
Idaho Division of Human Resources Statewide Policy Section 9: Respectful Workplace

Desk Manual(s): N/A

Related Policies: [Equal Employment Opportunity \(EEO\)](#) (302)
[Problem-Solving Procedures for IDJC Employees](#) (312)
[Ethics and Standards of Conduct](#) (324)
[Corrective and Disciplinary Action for IDJC Employees](#) (325)
[Prison Rape Elimination Act \(PREA\) Compliance](#) (613)
[Investigations - Administrative](#) (910)

Related Forms: [Employee Orientation Certificate of Understanding](#) (DJC-009)