

Administrative Policy No. 18.89

Subject: Investigations

Information Contact: Human Resources Division

Authorizing Source: [Chapter 41.06 RCW](#)
[Chapter 49.60 RCW](#)
[Chapter 357-40 WAC](#)
[Executive Order 96.01](#)

Effective Date: September 21, 2020

Revised: NEW

Approved By: **Original signed by Wendy Long**
Senior Director, Human Resources Division

Purpose

The Department of Social and Health Services takes allegations of employee misconduct seriously. Investigations ensure that such allegations are properly dealt with on the basis of facts. Investigations provide protection for citizens, employees, and the department by creating a record of the facts found, and when appropriate, may also serve as a basis for discipline.

While primarily aimed at “on-duty” conduct, inappropriate off-duty conduct may also have a connection to employment at the department and may be subject to investigation. Examples of inappropriate off-duty conduct include misuse of a state vehicle, providing access to state resources, or other actions incompatible with official duties.

Scope

This policy applies to all department employees, volunteers, contractors, work study students, and interns.

Additional guidance

[DSHS forms picker](#)

03-474 Home assignment request

Executive order [96.01](#) (from Governor’s site, but not updated with internal agreements)

Forensic investigations manager ITInvestRequest@dshs.wa.gov

IPOCS

Definitions

Appointing authority: Exempt management positions to whom the department secretary has delegated authority to take personnel actions, as authorized in [administrative policy 4.05](#), delegation of authority – personnel actions.

Civil rights investigation: Investigations into alleged violations of Section A of [administrative policy 18.66](#), discrimination, harassment and other inappropriate behaviors, which are conducted by or under the direction of the HRD employee investigations unit.

Criminal allegation: An allegation of misconduct that includes misuse of state funds or materials, a violation of local, state or federal law, or a conflict of interest. The definitions contained in the governor's [executive order 96.01](#) provide clarity.

HRD representative: Human resources division staff assigned as the primary HR resource to the functional unit led by an appointing authority.

Intake: Communications with individuals and a review of relevant information as a part of or following receipt of a complaint, designed to determine whether an investigation is necessary. Information gathered during intake, including witness statements, may be incorporated into an investigation.

Investigation: The process of gathering and documenting information related to a specific allegation or set of allegations. An investigation results in a summary report for use by management to determine the appropriate action.

Major administrative investigation: Non-criminal cases which the appointing authority, as outlined in the governor's [executive order 96.01](#), must consult with Washington State Patrol (WSP) to determine who will handle the administrative investigation. These include all cases involving allegations of either physical abuse, sexual abuse, or both, by a department employee, and those cases where the appointing authority believes that if the facts as alleged were true, the sanction would likely be a demotion or termination. Situations where the appointing authority is considering demotion or termination as part of a progressive discipline (where the employee has previously been disciplined at a lower level for similar behavior) do not require consultation with WSP. The definitions contained in the governor's [executive order 96.01](#) provide clarity.

Misconduct: Failure of an employee to adhere to standards expected in employment. These may include, but are not limited to failure to follow lawful supervisory direction, discrimination, harassment, ethics violations, and violations of department policy, collective bargaining agreements (CBA), and inappropriate behavior or performance issues.

Outside investigative entity: An organization, not controlled by the appointing authority, which has the legal authority to conduct an investigation into actions of a department employee.

Examples include, but are not limited to, law enforcement agencies, the executive ethics board, office of the state auditor, professional licensing authorities, etc.

Retaliation: A hardship, loss of benefits, or penalty imposed on an employee as punishment for reporting any allegation of misconduct, appearing as a witness in the investigation of a complaint, or for serving as an investigator.

Policy requirements

- A. Intakes and investigations into allegations of employee misconduct will be carried out in a timely, professional, and responsible manner that protects employee rights and privacy as well as the integrity of department operations. Investigations will be conducted in accordance with applicable collective bargaining agreement requirements and may include, but are not limited to, informal fact-finding, acquiring signed statements from witnesses, a formal interview process, or other situation specific approaches as appropriate.
- B. Allegations of employee misconduct may come from other employees, volunteers, contractors, members of the public, or others doing business with the department.
 1. Employees observing or who become aware of potential misconduct must promptly report it to any supervisor in their chain of command, to an HRD representative, or to the HRD employee investigations unit. This report may be made orally or in writing.
 2. When supervisors or managers become aware of potential or alleged misconduct, within their chain of command, they must handle the issue in accordance with the direction provided by their appointing authority. Any allegation of misconduct which might potentially lead to an oral or written reprimand, suspension, reduction in pay, demotion, or dismissal must be promptly reported to the appropriate appointing authority.
 3. When supervisors or managers become aware of potential or alleged misconduct, outside of their chain of command, they must report the allegation to either the accused employee's supervisor, their appointing authority, or both.
 - a. Appointing authorities, managers, or supervisors must consult with their assigned HRD representative in determining the appropriate approach to the intake and whether an investigation is necessary.
 4. In circumstances where there is more than one accused employee, alleged victim, or appointing authority, the affected appointing authorities will determine amongst themselves who will take the lead in the investigation to ensure the department does not have multiple investigations into the same set of circumstances, including across multiple divisions or administrations who are co-located. Where allegations involve employees, appointing authorities or employees from multiple agencies (example: Department of Children, Youth and Families) all affected department appointing authorities will report the allegations to the senior director of the human resources division, who will determine the investigative approach on behalf of the department.

- C. The employee investigation management system (EIMS), or successor system, is the official record of employee investigation activities within the department. Each appointing authority must, either personally or through a designee, ensure that relevant investigation information and documentation is appropriately entered into EIMS.
1. This process is coordinated between administration [investigation points of contact](#) (IPOCs), the HRD employee investigations unit, and the technology services division.
 2. HRD employee investigations unit provides training on the use of the EIMS, and upon completion of the training, provides access to EIMS appropriate to the user's role.
- D. Intakes and investigations are conducted by or at the direction of appointing authorities, except in the circumstances outlined below.
1. Some investigations may need to be conducted, by policy or law, by investigators outside of the control of the appointing authority. These include:
 - a. **Criminal allegations:** All allegations of potential criminal activity must be promptly reported by the appointing authority to local law enforcement or the Washington State Patrol, in accordance with executive order 96.01.
 - b. **Major administrative investigations:** All allegations meeting the definition of major administrative investigation must be promptly reported by the appointing authority to the Washington State Patrol, in accordance with [executive order 96.01](#), unless the appointing authority determines they will perform the administrative investigation. In cases where the appointing authority carries out administrative investigations the completed investigation report may be reviewed by the WSP, upon request by the appointing authority.
 - c. **Civil rights investigations:** All allegations falling within section A.1.a, b, and c of [administrative policy 18.66](#), must be promptly reported by the appointing authority to the HRD employee investigations unit for intake.
 - d. **Outside investigative entities:** External investigators sometimes require notification from the department or may independently initiate investigations into potential misconduct by department employees. When the appointing authority becomes aware of such allegations, reports and responses must be made in concert with applicable law. Examples include, but are not limited to:
 - i. Washington State Executive Ethics Board;
 - ii. Washington State Auditor;
 - iii. Child or adult protective services;
 - iv. Office of fraud and accountability, under authority of [administrative policy 4.09](#); and
 - v. Professional licensing authorities, such as the Department of Health, Nursing Commission.

2. The appointing authority, following receipt of the investigative report from an investigator as outlined in D.1. above, may choose to initiate further investigation or use the completed investigative report if it provides the information necessary for their use.
 3. The appointing authority may, on occasion, decide to conduct a concurrent investigation while an outside investigation is under way. The appointing authority must consult with both the Washington State Patrol and their assigned HRD representative prior to implementing a concurrent investigation.
 4. Intakes and investigations not included in Section D.1 are conducted under the direction of the appointing authority, after consultation with their assigned HRD representative.
 - a. HRD employee investigations unit provides training on the employee investigation process, which is the primary approach used for department investigations.
 - b. HRD employee investigations unit provides computer forensics investigation services for all employee investigations.
 - i. Only the HRD computer forensics investigations manager and other identified positions within the department that are specifically identified and equipped to handle computer forensics will provide computer forensics services. Local IT, technology services division and enterprise technology must go through either the HRD computer forensics investigations manager or their administration specific contact.
 - ii. The appointing authority must request these services through the computer forensics investigation manager by emailing ITInvestRequest@dshs.wa.gov.
- E. An employee may be reassigned other duties and possibly to another location during the course of an intake, investigation, or both, if the employee's appointing authority determines the reassignment is necessary.
1. Reassignments must include consultation with the assigned HRD representative.
 2. The appointing authority must ensure the alternate assignment is noted in EIMS.
- F. Upon approval from the department's human resources division (HRD) senior director, an employee may be assigned to home during the course of an intake, investigation or both.
1. Prior to placing an employee on home assignment the appointing authority must request authorization by submitting the form 03-474 home assignment request to the department's HRD senior director.
 - a. If there is a need for immediate home assignment due to safety and security issues, the appointing authority may assign the employee to home for up to 48 hours pending notification and review by the

department's HRD senior director, or in the senior director's absence, the department's chief of staff.

2. The employee may receive verbal notice of the home assignment.
 - a. If the home assignment extends beyond 48 hours, the employee must receive written confirmation of the home assignment within five working days.
 3. The start and end date of the home assignment must be entered into the human resource management system and the appointing authority must ensure the home assignment is noted in EIMS.
- G. Witnesses are expected to cooperate and provide complete and truthful information if asked to participate in an intake or investigation. During the intake or investigation process, employees or witnesses must not discuss or share information pertaining to the investigation with anyone inside or outside the department except when seeking legal or union counsel, or when complying with court orders, external investigators, or law enforcement.
- H. Appointing authorities and investigators will make every effort to maintain confidentiality, though information may be shared on a "need-to-know" basis during an intake or investigation with HRD staff, the chain of command, law enforcement, or others similarly situated.
- I. Investigation records and the investigation report are subject to records retention and public disclosure laws.
- J. During and after an investigation, the subject of the investigation has a right to request the status and outcome from the appointing authority. Examples of a status update include interviews are still being conducted, investigation report is being drafted, waiting for analysis of data, and so forth. At the conclusion of any investigation where the appointing authority elects to not take disciplinary action, the employee will be provided with a notification that the investigation is complete and no discipline will be imposed. Appointing authorities should consult with their HR manager if they have questions on the appropriate response to a specific status or outcome request.
- K. Employees must not engage in any form of retaliation against anyone who has made a report of misconduct or anyone who participates in an intake or investigation. Actions that do NOT violate this policy include the appropriate exercise of supervisory responsibilities. These responsibilities include, but are not limited to:
1. Providing direction or feedback about an employee's job performance and behavior;
 2. Monitoring and follow-up actions on job performance; and
 3. Guidance to change or adjust job priorities.

- L. Failure to comply with this policy may be grounds for discipline, up to and including termination of employment.

DSHS Official