Administrative Policy No. 18.98

Subject:	Response to Complaints of Discrimination filed with an External Agency
Information Contact:	Human Resources Division
Authorizing Source:	Title VII of the Civil Rights Act of 1964, as amended Chapter 49.60 RCW Discrimination – Human Rights Commission Governor's Executive Order 89-01 – Sexual Harassment
Effective Date:	January 11, 2024
Revised:	New [1] Housekeeping 5/1/2025 [2] Housekeeping 2/25/2026
Approved By:	**Original approve by Wendy Long** Senior Director, Human Resources Division

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Purpose

The purpose of this policy is to establish the procedures for responding to external investigations of alleged unlawful discrimination, harassment, and retaliation of Department of Social and Health Services (DSHS) employees, interns, volunteers, and contractors.

DSHS is committed to providing equal employment opportunities and a workplace that is free from all forms of discrimination and harassment, including sexual harassment, retaliation, and other inappropriate behaviors.

This DSHS policy is part of the agency's overall effort to provide a workplace free from discrimination and retaliation, pursuant to local, state, and federal laws prohibiting discrimination. This policy is also a part of DSHS's commitment to equity, diversity and inclusion, and a workplace that is free from harassment, disrespect, and divisiveness.

Scope

This policy applies to all DSHS employees, interns, volunteers, and contractors.

Additional guidance

Administrative policies:

- 4.05 Delegation of Authority – Personnel
- 5.04 Records Management
- 18.66 Discrimination, Harassment, Sexual Harassment and Retaliation

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18.67 Workplace and Domestic Violence/Reasonable Safety Accommodation
18.89 Employee Investigations

Definitions

Alternative Dispute Resolution: A voluntary informal and confidential process where the complainant and DSHS attempt to settle disputes and resolve a charge of discrimination prior to an investigation by an external agency. This includes Equal Employment Opportunity Commission (EEOC) mediation and the Washington State Human Rights Commission (WSHRC) Fact-Finding Conference for Early Resolution.

Appointing authority: Exempt management positions to whom the DSHS secretary has delegated authority to take personnel actions, as authorized in administrative policy 4.05, delegation of authority – personnel actions.

Charge of discrimination: A complaint filed with an external agency (typically the Equal Employment Opportunity Commission (EEOC) or the Washington State Human Rights Commission (WSHRC)) by a current or former DSHS employee (complainant) alleging employment discrimination against the DSHS.

Complaint: A verbal or written communication from a complainant or other individual on behalf of a complainant alleging violations of Title VII of the Civil Rights Act of 1964 and the Washington Laws Against Discrimination (WLAD).

Conciliation: A method of resolving employment discrimination charges before the external agency moves forward with enforcement proceedings that occurs after the external agency has investigated and found reasonable cause that a violation occurred. Conciliation may include monetary and non-monetary relief.

Database: The electronic recordkeeping system, such as Origami Risk, used by DSHS to document, track, and report on all employment misconduct, employment discrimination, service discrimination, and external agency complaint investigations.

External agency: Any agency with statutory civil rights enforcement powers (i.e., including but not limited to the U.S. Health and Human Services Office for Civil Rights, EEOC, the U.S. Department of Agriculture Food and Nutrition Services, or the WHRC).

Position statement: The DSHS response to a complainant's charge of discrimination with an external agency. It may include specific documents and witnesses in support of DSHS' position.

Primary points of contact: The DSHS employee primary point of contact for each external agency complaint.

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Request for information (RFI): Specific information requests made by an external agency for information or documents pertinent to the charge of discrimination.

Work plan: The follow up action plan that includes tasks and timelines to be in compliance with the conciliation agreement.

Policy

A. Authority

1. The senior director of the Human Resources Division (HRD), has the authority designated by the secretary of DSHS to function as appointing authority for DSHS (see DSHS administrative policy 4.05) and bind DSHS to perform certain obligations from any external agency agreement, conciliation, mediation, or settlement.

B. Response to Complaints of Discrimination filed with an External Agency (such as EEOC, WSHRC)

1. Appointing authorities, or any DSHS employee who receives written notice of a charge of discrimination or compliance review from an external agency, must inform the HRD employee relations unit (ERU) in writing as soon as possible via the externalagencycomplaints@dshs.wa.gov inbox.

2. Human Resources Division is responsible for:
    i. Drafting DSHS's position statement in partnership with the administration, responses to the request for information (RFI), and any other requested documentation; and
    ii. Forwarding the draft response and related records to the assigned assistant attorney general (AAG) for review at least 12 days before the due date to the external agency.

3. Appointing authorities or designee(s) are responsible for the following in external investigations:
    i. Consulting with their HRD business partners;
    ii. Collecting and retaining all responsive records pertaining to a charge of discrimination;
    iii. Finalizing the position statement in partnership with the HRD employee relations unit (ERU), RFI, and any other records requested by the external agency for submission;
    iv. Returning response records to the ERU; and
    v. Attending and providing input for any scheduled mediation or conciliation.

4. ERU is responsible for the following:

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i. Serving as liaison between DSHS and the external agency;
ii. Entering data of all external agency complaint information in the database as the system of record, ERU tracking sheets, and calendars;
iii. Setting and communicating clear timelines for external agency deadlines to the impacted parties;
iv. Reviewing all records provided for submission to ensure completeness and may suggest modifications prior to submitting the response to the external agency;
v. Submitting all DSHS's responsive records to the external agency no later than the external agency due dates;
vi. Notifying the impacted parties of all pertinent information including external agency communications and decisions;
vii. Sending a final copy of the completed response and all attachments to the impacted parties and upload the records in the database; and
viii. Closing all complaints in each data entry location within the database.

5. DSHS's position statement, responses to the request for information (RFI), and any other requested documentation will not be released until it has been reviewed and approved by the ERU. ERU will submit this material to external agencies within the timeline provided by the external agency as required above, subject to the following:
   i. Any extension request, with the reasons for the extension request, must be submitted in writing to the ERU investigator or designee.
   ii. The HRD senior director or designee must provide written approval of all extension requests.
   iii. If necessary, DSHS will supplement the response with additional information as it becomes available.

6. Failure to meet external agency deadlines may lead to disciplinary action up to and including dismissal from employment.

C. Mediation:

1. When a charge of discrimination is filed, an external agency may extend an offer for both the complainant and DSHS to participate in mediation.
   i. The ERU will timely seek the impacted parties' position on participating in mediation and notify the EEOC of DSHS's reply;
   ii. If mediation is scheduled, mediation will be attended by the necessary impacted parties;
   iii. The HRD senior director, or designee will attend the mediation as the decision maker for DSHS;
   iv. The ERU must coordinate with the enterprise risk management office (ERMO) and the Attorney General's Office (AGO) when settlement includes monetary compensation;

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v. Settlement agreements should be reviewed by the AAG prior to finalization; and
vi. If either party declines to participate in the mediation process, the charge of discrimination may proceed to the investigation phase.

D. Investigations by external agency

1. If an external agency notifies the ERU of the need to interview a DSHS employee, gain access to additional information, or collect documentation on site, the ERU will immediately notify the appointing authority and the assigned AAG. The OJCR IU may ask the administration to arrange employee interviews, provide additional information, and collect documentation.

2. If the administration is directly notified by the external agency of the need for further investigation, the appointing authority will immediately notify the and the assigned AAG.

E. Conciliations

1. If an external agency proposes a conciliation agreement to resolve a charge of discrimination the ERU will notify the impacted parties. The ERU shall coordinate responses to the proposal and review it for possible DSHS wide impact.

2. The ERU must coordinate with the ERMO and the AGO when a conciliation agreement includes a monetary recovery.

3. The ERU will consult with the assigned AAG prior to signing a conciliation agreement.

4. The secretary will sign conciliation agreements negotiated with any external agency including federal and state agencies.

5. If a conciliation agreement, resulting from a complaint resolution, is executed the ERU must monitor progress of the terms.

6. Within 21 calendar days of the date of the agreement, the appointing authority must submit a work plan to the ERU, including action steps and time frames for each item in the agreement.

7. Within 21 calendar days of the date of the agreement, the appointing authority must also submit the work plan to the research and data analysis division for inclusion in the quarterly review process.

8. All documentation must be submitted to the ERU five business days before the final review due date.

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9. The appointing authority must notify the ERU within 14 calendar days when written notice is received from an external agency that provisions of an agreement have been completed.

F. Documentation and retention

1. The ERU will maintain records of complaints received and responded to, on site investigations conducted, and any negotiated settlements negotiated with external agencies.

2. The database is the official record of all investigations within DSHS of alleged misconduct, employee discrimination, and external agency complaint activities.
    i. Appointing authorities and designees are responsible for ensuring the relevant investigation information and documentation is entered and maintained in the database on at least a daily basis.
        a. Appointing authorities or designees must appoint a designated program staff member to oversee the program's data entry into the database.
        b. Appointing authorities must appoint and maintain a database contact person who is responsible for answering program database questions. The appointing authority must notify the ERU investigator, or designee, of the appointed contact person and any subsequent personnel changes.
    ii. The database must be updated by the designated program staff immediately to ensure the investigation data remains current and up to date. Updating investigation data includes but is not limited to:
        a. Entering data into all required fields;
        b. Uploading a PDF copy of the final investigation report;
        c. Uploading all witness statements and attachments; and
        d. Uploading investigation exhibits.
    iii. Upon completion of agreed mediation, conciliation, or receipt of a complaint closure notification from an external agency, the closing records will be transmitted to the impacted parties by the ERU.
    iv. The ERU is responsible for maintaining all external investigation data within the database.
    v. The ERU will enter the closing information into the database and upload any closing documentation for future reference.
    vi. The ERU will maintain a SharePoint site with training materials on the use of the database and will provide access to the system appropriate to the user's role.

3. Records must be retained in accordance with the applicable retention schedule.

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See DSHS administrative policy 5.04 records retention.

[1] Updates reflect DSHS reorganization.
[2] Changed number from AP 20-02 to AP 19-98 and signatory to HRD senior director to reflect DSHS reorganization.

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