

Administrative Policy No. 20.01

Subject: Internal Investigations under the Office of Justice and Civil Rights

Information Contact: Chief Investigator, Employee Investigations Unit
Office of Justice and Civil Rights, Office of the Secretary

Authorizing Source: [Civil Rights Act of 1964](#), as amended
[Chapter 49.60 RCW](#)
[Governor's Executive Order 89-01](#)

Effective Date: January 11, 2024

Revised: New

Approved By: **Original signed by Pearlette Ramos**
Senior Director, Office of Justice and Civil Rights

Purpose

The purpose of this policy is to document the authority, process, and policy for conducting fair, timely, and thorough internal investigations by the Office of Justice and Civil Rights (OJCR), investigations unit (IU).

The Department of Social and Health Services (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 efforts to provide a workplace free from discrimination and retaliation, pursuant to local, state, and federal laws prohibiting discrimination. This policy is also 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:](#)

18.66 Discrimination, Harassment, and Other Inappropriate Behaviors

18.67 Workplace and Domestic Violence/Reasonable Safety Accommodation

18.89 Investigations

[03-474 home assignment](#)

[03-513 Workplace Violence and Safety Accommodation \(Third Party Conduct\).](#)

Definitions

Allegation: A claim or assertion received by OJCR IU alleging violations of DSHS administrative policy 18.66.

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.

Complaint: A verbal or written communication from a complainant or other individual on behalf of a complainant alleging violations of DSHS administrative policy 18.66.

Database: The electronic recordkeeping system, such as the incident case management system (ICMS), used by DSHS to document, track, and report on all employment misconduct, employment discrimination, service discrimination, and external agency complaint investigations.

Employment discrimination: A complaint for discrimination or harassment, including sexual harassment, retaliation, and other inappropriate behaviors not constituting misconduct as defined in administrative policy 18.66, directed toward a characteristic protected by law, based on age, race, color, creed, religion, national origin, honorably discharged veteran and military status, marital status, disability, sexual orientation, gender identity or expression, or sex, or any other characteristic that is protected by federal, state, or local law.

Investigation: The process of uncovering information and gathering evidence necessary to assess possible violations of Title VII, administrative policy, contracts, or law.

Primary points of contact: The DSHS primary point of contact for each external agency complaint. The impacted parties may include the senior director of the OJCR, or designee, program assistant secretary, appointing authority, human resources business partner, attorney general, and OJCR staff.

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

Sexual Harassment: Sexual harassment is defined as unwelcome language or conduct of a sexual nature, or language or conduct that is because of sex or gender, when: (1) such language or conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment (this can

happen even if the complaining party is not the intended target of the sexual harassment); (2) such conduct is made either explicitly or implicitly a term or condition of employment; or (3) submission to or rejection of such conduct is used as the basis for employment decisions.

Policy

The OJCR is committed to ensuring investigations are conducted in a fair, impartial, thorough, timely, thoughtful manner, and in compliance with all applicable laws.

A. Authority

1. The senior director of the OJCR has the authority to develop procedures for and conduct investigations regarding complaints alleging a violation of administrative policy 18.66.
2. The OJCR investigations unit (IU) has the authority to investigate complaints alleging a violation of administrative policy 18.66.

B. Investigating complaints

1. OJCR IU staff receiving verbal complaints of alleged violations of administrative policy 18.66 must document the complaint in writing and submit the documented complaint through the database for review.
2. Employee discrimination complaints are reviewed by the OJCR IU and are assessed for further investigation as follows:
 - i. All complaints will be assessed for a determination of completeness.
 - a. If more information is needed to make a determination, the OJCR IU will contact the submitter or the complainant to request additional information prior to making a purview determination.
 - b. If sufficient information is not submitted following the request for additional information, the investigation may be closed.
 - ii. During the assessment, complaints not meeting the criteria of DSHS administrative policy 18.66, will be returned to the program for review and further action, if necessary.
 - iii. During the assessment, complaints meeting the criteria of DSHS administrative policy 18.66 will be further investigated by OJCR IU.
3. If a complaint includes allegations of employee misconduct in addition to a violation of administrative policy 18.66, OJCR IU will conduct an investigation into all misconduct issues.
4. All investigations opened by OJCR IU must be completed unless otherwise requested by the OJCR senior director or designee.

5. DSHS employees are required to provide truthful information and cooperate with any investigation. Failure to comply may be grounds for discipline, up to and including termination of employment.
6. If the OJCR IU receives an internal complaint that is also under investigation with an external agency, e.g. EEOC, WSHRC etc., the DSHS investigation will be conducted unless otherwise requested by the OJCR senior director or designee.
7. OJCR IU investigations will be fair, timely, complete, and thorough. Investigation processes may include:
 - i. Fact-finding by obtaining verbal and written statements from all parties involved, including the complainant and the accused. Securing all publicly available records, where appropriate, and acquiring signed statements from witnesses.
 - ii. Determining if there are potential safety issues.
 - iii. Completing an investigation report and providing all relevant and necessary information, including findings.
8. Updating the database, as needed. The database is required to be updated with new information as it becomes available.

D. Safety Plan Requests for Civil Rights violations

1. Employees may request a safety plan from their supervisor, appointing authority, OJCR or HRD.
2. When an employee requests a safety plan, supervisors must, in consultation with HRD, implement safety measures, if warranted and if feasible, and document the safety plan in writing. The safety plan must be:
 - i. Developed in a timely manner to meet the immediate need with the understanding that a full review and investigation will occur concerning the alleged violation;
 - ii. Developed on a case-by-case basis; and
 - iii. Agreed upon by the employee and appointing authority.
3. Safety plans for Civil Rights must be reviewed at least every 30 days for effectiveness and continuation by the appointing authority and in consultation with HRD.

E. Investigative report

1. Upon completion of the investigation process the investigator will analyze the information collected, make findings and conclusions on the complaint, and prepare an investigation report.

2. Based on the investigation, OJCR IU should determine whether the allegation(s) were substantiated, unsubstantiated or inconclusive. This determination should be documented in writing and made part of the investigative report.
3. Upon its completion, the investigator sends the investigation report to the appropriate appointing authority and human resources business partner for further action in alignment with the finding.
 - i. If the appointing authority disagrees with the finding and conclusions, the appointing authority may request a review by the secretary. The decision of the secretary is final.
 - ii. Once a final decision is provided, the appointing authority, in consultation with HRD, must take action in alignment with the finding.

F. Closure of investigation

1. Any disagreement between the appointing authority and HRD on the appropriate action to be taken will be presented to the OJCR senior director for resolution. If the appointing authority or HRD disagree with the OJCR senior director on the appropriate action to be taken, the secretary will determine the appropriate action.
2. OJCR IU will send investigation closure notices to the complainant, respondent, and appointing authority.
 - i. The appointing authority may notify participating witnesses that an investigation has been completed. The appointing authority may not provide any additional details from the investigation or the result of the investigations to parties other than the complainant or the respondent.
3. Upon completion, the investigative report may be provided to the complainant and respondent upon written request and must be appropriately redacted, depending on the nature of the complaint and as required by law.
 - i. The office of information governance will provide redacted copies of the investigative report to the complainant and respondent only. All other requests must be sent to the HRD public records office.
4. The HRD business partner is responsible for updating the database with any action taken following the receipt of the investigation report.

G. Documenting and retention

1. The OJCR will maintain records of complaints received and responded to, investigations conducted, and any negotiated settlements negotiated with external agencies.
2. The database is the official record of all investigations within DSHS regarding

alleged misconduct, employee discrimination, and external agency complaint activities.

- i. Appointing authorities or their 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. The appointing authority or designee must appoint a designated program staff member to oversee the programs 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 OJCR chief 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 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 final investigative report(s);
 - c. Uploading all witness statements and attachments; and
 - d. Uploading investigation exhibits.
 - iii. The OJCR is responsible for maintaining all external investigation data within the database.
 - iv. The OJCR IU 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.