

Wisconsin Human Resources Handbook

Chapter 440

Respectful Workplace Policy and Complaint Procedure

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Sec. 440.010 Introduction

The State of Wisconsin is committed to providing and sustaining work environments free from bullying, discrimination, harassment, hostility, and retaliation for reporting suspected violations of this policy. It is the policy of the State of Wisconsin to ensure compliance with federal and state laws prohibiting discrimination or harassment. This handbook chapter outlines the non-discrimination policy applicable to all agencies. The policy specifically prohibits discrimination, sexual harassment, and harassment against any class of citizen because of age, race, religion, creed, color, disability, sex, physical condition, developmental disability, military or veteran status, sexual orientation, gender identity or expression, national origin, marital or familial status, pregnancy, genetic information, arrest or conviction record, use or non-use of lawful products outside the workplace or political affiliation.

This handbook chapter provides human resources (HR) with a procedure to ensure employees of the State of Wisconsin are provided guidance regarding how to raise concerns when unwelcome behavior occurs in the workplace. The procedure outlined in this chapter is designed to encourage resolution of complaints, to address inappropriate behavior, and to promote a respectful work environment. It is essential that all employees feel comfortable bringing information forward. All information will be handled with sensitivity and appropriate levels of confidentiality.

This handbook chapter is applicable to all state employees in the classified and unclassified service as well as individuals serving as supplemental staff such as contract employees. The chapter addresses conduct both in and outside of the workplace if it is of a nature which may affect the work environment. Each agency will implement a procedure to ensure both the process and policy outlined in this chapter are met.

Sec. 440.020 Statutory and Other Authority¹

1. Section 230.04 (13m), Wis. Stats. provides in part “[t]he administrator shall establish standards for progressive discipline plans...The standards established under this subsection shall allow an appointing authority to accelerate progressive discipline if the inadequacy, unsuitability, or inferiority of the personal conduct or work performance for which an employee is being disciplined is severe.”
2. “It is just cause to remove, suspend without pay, discharge, reduce the base pay of, or demote an employee without imposing progressive discipline for any of the following conduct. 1. While on duty, harassing a person.....” s. 230.34(1)(a), Wis. Stats.

¹ Bracketed language in the following citations reflects edits to provide for gender neutral language.

3. “Subject to ss. 111.33 to 111.365, no employer, labor organization, employment agency, licensing agency, or other person may engage in any act of employment discrimination as specified in s. 111.322 against any individual on the basis of age, race, creed, color, disability, marital status, sex, national origin, ancestry, arrest record, conviction record, military service, use or nonuse of lawful products off the employer’s premises during nonworking hours, or declining to attend a meeting or to participate in any communication about religious matters or political matters.” Wisconsin Fair Employment Act, s. 111.321, Wis. Stats.
4. “It shall be unlawful for an employer (1) to fail or refuse to hire or to discharge any individual or otherwise discriminate against any individual with respect to [their] compensation, terms, conditions, or privileges of employment, because of such individual’s age; (2) to limit, segregate, or classify [the]employees in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect [their] status as an employee, because of such individual’s age; or (3) to reduce the wage rate of any employee in order to comply with this Act.” Age Discrimination in Employment Act, 29 U.S.C. s. 623.
5. “No otherwise qualified individual with a disability in the United States, . . . , shall, solely by reason of [their] disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance, or under any program or activity conducted by an Executive agency...” Section 504 of the Rehabilitation act of 1973, as amended, 29 U.S.C. s. 794(a).
6. “No covered entity shall discriminate against a qualified individual on the basis of a disability in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment.” Americans with Disabilities Act., 42 U.S.C. s. 12112.
7. “An employer may not discriminate in employment against or take any adverse employment action against any person because such person (1) has taken an action to enforce a protection afforded any person under this chapter; (2) has testified or otherwise made a statement in or in connection with any proceeding under this chapter; (3) has assisted or otherwise participated in an investigation under this chapter, or (4) has exercised a right provided for in this chapter. The prohibition in this subsection shall apply with respect to a person regardless of whether that person has performed service in the uniformed services.” Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. s. 431.1.
8. “It shall be an unlawful employment practice for an employer— (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to [their] compensation, terms, conditions, or privileges of employment, because of such individual’s race, color, religion, sex, or national origin; or (2) to limit, segregate, or classify [the]employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect [their] status as an employee, because of such individual’s race, color, religion, sex, or national origin.” Title VII of the Civil Rights Act of 1964, 42 U.S.C. ss. 2000e-2.
9. “It shall be an unlawful employment practice for an employer— (1) to fail or refuse to hire, or to discharge, any employee, or otherwise to discriminate against any employee with respect to the compensation, terms, conditions, or privileges of employment of the employee, because of genetic information with respect to the employee; or (2) to limit, segregate, or classify the employees of the employer in any way that would deprive or tend to deprive any employee of employment opportunities or otherwise adversely affect the status of the employee as an employee, because of genetic information with respect to the employee.” Genetic Information Nondiscrimination Act, 42 U.S.C. ss. 2000ff-1.
10. “WHEREAS, it is the expressed policy of my administration that the executive branch should prevent discrimination and harassment against any class of citizens because of age, race, religion, color, disability, sex, physical condition, developmental disability, military or veteran status, sexual orientation, gender identity or expression, national origin, marital or familial status, genetic information, or political

affiliation...” 2019 Executive Order 1, Relating to Prohibiting Discrimination In State Employment — January 7, 2019

11. “The Department of Administration shall prepare a nondiscrimination policy applicable to all agencies under the jurisdiction of the Governor, which includes specific language prohibiting discrimination, sexual harassment, and harassment based on membership in any of the above classes and an internal complaint procedure that remains continuously in effect. The policy shall specify that discrimination based on any of the above -named classes and sexual harassment or harassment based on membership in any of the above classes is a form of misconduct and anyone who is found to have violated the policy of nondiscrimination and non -harassment will be subject to discipline, up to and including termination of employment.” 2019 Executive Order 1, Relating to Prohibiting Discrimination In State Employment — January 7, 2019

Sec. 440.030 Respectful Workplace Policy

The State of Wisconsin is committed to promoting a respectful workplace and does not tolerate conduct or behavior that is bullying, discriminatory, harassing, or retaliatory in nature, regardless of whether the behavior is linked to a protected class or status. Violation of this policy is prohibited specifically by State of Wisconsin work rules and may result in disciplinary action. (See [Chapter 410 – Employee Work Rules and Discipline Procedure](#) of the *Wisconsin Human Resources Handbook* for more information.) All complaints are taken seriously and will be reviewed and addressed. A complaint may be referred by HR to another source for consideration if the issue or complaint does not fall within the purview of this policy.

The State will not tolerate acts of retaliation against anyone who, in good faith, reports, assists another individual with reporting, or participates in fact-finding or investigation of suspected violations of this handbook chapter.

This policy is not intended to create any legal cause of action not provided under current law or to limit the State’s ability to effectively direct and manage its employees. Nor is this policy intended to create legally enforceable protections or in any way alter the protections under state or federal equal employment opportunity laws.

Sec. 440.040 Definitions and Acronyms

The following are definitions of terms used in this handbook chapter.

1. **Appointing Authority/Designee:** The chief administrative officer of an agency unless another person is authorized to appoint subordinate staff in the agency by the constitution or statutes. See ss. 230.03(4) and 230.06, Wis. Stats.
2. **Arrest Record:** “Includes, but is not limited to, information indicating that an individual has been questioned, apprehended, taken into custody or detention, held for investigation, arrested, charged with, indicted or tried for any felony, misdemeanor or other offense pursuant to any law enforcement or military authority.” s. 111.32(1), Wis. Stats.
3. **Bureau of Equity and Inclusion:** The Bureau of Equity and Inclusion (BEI) within the Division of Personnel Management of the Department of Administration responsible for providing consultation on all respectful workplace matters for all agencies.
4. **Bullying:** A pattern of inappropriate behavior that is deliberate or intentional, using words or actions that cause fear, intimidation, or harm, conducted by one or more persons against others in the workplace and/or in the course of employment. Bullying may negatively impact a person’s well-being or work performance. It includes, but is not limited to, stalking, cyberbullying, intimidating, belittling, humiliating, coercing, name-calling, taunting, making threats, spreading rumors, hazing, or shunning an individual.

5. **Climate Assessment:** A series of comprehensive interviews designed to assess and identify strategies to address climate issues of staff in a specific work area requested by the appointing authority or designee. Interviews with staff can either be required or voluntary. Interviewers provide time for staff to provide all information they would like to share regarding the climate but are not seeking evidence for any specific allegation. Information is compiled into a report tracking common themes or feelings among staff to protect the confidentiality of those who participate. Climate assessments may lead to further fact-finding or investigation.
6. **Conviction Record:** “Includes, but is not limited to, information indicating that an individual has been convicted of any felony, misdemeanor or other offense, has been adjudicated delinquent, has been less than honorably discharged, or has been placed on probation, fined, imprisoned, placed on extended supervision or paroled pursuant to any law enforcement or military authority.” s. 111.32(3), Wis. Stats.
7. **Creed:** “A system of religious beliefs, including moral or ethical beliefs about right and wrong, that are sincerely held with the strength of traditional religious views.” s. 111.32(3m), Wis. Stats.
8. **Developmental Disability:** A disability attributable to intellectual disability, cerebral palsy, epilepsy, autism, or another neurological condition closely related to an intellectual disability or requiring treatment similar to that required for individuals with an intellectual disability, which has continued or can be expected to continue indefinitely, substantially impairs an individual from adequately providing for their own care or custody, and constitutes a substantial handicap to the afflicted individual. The term does not include dementia that is primarily caused by degenerative brain disorder. See ss. 51.01(5) and 54.01(8), Wis. Stats.
9. **Disability:** A physical or mental impairment which makes achievement unusually difficult, limits the capacity to work, or substantially limits one or more of the major life activities of an individual. A disability is said to exist when record is made of such an impairment, or the individual is perceived as having such an impairment. See s. 111.32(8), Wis. Stats. and the 1990 Americans with Disabilities Act (ADA).
10. **Discrimination:** “Unlawful actions or practices which constitute unequal or different treatment of, or create an unequal or different effect on an individual or group of people, on the basis of age, race, creed or religion, color, handicap, sex, marital status, national origin or ancestry, political affiliation, arrest or conviction record, sexual orientation, or other bases specified under *subch. II of ch. 111, Stats.* Disparate treatment of employees is based on factors not related to qualifications, skills, or performance.” s. ER 1.02(9), Wis. Adm. Code.
11. **Equity and Inclusion (EI) Designee:** An agency human resources employee with the authority and training to facilitate the agency intake and fact-finding process.
12. **Equity and Inclusion (EI) Officer:** An agency human resources employee with the authority, training, and primary responsibility to oversee and respond to agency Respectful Workplace Complaints, issues or requests.
13. **Fact-Finding:** A formal process undertaken when the facts gathered at an intake interview require witnesses to be interviewed or further information to be gathered.
14. **Familial Status or Family Status:** A person meeting any of the following conditions regardless of the person's marital status: a person is pregnant; a person is in the process of securing sole or joint legal custody, periods of physical placement or visitation rights of a minor child; a person's household includes one or more minor or adult relatives; a person's household includes one or more adults or minor children in their legal custody or physical placement or with whom they have visitation rights; or a person's household includes one or more adults or minor children placed in their care under a court order, under a guardianship or with the written permission of a parent or other person having legal custody of the adult or minor child.
15. **Gender Identity:** A person's internal sense of being male, female, some combination of male and female, or neither male nor female.

16. **Gender Expression:** The physical and behavioral manifestations of one’s gender identity.
17. **Genetic Information:** With respect to any individual, information about such individual’s genetic tests, the genetic tests of family members of such individual, and the manifestation of a disease or disorder in family members of such individual.; “genetic information” includes, with respect to any individual, any request for, or receipt of, genetic services or participation in clinical research which includes genetic services, by such individual or any family member of such individual. The term “genetic information” does not include information about the sex or age of an individual. 42 U.S.C. s. 2000ff (4)
18. **Harassment:** Unwelcome verbal, physical, or visual conduct that is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.
19. **Honesty Testing:** “The practice of requiring employees or prospective employees to submit to a test administered by means of a lie detector, as defined in statute 111.37(1)(b) is unfair, the practice of requesting employees and prospective employees to submit to such a test without providing safeguards for the test subjects is unfair, and the use of improper tests and testing procedures causes injury to the employees and prospective employees.” s. 111.37(1)(b), Wis. Stats.
20. **Hostile Work Environment:** A pattern of offensive, abusive, or unwelcome conduct which is severe or pervasive enough that it alters the conditions of employment or creates a work environment that a reasonable person would find offensive or intimidating.
21. **Intake Interview:** A preliminary meeting or discussion with an employee following the receipt of a verbal or written complaint to clarify the nature of the allegation(s), hear the details of the complaint, and gain an understanding of the relief desired by the complainant.
22. **Marital Status:** The status of being married, single, divorced, separated, or widowed. s. 111.32(12), Wis. Stats.
23. **Mediation:** A form of alternative dispute resolution in which a neutral third-party guides two individuals through a voluntary process to resolve workplace issues or disagreements.
24. **Military Service:** “Service in the U.S. armed forces, the state defense force, the national guard of any state, or any other reserve component of the U.S. armed forces.” s. 111.32(12g), Wis. Stats.
25. **Physical Condition:** The condition or state of the body or bodily functions.
26. **Protected Class or Protected Status:** Any of the protected groups outlined in state or federal law, including age (40+ only), ancestry, race, color, arrest or conviction record, creed, religion, disability, physical condition, developmental disability, marital or familial status, genetic information, military service, national origin, sex, or gender, (including pregnancy and gender identity or expression), sexual orientation, political affiliation, or use or nonuse of lawful products.
27. **Retaliation:** Adverse action taken or a threat to take an adverse action against anyone who, in good faith, reports, assists another individual with reporting, or participates in fact-finding or investigation of suspected violations of this policy.
28. **Sexual Harassment:** “Unwelcome sexual advances, unwelcome requests for sexual favors, unwelcome physical contact of a sexual nature or unwelcome verbal or physical conduct of a sexual nature. ‘Sexual harassment’ includes conduct directed by a person at another person of the same or opposite gender. ‘Unwelcome verbal or physical conduct of a sexual nature’ includes but is not limited to the deliberate, repeated making of unsolicited gestures or comments of a sexual nature; the deliberate, repeated display of offensive sexually graphic materials which is not necessary for business purposes; or deliberate verbal or physical conduct of a sexual nature, whether or not repeated, that is sufficiently severe to interfere

substantially with an employee's work performance or to create an intimidating, hostile or offensive work environment.” s. 111.32(13), Wis. Stats.

29. **Sexual Orientation:** “Having a preference for heterosexuality, homosexuality or bisexuality, having a history of such a preference or being identified with such a preference.” s. 111.32(13m), Wis. Stats.
30. **Support Person:** A person providing support to an employee during an intake and/or fact-finding interview. A support person can be a family member, friend, or co-worker, who does not present a conflict of interest as determined by management.
31. **Veteran:** “The state of Wisconsin recognizes, as veterans, the men and women of Wisconsin who served on active duty in the U.S. armed forces or in forces incorporated in the U.S. armed forces, the men and women who served in a reserve unit of the U.S. armed forces, and the men and women who served in the national guard.” s. 45.001, Wis. Stats.

Sec. 440.050 Roles and Responsibilities

Employees: All employee are responsible for discouraging and refraining from participating in any conduct which violates this policy. Employees are expected to:

- report any incidents of such conduct using the complaint procedures outlined in this policy; and
- cooperate in any fact-finding interviews which arise from a complaint based on this policy.

Any employee is entitled to file a formal complaint with the Department of Workforce Development Equal Rights Division (ERD), the U.S. Equal Employment Opportunities Commission (EEOC) or any other formal complaint mechanism.

Contractors and Volunteers: Contractors and volunteers are responsible for discouraging and refraining from participating in any conduct that violates this policy and reporting violations of this policy. Contractors and volunteers who violate this policy will be referred to their employer or coordinator.

Management: Members of management are expected to maintain workplaces free from bullying, discriminatory, harassing and/or retaliatory behaviors. Members of management are responsible for:

- treating all employees fairly and consistently;
- being aware of workplace behavior. The legal standard requires management to act whether they know or should have known of prohibited behaviors;
- intervening when they observe conduct that they reasonably believe violates this policy;
- reporting all instances of such inappropriate behaviors to their EI Officer/designee or human resources as soon as possible;
- reporting, documenting and following up on allegations in consultation with the EI Officer/designee when they are made aware of unwelcome behavior. This responsibility exists for verbal and written complaints, whether the employee wishes to pursue the allegation(s), or whether the employee specifically uses the terminology outlined in this policy or not;
- enacting appropriate corrective actions up to and including termination; and
- notifying their appointing authority when an employee reports possible criminal activity related to this policy, which may include but is not limited to hate crimes, sexual contact, stalking, and battery.

Members of management are prohibited from:

- discouraging a person from reporting concerns related to this policy;
- requiring adherence to a chain of command to bring concerns forward; and
- failing to act when a complaint or concern is brought to their attention.

Equity and Inclusion (EI) designee: Agency-assigned EI designees may be responsible for:

- managing the complaint process to ensure complaints are handled consistently, efficiently, and timely;

- receiving complaints, conducting intake interviews and/or fact findings, and/or delegating such to appropriate personnel;
- providing the EI Officer with recommendations for corrective action.

Equity and Inclusion (EI) Officer: Agency EI Officer/Office is responsible for:

- monitoring the confidential complaint mailbox;
- reviewing all complaints to ensure complaints are handled appropriately and consistently;
- providing recommendations for corrective action;
- conducting intake interviews and/or fact findings;
- providing resources, assistance, and training to employees and managers;
- identifying specific respectful workplace trends and areas of concern within the agency; and
- communicating trends and concerns to BEI for review and consultation.

Appointing Authority: In addition to the management roles and responsibilities, appointing authorities are responsible for:

- providing a confidential electronic mailbox for submission of employee complaints;
- transparency and proactive management of workplace issues;
- ensuring cooperation with the process, reviewing findings, and making final decisions on the course of corrective action, if warranted;
- ensuring written notification of any corrective action(s) taken, including that implementation timelines are followed; and
- ensuring the complaint process is administered fairly and consistently for all employees.

Bureau of Equity and Inclusion (BEI): BEI provides consultation on all respectful workplace matters for all agencies. **BEI's assistance in conducting investigations and fact-finding interviews for an agency may be requested by a DPM Enterprise EI Officer/Designee or Human Resources Manager. BEI assistance may be appropriate when:**

- a conflict of interest is present involving the human resource staff assigned to the agency;
- high profile infraction/s may result in significant public interest;
- conduct may involve egregious violations;
- high-level individual/s are the subject of the investigation;
- it is a highly complex case or unique circumstance as discussed with BEI; or
- there are limited agency staff experienced in conducting staff investigations or in the particular subject area.

In addition, BEI is responsible for:

- writing policies and overseeing the complaint processes;
 - monitoring and periodically reviewing agency cases to ensure compliance with the policy and procedure;
 - investigating and responding to identified respectful workplace trends and concerns;
 - ensuring regions and agencies are complying with statewide respectful workplace policies and procedures;
- and
- aiding in the training of EI Officer/designees.

Sec. 440.060 Complaint Procedure

The complaint procedure provides a mechanism for employees to raise concerns about behaviors defined by this policy when committed by an employee or contractor of the State of Wisconsin. Employees and management are expected to be proactive and to seek the advice of the assigned EI Officer/designee to discuss any concerns related to this policy. All concerns will be addressed, but not all complaints will result in a formal intake or fact-finding. Some issues brought forward by employees to management or the EI Officer/designee may be resolved in an alternative manner. All efforts will be made to ensure that information collected remains confidential. Any information that is disclosed will be on a need-to-know basis only.

Complaint Filing

Employees who believe they have been subject to discrimination, harassment, hostile work environment, or any form of unwelcome behavior are encouraged to first talk to the individual(s) who is/are causing the issue to stop the behavior to which they object. If the employee is not comfortable talking to the individual(s), the behavior objected to does not stop, or if there appears to be retaliatory behavior, employees are expected to report the behavior to a member of management, human resources, or their EI Officer/designee as soon as possible at which time the employee may be advised to complete and file the Respectful Workplace Complaint Form ([DOA-15812](#)). See Attachment #1.

To file a complaint related to this policy, employees should complete [DOA-15812](#) and submit it electronically to any member of management, EI Officer/designee, or HR Manager. Employees may contact any of the above if they need assistance completing the form. If an employee does not want to fill out the form, a member of management or the EI Officer/designees will complete the form to document the employee's concern. If the form is completed by a member of management, it must immediately be forwarded to the EI Officer/designee for complaint review.

Complaint Review

It is the responsibility of the EI Officer/designee to conduct a review of the written complaint within five business days to clarify the nature of the allegations, examine the details of the incident(s) reported, and gain an understanding of the relief desired by the individual. If the Respectful Workplace Complaint Form is incomplete or the information included on the form is insufficient, the EI Officer/designee may request additional information from the complainant. Details of complaints reported to a member of management or anyone other than the EI Officer will be shared with the EI Officer to determine whether an intake is warranted.

If there is no evidence to support pursuing the complaint with an intake, the case can be closed as described in the closing section of this policy. If the matter presents unique sensitivity or a conflict of interest, the EI Officer should refer the complaint to BEI for further review.

Intake Interview

It is the responsibility of the EI Officer/designee to schedule and conduct the interview or assign it to a member of management trained in conducting intakes. The purpose of the intake interview is to clarify the nature of the allegations. The intake should take place at a time and location comfortable for the complainant, preferably within two weeks of receipt of the complaint. A written document outlining important complaint process information and reference and referral options (Attachment #3) will be shared

and discussed with the complainant. The complainant may have a support person of their choosing attend the intake meeting for moral support.

The interviewer will obtain pertinent information referencing the Respectful Workplace Checklist, ([DOA-15814](#)). See Attachment #2. The interview will be documented in a question/answer format. After an intake is completed, the EI Officer/designee will determine whether enough information has been disclosed to support closing the case. For further information on this, please see the closing section of this policy. If more information is needed, the EI Officer/designee will continue with fact-finding.

Fact-Finding

It is the responsibility of the EI Officer/designee to schedule and conduct interviews with witnesses and/or respondents for the purpose of gathering additional facts. The fact-finding interviews should take place at a time and location comfortable for those interviewed, preferably within thirty days of receipt of the complaint. A written document outlining important complaint process information and reference and referral options (Attachment 3) will be shared and discussed with the witnesses and/or respondents. Employees participating in a fact-finding may have a support person of their choosing attend their interview. Interviewer(s) will document interviews in the question/answer format.

Information collected during the fact-finding process will be reviewed by the EI Officer and other members of management as deemed necessary. A determination will be made whether the information collected calls for closing the case or referring it for further action, such as a disciplinary investigation.

Closing

To close the case, a determination must be made as to whether the information collected is sufficient or insufficient to support a finding that the actions of the respondent(s) violated this policy.

All complaint closures will include a written summary. The summary should be completed within 60 days from the receipt of the complaint and shall include responsive action if appropriate. Responsive action may include, but is not limited to, informal resolution, training, climate assessment, or disciplinary investigation.

All complaints will be reviewed by the agency designated EI Officer or HR Manager before final disposition.

The complainant will be notified in writing when the intake/fact-finding process has been completed and the file has been closed. Other participants will be notified as appropriate.

The EI Officer/designee will ensure that responsive action has been taken by following up with HR, management, or other affected parties.

Sec. 440.070 Disciplinary Investigations

If at any time during the complaint process it is determined that State of Wisconsin work rules may have been violated, the complaint will be forwarded to the appointing authority/designee to be assigned for a disciplinary investigation. Information obtained during the intake and/or fact-finding process may be used in the disciplinary investigation. Employees may also be interviewed again to ensure due process is met. Disciplinary investigations will be conducted pursuant to [Wisconsin Human Resources Handbook Chapter 412](#).

Sec. 440.080 Enterprise Mediation Services

Some employee issues, concerns, or disputes may be resolved outside of the complaint process through the Enterprise Mediation Services. This process is available for employees to use to resolve workplace disputes. Bulletin [DPM-0529-EI](#) provides further information.

Sec. 440.090 Additional Resources

Employees have the right to file a formal complaint of discrimination, harassment, or retaliation at any time by contacting either, or both, of the agencies below. If a case is opened with either agency, the State of Wisconsin will provide information as requested.

State of WI, Dept. of Workforce Development Equal Rights Division 201 E. Washington Ave., Room A100 P.O. Box 8928 Madison, WI 53708 (608) 266-6860 https://dwd.wisconsin.gov/er	U.S. Equal Employment Opportunity Commission (EEOC) 310 West Wisconsin Avenue, Suite 800 Milwaukee, WI 53203-2292 (414) 297-1111 http://www.eeoc.gov/
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Sec. 440.100 Administrative Information

This chapter was issued in July 2020 to establish an internal complaint procedure relating to discrimination, sexual harassment, and harassment. This chapter was amended in December 2021 to address clarification in procedure and classification title changes.

ATTACHMENT #1

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL MANAGEMENT
101 E. Wilson, 4th Floor
DOA – 15812 (R05/2021)



Wis. Stats. s. 111.321
Wis. Stats ss. 230.04 (13m) & 230.34 (1)(a)
2019 Executive Order 1

RESPECTFUL WORKPLACE COMPLAINT

Instructions: To file a complaint under the *Wisconsin Human Resources Handbook Chapter 440 – Respectful Workplace Policy and Complaint Procedure*, complete this form and submit it to your Equity and Inclusion (EI) Professional or a member of management.

By completing this form, I acknowledge that the information contained within the complaint is complete and truthful.

Contact your EI professional if you need assistance completing this form. If completed by hand, submit additional pages as needed.

Complaint Information	
Complainant Name	Date Submitted
Job Title	Immediate Supervisor Name
Agency/Division/Institution	
Preferred Phone Number	Preferred Email Address
Preferred Mailing Address	

Complaint Details		
1. Basis for Complaint: <input type="checkbox"/> Bullying <input type="checkbox"/> Discrimination <input type="checkbox"/> Harassment <input type="checkbox"/> Hostile Work Environment <input type="checkbox"/> Retaliation		
2. Check the categories (if any) that you believe may have contributed to the incident(s) in your complaint.		
<input type="checkbox"/> Race	<input type="checkbox"/> Sex or Gender Identity/Expression	<input type="checkbox"/> Veteran Status or Military Service
<input type="checkbox"/> Color	<input type="checkbox"/> Sexual Orientation	<input type="checkbox"/> Arrest/Conviction Record
<input type="checkbox"/> National origin (ancestry)	<input type="checkbox"/> Pregnancy or Birth of a Child	<input type="checkbox"/> Genetic Testing
<input type="checkbox"/> Age (40+ only)	<input type="checkbox"/> Marital or Familial Status	<input type="checkbox"/> Honesty testing (polygraph)
<input type="checkbox"/> Religion (creed)	<input type="checkbox"/> Disability	<input type="checkbox"/> Political Affiliation
<input type="checkbox"/> Physical Condition	<input type="checkbox"/> Developmental Disability	
<input type="checkbox"/> Use or nonuse of lawful products off-site during nonworking hours	<input type="checkbox"/> I filed a discrimination complaint previously	<input type="checkbox"/> I participated in an investigation or fact-finding
<input type="checkbox"/> My employer thinks I participated in a complaint or investigation	<input type="checkbox"/> I opposed discrimination in the workplace	<input type="checkbox"/> I declined to participate in religious or political matters.
<input type="checkbox"/> Other:		

3. Provide a brief description of each incident that you believe violated the Respectful Workplace Policy and Complaint Procedure (WHRH Chapter 440). Include the nature of the complaint, date the incident(s) occurred, the person(s) who engaged in the behavior, their relationship to you, your reaction to the incident(s), and a list of witnesses who you feel would be able to confirm your allegation(s) or who may have experienced similar treatment.

ATTACHMENT #1 Cont.

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4. Have you, or anyone else, asked the person engaging in this unwelcome behavior to stop the behavior?
 Yes No
If yes, explain who asked, when, what was stated, and what the response was.

-
5. Have you attempted to resolve your concerns before filing this complaint?
 Yes No
If yes, describe all efforts you have made. Please include the dates, the person(s) you involved (e.g., a supervisor, HR, etc.), the manner (e.g., written, verbal, email, etc.) and their response to your concerns.

-
6. Have you filed any other complaints either within your agency or externally (e.g., ERD, EEOC, etc.) related to issues or persons referenced in this complaint?
 Yes No
If yes, list the date and agency with which you filed the complaint.

-
7. How do you think this issue could be resolved?

FOR OFFICE USE ONLY

Date Received:	Received By (name and title):
Completed by (if other than complainant)	
Complaint Number:	

ATTACHMENT #2

STATE OF WISCONSIN
DEPARTMENT OF ADMINISTRATION
DIVISION OF PERSONNEL MANAGEMENT
101 E. Wilson, 4th Floor
DOA – 15814 (R50/2021)



Wis. Stats. s. 111.321
Wis. Stats ss. 230.04 (13m) & 230.34 (1)(a)
2019 Executive Order 1)

RESPECTFUL WORKPLACE INTERVIEW CHECKLIST

Instructions: This checklist is a guideline for use after a complaint (DOA – 15812) has been completed and an intake has been assigned by an Equity and Inclusion (EI) Professional.

Complainant Name _____

Date Complaint Reported _____

Date of Intake Interview _____

Interviewer Name _____

Complaint Number _____

PRIOR TO THE INTAKE INTERVIEW

- Review the complaint documents if submitted by complainant
- Establish an appropriate place and time to meet with the complainant
- Make arrangements to have a support person present (if requested)
- Prepare interview questions (all notes should be taken in a question/answer format)

AT THE INTAKE INTERVIEW

- Provide and discuss the Respectful Workplace Complaint Information guide
- Clarify and gather additional information by reviewing all sections of the complaint form
- Obtain:
 - Name of respondent(s)
 - Names of witnesses and information that they can provide
 - Relevant documents including memorandums, letters, e-mails, etc., to support the complaint
 - How the alleged behavior is connected to their membership in a protected class, if applicable
- Clarify complainant's connection between allegations and membership in a protected class, if applicable
- Explore possible alternate resolutions
 - Conflict resolution meeting with the respondent
 - Mediation
 - Reasonable accommodations
 - FMLA
 - EAP

AFTER THE INTAKE INTERVIEW

- Prepare notes for file (question/answer format)
- Prepare a Findings Summary (typed)

ATTACHMENT #2 Cont.

RESPECTFUL WORKPLACE INTAKE COVER PAGE

FORWARD ALL OF THE FOLLOWING INFORMATION TO THE EI/HR PROFESSIONAL

- DOA-15812 Complaint Form
- Interview notes in question/answer format
- Findings Summary
- Other relevant documents, including evidence supplied by the individual

EI OFFICER/DESIGNEE REVIEW

Review all intake information to determine if:

- there is a link to protected status
- a disciplinary investigation is needed (link to protected status or other work rule violations)
- the issue should be addressed through job instruction and performance
- training is necessary
- fact-finding is necessary

State of Wisconsin Respectful Workplace Complaint Information

Employees who believe they are subjected to harassment, discrimination, bullying, retaliation or hostile work environment, as defined by *Wisconsin Human Resources Handbook* Chapter 440, may file a Respectful Workplace Complaint. It is the State of Wisconsin's policy to encourage early discussion and resolution of developing issues to foster a positive, respectful workplace.

- Information brought forward in a complaint or intake interview is covered by limited confidentiality and may be subject to open records requests, or shared with the appointing authority or certain staff in the Department of Administration, on a need-to-know basis.
- To maintain the integrity of this matter, we ask that those interviewed refrain from discussing it with others in the workplace.
- Those interviewed are required to provide complete and truthful statements.
- If information provided in this interview reveals a potential work rule violation by any state employee, that information may also be used in a disciplinary investigation.
- The complainant will be notified in writing regarding the outcome of the complaint. Other participants will be notified as appropriate. Specific actions taken may not be shared with parties to the complaint process.
- Retaliation is not tolerated. If employees interviewed believe they are experiencing any form of retaliation for cooperating in the complaint process, they should report it to an Equity and Inclusion (EI) Officer, HR Manager, or member of management.
- The State of Wisconsin provides a progressive, confidential Employee Assistance Program to assist with any work-life matters.

Employees have the right to file a formal complaint of discrimination, harassment, or retaliation at any time by contacting either, or both, of the agencies below. If a case is opened with either agency, the State of Wisconsin will provide information as requested.

State of WI, Dept. of Workforce Development Equal Rights Division 201 E. Washington Ave., Room A100 P.O. Box 8928 Madison, WI 53708 (608) 266-6860 https://dwd.wisconsin.gov/er	U.S. Equal Employment Opportunity Commission (EEOC) 310 West Wisconsin Avenue, Suite 800 Milwaukee, WI 53203-2292 (414) 297-1111 http://www.eeoc.gov/
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