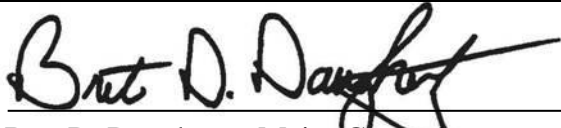




Department Policy No. HR-226-98

Subject:	Anti-Discrimination, Harassment, and Sexual Harassment Policy
Authorizing Source:	Titles VI and VII of the Civil Rights Act of 1964, as amended Section 504 of the Rehabilitation Act of 1973, as amended The Age Discrimination Act of 1975, as amended Employment Act of 1967, as amended The Americans with Disabilities Act of 1990, as amended Washington State Law Against Discrimination, RCW 49.60, as amended Washington State Executive Orders: 89-01, Sexual Harassment; 96-04, Reasonable Accommodation; and 93-07, Equal Employment Opportunity/Affirmative Action Title IX of the Educations Amendments Act of 1972 U.S. Department of Homeland Security, 6 C.F.R. Part 19
Information Contact:	Human Resources Division Director Building #20B (253) 512-6944
Effective Date:	January 1, 1998
Mandatory Review Date:	October 15, 2025
Revised:	October 15, 2021
Approved By:	 Bret D. Daugherty, Major General The Adjutant General Washington Military Department Director

Purpose

The Washington Military Department (WMD) is an equal opportunity employer who is committed to achieving inclusivity and respect in our work environment and ensuring that employees are treated respectfully and are free from discrimination and harassment, including sexual harassment. Additionally, WMD complies with Federal civil rights laws and is committed to providing its programs and services without discrimination.

Scope

This policy applies to all employees, applicants for state employment, contractors, vendors, interns, volunteers (paid or unpaid) including members of Washington State Guard, and all other persons conducting business with the WMD.

Policy

Discrimination, harassment, and sexual harassment of any kind are prohibited by law and will not be tolerated. It is the responsibility of all employees, contractors, and volunteers to foster and maintain a welcoming, inclusive, professional and safe workplace.

Ensuring equal employment opportunity is a vital responsibility for all of us at the WMD. Therefore, it is a violation of policy to:

1. Discriminate in the provision of employment opportunities, benefits, or privileges;
2. Discriminate in the participation and benefits from programs, activities, and services;
3. Create discriminatory work conditions; or
4. Use discriminatory evaluative standards in employment or award of services if the basis of that discriminatory treatment is, in whole or in part, based on membership in a protected class, or retaliation for assisting in the investigation of a complaint.

In addition to the conduct outlined in our respectful work environment policy (Respectful Work Environment HR-266-20), harassment based on a protected class is prohibited. Harassment is when, based on membership in a protected class, an employee must endure offensive conduct as a condition of continued employment, or when the conduct is severe or pervasive to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Types of harassment that fall within this category include, but are not limited to the following:

- Sexual Harassment
- Gender-based Harassment
- Racial and/or Ethnic Harassment
- Age-based Harassment

- Disability-based Harassment
- Sexual Orientation Harassment
- National Origin Harassment
- Religion-based Harassment

For example, regarding sexual harassment, it is prohibited to harass a person (an applicant or employee) because of that person's sex, gender identity or gender expression. WMD will not tolerate sexual harassment of any kind. This includes unwelcome sexual advances, requests for sexual favors, quid pro quo, and other verbal or physical conduct of a sexual nature. Such behavior constitutes sexual harassment when it explicitly or implicitly affects an individual's employment, interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

Sexual harassment is an unlawful employment practice prohibited by Title VII of the Civil Rights Act of 1964 and RCW 49.60. Sexual harassment can occur in a variety of circumstances. The victim as well as the harasser may be any gender. The harasser can be the victim's supervisor, a supervisor in another area, a coworker, a contractor or other agent of the employer, or a nonemployee such as a client or a customer. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct even if unintended by the perpetrator. Behaviors leading to sexual harassment can include, but is not limited to, gestures, innuendos, jokes, inappropriate comments of a sexual nature, unwelcome or unwanted attention, or playful banter.

WMD has established a process for reporting discrimination, harassment, and sexual harassment complaints, and will ensure that all individuals are protected and provided relief from any form of discrimination or sexual harassment in the workplace.

A. Responsibilities

All employees regardless of position are responsible to:

- Read and comply with this policy;
- Request an interpretation of this policy from their supervisor if they are unsure whether any of their behaviors or circumstances may be present or future violation of this policy;
- Treat all other employees in a manner consistent with this policy and without discrimination, harassment, or sexual harassment;
- Consider being an ally for those facing discrimination, harassment, and sexual harassment by courageously speaking up when this behavior is observed and/or report any violations of this policy to their supervisor, their chain of command or Human Resources;
- Take Sexual Harassment Prevention for All Employees within 30 days of hire and at least annually thereafter; and
- Participate in an investigation under this policy when requested.

In addition to the above, all supervisors, managers and leaders at WMD are responsible to:

- Make employees aware of this policy;
- Provide, with appropriate assistance from Human Resources, interpretations to employees regarding potential violations of this policy;
- Lead by example. Create and maintain a workplace free from discrimination, harassment, and sexual harassment;
- Watch for signs and symptoms of violations of this policy (not just for the employees they manage but for the agency) including changes in employee behavior and conduct and be proactive in addressing them when noticed;
- Do not condone or ignore violations of this policy, or give employees the impression that you are;
- Document, report and respond in an appropriate and timely fashion to incidents of discrimination or harassment toward employees, applicants, volunteers, or persons having business with the WMD;
- Promptly notify the Human Resource Office of any complaints received;
- Maintain the confidentiality of all such reports to the extent provided/allowed by law;
- Take Sexual Harassment Prevention for Supervisors training within 30 days of hire and annually thereafter;
- Develop competencies in expectations/evaluations of leaders that evaluate their performance on meeting the directives and goals this and the other Diversity, Equity, Inclusion (DEI) policies; and
- Understand that they are held accountable for the success of this policy and are expected to explain how they work- to comply, achieve and exceed the goals identified in this policy.

B. Failure to Follow Responsibilities

The responsibilities indicated here are not optional and failure to follow them may lead to discipline, up to and including termination.

C. Policy Review Requirements

Leadership will review this policy for effectiveness at least once every three years, unless there is a rule or statutory change necessitating an earlier review, change, or update.

D. Accountability for Executive Leadership

In their responsibility as agency leaders, division directors will be accountable to ensure required training, diversity council participation and inclusionary hiring practices.

E. Reporting/Filing a Complaint

We strongly encourage employees, applicants, volunteers, program beneficiaries or others who have business with WMD who witness discrimination, harassment, sexual harassment, or retaliation to report violations. We recognize that victims and

bystanders who experience or witness this behavior may feel uncomfortable reporting violations. Reporting of this conduct minimizes future violations of this policy and helps maintain a harassment-free work environment.

A complaint alleging discrimination, harassment, including sexual harassment, and/or retaliation should be submitted as soon as possible after the alleged violation occurred to:

Human Resources Division Director (Preferred method)
Washington Military Department
State Human Resources Office
Camp Murray, Building #20b
Tacoma, WA 98430-5006
(253) 512-7940

Violations can also be reported to any WMD supervisor, manager, or executive leader who will refer the complaint to the Human Resources Office.

Complaints shall be in writing and include a description of the act which caused the policy violation including the location and date of the action, as well as the name, address, and phone number of complainants and witnesses if available. Upon request, alternative means of filing complaints such as personal interviews or tape recordings of the complaint will be made available for persons with disabilities.

When an individual comes forward with a complaint, the WMD cannot promise complete confidentiality, due to the need to investigate the issue properly. However, the identity of the complainant, other witnesses and the details of the allegations will be kept as confidential as possible in accordance with state and federal regulations.

F. Written Acknowledgement of Receipt of Complaint

The Human Resources Division Director will provide written acknowledgement, of all complaints filed in accordance with this procedure, within seven (7) calendar days of their receipt. The acknowledgement will identify a point of contact and provide a reasonable time frame for further response to the complainant.

The complainant shall also be informed of the status and outcome of an investigation.

G. Investigation of Allegations

1. The WMD will promptly investigate allegations of discrimination, harassment, sexual harassment, or retaliation.
2. The Human Resources Division Director may determine the need to request the investigation be completed by a neutral, outside party with appropriate investigation skills.
3. All employees shall cooperate in all phases of the investigative process.

4. The investigation of complaints under this procedure shall be conducted in a confidential manner. Any employee who is a participant in the investigation and violates the confidentiality of the investigation where the integrity of the investigation could be compromised may be subject to corrective and/or disciplinary action.
5. Responses to public records requests will be provided in accordance with RCW 42.56.660 and 42.56.675.
6. Where such allegations are substantiated, we will take appropriate corrective or disciplinary action. This process includes support to victims and bystanders.

H. Retaliation

Retaliation or attempted retaliation against employees, applicants, volunteers, program beneficiaries, or other persons having business with WMD who file a complaint under this policy or who participate in an investigation will not be tolerated.

Any employee found to have retaliated against individuals covered by this policy who report allegations of sexual harassment or discrimination or who participate in an investigation will be subject to corrective and/or disciplinary action, up to and including dismissal.

I. Response

1. In accordance with WAC 357-25-027 the WMD has a legal obligation to respond to allegations of behaviors covered by this policy. WMD is committed to responding to promote and ensure an inclusive, respectful, and safe culture.
2. Individuals who are not satisfied with the Human Resources Division Director's response to their complaint may request a review by the Adjutant General (Department Director) or designee. Requests must be submitted in writing within seven (7) calendar days of the Human Resources Division Director's written response. The Adjutant General (Department Director) or designee will review the Human Resources Division Director's response and attempt to seek resolution.
3. The Adjutant General (Department Director) or designee will provide a written response within twenty-one (21) calendar days from the date of receipt.

J. Right to File Complaints to Outside Agencies

All covered persons have the right to file a discrimination, harassment, and/or retaliation complaint with outside agencies such as:

1. The Washington State Human Rights Commission (WSHRC) under RCW 49.60.230 – www.hum.wa.gov, 1-800-233-3247 or
2. The Equal Employment Opportunity Commission (EEOC) under Title VII of the Civil Rights Act of 1964 - www.eeoc.gov, 1-800-669-4000 or 1-844-234-5122 or

3. Homeland Security, Office for Civil Rights and Civil Liberties under Federal civil rights laws – www.dhs.gov/crcl, 1-866-644-8360
4. Represented employees may also file a grievance under their collective bargaining agreement.

K. Discussion and Disclosure

In accordance with state law, an employer in the state of Washington may not require an employee, as a condition of employment, to sign a nondisclosure agreement, waiver, or other document that prevents the employee from disclosing sexual harassment or sexual assault occurring in the workplace, at work-related events or between employees, or between an employer and employee off the employment premises. Any document signed by an employee as a condition of employment that has this effect is void and unenforceable under RCW 49.44.210.

In this section the term "Employee" does not include human resources staff, supervisors, or managers when they are expected to maintain confidentiality as part of their assigned job duties. It also does not include individuals who are notified and obligated to participate in an open and ongoing investigation into alleged sexual harassment and asked to maintain confidentiality during that investigation.

Metrics and Data Points

The following data and criteria will be reviewed at least annually and will be used to determine the success of this policy:

- 100% of employees sign off that they have reviewed and understand the policy and their responsibilities.
- 100% of employees take Sexual Harassment Awareness and Prevention training within 30 days of hire and annually thereafter.
- 100% of leaders have competencies and are rated on their performance towards meeting the objective of DEI and this policy.
- 100% of employees have completed DEI Training, either as sponsored by Department of Enterprise Services (DES) or an equivalent authorized training.

Definitions

Discrimination: Unfavorable or unfair treatment of a person or class or persons in comparison to others who are not members of the protected class, or retaliation for complaints related to discrimination against a protected class.

Harassment: Verbal, nonverbal, or physical conduct that threatens, intimidates, coerces, offends, or taunts another person (including sexual, racial or ethnic slurs) that interferes with the employee's ability to perform their job.

Protected Class: A person's religion, age, sex, status as a breastfeeding mother,

marital status, race, color, creed, national origin, political affiliation, military status, status as an honorably discharged veteran, disabled veteran or Vietnam era veteran, sexual orientation, gender expression, gender identity, any real or perceived sensory, mental or physical disability, genetic information, the participation or lack of participation in union activities, or use of a trained dog guide or service animal by a person with a disability.

Sexual Harassment: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

Retaliation: Adverse action(s) against individuals because they have reported instances of discrimination, harassment or allegations of such conduct, or participated in or have been witnesses in any procedure to address a complaint of discrimination or harassment.