

ITD Policy Compliance

The following ITD policies apply to this contract when the Contractor is performing work at an ITD facility or when using ITD equipment or other property. These policies will remain in force for the duration of the contract:

HARASSMENT IN THE WORKPLACE ADMINISTRATIVE POLICY 5055

Purpose

The purpose of this policy is to implement Board policy 4055 regarding harassment in the workplace.

Legal Authority

Idaho Code 40-314(2) - The Board has authority over all employment matters.

Idaho Code 40-505 - The Director has authority to control, supervise and direct employees, subject to Board oversight.

Idaho Code Title 67 Chapter 59 - Commission on Human Rights

42 United States Code §§ 2000e et seq. - Title VII, Civil Rights Act of 1964 - Prohibition against discrimination by employers.

The Idaho Transportation Department (ITD) does not tolerate unlawful discrimination, harassment, or retaliation of any kind based on race, color, sex, religion, sexual orientation, national origin, age, disability, veteran status, marital status, or political or religious opinions or affiliations. To ensure a harassment-free workplace, all ITD employees are expected to treat others with courtesy, dignity and respect. ITD employees have the right to engage in protected activities and express opposition to prohibited discrimination. Adverse employment actions taken against employees who have exercised these rights will be considered retaliatory.

The Department prohibits any form of harassment and/or retaliation against its employees. ITD is committed to maintaining an environment where individuals report any unlawful harassment or discrimination without harm. All complaints and suspected violations of this policy will be investigated in accordance with ITD's Investigation Policy. ITD will take immediate and appropriate action to correct behaviors that violate this policy. These prohibitions against any form of harassment and/or retaliation against ITD employees extend to third parties, including contractors, vendors and customers.

Harassment

Harassment is a form of unlawful discrimination. It is defined as:

- Any conduct that denigrates or shows hostility or aversion toward an individual and/or group based on race, color, sex, religion, sexual orientation, national origin, age, disability, veteran status, marital status, or political or religious opinions or affiliations, or that of his or her relatives, friends, or associates; or

- Has the purpose or effect of creating a work environment that is intimidating, offensive or hostile to a protected class and/or activity; or
- Has the purpose or effect of impairing an employee's ability to perform his or her job.

Sexual Harassment

Sexual harassment is a specific form of prohibited harassment. Unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature is considered sexual harassment when:

- Submission to the advances or requests are made either explicitly or implicitly a term or condition of an individual's employment; or
- Submission to, or rejection of such conduct by an individual is used as the basis for employment decisions; or
- The conduct of a sexual nature has the potential to unreasonably interfere with an individual's work performance or to create an intimidating, hostile, or offensive work environment.

The sex of the persons involved in sexual harassment is irrelevant. Sexual harassment may take many different forms and includes, but it is not limited to, the following:

- Verbal: Sexual innuendoes; sexually suggestive comments; sexual jokes; personally abusive remarks of a sexual nature; sexual propositions; threats; persistent and unwelcome requests for social contact; unwelcome requests for sexual favors; obscene letters, phone calls or e-mails; offering or implying a reward or threat concerning work assignments, performance reviews, discipline, promotions, or other terms or conditions of employment in exchange for sexual favors.
- Non-Verbal: Display or distribution of sexually suggestive material, objects or pictures; sexually graphic commentaries; suggestive or insulting sounds, leering, or whistling; obscene gestures, motions or movements.
- Physical: Any unwelcome physical contact, including touching, pinching or brushing the body; blocking the movements of another; coerced sexual intercourse; assault or battery.

Retaliation

Retaliation is defined as taking adverse employment action against an employee for engaging in protected activity. Retaliation by supervisors or retaliatory harassment by co-workers against any employee is strictly prohibited.

- Protected activity includes: opposition to a reasonably perceived or actual unlawful act or practice; participation in a proceeding involving a claimed unlawful act or practice by filing a charge, testifying, or assisting or participating in an investigation, proceeding or hearing; exercising, claiming or asserting a protected right; requesting a reasonable accommodation; or seeking a benefit.
- An adverse employment action may include, but it is not limited to, dismissal, suspension, transfer, reassignment, disciplinary action, or any other employment action that causes a serious detriment to the employee's employment status. Unchecked retaliatory harassment by co-workers may also be considered an adverse employment action.

Retaliatory harassment by co-workers is defined as any adversarial conduct by a person not in a position to take direct adverse employment action against an employee for engaging in a protected activity.

Retaliatory harassment denigrates or shows hostility or aversion toward the individual because he or she has engaged in the protected activity; or has the purpose or effect of creating an intimidating, hostile or offensive work environment; or has the purpose or effect of unreasonably interfering with an individual's work performance. Retaliation and retaliatory harassment are strictly prohibited.

Employee Responsibilities

All ITD employees share a responsibility to model respectful behavior, maintain a harassment free workplace, and report violations of this policy to Human Resources. Committing violations of this policy or failing to report violations may result in progressive discipline, up to and including dismissal.

ALCOHOL AND DRUG-FREE WORKPLACE ADMINISTRATIVE POLICY 5523

Purpose

The purpose of this policy is to set standards and expectations for an alcohol and drug-free workplace.

Legal Authority:

- Idaho Code 40-314(2) - The Board has authority over all employment matters.
- Idaho Code 40-505 - The Director has authority to control, supervise and direct employees, subject to Board oversight.
- Drug-Free Workplace Act of 1988

The federal Drug-Free Workplace Act of 1988 requires the Idaho Transportation Department (ITD) to annually certify to the Federal Highway Administration that the Department and its federal grantees maintain an alcohol and drug-free workplace. Alcohol and drug misuse in the workplace causes detrimental effects on any organization and the employees. Alcohol and drug misuse impacts morale, lowers productivity and increases health care costs. The use of alcohol or drugs outside of work becomes a matter of concern to the Department when the employee's use interferes with job performance, conduct, attendance, or safety of state employees or others. ITD is committed to maintaining a work environment that is free from alcohol and drug misuse.

Department employees are subject to the following:

- The consumption of alcohol or illegal drugs on the job is strictly prohibited.
- Employees shall not work when their performance is affected by the use of, or if they are under the influence of prescription or over-the-counter drugs.
- The unlawful manufacture, distribution, dispensing, possession or misuse of alcohol or illegal drugs is prohibited in any Department workplace. The workplace is defined as any building, property, vehicle, or equipment owned, leased, or otherwise used to conduct Department business.
- Based on "reasonable suspicion" evidence, as defined in the Human Resources Policy and Procedures Manual, **any** employee who is suspected of being under the influence of alcohol and/ or drugs while performing job-related duties for the Department may be asked to submit to a drug and alcohol test.

Employees who violate the alcohol and drug prohibitions outlined in the Human Resources Policy and Procedures Manual or refuse to submit to a requested drug and/or alcohol test shall be subject to disciplinary action in accordance with the Human Resources Policy and Procedure Manual.

The Human Resource Services office shall sponsor and/or conduct alcohol and drug awareness training for Department employees and provide information concerning counseling, rehabilitation and employee assistance programs.

In accordance with Code of Federal Regulations, Title 49, Parts 40 and 382, a program of alcohol and drug testing shall be required for employees who operate vehicles requiring a Commercial Driver's License (CDL) and will include "safety sensitive" positions such as ITD pilots, mechanics, avalanche teams and incident response vehicle drivers, etc.

Employees covered under the drug and alcohol testing program are subject to the following:

- The use of any controlled substances, unless prescribed for that employee by a person licensed to practice medicine, is prohibited. Prior to operating ITD owned or leased motor vehicles or other motorized equipment, employees shall inform their immediate supervisor if they are taking prescribed drugs or other therapeutic drugs that may impair their ability to operate the vehicle or equipment. CDL employees shall have form ITD 1030, *Physician's Medication Release to Operate a Commercial Motor Vehicle* completed by the CDL employee's prescribing physician and returned to the supervisor. This form shall be sent to the Human Resource Services office to be placed in the confidential Qualified Driver's file.
- Any employee arrested, charged and/or convicted for committing a felony violation of a criminal alcohol or drug statute shall immediately notify their chain of command and the Chief Human Resource Officer. The employee may be placed on suspension without pay in accordance with Division of Human Resources Rule 190.04 *Suspension on Felony Charges* (IDAPA 15.04.01.190). If the employee is convicted, ITD shall consider the conviction's impact on the employee's ability to perform their job duties and take appropriate disciplinary action, up to and including dismissal.

Regardless of the infraction, the employee's privacy rights shall be maintained at all times. Information about a violation of policy shall **not** be shared with co-workers or peers.

A summary of violations of the Alcohol and Drug-Free Workplace policy shall be reported by each division administrator and district engineer to the Chief Human Resource Officer on the first of January, March, July and October. The Chief Human Resource Officer shall compile all violations and report to the Director. Each quarter, the Director shall report to the Idaho Personnel Commission the violations and the corrective actions taken.

The Director shall submit, each August, the annual Idaho Transportation Department Alcohol and Drug-Free Workplace report and certification to the Federal Highway Administration.

COMPUTER, E-MAIL, AND INTERNET USAGE ADMINISTRATIVE POLICY 5510

Purpose

This policy is intended to help all staff and contractors employed by ITD understand the Department's expectations regarding the use of computers, computer applications, electronic messaging, and the Internet.

Authority

ITA Policies P1040, P1050, and P1060

Statewide Policies on Computer, the Internet and Electronic Mail Usage by State Employees

Idaho Protection of Public Employees Act (a.k.a. Whistleblowers Act)

- **Privacy**

The Department reserves the right to review employee, contractor, and interns' use of electronic files, the Internet, and electronic messages at any time and for any reason. Employees, contractors, and interns should be aware that personal privacy is not guaranteed and that the Department may monitor all such usage, including Department computers, smartphones, and tablets. Any unauthorized or inappropriate use discovered during such monitoring activities shall be formally reported to management and the Chief Human Resource Officer for determination of appropriate action.

All electronic files, including e-mail messages, text messages (SMS), and instant messages (IM) are generally retrievable even after they have been deleted. These items are discoverable as "public records" under the Idaho Public Records Law, Idaho Code, sections 9-337 through 9-348, unless specifically exempted from discovery. Therefore, electronic files are subject to inspection and copying by any member of the public.

- **Responsibilities**

All staff, contractors, and interns shall comply with the following Information Technology Authority (ITA) policies as well as this policy at all times, without exception.

P1040, Employee Electronic Mail and Messaging Use

P1050, Employee Internet Use

P1060, Employee Personal Computer Use

- **Employee Responsibilities:** The Department insists that employees, contractors, and their agents conduct themselves appropriately when using State-owned equipment, while utilizing the Internet, and when sending e-mail and other forms of electronic messages; and that they abide by relevant software licensing agreements and copyright rules.

An employee who observes inappropriate or offensive usage of Department computers, smartphones, or tablets, or who receives inappropriate or offensive e-mails, text messages, links to websites, or instant messages should report any incident to a supervisor immediately.

User identification and passwords must be changed regularly, kept confidential, and comply with applicable State standards and policy.

Supervisory and Management Staff Responsibilities: Supervisors are responsible for reviewing these policies with all employees, ensuring employees understand the policies, and providing copies of the signed acknowledgment form to Human Resource Services. Electronic copies of these policies can be found at: <http://ita.idaho.gov/resources.html#policies>.

If inappropriate use is identified, reported, or suspected, supervisors and managers shall inform the Division Administrator and the Chief Human Resource Officer.

- **Disciplinary Actions**

Each offense shall be handled on a case-by-case basis. Disciplinary action shall follow the procedures contained in the Human Resources Policy and Procedure Manual.

Any suspected illegal activity shall be reported to the Division Administrator and Chief Human Resource Officer, who shall notify appropriate law enforcement authorities.

- **Policy Acknowledgment**

All employees who have access to Department computer resources including desktop, laptop, server, tablets, and smartphones shall sign the policy acknowledgment form (5510-SA or 5510-SE) that certifies that they have read, understood, and shall comply with this policy. Employees who refuse to sign the acknowledgment form, shall face disciplinary action up to and including dismissal.

Additionally, a copy of this policy and associated ITA policies shall be given to all new employees as part of the hiring process. This policy shall be re-distributed to all employees for re-acknowledgment every two years at a minimum.

WORKPLACE VIOLENCE ADMINISTRATIVE POLICY 5033

Purpose

The purpose of this policy is to implement Board policy 4033 to direct the Director to establish procedures for any reports of violent incidents.

Legal Authority

Idaho Code 40-314(2) - The Board has authority over all employment matters.

The Idaho Transportation Department is committed to the safety of its employees while at work. Employees who violate any part of this policy may be subject to disciplinary action up to, and including, dismissal.

Prohibited Actions

Workplace violence includes any behavior through communication or physical action that is intended to, or is reasonably expected to threaten, intimidate, or harm another person. These prohibited actions include, but are not limited to:

- Threats of violence, expressed as verbal comments, directly or indirectly expressed in a veiled, bullying, or conditional manner to another person(s).
- Threats of violence that may be communicated through any written or pictorial documentation including computer memorandum(s).
- Physical actions such as hitting, pushing, kicking, holding, impeding, physical gestures, or forcibly blocking the movement of another person(s).
- Brandishing or using a weapon to intimidate, threaten, or harm another person(s).

Workplace Violence Reporting

For the protection of all employees, the immediate supervisor, or the next higher manager (if the concern is with the immediate supervisor) shall notify the Human Resource Services Manager of any workplace violence incident. Employees shall report to their supervisor workplace violence incidents regardless of the nature of their relationship to the individual who initiated the prohibited behavior. Any person who intentionally makes a false report about workplace violence will be subject to disciplinary action up to, and including, dismissal.

All workplace violence incidents that are reported under this policy shall be kept confidential to the extent possible. However, the Department shall act appropriately and prudently, based upon the information received and shall take reasonable steps necessary to protect the physical safety of its employees and others. The Department cannot guarantee anonymity to the person(s) who reported the incident. The identity of any person(s) involved with the reported incident shall only be disclosed to those who have a legitimate need to know.

The Workplace Violence policy **does not preclude** that any employee may contact law enforcement or emergency personnel, at any time, should the incident/behavior warrant immediate intervention by law enforcement personnel.

In the event an incident requires immediate intervention by law enforcement personnel, any involved

party may immediately contact the appropriate law enforcement agencies. When appropriate, the Department shall cooperate and assist with any criminal investigation(s) or prosecution(s) that may result from reported workplace violence incidents.

Discrimination, harassment, or retaliation against any person who reports or responds to workplace violence is prohibited. Interference or obstruction with any investigation by a Department employee is prohibited.