



IDAHO'S 2023 LOCAL TRANSPORTATION CONVENTION

FOSTERING A RESPECTFUL WORKPLACE

Presented by: Lindsay Dressler, ICRMP Risk Manager

Lindsay Dressler

Risk Management
w/ a Focus on
Employment
Practices Liability
(EPL)

Internal
Investigations

Legal Compliance

HR Management



How would
you describe
your agency's
culture?



TRANSPARENT

Connected
Flexible

Motivating

SUPPORTIVE

LEAD BY EXAMPLE

Collaborative

No Drama

EMPOWERING

Inclusive

Professional
Fun

Safety First
CARING

VALUED

Rewarding

FAIR

ETHICAL

Welcoming
Trusting

Like a Family

REWARDING

TOXIC

CLIQUEY

Secretive

Aimless

Playing Favorites

Disengaged

DRIVEN BY FEAR

Siloed

Outdated

POLITICAL

Different Standards

MICROMANAGED

Restrictive

On Edge

TONE DEAF

Hostile

VOLATILE

UNSUPPORTIVE

Negative

Gossipy

INCONSISTENT

BIASED

Stressful

BUREAUCRATIC

Would everyone in your agency describe the culture the same way?



The Costs of a Culture Where Disrespect is Tolerated

- ✓ Lower Morale
- ✓ Higher Turnover
- ✓ More PTO/Mental Health Days
- ✓ Less Buy-in/Disengaged Employees
- ✓ Poor Reputation
- ✓ Less Diversity of Thought
- ✓ Litigation

Does your workplace have a Culture of Respect?



**Adapted from Infographic created by the University of Calgary*

Key Components of a Culture of Respect



Fostering, promoting, and maintaining a workplace culture of respect includes these three key components, at a minimum:

- 1. Setting Expectations:** a clear, comprehensive respectful workplace policy that covers both unlawful behavior *and* the associated “grey area” problematic behavior that is disruptive to the workplace and detrimental to morale and culture. This may also take the form of an official “Code of Conduct.”
- 2. Creating Awareness and Learning:** Training for all employees with additional targeted training for supervisors and managers., ie. “Leading for Respect.”
- 3. Accountability—Support and Response:** Responsive and timely attention to violations of respectful workplace and related complaints.

Setting Expectations



RESPECT IS THE GLUE THAT HOLDS TEAMS AND ORGANIZATIONS TOGETHER.

grievance
Negotiating
Definitions
mental and physical well-being
Prevention
Disruption
gender
race
widespread
ill treatment
Health and safety
policy
rejecting
disability
Protection
conduct
work

law
bullying
counselling
dignity
sexual harassment
support
Victimisation

referral
Harassment
sexual harassment
conduct



Setting Expectations

Defining Respectful Workplace



Every employee of [this agency] is entitled to respectful treatment in the workplace.

A respectful work environment is free from unlawful discrimination and harassment, but it involves more than compliance with the law. It is a work environment that is free of inappropriate or unprofessional behavior--including bullying, intimidation and other inappropriate communications--and consistent with [this agency's] values and culture. In a respectful work environment, employees should feel safe to report workplace concerns without fear of retaliation or reprisal.

Setting Expectations

Defining Respectful Workplace



[Our agency] is committed to a work environment where all individuals are treated with dignity and respect. Every employee has the right to work in a safe, professional atmosphere that promotes equal employment opportunities and prohibits unlawful conduct including harassment, discrimination, and retaliation.

UNCIVIL

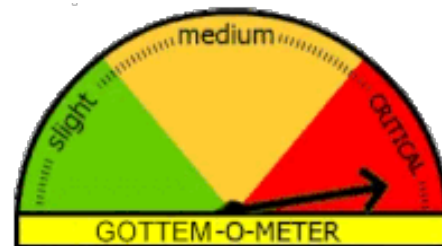
- Rude
- Passive
- Aggressive
- Gossiping
- Gaslighting

MISCONDUCT

- Conduct unbecoming
- Insubordinate
- Disrupting Operations
- Emotional Outbursts

RESPECTFUL

- Friendly
- Collaborative
- Escalating conflict is managed effectively



UNLAWFUL

- Discrimination
- Harassment
- Retaliation

Unlawful Conduct

Discrimination, Harassment & Retaliation

In conversation, people often use the terms discrimination, harassment and retaliation interchangeably to mean unfair and possibly unlawful treatment at work. But each of these terms has a distinct legal meaning.



Discrimination

To "discriminate" against someone means to treat that person differently, or less favorably. Discrimination becomes unlawful when the unfair treatment is based on a protected characteristic or status.

Protected Classes

- Race
 - Color
 - Religion
 - Sex (including pregnancy)
 - National Origin
 - Age (40 and Older)
 - Disability (permanent or temporary)
- Sexual Orientation and Gender Identity (SOGI)*

Harassment

Harassment is a form of employment discrimination.

Harassment is unwelcome conduct in the workplace. The conduct must be serious enough that it interferes with your ability to do your job. One-off or infrequent comments, unless they are truly appalling, are usually not enough to meet this standard.

1.) Quid pro quo: The boss conditions a promotion, continued employment, or other employment benefit on submitting to their misconduct. A single act can be enough to meet this standard.

2.) Severe and pervasive unwelcome conduct (ie. Hostile Work Environment) based on your membership is a protected class. This is not just someone being mean to you because they don't like you and/or you don't get along.

Retaliation

Retaliation occurs when your employer takes an **adverse employment action** against you because you engaged in **protected activity**.

Common Examples of an Adverse Employment Action:

- Firing
- Demotion
- Reassignment
- Leave without pay
- Creating a hostile work environment

Common Examples of Protected Activities:

- Making a complaint of harassment or discrimination
- Taking medical leave or requesting a reasonable accommodation (FMLA, ADA)
- Complaining about being asked to engage in illegal and/or unsafe conduct.
- Asking for unpaid wages.
- Participating in an internal investigation.

Respectful Workplace Policies

Specific Examples of Problematic/Offensive Conduct

- Insubordination, including refusal or failure to carry out assignments or comply with policies, regulations, rules, procedures, and/or directives including oral instructions; failing to use required safety equipment, refusing a work schedule change, reasonable expectations to work overtime or be on-call, or failure to perform duties in a timely manner. This provision does not apply to requests to perform assignments that are unethical or illegal.
- Failure to keep management informed on matters that pertain to and/or affect work related duties, or city business.
- Conduct or speech that violates commonly accepted standards of a professional workplace and that, under present circumstances, has no redeeming social value.
- Any speech or conduct deemed rude, disrespectful, irresponsible, or otherwise inappropriate including, but not limited to, the use of profane, indecent, or abusive language when acting as or identified as a city employee.

**The above was excerpted from the City of Boise's Employee Code of Conduct*

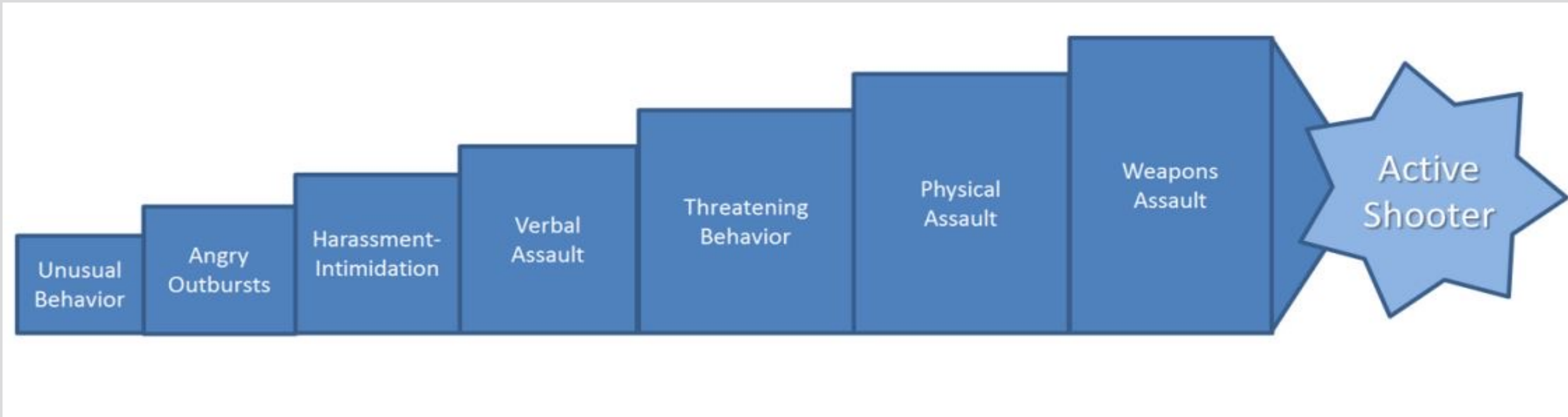
Respectful Workplace Policies

Examples of Problematic/Offensive Conduct Continued...

- Making malicious, vindictive, false, and/or harmful statements about others or engaging in gossip, verbal abuse, altercations, outbursts, name-calling, threats, or ridicule.
- Attempting to intimidate or bully others.
- Inability or refusal to work cohesively and in cooperation with others.
- Any conduct that obstructs, disrupts, or interferes with city business, processes, service, work environment or administrative functions.

**The above was excerpted from the City of Boise's Employee Code of Conduct*

Respectful Workplace Policies Includes Workplace Violence?



Workplace Violence Continuum

**Image Credit: Allied Universal*

Respectful Workplace Policies

Examples of Violent/Potentially Criminal Conduct

“While it is impossible to list every type of conduct that is unacceptable, the following are examples of conduct that may result in disciplinary action, up to and including termination.”

- Threat of harm (direct or indirect) to any city employee, member of the public, city government, operations, or property.
- Physical violence against persons or property.
- Damage or threat of damage to city property, or other property the city controls, regardless of location.

**The above was excerpted from the City of Boise’s Employee Code of Conduct*

Who is Protected?

Applicants, employees and former employees are protected from employment discrimination.

Applicants, employees and former employees are also protected from retaliation for filing a charge or complaint of discrimination, participating in a discrimination investigation or lawsuit, or opposing discrimination (for example, threatening to file a charge or complaint of discrimination).

Respectful Workplace Policy Takeaways

- A **comprehensive** respectful workplace policy outlines both unlawful behavior *and* problematic behavior.
- Many respectful workplace policies also incorporate prohibitions on **workplace violence**, as physical violence falls along a continuum which often begins with abusive language and outbursts.
- Most have a **preamble** summarizing a culture of compliance, inclusion, and zero tolerance for both unlawful and problematic behavior.
- It is helpful to list out **specific examples** of what your agency considers a violation of respectful workplace.
- There should also be some **catch all/general ~ conduct unbecoming language**.
- It's difficult to hold employees accountable and to manage risk, in general, if you don't have comprehensive respectful workplace policies to establish a baseline.

Creating Awareness



Creating Awareness

When and how are you training your employees on respectful workplace?

How is it documented?



Respectful Workplace Training

- All new employees
- As part of an annual compliance training
- As a refresher
- As part of discipline/performance improvement
- Team building exercises
- Remember to document all training and receipt of policies; place forms in personnel file

RESPECTFUL WORKPLACE TRAINING

Sponsored by the Construction and Marine Centers of Excellence



April 21st 4:00-5:30pm

- What does Protected Class mean?
- What are the benefits of a respectful, inclusive workforce?
- What do I do if I experience or know of others being harassed?
- Can I still have fun? (Hint, what's your definition of fun?)

Presenter: Tracy Allen, SHRM-SCP



Policy Manual Receipt Acknowledgment

I acknowledge that I have received a copy of the policy and procedures manual, which describes important information about [Agency Name]. I understand that I should consult the Human Resources Department if I have questions.

I understand and agree that I will read and comply with the policies contained in this manual and any revisions, that I am bound by the provisions contained therein, and that my continued employment is contingent on following those policies.

Employee name (printed)

Employee signature

Date

A copy of this form will be placed in my personnel file

Accountability-Support and Response



**Performance
Improvement
Plan (PIP)**



Accountability

- Coaching
- Performance Reviews
- Progressive Discipline
- Internal Investigations



Scenario

Sandra, 55, is the receptionist for her department. Her boss, Henry, likes to joke with Sandra about them both being “old timers” and he sometimes casually asks her when she’s planning to retire. In the breakroom adjacent to Sandra’s desk, Henry and some of Sandra’s male colleagues often joke and comment on the physical appearance of women they’re talking to on dating apps. Henry complains about wishing his wife still looked like that. They sometimes look over and Sandra rolls her eyes and asks them to knock it off.

Sandra applies for a promotion to Office Manager. Henry instead hires an attractive young woman who was far less qualified than Sandra.

Sandra complains to HR about Henry’s behavior and expresses how upset she is about being passed over for the promotion. HR isn’t discrete about how the complaint is handled and Henry gets wind. After always having stellar performance reviews, Henry gives Sandra a bad performance review. A couple of months later, HR informs Sandra that her department is “reorganizing” and her receptionist position is going away. Thus, they’ll have to terminate her employment

Thoughts?

This is an Example of

- A. Discrimination
- B. Harassment
- C. Retaliation
- D. All Three?

Sandra, 55, is the receptionist for her department. Her boss, Henry, likes to joke with Sandra about them both being “old timers” and he sometimes casually asks her when she’s planning to retire. In the breakroom adjacent to Sandra’s desk, Henry and some of Sandra’s male colleagues often joke and comment on the physical appearance of women they’re talking to on dating apps. Henry complains about wishing his wife still looked like that. They sometimes look over and Sandra rolls her eyes and asks them to knock it off. **HARASSMENT – Pattern of offensive, unwelcome conduct, based on her age and sex.**

Sandra applies for a promotion to Office Manager. Henry instead hires an attractive young woman who was far less qualified than Sandra. **DISCRIMINATION - Based on Age, Over 40.**

Sandra complains to HR about Henry’s behavior and expresses how upset she is about being passed over for the promotion. HR isn’t discrete about how the complaint is handled and Henry gets wind. After always having stellar performance reviews, Henry gives Sandra a bad performance review. A couple of months later, HR informs Sandra that her department is “reorganizing” and her receptionist position is going away. Thus, they’ll have to terminate her employment. **RETALIATION –Adverse Action (Firing) Based on Protected Activity (Complaint to HR.)**

The Costs of Getting it Wrong



Thank You!
Questions?



Member Owned, Member Driven

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