


Category:	Human Resource Admin	INCA Community Services Human Resource Policy 
Sub-Category:	Employee Relations	
Effective Date:	12/01/2012	
Revised Date:	12/01/2019	
Forms:	Employee Grievance Form	
Responsible: Equal Opportunity Officer, Human Resource Director, Supervisors, Management Staff, Executive Director		
Sexual Harassment and Sexual Misconduct Policy		
Policy		
<p>INCA Community Service is committed to the working environment be free from inappropriate conduct of a sexual nature. Sexual misconduct and sexual harassment in any form will not be tolerated and individuals who engage in such conduct will be subject to disciplinary action. It is also applicable regardless of the gender of the complainant or the alleged harasser. INCA considers sexual misconduct and sexual harassment unacceptable and will not tolerate it under any circumstances. Sexual harassment and sexual misconduct includes but is not limited to repeated inappropriate behavior, either direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment. These types of behaviors are strictly prohibited and violates INCA's Code of Ethics.</p>		
Examples of Behavior that could be considered sexual misconduct or sexual harassment		
<ul style="list-style-type: none"> • physical contact of a sexual nature including touching, patting, rubbing, or brushing against a person's body; • explicit or implicit propositions or offers to engage in sexual activity; • comments of a sexual nature, including sexually explicit statements, questions, jokes or anecdotes; remarks of a sexual nature about a person's clothing or body; remarks about sexual activity; speculation about sexual experience; • exposure to sexually oriented graffiti, pictures, posters, or materials; and/or • physical interference with or restriction of an individual's movements. • hugging other people both customers and coworkers that can be deemed offensive or a violation of personal space: <ul style="list-style-type: none"> ○ <u>appropriate hugging</u>: lateral, one armed, with a quick shoulder squeeze, a quick embrace that touches the upper body only and forms an A shape or teepee stance, hugs should last no longer than one or two seconds. ○ <u>inappropriate hugging</u>: any hug that lasts longer than one or two seconds, bear hugs, full body hugs, rubbing someones back up and down, hugs from behind, and clingy hugs. 		
Resolution Options		
<p>A person who believes that he or she has been subjected to discrimination or harassment in violation of this policy and seeks to take action may use either the informal resolution process or</p>		

the formal complaint process or both. The informal resolution and formal grievance resolution process described in this policy are not mutually exclusive and neither is required as a precondition for choosing the other; however, they cannot both be used at the same time.

Informal Resolutions

This process may be used as a prelude to filing a formal grievance or an alternative. It is not necessary that option be used. Anyone who believes that he or she has been subject to sexual harassment or sexual misconduct may immediately file a formal grievance as described under "Resolution Options". An individual wishing to utilize the informal resolution process should contact the appropriate supervisor, and/or Equal Opportunity/ Affirmative Action Officer (EOO) and/or the Human Resource Manager.

Informal Assistance – The individual is provided assistance in attempting to resolve possible sexual harassment or sexual misconduct if the individual does not wish to file a formal grievance. Such assistance includes strategies for the individual to effectively inform the offending party that his or her behavior is unwelcome and should cease. Action should be taken by an appropriate agency management member to stop the unwelcome conduct, or begin mediation. However, the agency may take more formal action to ensure an environment free of sexual harassment or sexual misconduct.

Timeframe – Informal resolutions will be completed in a timely manner from receipt of a request for informal resolution.

Confidentiality and Documentation – The agency shall document informal resolutions and the documentation will be retained by the Human Resource Manager. The agency will endeavor to maintain confidentiality to the extent permitted by law. The agency will attempt to find the right balance between the individual's desire for privacy and confidentiality with the responsibility of the agency to provide an environment free of sexual harassment.

Grievance Procedure

Reporting

- INCA encourages any person who believes that he or she has been subjected to sexual misconduct or sexual harassment to immediately report the incident to the appropriate supervisor, Equal Opportunity Officer or Human Resource Manager. In no case will a complainant be required to report such conduct to the person accused of the misconduct.
- The complainant will be advised of the procedures for filing a formal grievance of sexual harassment or sexual misconduct. When a supervisor or a member of management receives a grievance, he or she will immediately notify the Equal Opportunity Officer and/or the Human Resource Director.
- Grievances should be filled as soon as possible after the conduct giving rise to the grievance, but no later than 180 days after the event occurred.
- In order to initiate the investigation process, the complainant should submit a signed "Employee Grievance Form" with a written statement setting out the details of the conduct that is the subject of the grievance, including the complainant's name, signature, and contact information; the name of the person directly responsible for the alleged violation; a detailed description of the conduct or event that is the basis of the alleged violation; the date(s) and location(s) of the occurrence(s); the names of any witnesses to the occurrence(s); the resolution sought; and, any documents or information that is relevant to the grievance. While an investigation may begin on the basis of an oral grievance the complainant is strongly encouraged to file a written grievance. When a supervisor or a

member of management receives a written grievance, he or she will immediately notify the Equal Opportunity Officer or Human Resource Director.

Grievance Investigation

- The Equal Opportunity Officer and/or Human Resource Director, and supervisor, as appropriate, are responsible for investigating formal grievances. If the complaint is not in writing, the investigator should prepare a statement of what he or she understands the complaint to be and seek to obtain verification of the complaint from the complainant.
- Within ten (10) working days of receipt of a grievance the Equal Opportunity Officer or Human Resource Director, as appropriate, will authorize an investigation of the grievance.
- As part of the investigation process, the accused individual shall be provided with a copy of the allegations and allowed the opportunity to respond verbally and/or in writing within a reasonable time frame set by the Equal Opportunity Officer or Human Resource Director.
- The complainant and the accused individual may present any document or information that is believed to be relevant to the grievance.
- Any person thought to have information relevant to the grievance shall be interviewed and such interviews shall be appropriately documented. Other acceptable methods for gathering information include, but are not limited to visual inspection of materials alleged to be offensive and follow-up interviews, as necessary.
- The investigation of a grievance will be concluded as soon as possible after receipt of the written grievance. If investigations exceed sixty (60) days, a justification for the delay shall be presented and reviewed by the Executive Director. The complainant, accused individual and supervisor will be provided an update on the progress of the investigation after the review.
- Upon completion of the investigation, a written report will be issued. The report shall include: a recommendation of whether a violation of the policy occurred, an analysis of the facts discovered during the investigation, and recommended disciplinary action if a violation of the policy occurred. The written report will be sent to the Executive Director for review.
- Written notifications of the findings of the investigation and outcome will be sent to the complainant and the respondent by the Executive Director. The grievance and the respondent have seven (7) working days from the date of the notification letter to submit comments regarding the investigation to the administrative official.
- Within thirty (30) working days of receiving any comments submitted by the complainant or respondent, the Executive Director will take one of the following actions:
 - Request further investigation into the grievance;
 - Dismiss the grievance if the results of the completed investigation are inconclusive or there is insufficient reasonable, credible evidence to support the allegation(s); or
 - Find that this policy was violated.
 - A decision that this policy was violated shall be made upon the record provided by the investigator or any comments submitted by the complainant or respondent; and, shall be based on the totality of circumstances surrounding the conduct, its severity, frequency, whether it was physically threatening, humiliating, or was simply offensive in nature. Facts will be considered on the basis of what is reasonable to persons of ordinary sensitivity and not on the particular sensitivity or reaction of an individual.
- If the Executive Director determines that this policy was violated, he or she will authorize disciplinary action that is appropriate for the severity of the conduct. Disciplinary action can include, but are not limited to verbal reprimands, written reprimands, the imposition of corrective actions or conditions, reassignment, suspension, and dismissal.
- The complainant and the respondent shall be informed in writing of the Executive Director's decision.

- The Human Resource Director, will monitor the circumstance surrounding the grievance to ensure that the situation has been remedied.

Provision Applicable to All Grievances

Assistance - During the grievance process, a complainant or respondent may be assisted by a person of his or her choice; however, the assistant may not examine witnesses or otherwise actively participate in a meeting or interview.

False Complaints – Any person who knowingly and intentionally files a false complaint under this policy or any person who knowingly and intentionally makes false statements, with the course of the investigation is subject to disciplinary action, up to and including termination.

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Definitions

Sexual Harassment – Unwanted sexual attention of a persistent or abusive nature, made by a person who knows or ought reasonably to know that such attention is unwanted; or, implied or expressed promise of reward for complying with a sexually oriented request; or, implied or expressed threat of reprisal, in the form of either actual reprisal or the denial of opportunity, for refusal to comply with a sexually oriented request; or sexually oriented remarks and behavior which may reasonably be perceived to create a negative psychological and emotional environment for work.

Sexual Misconduct – includes unwelcome sexual advances, request for sexual favors, or verbal or physical conduct of a sexual nature directed towards another individual that does not rise to the level of sexual harassment, but is unprofessional and inappropriate for the workplace.

References

Title VII of the Civil Rights Act of 1964, Title IX of the Civil Rights Act of 1972, and it is illegal, and actionable under civil and criminal law.

Dissemination of Policy

The policy will be made available to all employees through the agency's website. The agency will educate and train employees and supervisors regarding the policy and any conduct that could constitute a violation of the policy.