

3 Safety Rights and Responsibilities

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6 NIST S 7101.01

7 Document Approval Date: 01/05/2021

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11 1. PURPOSE

12 The purpose of this suborder is to delineate the key safety rights of all NIST employees.
13 Employees' understanding and exercising those rights, in the context of carrying out their safety
14 responsibilities, is critical toward making occupational safety and health an integral core value
15 and vital part of the NIST culture.
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18 2. BACKGROUND

- 19 a. This suborder delineates the key safety rights of all employees and the procedures required
20 by 29 Code of Federal Regulation (CFR) 1960.46 to “assure that no employee is subject to
21 restraint, interference, coercion, discrimination, or reprisal for filing a report of an unsafe or
22 unhealthful working condition, or other participation in agency occupational safety and
23 health program activities, or because of the exercise by such employee on behalf of himself
24 or herself or others of any right afforded by section 19 of the Act (i.e., the Occupational
25 Safety and Health Act of 1970), Executive Order 12196, or this part (i.e., 29 CFR 1960).”¹
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27 b. In addition to having the safety rights delineated herein, employees also have the safety
28 responsibilities delineated in NIST O 710, Occupational Safety and Health Management
29 System (see Section 9 of this suborder).
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32 3. APPLICABILITY

33 The provisions of this suborder apply to all NIST employees.
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¹ For an overview of rights afforded by the Occupational Safety and Health Act of 1970, see Occupational Safety and Health Administration [Publication 3021-09R 2011](#), Workers' Rights.

- 37 **4. REFERENCES**
- 38 a. [Occupational Safety and Health Act of 1970, Section 19](#), Federal Agency Safety Programs
- 39 and Responsibilities;
- 40
- 41 b. [Executive Order 12196](#), Occupational Safety and Health Programs for Federal Employees;
- 42
- 43 c. [29 CFR 1960](#), Basic Program Elements for Federal Employee Occupational Safety and
- 44 Health Programs and Related Matters
- 45
- 46 d. [29 CFR 1960.28](#), Employee Reports of Unsafe or Unhealthful Working Conditions; and
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- 48 e. 29 CFR 1960, Subpart G, Allegations of Reprisal
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- 50 (1) [29 CFR 1960.46](#), Agency Responsibility;
- 51
- 52 (2) [29 CFR 1960.47](#), Results of Investigations;
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- 54 f. [29 CFR 1977](#), Discrimination against Employees Under the Occupational Safety and Health
- 55 Act of 1970;
- 56
- 57 (1) [29 CFR 1977.12](#), Exercise of Any Right Afforded by the Act;
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- 59 g. NIST O 710, Occupational Safety and Health Management System (OSHMS); and
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- 61 h. NIST P 710, Occupational Safety and Health.
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- 64 **5. APPLICABLE NIST OCCUPATIONAL SAFETY AND HEALTH SUBORDERS**
- 65 a. NIST S 7101-02, Employee Reporting of Unsafe or Unhealthful Working Conditions
- 66 (UWCs);
- 67
- 68 b. NIST S 7101-21, Personal Protective Equipment (PPE); and
- 69
- 70 c. NIST S 7101-23, Safety Education and Training.
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- 73 **6. SAFETY RIGHTS**
- 74 a. General
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76 (1) All NIST employees are entitled to a workplace free from recognized hazards causing or
77 likely to cause death or serious physical harm.

78 b. Specific

79 To help assure a safe and healthful workplace, all NIST employees have the following rights:
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81 (1) To receive information on the NIST safety requirements and Occupational Safety and
82 Health Administration (OSHA) standards applicable to their jobs.

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84 (2) To comply with, and obtain the benefits of, OSHA standards and other requirements
85 applicable to their own actions or conduct.²

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87 (3) To receive information and training about the hazards to which they could be exposed in
88 carrying out their assigned duties and methods to prevent harm.

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90 (4) To receive in a timely manner copies of the results of testing and monitoring done to
91 identify and assess hazards in their work areas.

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93 (5) To observe the monitoring and measuring of toxic substances to which they could be
94 exposed and to have access to any records of their exposure.

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96 (6) To obtain copies of their NIST medical records.

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98 (7) To obtain copies of OSHA-required workplace injury and illness records, i.e., NIST's
99 OSHA Form 300 log.

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101 (8) To communicate orally or in writing with their supervisors or managers about
102 occupational safety or health matters, e.g., to ask questions, express safety concerns,
103 report work-related injuries or illnesses, or request safety data sheets and other
104 information to which they are entitled.

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106 (9) To refuse to perform an assigned task when they:³

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108 (a) Have a reasonable belief that performing the task would subject them to death or
109 serious injury;⁴

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111 (b) Refuse in good faith (i.e., genuinely believe that such a danger exists);
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² For example, employees have the right to employer-provided PPE required by OSHA standards (see the PPE suborder) and to engage in work practices required by OSHA standards.

³ See 29 CFR 1977.12(b).

⁴ A "reasonable belief" is a belief with which a reasonable person would agree.

- 113 (c) Have requested that their supervisors or managers eliminate the danger but they have
114 failed to do so; and
- 115 (d) Have a reasonable belief, due to the urgency of the danger, that there is insufficient
116 time to eliminate it through other channels, such as requesting an inspection by
117 Office of Safety, Health, and Environment (OSHE) or OSHA.
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- 119 (10) To report UWCs to the Chief Safety Officer (CSO) or OSHA to request inspections by
120 OSHE or OSHA, respectively.⁵
- 121
- 122 (a) In reporting UWCs to the CSO, to have their names not disclosed to anyone outside
123 of OSHE other than an Authorized Representative of the Secretary of Labor, or as
124 otherwise required by law.
- 125
- 126 (b) In reporting UWCs to OSHA, to have their names not disclosed to anyone other than
127 an Authorized Representative of the Secretary of Labor, or as otherwise required by
128 law.
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- 130 (c) Before reporting UWCs to the CSO, employees should, whenever possible, abate the
131 dangers themselves or work with their management to abate the dangers, as this will
132 generally result in prompt abatement of UWCs.
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- 134 (d) Before reporting UWCs to OSHA, employees should, whenever possible, abate the
135 dangers themselves, work with their management to abate the dangers, or report the
136 dangers to the CSO to request inspections by OSHE, as this will generally result in
137 prompt abatement of UWCs.
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- 139 (11) To exercise their safety rights without restraint, interference, coercion, discrimination, or
140 reprisal.
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- 142 (12) To file a grievance in accordance with the appropriate procedure (i.e., administrative or
143 negotiated) or to file a complaint with the Office of the Special Counsel if they believe
144 they have been subject to restraint, interference, coercion, discrimination, or reprisal.^{6, 7}

⁵ The Employee Reporting of UWCs suborder provides NIST’s procedures for employee reporting of UWCs to the CSO. It also provides guidance to employees and management on responding to UWCs through direct employee and management action prior to reporting UWCs to the CSO or OSHA.

⁶ Protection from discrimination in this context means that an employer cannot retaliate by taking “adverse action” against workers, such as firing or laying off; blacklisting; demoting; denying overtime or promotion; disciplining; denying benefits; failing to hire or rehire; intimidation; making threats; reassignment affecting prospects for promotion; or reducing pay or hours. See [OSHA Publication 3021-09R 2011](#). The protections take the form of administrative or whistleblower protections as opposed to civil-rights protections.

⁷ Contact the Office of Human Resources Management to file a grievance; call 1-800-872-9855 to file a complaint with the Office of Special Counsel.

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7. DEFINITIONS

- a. Authorized Representative of the Secretary of Labor – A person or agent of the Secretary of Labor whose authority and jurisdiction originates from the Secretary of Labor; routinely a Department of Labor employee.
- b. UWC – Any condition or practice in any work area that an employee believes may have a direct or immediate impact on safety or health.

8. ACRONYMS

- a. CFR – Code of Federal Regulations
- b. CSO – Chief Safety Officer
- c. O – Order
- d. OSHA – Occupational Safety and Health Administration
- e. OSHE – Office of Safety, Health, and Environment
- f. OSHMS – Occupational Safety and Health Management System
- g. P – Policy
- h. PPE – Personal Protective Equipment
- i. UWC – Unsafe or Unhealthful Working Condition

9. ROLES AND RESPONSIBILITIES

- a. NIST Employees (from [NIST O 710](#)):

 - (1) Take personal responsibility for their own safety and the safety of others, and for making safety an integral core value and vital part of the NIST culture in accordance with NIST P 710;
 - (2) Comply with all applicable requirements of the OSHMS and any additional applicable requirements established by their OUs or other OUs; and

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186 (3) Participate as appropriate in the development, deployment, implementation, maintenance,
187 and continual improvement of the OSHMS.

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189 b. NIST Line Management:

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191 (1) Provide employees with a workplace that is free from recognized hazards causing or
192 likely to cause death or serious physical harm;

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194 (2) Ensure that employee safety rights are fulfilled;

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196 (3) Maintain a work environment in which employees feel free to exercise their safety rights
197 without fear of restraint, interference, coercion, discrimination, or reprisal;

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199 (4) Address via appropriate disciplinary and other avenues instances where it has been
200 determined that employees have been subjected to restraint, interference, coercion,
201 discrimination, or reprisal for exercising their safety rights.

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203 c. CSO:

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205 (1) Ensure that OSHE staff members do not disclose the names of reporting employees who
206 desire to remain anonymous to anyone outside of OSHE other than an Authorized
207 Representative of the Secretary of Labor, or as otherwise required by law; and

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209 (2) Ensure that information on employees' safety rights is included in the NIST General
210 Safety Training and in the training for line managers, safety and health specialists, and
211 OU/division safety personnel required by the Safety Education and Training suborder.

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214 **10. AUTHORITIES**

215 There are no authorities specific to this suborder alone.

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218 **11. DIRECTIVE OWNER**

219 CSO

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222 **12. APPENDICES**

223 A. Revision History

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Appendix A. Revision History

Revision No.	Approval Date	Responsible Person	Brief Description of Change
1	1/5/21	April Camenisch	Updated suborder links.

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