

# Safety Rights and Responsibilities

NIST S 7101.01

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## 1. PURPOSE

The purpose of this suborder is to delineate the key safety rights of all NIST employees and covered associates (**hereafter referred to as “NIST staff”**). NIST staff’s understanding and exercising those rights, in the context of carrying out their safety responsibilities, is critical toward making occupational safety and health an integral core value and vital part of the NIST culture.

## 2. BACKGROUND

- a. This suborder delineates the key safety rights of all NIST staff and the procedures required by 29 Code of Federal Regulation (CFR) 1960.46 to “assure that no employee is subject to restraint, interference, coercion, discrimination, or reprisal for filing a report of an unsafe or unhealthful working condition, or other participation in agency occupational safety and health program activities, or because of the exercise by such employee on behalf of himself or herself or others of any right afforded by section 19 of the Act (*i.e.*, the Occupational Safety and Health Act of 1970), Executive Order 12196, or this part (*i.e.*, 29 CFR 1960).”<sup>2</sup>
- b. In addition to having the safety rights delineated herein, NIST staff also have the safety responsibilities delineated in NIST O 7100.00 (see Section 9 of this suborder).

## 3. APPLICABILITY

The provisions of this suborder apply to all NIST staff.

## 4. REFERENCES

- a. [Occupational Safety and Health Act of 1970, Section 19](#), Federal Agency Safety Programs and Responsibilities (the Act)

<sup>1</sup> For revision history, see Appendix A.

<sup>2</sup> 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.

- b. [Executive Order 12196](#), Occupational Safety and Health Programs for Federal Employees
- c. [29 CFR 1960](#), Basic Program Elements for Federal Employee Occupational Safety and Health Programs and Related Matters
- d. [29 CFR 1960.28](#), Employee Reports of Unsafe or Unhealthful Working Conditions
- e. 29 CFR 1960, Subpart G, Allegations of Reprisal
  - (1) [29 CFR 1960.46](#), Agency Responsibility
  - (2) [29 CFR 1960.47](#), Results of Investigations
- f. [29 CFR 1977](#), Discrimination against Employees Under the Occupational Safety and Health Act of 1970
  - (1) [29 CFR 1977.12](#), Exercise of Any Right Afforded by the Act

## 5. APPLICABLE NIST DIRECTIVES

- a. NIST P 7100.00: [Occupational Safety and Health](#)
- b. NIST O 7101.00: [Occupational Safety and Health Management System](#)
- c. NIST S 7101.02: [Reporting of Unsafe or Unhealthful Working Conditions \(UWC\)](#)
- d. NIST S 7101.03: [Stop Work](#)
- e. NIST S 7101.21: [Personal Protective Equipment \(PPE\)](#)
- f. NIST S 7101.23: [Safety Education and Training](#)
- g. NIST S 7101.29: [Medical Surveillance Program](#)

## 6. SAFETY RIGHTS

- a. General
  - (1) All NIST staff are entitled to a workplace free from recognized hazards causing or likely to cause death or serious physical harm.

b. Specific

To help assure a safe and healthful workplace, all NIST staff have the following rights:

- (1) To receive information on the NIST safety requirements and Occupational Safety and Health Administration (OSHA) standards applicable to their jobs;
- (2) To comply with, and obtain the benefits of, OSHA standards and other requirements applicable to their own actions or conduct<sup>3</sup>;
- (3) To receive information and training about the hazards to which they could be exposed in carrying out their assigned duties and methods to prevent harm;
- (4) To receive in a timely manner copies of the results of testing and monitoring done to identify and assess hazards in their work areas (please see NIST S 7101.29);
- (5) To observe the monitoring and measuring of toxic substances to which they could be exposed and to have access to any records of their exposure (please see NIST S 7101.29);
- (6) To obtain copies of their NIST medical records;
- (7) To obtain copies of OSHA-required workplace injury and illness records, *i.e.*, NIST's OSHA Form 300 log;
- (8) To communicate orally or in writing with their supervisors or managers about occupational safety or health matters, *e.g.*, to ask questions, express safety concerns, report work-related injuries or illnesses, or request safety data sheets and other information to which they are entitled;
- (9) To refuse to perform an assigned task when they (please see NIST S 7101.03)<sup>4</sup>:
  - (a) Have a reasonable belief that performing the task would subject them to death or serious injury;<sup>5</sup>
  - (b) Refuse in good faith (*i.e.*, genuinely believe that such a danger exists);

<sup>3</sup> For example, employees have the right to employer-provided PPE required by OSHA standards (see NIST S 7101.21) and to engage in work practices required by OSHA standards.

<sup>4</sup> See 29 CFR 1977.12(b).

<sup>5</sup> A "reasonable belief" is a belief with which a reasonable person would agree.

- 112 (c) Have requested that their supervisors or managers eliminate the danger but they have  
113 failed to do so; and  
114
- 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 (please see NIST S 7101.02).  
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- 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.  
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- 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.  
129
- 130 (c) Before reporting UWCs to the CSO, NIST staff 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.  
133
- 134 (d) Before reporting UWCs to OSHA, NIST staff 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; and  
141
- 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.<sup>6, 7</sup>  
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<sup>6</sup> 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.

<sup>7</sup> 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.

**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. Covered Associate – A NIST associate permitted to perform work at a NIST workplace and subject to NIST policies and procedures to the extent allowed by law and the terms of the associate’s agreement. Covered associates include Foreign and Domestic Guest Researchers (including contractors who perform NIST R&D/technical work); Research Associates; Intergovernmental Agency Personnel Act assignees; Facility Users; Volunteer Students; and other federal employees who perform work at NIST workplaces.
- c. UWC – Any condition or practice in any work area that a NIST staff member 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. OSHA – Occupational Safety and Health Administration
- d. OSHE – Office of Safety, Health, and Environment
- e. SMS – Safety Management System
- f. PPE – Personal Protective Equipment
- g. UWC – Unsafe or Unhealthful Working Condition

**9. ROLES AND RESPONSIBILITIES**

- a. NIST Staff (from NIST O 7101.00):
  - (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 7100.00;

(2) Comply with all applicable requirements of the NIST SMS and any additional applicable requirements established by their OUs or other OUs; and

(3) Participate as appropriate in the development, deployment, implementation, maintenance, and continual improvement of the NIST SMS.

b. NIST Line Management:

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

(2) Ensure that NIST staff member's safety rights are fulfilled;

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

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

c. CSO:

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

(2) Ensure that information on NIST staff's safety rights is included in the NIST General Safety Training and in the training for line managers, safety and health specialists, and OU/division safety personnel required by NIST S 7101.23.

(3) Ensure that the Department of Commerce (DOC) poster informing employees of the provisions of the Act, Executive Order 12196, and the DOC occupational safety and health program is posted electronically and physically at each NIST establishment for which a separate OSHA 300 Log is maintained.

**10. AUTHORITIES**

There are no authorities specific to this suborder alone.

225 **11. DIRECTIVE OWNER**

226 CSO

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228 **12. APPENDICES**

229 A. Revision History

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**Appendix A. Revision History**

Version No.	Approval Date	Responsible Person	Brief Description of Change
1	5/9/14	Rich Keyser	Initial document.
2	1/5/21	April Camenisch	Updated suborder links.
3	04/02/24		<ul style="list-style-type: none"> <li>Clarified applicability of the requirements as applying to both federal employee and covered associates.</li> <li>Editorial fixes.</li> </ul>
4	07/11/24		Added responsibility for CSO to ensure posting of the DOC OSHA Safety Rights and Responsibility poster.

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