



WORKPLACE HARASSMENT

YOUR RIGHTS AND RESPONSIBILITIES

OFFICE OF CIVIL RIGHTS AND DIVERSITY

Introduction

This brochure is intended to educate Treasury employees about the prevention of harassment in the workplace. Harassment is a matter of particular concern because it seriously damages the employee-employer relationship, demeans the individual subjected to such conduct, and weakens the overall morale of an organization. All of our employees deserve to work in an environment where they are treated with dignity and respect and that supports the Department's commitment to being one of the best employers within the Federal government.

What is the Department's Anti-Harassment Policy?

The Department of the Treasury is committed to providing a work environment that is free from all harassment. Harassment that is based on a characteristic protected by law (national origin, race, color, sex, including sexual orientation/identity, religion, age, disability, protected genetic information, or retaliation for prior protected EEO activity) or Executive Order (parental status) is illegal, disrespectful of an individual's rights, and damaging to all employees.

Employees are free to report any incident involving harassment without fear of reprisal. Management will take prompt and appropriate action whenever an allegation of harassment is brought to its attention, including the swift discipline of any employee who is responsible for violating the [Department's Policy](#).

Note: *This brochure is an educational summary for Treasury personnel. It does not create or modify any existing Treasury policy or rule and does not create or modify any rights any person may have under applicable laws, regulations, and official policy.*

What is Harassment?

Many people think about harassment in terms of sexual harassment, but illegal harassment can be based on membership in any protected group. Harassment, whether or not sexual, includes

unwelcome conduct (verbal, nonverbal, or physical), that has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, offensive, or hostile environment based on race, sex, national origin, religion, disability, age, protected EEO activity, protected genetic information, or parental status.

Harassment is protected under [Title VII of the Civil Rights Act of 1964](#); the [Age Discrimination in Employment Act of 1967](#); the [Rehabilitation Act of 1973](#); [Title II of the Genetic Information Non-Discrimination Act of 2008](#) (GINA); and [Executive Order 13152](#), as a form of discrimination.

The Equal Employment Opportunity Commission (EEOC) has established guidelines defining conduct that can contribute to a finding of harassment as including: unwelcome intimidation, ridicule, insult, comments or physical conduct based on race, color, religion, sex (whether or not of a sexual nature), nation origin, age, disability, sexual orientation, genetic information, or retaliation for prior EEO activity. Examples include:

- Making negative comments about an employee's personal religious beliefs, or trying to convert them to a certain religious ideology
- Using racist slang, phrases, or nicknames
- Making remarks about an individual's skin color or other ethnic traits
- Displaying racist drawings, or posters that might be offensive to a particular group
- Making offensive gestures
- Making offensive reference to an individual's mental or physical disability
- Sharing images, videos, e-mails, letters, or notes of an offensive nature
- Offensively talking about negative racial, ethnic, or religious stereotypes
- Making derogatory age-related comments

Harassment can be committed by an employee or contractor who is a supervisor, co-worker, or subordinate. Those same individuals can also be victims of harassment.

In determining if conduct constitutes harassment, courts have considered how a “reasonable person” would perceive such conduct. Even if the harasser does not view his or her conduct as objectionable, a reasonable person might. In other words, it is not how a person intended his or her actions to be taken, but rather how the actions are reasonably perceived.

Depending on the severity of the conduct, an isolated incident or even a few such incidents usually will not be considered sufficient to establish a hostile work environment under the law. However, supervisors should take corrective action when such isolated incidents occur, in order to ensure that future conduct does not rise to the level of a hostile work environment. When the harassing behavior is egregious, even an isolated incident may be enough to constitute a hostile work environment.

Whatever form the harassment may take, it is important that it be recognized and that prompt and effective action be taken to stop it.

What is Sexual Harassment?

Unwelcome advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:

1. submission to such conduct is made either explicitly or implicitly a term or condition of employment;
2. submission to or rejection of such conduct by an individual is used as the basis of employment decisions affecting such individual; or
3. such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive work environment.

Such conduct may include:

- an employer or supervisor conditioning promotion, job assignments, or other tangible job benefits on acquiescence to unwelcome sexual conduct, or penalizing an individual for refusing to participate in such conduct;
- sexist or stereotypical remarks about a person’s clothing, body, appearance or activities;
- sexually oriented jokes, stories, remarks or discussions;

- descriptions of sexual acts;
- posting or displaying sexually graphic pictures anywhere in the workplace;
- deliberately touching, pinching, patting, or giving inappropriate looks to another person;
- pressure for dates or sexual activity;
- unwelcome telephone calls, e-mail messages, social network postings or letters of a sexual nature; or
- demands for sexual favors.

With sexual harassment, the harasser may be male or female, the victim may be of the opposite sex or the same sex as the harasser, and both co-workers and managers may be harassers or victims.

Even a consensual relationship between the harasser and the victim may involve sexual harassment. For example, if the victim agrees to sexual behavior out of fear of retaliation, the conduct of the other party may still constitute sexual harassment despite the victim’s consent. The focus is on whether the conduct was unwelcome, not consensual.

Additional information regarding management’s responsibility in addressing sexual harassment in the Treasury workplace can be found [here](#).

What is Not Harassment?

- Petty slights and trivial annoyances, such as a failure to be included with the group, a lack of good manners or a personality conflict.
- Reasonable management actions, such as workplace changes or restructuring, directions to perform work or to comport oneself appropriately, or issuing performance appraisals.

How Can I Prevent Harassment?

There are a number of ways that Treasury employees at all levels can help prevent harassment.

- The Department and the individual bureaus have issued policy statements against harassment. Management should distribute these statements to all employees and post them in prominent locations, including on line. Make yourself and your coworkers aware of this policy.

- Management should ensure that the Department's "zero tolerance" policy is understood by all employees. Supervisors should also make it clear that they will not tolerate any harassing behavior among their employees.
- Employees must make an effort to keep the workplace professional - avoid situations or discussions of a sexual nature, or those involving protected group characteristics. What you might find humorous, others might find offensive or disturbing.
- You are better off being overly cautious about comments made in the workplace, rather than taking chances. When in doubt, be quiet.
- If you suspect that you or a coworker are the victim of harassment, report it immediately. If management is made aware of harassing conduct promptly, action can be quickly taken to prevent a recurrence of such conduct.
- If you are a supervisor or manager and an employee informs you of objectionable behavior in the workplace, you cannot ignore the situation or cover up the allegations, even if the victim asks you to do so.
 - You should immediately contact your bureau's anti-harassment coordinator. You may also perform an immediate inquiry of your own, depending on the allegations presented.
 - In some instances, you should immediately take appropriate corrective action, which may include separating employees, counseling or disciplinary action.
 - Contact your EEO or Human Resources Office for assistance or guidance when handling a harassment situation.

What are My Options if I Believe That I Have Been the Victim of Harassment?

There are a number of steps you may take in order to resolve a harassment problem in your workplace:

- Speak with the harassing individual directly if you are comfortable doing so, and inform him or her that you believe the behavior is inappropriate. Informal action such as this may be enough to put an end to the harassing behavior. Document any such discussions you have with the individual and any further occurrences of harassing behavior.

- While communicating with the harasser can be effective, reporting the harassment to your supervisor is always also appropriate.
- If your supervisor is the harasser, speak to the next level of management, or to the EEO or Human Resources Office.

The [Employee Assistance Program](#) is also available to all employees for additional guidance in addressing sexual harassment.

All Department of the Treasury bureaus have established hotline numbers for reporting incidents of sexual harassment ([Treasury Sexual Harassment Hotlines](#)). You may call the hotline number for your bureau at any time to report an incident of sexual harassment.

You can take any or all of the actions listed above, keeping in mind that making it clear to the individual that you find the behavior unwelcome can often be an effective means to stopping the behavior.

How do I File an EEO Complaint?

- You must contact an EEO counselor within 45 days of the last harassing incident. The names and telephone numbers of EEO counselors for your bureau should be posted in the building where you work.
- The EEO counselor will listen to your allegations and may talk to the other involved parties to try to reach an informal resolution of the problem.
- If you present a sexual harassment complaint, the EEO counselor will also alert the Office of the Inspector General (TIGTA for IRS employees).
- If the matter is not resolved within 30 days, and the counseling period has not been voluntarily extended, the counselor will inform you of your right to file a formal complaint.
- A formal complaint must be filed with the Office of Civil Rights and Diversity (OCRD) within 15 days of receipt of written notice of your right to file a formal complaint. This is accomplished through completing [Form TDF 62-03.5](#) and submitting it to OCRD. OCRD offers [instructions](#) for electronically submitting your formal complaint, or your EEO counselor will provide you with OCRD's address.
- Once a formal complaint has been filed, a trained and certified investigator will conduct an investigation into the complaint.

- When you receive the investigative file, you will be given the option of either a hearing before an Equal Employment Opportunity Commission (EEOC) Administrative Judge or a final agency decision based on the existing record.
- If you elect a hearing, one will be conducted by an EEOC Administrative Judge, unless the Administrative Judge determines a hearing is not necessary because there is no genuine dispute about the facts of the claim.
- You will receive a final decision on your complaint. When you receive the final decision, you have the right to appeal to the EEOC Office of Federal Operations within 30 days or to file suit in federal court within 90 days of the decision.
- Remember, it is illegal for the agency to take any retaliatory action against you for filing a complaint of harassment.

What will be the Consequences of an Administrative or Judicial Finding of Harassment?

Where it is established that a supervisor's harassment resulted in a tangible employment action, such as demotion or termination, the agency will be held liable. The agency will not have the opportunity to present an affirmative defense.

Where a hostile work environment by a supervisor is established, the agency will be held liable unless the agency can show:

- the agency made a reasonable effort to prevent and correct promptly any harassing behavior; and
- the victim unreasonably failed to take advantage of preventive or corrective opportunities provided by the agency or to otherwise avoid harm.

Where a hostile work environment by a coworker is established, the agency will be held liable only if the employer:

- knew or had reason to know of the acts committed; and
- failed to take prompt, effective action to remedy the situation.

Upon an agency or EEOC finding of harassment, EEOC regulations require the following:

- notice to all employees in your workplace of their right to be free from discrimination and assurance that such discrimination will not recur; and
- corrective, curative, or preventive action be taken to ensure that harassment does not recur.

What Will Happen to a Person Found to Have Engaged in Harassment?

The Department has made a commitment that harassing behavior will not be tolerated. Bureau heads will take swift and effective disciplinary action in cases where harassment has been committed.

Disciplinary actions will depend on the particular circumstances of each case. Discipline may include counseling, warnings, reprimands, suspension, transfer to a different post of duty, or termination.

What Should I do if I am Accused of Harassment?

If a coworker or subordinate employee comes to you and accuses you of harassment, listen to what that person has to say. Try to fully understand what that employee is feeling and why he or she believes that the behavior was inappropriate. Where appropriate, apologize for your behavior and tell the employee that you will try to make certain similar conduct does not occur in the future.

Appreciate that the employee has approached you first, and provided an opportunity to solve the problem informally. Once you have discussed the incident, keep your word. Be careful to ensure that the behavior does not happen again. If a formal complaint is filed, it may be an unpleasant experience for all involved, and may result in serious disciplinary action being taken against you if the allegations are found to be true.

If you think your behavior was acceptable, or that you are being falsely accused, approach your manager and explain the situation. It may be possible for the supervisor to arrange a discussion of the incident with both you and your accuser in order to clear up the problem.

Let others know if their behavior seems inappropriate. Do not encourage or permit offensive jokes or stories by your co-workers; rather, tell them

that their behavior is offensive and should stop. Even if you do not participate, if you are a supervisor and do not object to such behavior, you are at fault.

If the coworker or subordinate employee goes to your supervisor regarding an incident, understand that the supervisor has a duty to follow up on the complaint. If he or she fails to do so, the agency may be held liable for failing to keep the workplace free of harassment.

All Treasury employees are expected to fully cooperate in the investigation of any EEO complaint. Failure to cooperate may result in disciplinary action.

Conclusion

Do not underestimate the seriousness of harassment. It is not to be tolerated in any Treasury workplace under any circumstances. The only way to achieve a harassment-free environment is for all employees to be informed and take immediate action if they become aware of harassing behavior.

For additional information and services regarding harassment in the workplace, please visit [OCD](#) online.