

WORKPLACE HARASSMENT

**YOUR RIGHTS
AND RESPONSIBILITIES**





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perspective.
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experience.**

INTRODUCTION

This brochure is intended to educate employees of the Department of the Treasury (Treasury) about the prevention of harassment in the workplace.

Addressing harassment is a priority at Treasury because of the uniquely negative impact that harassment has on the employee-employer relationship, the work environment of the individuals subjected to such conduct, and the overall morale of our organization. All of our employees deserve to work in an environment in which they are treated with dignity and respect.



WHAT IS THE DEPARTMENT'S ANTI-HARASSMENT POLICY?

Treasury is committed to providing a work environment that is free from all harassment. Simply stated, harassment that is based on a protected characteristic (national origin, race, color, sex, sexual orientation or identity, religion, age, disability, protected genetic information, parental status, or retaliation for prior protected Equal Employment Opportunity (EEO) activity) is illegal.

Harassment (including sexual harassment) is prohibited as a form of discrimination under Title VII of the Civil Rights Act of 1964; the Age Discrimination in Employment Act of 1967; the Americans with Disabilities Act; Title II of the Genetic Information Non-Discrimination Act of 2008 (GINA); Executive Order 13087; and Executive Order 13152.

Illegal harassment can be based on membership in any of the designated protected groups. Harassment, sexual or non-sexual in nature, 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.

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.

The Equal Employment Opportunity Commission (EEOC) defines harassment to include: unwelcome intimidation, ridicule, insult, comments or physical conduct based on race, color, religion, sex (whether or not of a sexual nature), national origin, age, disability, sexual orientation, genetic information, or retaliation for prior protected EEO activity.

Workplace harassment can take many forms:

- The harassment may be direct or indirect.
- It may be a generalized offensive work environment that offends based on sex, race, color, national origin, religion, disability, age, prior protected EEO activity, protected genetic information, sexual orientation, or parental status.
- The offender may be a manager/supervisor; a nonmanagerial employee; or an individual who is not a Treasury employee, such as a contractor or any other individual on the premises.
- Both men and women can commit sexual harassment. The harassed individual can be of the opposite sex or the same sex as the harasser.
- In certain circumstances, workplace harassment can take place outside of the workplace and during off-duty hours.

Examples of harassment 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 an offensive reference to an individual's mental or physical disability;
- Sharing inappropriate images, videos, e-mails, letters, or notes of an offensive nature;
- Offensively talking about racial, ethnic, or religious stereotypes; and
- Making derogatory age-related comments.

It is important to note that it is not how a person intended his or her actions to be taken that matters when assessing a claim of harassment, but rather how the actions are reasonably perceived (i.e., whether a reasonable person would find the conduct objectionable).

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 working environment constituting harassment under the law.

However, it is Treasury's policy that even a single utterance of an ethnic, sexual, or racial epithet that offends an employee is inappropriate in the workplace and should not be tolerated.

Supervisors must take corrective action when such isolated incidents occur, in order to maintain a respectful work environment and ensure that future conduct does not rise to the level of harassment.

WHAT IS SEXUAL HARASSMENT?

There are three elements to a sexual harassment claim:

- The conduct is unwelcome;
- The conduct is based on sex; and
- The conduct results in a tangible employment action or creates a hostile work environment.

Examples of conduct which may constitute sexual harassment include:

- Deliberately touching, pinching, patting, or giving inappropriate looks (e.g., staring or leering);
- An employer or supervisor conditioning promotions, 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 sex stereotyping 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;
- Repeated requests for dates after being turned down, even if the parties previously had a consensual relationship;
- Unwelcome telephone calls, e-mail messages, social network postings, or letters of a sexual nature; and
- Spreading rumors about a person's sex life.

WHAT IS NOT HARASSMENT?

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not constitute unlawful harassment. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

HOW CAN I PREVENT HARASSMENT?

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

Treasury and the individual bureaus have issued policy statements against harassment. Management should have distributed these statements to all employees and posted them in prominent locations, including the internet. Make yourself and your coworkers aware of these policies.

HOW DO YOU RESPOND TO HARASSMENT?

Employees have the right to report any incident involving harassment without fear of retaliation. Management will take prompt and appropriate action whenever an allegation of harassment is brought to its attention, including potential discipline of any employee who is responsible for violating the Department's policy.

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

- Let others know when 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. We all have a responsibility to keep the work environment free from harassment and discrimination.
- Employees must make an effort to keep the workplace professional - avoid situations or discussions of a sexual nature, or those involving protected group characteristics. Keep in mind that what you might find humorous, others might find offensive or disturbing.
- It is better to be cautious about comments made in the workplace than to risk offending a coworker. When in doubt, do not make the comment, joke, etc. It is up to every employee in the workplace to recognize the boundaries between appropriate and inappropriate behavior. If you fear that your own behavior has been misunderstood, take the time to explain and apologize to your co-worker.

If you suspect that you have been subjected to harassment, take immediate action.

- If you are comfortable doing so, speak with the individual directly, 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. (The Merit Systems Protection Board found that direct communication is the most effective means of stopping harassing behavior.)



- Document any discussions you have with the individual and any further occurrences of harassing behavior.
- If direct communication with the individual is not possible, or fails to stop the behavior, report the harassment to your supervisor.
- If your supervisor is the harasser, speak to the next level manager or any manager.
- Contact the EEO office, Human Resources office, or the Anti-Harassment Coordinator (AHC).
- If this is a sexual harassment matter, and the above options do not resolve the problem, call your bureau's sexual harassment hotline number for reporting incidents of sexual harassment or contact an EEO counselor about filing an EEO complaint.

All bureaus within Treasury have established hotline numbers for reporting incidents of sexual harassment. The hotline number for your bureau is located at the end of this brochure. You may call the hotline number for your bureau at any time to report an incident of sexual harassment.

You may also seek a resolution through the informal EEO complaint process. When allegations of sexual harassment are made during the informal EEO complaint process, the EEO counselor is required to report the allegations to the bureau's AHC to initiate a prompt inquiry.

You can take any or all of the actions listed above. Remember that when possible, an effective first step is making it clear to the individual that his or her behavior is unwelcome. That action may be enough to put an end to the harassing behavior.



HOW DO I FILE AN EEO COMPLAINT?

- You must contact an EEO counselor within 45 days (any reference to days in this document means calendar days) of the most recent harassing incident. The names and telephone numbers of EEO counselors for your bureau should be posted in the building where you work.
 - Keep the timeframes for initiating an EEO complaint in mind when attempting to resolve the matter outside of the EEO process.
- 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.
- During EEO counseling, if you report harassment to the EEO Counselor, the EEO office shall report the harassment allegations to your bureau's AHC. If you request to remain anonymous in the informal EEO stage, the EEO office generally should not disclose your name to the AHC in those cases. However, the EEO office should, nonetheless, immediately relay all other known details of the harassment allegations so that the agency can meet its duty to take prompt and appropriate action to address the harassment allegations.
- If you report sexual harassment during the harassment inquiry or informal EEO complaint process, the bureau's AHC will be notified immediately. The AHC will then contact the appropriate Office of Inspector General within 10 days of receiving the notification.
- 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 EEO complaint.
- A formal complaint must be filed with the Office of Civil Rights and Diversity within 15 days of receipt of written notice of your right to file a formal complaint. Your EEO counselor will provide you with information regarding how to file a formal complaint.
- Once a formal complaint has been filed and accepted for investigation, an investigator will conduct an investigation into the claims of harassment.
- When the investigation is complete, you will receive the investigative file and will be given the option of either a hearing before an EEOC Administrative Judge (AJ) or a final agency decision based on the existing record.
- If you elect a hearing, one will be conducted by an EEOC AJ, unless, after providing the parties the opportunity to discover additional material evidence, if any, the AJ determines that a hearing is not necessary because there are no disputes over facts that might affect the outcome of the case. If the AJ determines that a hearing is not necessary, the AJ will render a decision based on the existing record.
- You will receive a final decision on your complaint from either the agency or the AJ, depending on your selection of process. 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.

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- Remember, it is illegal for the agency to take any retaliatory action against you for engaging in the EEO process, including filing a complaint of harassment or testifying in support of a colleague's harassment claim.

- Your first action must be to ensure that the alleged harassment does not continue. For example, it might be necessary to change the work location and assignments of the alleged harasser and/or grant appropriate leave sought by the alleged victim.
- You should immediately talk to the individuals and find out all you can about the allegations.
- You cannot ignore the situation or cover up the allegations, even if the victim asks you to do so. If you do, the agency may be liable for damages and you may be subject to disciplinary action.
- You should report any form of harassment to the bureau's AHC or the bureau's designated official.
- If you are designated to conduct the harassment inquiry, prior to starting, inform the employee raising the claim that he/she has the right to contact the bureau's EEO office.
- If appropriate, you should quickly take corrective action, which may include counseling or disciplinary action.

MANAGEMENT'S RESPONSIBILITIES

- Management should ensure that the Department's "zero tolerance" policy has been distributed to and is understood by all employees. Supervisors should also make it clear that they will not tolerate any harassing behavior among their employees.
- If you are a supervisor or manager, and an employee informs you of objectionable behavior in the workplace, or you observe such behavior, you must take immediate action:

WHAT SHOULD I DO IF I AM ACCUSED OF HARASSMENT?

If a coworker or direct report comes to you and accuses you of harassment, listen to what that person has to say. Make sure you try to fully understand what that employee is feeling and why he or she asserts that the behavior was inappropriate. Apologize for your behavior if you acted in an inappropriate manner, and tell the employee that you will try to make certain similar conduct does not occur in the future. Remember that the Federal workforce is diverse and you may not always understand what is reasonably considered offensive to another person.

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 any inappropriate 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 allegations of inappropriate behavior 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.

If you are a supervisor, it is imperative that you manage an employee who has accused you of harassment in the same manner you would in the absence of the complaint. It is illegal to take or withhold any action, or threaten to take or withhold any action, against an employee because he or she complains of harassment, no matter how frivolous the complaint may be.

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

WHAT WILL HAPPEN IF SOMEONE IS FOUND TO HAVE HARASSED A TREASURY EMPLOYEE?

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.

CONCLUSION

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

BUREAU SEXUAL HARASSMENT HOTLINE NUMBERS

Alcohol and Tobacco Tax and Trade Bureau
(202) 453-2254

Bureau of Engraving and Printing
(202) 874-3460

Fiscal Service
(304) 480-6527

Comptroller of the Currency
(202) 649-5589
1 (866) 387-8974
1 (800) 486-9228 (TDD)

Departmental Offices
(202) 622-0900

Financial Crimes Enforcement Network (FinCEN)
(703) 905-5100

Internal Revenue Service
1 (866) 298-7672

Internal Revenue Service
Chief Counsel
(312) 368-8369

Office of Inspector General
1 (800) 359-3898

Special Inspector General for Troubled Asset Relief Program (SIGTARP)
(202) 622-0900

Treasury Inspector General for Tax Administration (TIGTA)
1 (800) 366-4484
1 (800) 877-8339 (TDD)

U.S. Mint
(202) 354-7806
1 (888) 830-7294
1 (800) 877-8339 (TDD)

