

# NIH Policy Manual

## 1311 - Preventing and Addressing Harassment and Inappropriate Conduct

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**Release Date:** 10/27/2021 ? **Technical Revision Date:** 1/19/2022 ?

### Transmittal Notice

**1. Explanation of Material Transmitted:** This chapter describes the NIH policies and procedures regarding allegations of harassment and inappropriate conduct in the workplace. The policy has been revised to clarify the anti-harassment program and Civil Branch's harassment complaint process, updated language to properly cover all protected classes, update responsibilities for Contracting Officer's Representatives (COR) and Employee and Labor Relations Branch, included new resources from NIH offices, and clearly define the roles of the Civil Branch process and the EEO complaint process through EDI. Technical Revision 11/8/2021: Section D.2.a.v. was revised to further clarify gender identity that includes "name" in addition to a person's pronouns.

**2. Filling Instructions:**

- Remove: NIH Manual Chapter 1311, dated 9/25/2018.
- Insert: NIH Manual Chapter 1311, dated 10/27/2021.

**3. PLEASE NOTE: For information on:**

- Content of this chapter, contact the issuing office listed above.
- NIH Policy Manual, contact the Management Operations Branch, Division of Compliance Management, OMA on 301-496-4606, [policymanual@nih.gov](mailto:policymanual@nih.gov) or enter this URL: <https://oma.od.nih.gov/DMS/Pages/Manual-Chapters.aspx>.

### A. Background

The contributions of every member of the National Institutes of Health's (the "Agency" or "NIH") community are vital to successfully improving people's health and reducing the burden of disease. An environment where people feel welcome, respected, and valued is necessary for all individuals to contribute to their fullest potential. In alignment with this, the NIH is committed to creating and maintaining a work environment that is free of harassment

and other inappropriate conduct. Harassment, bullying, intimidation, threats, or other disruptive behaviors run counter to our mission and goals. NIH is committed to holding all community members accountable for such behaviors by enacting timely and appropriate action regardless of position or status.

## **B. Purpose**

This policy describes the NIH requirements for preventing and addressing harassment or inappropriate conduct in the workplace and includes procedures for reporting inappropriate conduct, resolution of harassment, and communicating the outcomes to required offices.

Through enforcement of this policy, the NIH seeks to provide the entire NIH community with reporting tools to assist in identifying inappropriate behavior, to ensure all allegations are reviewed in an objective and consistent manner, and to correct unacceptable behavior that is inconsistent with the values and culture of respect and inclusion.

## **C. Scope**

This policy covers all federal employees, non-federal workers, and contractors, as defined below, regardless of position. As such, each federal employee, non-federal worker, and contractor is required to comply with this policy. The principles in this policy also apply to all individuals on owned or leased property, including extended visitors.

**Federal employee:** An individual of the NIH who is employed pursuant to an appointing authority that grants them federal status by law and benefits conferred to them as a federal employee. This includes: Title 5 employees (GS, WG, GP/GR, Title 28) all Executives (SES and Senior Title 42), Commissioned Corps Officers, and all Title 42 employees (Undergraduate Scholarship Program (UGSP)), Clinical and Research Fellows, Staff/ Senior Clinicians/Scientists, Senior Biomedical Research Service, Senior Scientific Officers (SSO) and Science Policy or Program Leaders (SPL-2), Tenure Track and Tenured Investigators.

**NOTE:** NIH Management is responsible for taking appropriate action against any federal employee who violates this policy. Appropriate action for federal employees may include, but is not limited, to written counseling, reprimand, suspension, demotion, or removal from one's position and/or separation from the Federal Service. Such actions may also be considered when making administrative decisions related to funding, staffing, and other resources.

**Non-federal worker:** Those individuals who perform work for the NIH but have not been employed under an appointing authority that grants them federal status by law and benefits conferred to them as a federal employee. This includes: all Trainees and Interns<sup>1</sup>, Volunteers and Special Volunteers, and Guest Researchers. **NOTE:** NIH Management is responsible for taking appropriate action against any non-federal worker who violates this policy. Appropriate action for non-federal workers may include, but is not limited to written counseling, suspension, demotion, or removal from one's position.

**Contractors:** Employees of a firm that has a mutually binding legal relationship, in the form of a contract, with NIH to provide supplies and services. The contract firm is responsible for ensuring that their employees comply with this policy. **NOTE:** Contractors' failure to comply with this policy may have action taken against them by the contracting officer ranging from a negative contractor performance review (CPARS) to a breach of contract, depending upon the impact of the failure to comply.

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[1] Includes all trainees appointed under the following programs: Summer Intern, Postbaccalaureate and Postdoctoral Intramural Research Training Award (IRTA) and Cancer Research Training Award (CRTA), Graduate Partnerships Program (GPP), Medical/Dental Student, Visiting Fellow, and all other student programs.

## D. Policy

The NIH will not tolerate harassment or inappropriate conduct of any kind. Timely and appropriate action will be taken against any individual found to be in violation of this policy. NIH leadership has designated the NIH [Civil Branch \(Civil\) within the Workforce Relations Division \(WRD\), Office of Human Resources \(OHR\)](#) as the entity charged with receiving allegations of inappropriate conduct, including all forms of harassment, and overseeing the appropriate administrative review.

Retaliation towards any federal employee, non-federal worker, or contractor for reporting allegations of inappropriate conduct or harassment, participating as a witness in an administrative inquiry, or for participating in the Equal Employment Opportunity (EEO) complaint process, is prohibited.

1. **Harassment:** Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy, gender identity, transgender status, and sexual orientation), national origin, age (40 or older), disability, equal pay/compensation, or genetic information (including family medical history). Harassment is a form of employment discrimination prohibited by [Title VII of the Civil Rights Act of 1964](#), the Age Discrimination in Employment Act of 1967, (ADEA), the Rehabilitation Act of 1973 (as amended), and ADA Amendments Act of 2008 ADAAA. 42 U.S.C. ch 126 12101 et seq. Harassment becomes **unlawful** when:

a. enduring the offensive conduct becomes a condition of continued employment,

**or**

b. the conduct is **severe or pervasive** enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any

way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

**2. Forms of Harassment:** The following are examples of inappropriate conduct that may meet the definition of harassment if an incident is severe or pervasive.

**a. Sexual Harassment/Harassment based on sex (including pregnancy, gender identity, transgender status, and sexual orientation).** Examples include, but are not limited to:

- i. Unwelcome sexual advances
- ii. Requests for sexual favors
- iii. Making repeated attempts to establish an unwanted relationship
- iv. Making offensive comments or asking questions about someone's sexual history, orientation, or gender identity
- v. Intentionally misusing a person's name or pronouns
- vi. Sharing sexually inappropriate images or videos, such as pornography, with others in the workplace
- vii. Sending suggestive letters, notes, texts, or emails or displaying inappropriate sexual images in the workplace
- viii. Telling lewd jokes or sharing sexual anecdotes
- ix. Making inappropriate sexual gestures
- x. Staring in a sexually suggestive or offensive manner or inappropriate whistling
- xi. Making sexual comments about appearance, clothing, or body parts
- xii. Inappropriate touching, including pinching, patting, rubbing, or purposefully brushing up against another person.

**b. Harassment based on race, ethnicity, color, and/or national origin.** Examples include, but are not limited to:

- i. Making derogatory epithets, slurs, remarks, stereotypes, labels, jokes, or innuendos related to a person's race, ethnicity, culture, or national origin
- ii. Making comments, jokes, teasing someone about a person's dress, personal appearance, hairstyle, speech, or other practices that are related to their race, ethnicity, culture, and/or national origin
- iii. Displaying racist or discriminatory symbols or imagery
- iv. Engaging in a pattern of unwelcome or inappropriate verbal, behavioral, or environmental indignities, whether intentional or unintentional, that communicate hostile, derogatory, or otherwise negative prejudicial slights and insults toward an individual or group, including but not limited to individuals from historically excluded groups. These may also be referred to as microaggressions<sup>2</sup>, such as touching someone's hair or skin, commenting on ability to speak English, stating and/or perpetuating stereotypes, etc.

**c. Harassment based on physical, cognitive, mental disability or “regarded as” having a disability.** Examples include, but are not limited to:

- i. Making derogatory remarks, stereotypes, labels, jokes, or innuendos related to people with disabilities
- ii. Sending inappropriate letters, notes, texts, or emails and/or displaying inappropriate images in the workplace of people with disabilities
- iii. Telling inappropriate jokes or sharing inappropriate disability related anecdotes
- iv. Making inappropriate or mocking disability related gestures
- v. Staring in an inappropriate or offensive manner
- vi. Making inappropriate comments about appearance, assistive equipment, or body parts
- vii. Inappropriate touching, including pinching, patting, rubbing, or purposefully providing unwanted assistance including with service animals
- viii. Making offensive comments or asking questions about someone's medical condition, history of a medical condition, and/or whether they are a person with a disability

**d. Harassment based on religion or creed.** Examples include, but are not limited to:

- i. Sharing inappropriate images or videos with others in the workplace of a person's religion, creed, or a person's choice to abstain from religiosity
- ii. Sending inappropriate letters, notes, texts, or emails or displaying inappropriate images in the workplace of a person's religion, creed, or a person's choice to abstain from religiosity
- iii. Telling inappropriate jokes or sharing inappropriate religion related anecdotes
- iv. Making inappropriate or mocking religion related gestures
- v. Making offensive comments or asking questions about someone's religion, creed, or a person's choice to abstain from religiosity

**e. Harassment based on age (40 or older).** Examples include, but are not limited to:

- i. Sending inappropriate letters, notes, texts, or e-mails or displaying inappropriate age-related images in the workplace
- ii. Telling inappropriate jokes or sharing inappropriate age-related anecdotes
- iii. Making inappropriate or mocking age-related gestures
- iv. Determining and assigning tasks or duties based on a person's age
- v. Staring in an inappropriate or offensive manner
- vi. Inappropriate touching, including pinching, patting, rubbing, or purposefully providing unwanted assistance
- vii. Making offensive age-related comments or inappropriately asking questions about someone's age

f. **Harassment based on genetic information.** Examples include, but are not limited to:

- i. Unlawfully obtaining or sharing genetic information, as well as any information related to it with others in the workplace
- ii. Sending inappropriate letters, notes, texts, or e-mails related to genetic information or displaying inappropriate images in the workplace related to genetic information
- iii. Making offensive comments or asking questions about someone's genetic information or related medical condition, history of a medical condition, and/or whether they are a person with a disability

3. **Inappropriate conduct:** Inappropriate conduct is also covered and is a separate, broader category of misconduct that may not meet the definition of harassment listed above. This type of conduct, though inappropriate and covered under this policy, may not constitute harassment under the law. Inappropriate conduct includes any comments or conduct that disparages or demonstrates hostility or aversion towards any person that could reasonably be perceived as disruptive, disrespectful, offensive, or inappropriate in the workplace. These may also be referred to as microaggressions, as defined above. Examples include, but are not limited to:

- a. Actions or behaviors that adversely impact Agency operations, productivity, and/or work environment
- b. Rude comments, ridicule, disrespectful jokes, or insults
- c. Inappropriate yelling or emotional outbursts, using expletives, throwing objects, or banging/slamming doors
- d. Inappropriate touching or any form of physical intimidation or aggression (e.g., holding, restraining, impeding, or blocking movement, following, inappropriate contact or advances, bullying, or any other forms of inappropriate touching)
- e. Engaging in a personal relationship with someone in an inherently unequal position where there is a real or perceived authority or influence over the other's conditions of employment and/or has the ability to directly impact the other's career progression and not disclosing the relationship and taking steps to mitigate the risk to all parties. This may include formal and informal supervisory relationships<sup>3</sup>.
- f. Inappropriate or rude gestures, expressions, pictures, or graffiti
- g. Threats against others or engaging in other threatening behavior
- h. Psychological bullying or intimidation, such as making statements that are false, malicious, disparaging, or derogatory with the intent to hurt another's reputation
- i. Engaging in behaviors that may have a dampening effect on reporting workplace concerns, such as those that can be perceived as intimidating or retaliatory against individuals who report concerns or participate in an administrative inquiry or other protected activity

[2] Microaggressions are everyday verbal, nonverbal, and environmental slights, snubs, or insults -- whether intentional or unintentional -- that communicate hostile, derogatory, or negative messages to individuals based solely upon their marginalized group membership. ([UCLA, Diversity & Faculty Development. \(2014\). Diversity in the classroom](#)). Microaggressions repeat or affirm stereotypes about a minority group, and they tend to minimize the existence of discrimination or bias, intentional or not. ([NIH Scientific Workforce Diversity \(SWD\) Office](#)). Sue et al. [[Racial microaggressions in everyday life: Implications for clinical practice. \(apa.org\)](#)], defined racial microaggressions as subtle, daily, and unintentional racial slights committed against people of color because they are members of a racialized group and proposed nine categories of racial microaggressions, described as (a) assumptions that a person of color is not a true American; (b) assumptions of lesser intelligence; (c) statements that convey colorblindness or denial of the importance of race; (d) assumptions of criminality or dangerousness; (e) denials of individual racism; (f) promotion of the myth of meritocracy; (g) assumptions that one's cultural background and communication styles are pathological; (h) being treated as a second-class citizen; and (i) having to endure environmental messages of being unwelcome or devalued.

[3] Authority within professional relationships may result from actual supervision, mentoring, reviewing, advising, evaluating, teaching, or personal relationships with external partners where a real or perceived power imbalance exists. For more information, please see the [NIH Policy Statement on Personal Relationships in the Workplace](#).

## E. Procedures

### Reporting an Allegation of Harassment or Inappropriate Conduct

Any federal employee, non-federal worker, or contractor who believes they have experienced harassment or inappropriate conduct may report such behavior to any manager, [Civil](#), the [NIH Office of Equity, Diversity, and Inclusion \(EDI\)](#) and/or the [Office of Intramural Training and Education \(OITE\)](#), [Office of Intramural Research \(OIR\)](#). In addition, contractors are encouraged to report such behavior to their employing organization and/or the Contracting Officer's Representative (COR) and are encouraged to follow any reporting requirements set forth by their organization.

All managers, supervisors, CORs, staff from EDI, and OITE/OIR have an obligation to report alleged harassment to the Civil in a timely manner.

Once an allegation is raised, Civil will initiate a prompt administrative review, as described below. During this process, the reporting party may remain anonymous, but the information shared will not be held as confidential. Reports can be made anonymously, which means you do not have to identify yourself. However, Civil staff must follow up on all allegations of harassment and cannot guarantee that your identity will not become apparent during the process. Please note that if you remain anonymous, key details about the allegation or concern to be omitted. This will limit the NIH's ability to conduct an inquiry and take corrective action as warranted.

Confidentiality indicates that what you say is private or secret and no further action will be taken. Civil is not a confidential resource. Civil staff and management officials cannot guarantee confidentiality when it comes to allegations of harassment. If you report an allegation **that meets the definition of harassment, including sexual harassment**, your supervisor or manager **must** contact Civil. There are other offices that operate under principles of confidentiality. You can reach out to them to discuss any concerns and they are not be required to take action, including the Employee Assistance Program (EAP) within the

Occupational Medical Services (DOHS), Office of Research Services (ORS) or the NIH Ombudsman's Office, both of which operate under principles of confidentiality.

Every member of the NIH community has the right under NIH policy to report their concerns about inappropriate conduct to Civil without negative consequence. Retaliatory treatment towards any NIH employee or non-federal worker for reporting allegations of inappropriate conduct or harassment or for participating as a witness in an administrative inquiry is prohibited.

### *The Civil Branch's Role and the Office of Equity, Diversity, and Inclusion's Role*

#### **The Civil Branch**

Civil's mission is to foster civility throughout the NIH community. They review all reports uncivil conduct within the NIH community, including all forms of harassment, inappropriate conduct, intimidation, bullying, or other unproductive, disruptive, and/or violent behaviors. Raising an allegation with Civil under this policy is not equivalent to or in lieu of filing an EEO Complaint of Discrimination, under [29 C.F.R. 1614](#), or a grievance under the administrative or negotiated procedures included in the applicable Collective Bargaining Agreement (CBA).<sup>4</sup>

All federal agencies are required to establish an anti-harassment policy which assures that their reporting process will provide a prompt, thorough, and impartial administrative review into allegations of harassment **that is separate and distinct from the EEO Complaint process, which must be filed from 45 days of the discriminatory treatment. (visit [EDI's Resolutions site](#) for details on EEO Complaint process).** NIH leadership designated Civil as the entity charged with receiving allegations of inappropriate conduct, including all forms of harassment, and overseeing the appropriate administrative review or inquiry in an objective and consistent manner across all of NIH. This is a stand-alone requirement and the goal is to stop any inappropriate or harassing behaviors immediately and to ensure that appropriate corrective action is taken in a timely manner. This is separate and distinct from the EEO complaint process.

During the inquiry process, Civil may refer reporting parties to a variety of NIH resources for remediation and any additional relief sought. The goal of a Civil inquiry is for NIH to respond to and stop inappropriate or harassing behavior. However, a Civil inquiry will not result in remediation, such as payment of damages, to any individual who has alleged harassment.

Participation in the Civil process does not prohibit an individual from pursuing relief through the EEO complaint process, or the grievance process. Staff wishing to pursue an EEO complaint must contact EDI separately to ensure they submit their EEO claim within the 45-day timeframe. Reporting an incident to Civil does not start the 45-day process. However, failure to raise complaints of harassment with or participate in Civil's administrative review



or inquiry process may limit NIH's ability to respond to inappropriate or harassing behaviors expeditiously.

## **The Office of Equity, Diversity, and Inclusion**

An EEO complaint may be filed by a current or former employee or an applicant for employment who alleges discrimination on the bases of race, religion, color, national origin, age (40 or older), physical or mental disability, equal pay/compensation, genetic information, sex (including pregnancy, sex stereotyping, gender identity, transgender status, and sexual orientation), and/or retaliation for protected EEO activity. EDI's complaint processing provides for informal counseling, investigation, adjudication, and potential resolution of EEO complaints.

In order to pursue an EEOC complaint, employees must contact the [Office of Equity, Diversity, and Inclusion \(EDI\)](#) **within 45 days** of the discriminatory incident to file a pre-complaint of discrimination or within 45 days in which they have become aware that they have been discriminated against. Reporting an incident to Civil does not start the 45 day process. Staff wishing to pursue an EEO complaint must contact EDI separately to ensure they submit their EEO claim within the 45-day timeframe. Contacting Civil will not stay or alter the timeframe available to employees to contact EDI for purposes of filing an EEOC complaint.

Once an EEO complaint is filed with an allegation of discriminatory workplace harassment, [EDI](#) is obligated to notify the Institute/Center/Office (ICO) and Civil of the allegation, which will initiate **NIH's obligation to conduct an administrative review or inquiry**. The investigations may be similar for both processes. EDI will contact Civil to learn whether a review or inquiry has already been conducted on the allegations and may request a copy of Civil's documentation and findings to include in the EEO complaint case. However, EDI must conduct their own separate investigation, even if a review regarding the complaint has already been conducted by Civil.

## **Bystander to Harassment or Inappropriate Conduct**

Any federal employee, non-federal worker, or contractor who believes they are witnesses to harassment or inappropriate conduct should report the behavior to a manager, Civil, or EDI as soon as possible so an administrative inquiry can be conducted, and appropriate corrective action implemented. In the case of Government contractors, they may report behavior to their company and/or their Contracting Officer's Representative (COR). Every member of the NIH community is expected to assist in ensuring a safe and civil work environment.

## **Management and Contracting Officer's Representatives (CORs)**

NIH managers, supervisors, and CORs have an obligation to report allegations of harassment to Civil as soon as possible and to cooperate fully in a review of the concerns. Federal employees, non-federal workers, and contractors who come forward with a harassment allegation should be informed that all **managers, supervisors, and CORs have an obligation to report the alleged harassment to Civil** and an administrative inquiry will be conducted. This obligation to report and the subsequent administrative inquiry into the harassment allegation is required even if the individual coming forward wishes to remain anonymous, requests confidentiality, or does not wish the complaint to be addressed with the alleged harasser. This obligation exists even if the reporting party is not under the supervision of the manager or supervisor who received the allegation of harassment. Management officials cannot maintain the anonymity of the individual who reported to them when they report the matter to Civil, however, Civil can maintain the reporting party's anonymity during the administrative inquiry process.

Managers and supervisors are responsible for ensuring staff are aware of this policy, where staff can learn more about Civil's process and must not discourage staff from or reprimand staff for reporting allegations. Retaliatory treatment towards any federal employee, non-federal worker, or contractor for reporting allegations of inappropriate conduct or harassment, or for participating as a witness in an administrative inquiry or EEO complaint process, is prohibited. Retaliation is defined as any adverse action by an employer towards an employee for engaging in legally protected activity, such as reporting an allegation of harassment or participating in an administrative inquiry, which would dissuade a reasonable person from opposing harassment or inappropriate conduct, or from cooperating in the inquiry or investigation.

All management officials and CORs are expected to take timely and appropriate corrective action against any federal employee or non-federal worker who violates this policy.

**Administrative Inquiries into Harassment or Inappropriate Conduct Allegations** Once an allegation of harassment or inappropriate conduct is reported to Civil, Civil staff will take the following actions:

1. Contact the reporting party to conduct an initial review to determine if an administrative inquiry is required and provide them with information about NIH wellness and conflict resolution resources. If the reporting party chooses to remain anonymous, Civil staff will proceed with the next steps to the greatest extent possible given the information available.
2. Notify the ICO Executive Officer or the most appropriate management official and the servicing OHR Employee and Labor Relations Specialist of the nature of the allegations and other appropriate information.

3. Review all the initial documentation to determine if an administrative inquiry is required. If they determine the matter would be more appropriately handled by a partner organization, Civil Specialists will notify the appropriate management official and involved parties and provide a referral to the most appropriate resource(s). Those resources may include:

- IC Management
- [Office of the Ombudsman, OD](#)
- [Employee and Labor Relations, WRD, OHR](#)
- [Office of Intramural Training and Education, OIR](#)
- [Employee Assistance Program, DOHS, ORS](#)
- [Division of Police, Office of Security and Emergency Response \(SER\), ORS](#)

4. For cases requiring further review, Civil Specialists will notify ICO Executive Officer or the most appropriate management officials and initiate a more in-depth administrative inquiry. The purpose of an inquiry is to ensure allegations are examined objectively and any inappropriate behavior is curtailed quickly through appropriate corrective action. The type of administrative review can take on a variety of characteristics depending on the nature and complexity of the allegations:

- Internal administrative inquiries conducted by Civil staff should typically be initiated within ten (10) business days from receiving the allegation absent extenuating circumstances. Civil has the responsibility and discretion to determine the type of review that may be required to ensure a thorough, objective examination of the allegation to determine if inappropriate conduct has occurred.
- External administrative inquiries conducted by a contract investigator will be initiated if the situation is confounding or has a large, complex scope or potential impact. Civil staff will notify the ICO Executive Officer or the most appropriate management official that the inquiry will be conducted by a third party and obtain approval for funding. The external inquiry should be conducted expeditiously and the timeframe for completion will vary depending on circumstances, e.g., lead time for retention of a contract investigator.
- Many factors contribute to the time it takes to complete an inquiry, including obtaining statements from multiple staff members, scheduling interviews with multiple staff members, analyzing all the information collected, and coordinating with the appropriate management officials and stakeholders on next steps.
- The process can be uncomfortable and stressful for some and participants are encouraged to ensure they understand the process, comply with their responsibilities under this Manual Chapter, and utilize NIH resources outlined in Section G. to assist them in the process. Participants are to be mindful that all communication with others, including Civil staff,

throughout this process will be considered in the findings and maintained as part of the case file.

5. Civil staff will review the documentation to determine if a **preponderance of evidence** (evidence which shows that the fact to be proven is more probable than not) supports that a violation of this policy has occurred.
6. Upon completion of the administrative inquiry, the ICO Executive Officer or the most appropriate management official will be notified, and a close-out notification will be sent to the reporting party and the subject of the allegation informing them that the Civil process is complete. If a violation of this Manual Chapter or other workplace issues are identified, they will be referred to the ICO Executive Officer and the OHR Employee and Labor Relations Branch to address.
7. When a Government contractor is involved, the preceding steps will include the COR and the contracting company as appropriate. If the situation involves only contractors, then the contracting company may take the lead on the inquiry but must provide findings and subsequent action to the COR, who will then provide the information to Civil.

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[4] This policy does not supersede the policies and/or procedures of any collective bargaining agreement in effect as of the date of publication.

## **F. Resolution**

### **Corrective Administrative Action**

When it is determined that this policy has been violated, Civil staff will coordinate with the servicing OHR Employee and Labor Relations Specialist and the ICO Executive Officer to develop corrective administrative actions. The corrective administrative actions can include a variety of interventions as well as appropriate disciplinary actions such as reprimand, proposed suspension, or proposed removal and shall always include a reminder that retaliatory treatment towards any federal employee, non-federal worker, or contractor for reporting allegations of inappropriate conduct or harassment, or for participating as a witness in an administrative inquiry or EEO complaint process, is prohibited. Other interventions may include training, coaching, facilitated discussions for the team, and/or collaborative work with the Employee Assistance Program or the Office of the Ombudsman. Once the ICO, in coordination with the Employee and Labor Relations Branch, determines the corrective administrative action, they will consult with Civil and share the proposed action items and targeted completion dates. If the respondent is a Government contractor, corrective and/or disciplinary action will be the responsibility of the contracting company and negative performance may be recorded in the Contractor Performance Assessment Reporting System (CPARS), if warranted.

Should an ICO not cooperate with the Employee and Labor Relations Branch or Civil throughout this process, or not implement the corrective administrative action in whole or in part, Civil staff will notify the NIH Principal Deputy Director, who will request a meeting

with the ICO Director and Executive Officer so they may explain their ICO's lack of coordination and/or their rationale for not implementing the corrective administrative action in full.

## **Communicating Outcomes to Reporting Parties**

Civil will notify the reporting party of the status of the administrative inquiry and when it has been referred to the appropriate management officials. However, because of privacy rights and procedures, no further information will be provided.

The purpose of the Civil process is to ensure that any alleged policy violations are reviewed in an objective and fair manner and, if necessary, addressed appropriately. The goal is to ensure that the inappropriate behavior and/or harassment stops and is addressed through corrective action. The resolution that reporting parties should be looking for is improvement in the work environment and an end to uncivil or harassing behaviors, not public disclosure of corrective actions taken against a respondent.

## **G. Roles and Responsibilities**

### **1. The Director, NIH, is the Agency Responsible Official for:**

- a. developing the NIH policy for preventing and addressing harassing conduct in the workplace; and
- b. ensuring resources are allocated to promote a safe and civil organizational culture in all NIH-supported workplaces and scientific meetings to create an environment where all individuals are treated with respect and dignity.

### **2. The Principal Deputy Director, NIH, is responsible for:**

- a. developing the NIH policy for preventing and addressing harassing conduct in the workplace;
- b. ensuring resources are allocated to promote a safe and civil organizational culture in all NIH-supported workplaces and scientific meetings to create an environment where all individuals are treated with respect and dignity; and
- c. holding ICO leadership accountable if they do not coordinate fully with Civil or they fail to implement the recommended corrective administrative action in full.

### **3. The Deputy Director for Management (DDM), NIH, is responsible for:**

- a. oversight of the Civil Branch;
- b. ensuring all federal and nonfederal staff (including trainees and fellows) successfully complete the Prevention of Sexual Harassment (POSH) training as required, and to carry out their duties as listed below;
- c. ensuring that all individuals at NIH facilities are provided information on the NIH harassment and workplace violence policies and procedures;

- d. serving as the primary contact for ICOs in response to allegations raised to them by Civil;
- e. partnering with Civil with the objective of ensuring that all administrative inquiries and subsequent corrective administrative action are appropriate and consistent with similar cases across the NIH; and
- f. seeking to ensure that managers and supervisors report allegations of harassment as soon as possible and that they cooperate fully with Civil on related inquiries and corrective administrative action to address matters appropriately.

**4. Managers and Supervisors are responsible for:**

- a. working to prevent and address harassment and inappropriate conduct in the workplace, promoting a safe and civil organizational culture, and creating an environment where all individuals are treated with respect and dignity;
- b. arranging for thorough and appropriate pre-hire reference screening to be performed, including effective completion of reference checks, and utilizing behavioral-based interview questions;
- c. ensuring all federal and nonfederal (including trainees and fellows) staff successfully complete the Prevention of Sexual Harassment (POSH) training as required;
- d. reporting any allegations of harassment to Civil as soon as they become aware or no more than 2 business days after becoming aware, and being aware that they cannot keep allegations regarding harassment or workplace violence confidential;
- e. coordinating closely with Civil and the servicing Employee and Labor Relations staff to appropriately address allegations of harassment or inappropriate conduct in a timely manner;
- f. promptly issuing interim action for direct reports involved in inquiries, including instructing them to move temporarily, participate in climate surveys, and inquiries, rearrange schedules, provide cease and desist instructions, or otherwise instruct staff in line with guidance from the servicing Employee and Labor Relations or Civil staff;
- g. ensuring Civil staff are kept abreast of all corrective action recommended and implemented in a timely manner;
- h. cooperating promptly and fully with Civil during internal and external administrative inquiries to look into allegations of harassment;
- i. being cognizant of situations that have the potential to escalate conflict and promptly addressing them with all concerned parties;
- j. cooperating promptly with the Office of Intramural Training and Education (OITE) on all Civil cases involving trainees and providing information about and encouraging intramural trainees to utilize OITE resource;
- k. providing information about and encouraging staff to utilize the resources offered by such organizations as Civil, Employee Assistance Program, and the Office of the Ombudsman; and
- l. ensuring that staff have time and opportunity to attend training for understanding and responding to harassment and inappropriate conduct.

**5. All federal employees, non-federal workers, contractors, and individuals on NIH owned or leased property, including extended visitors are responsible for:**

- a. conducting oneself in a manner that promotes and facilitates a safe and civil organizational culture, and an environment where all individuals are treated with respect and dignity;
- b. promptly reporting if they believe they have experienced or have witnessed harassment, inappropriate conduct, threats, intimidating or bullying behavior to appropriate authorities (such as their supervisory chain of command, the contractor company, Civil, EDI, or the NIH police);
- c. cooperating fully in administrative inquiries of allegations of harassment and inappropriate conduct;
- d. respecting the integrity of the process by truthfully and accurately participating in all inquiries and not discussing the content of inquiries with peers;
- e. being aware that they cannot ask or expect an NIH manager or supervisor to keep their allegations regarding harassment or workplace violence confidential, even if the manager or supervisor is a mentor or otherwise outside of the employee's chain of command; and
- f. reporting any restraining orders and other protective court orders to Civil or the NIH Police so assistance can be offered, safety measures can be implemented at the work site; and if a contractor or company that employs them, ensuring compliance with all Department of Labor (DOL) and Equal Employment Opportunity Commission (EEOC) statutory requirements as well as adherence to Federal Acquisition Regulation clause 52.222-26 Equal Opportunity.

**6. The Civil Branch, Workforce Relations Division (WRD), Office of Human Resources (OHR), is responsible for:**

- a. overseeing administrative inquiries into all allegations involving potential harassment or inappropriate conduct as defined above;
- b. assessing the urgency and whether there is a need for intervention or assistance from other NIH resources to address an allegation, including answering questions, giving advice, and making referrals as needed;
- c. ensuring appropriate post-incident response;
- d. following up with ICO to ensure necessary steps, action, and closure;
- e. providing regular updates on case data to NIH leadership to ensure proper program oversight;
- f. maintaining the official Civil records; and
- g. serving as the initial contact point with external organizations interested in the program.

**7. The Employee and Labor Relations Branch (ELRB), WRD, OHR, OM, OD:**

- a. collaborating with Civil staff and ICO management officials to advise on and assist with interim remedial actions during the administrative inquiry process and ensuring timely implementation of corrective actions once the inquiry is

- complete; and
- b. ensuring Civil staff are kept abreast of all corrective action recommended and implemented in a timely manner.

**8. Contracting Officer Representatives (CORs) are responsible for:**

- a. working to prevent and address harassment and inappropriate conduct in the workplace, promoting a safe and civil organizational culture, and creating an environment where all individuals are treated with respect and dignity;
- b. ensuring all contract staff successfully complete the mandatory annual Anti-Harassment/ training as required;
- c. promptly reporting any allegations of harassment to Civil when they become aware and being aware that they cannot keep allegations regarding harassment or workplace violence confidential. promptly cooperating fully with Civil during administrative inquiries to look into allegations, keeping them abreast of the contract company's response and findings;
- d. being cognizant of situations that have the potential to escalate conflict and promptly addressing them with all concerned parties; and
- e. providing information about and encouraging all contract staff to utilize the resources offered by such organizations as Civil, Employee Assistance Program, and the Office of the Ombudsman.

**9. The NIH Office of Intramural Training & Education (OITE), Office of Intramural Research (OIR), is responsible for:**

- a. providing agency-wide leadership and guidance on issues relating to the intramural training environment and communicating concerns to the Deputy Director of Intramural Research;
- b. coordinating with Civil and ICO leadership on all cases involving trainees;
- c. working with Employee and Labor Relations and ICO leadership to address trainee issues, including but not limited to, ICO Training and Clinical Directors, Executive Officers, and Scientific or Deputy Scientific Directors, as appropriate;
- d. offering comprehensive training and individual guidance to trainees in their personal and professional development, and requiring that responsible conduct and the reporting of inappropriate conduct is clearly articulated and promoted across all development platforms; and
- e. providing information to intramural trainees about the resources offered by Civil, Employee Assistance Program and the Office of the Ombudsman.

**10. The Office of Equity, Diversity, and Inclusion (EDI), OD, is responsible for:**

- a. providing agency-wide leadership and guidance on issues of equal employment opportunity, diversity, and inclusion;
- b. oversight of all discrimination complaints filed under 29 CFR Part 1614;
- c. notification to Civil of complaints of discrimination that allege harassment;
- d. providing appropriate guidance and processing assistance on reasonable accommodation matters to NIH employees and managers in order to remove



- barriers for individuals with disabilities;
- e. providing training and guidance to the NIH community on their rights and responsibilities in regard to EEO laws and policies;
- f. promoting a diverse and inclusive working environment where individuals are treated equitably and valued for their individuality;
- g. promoting accessibility in the physical and digital workspace, and ensuring individuals with disabilities are free from harassment and inappropriate conduct;
- h. examining employment policies, procedures, and practices to identify employment barriers to EEO;
- i. eliminating identified barriers to EEO; and
- j. providing guidance to managers as appropriate, and when requested, on how to address allegations of unlawful harassment as a result of a legally protected basis.

## **H. Additional Resources**

### **1. The Employee Assistance Program (EAP) within the Occupational Medicine Service (OMS), Division of Occupational Health and Safety (DOHS), Office of Research Services (ORS), OD, provides:**

- a. confidential, neutral, and personalized consultation, short-term counseling, crisis intervention, referral and follow up services to all members of the NIH workforce to enhance personal and professional wellbeing;
- b. training on a variety of topics such as Emotional Intelligence, Resiliency, Stress Management, Managers Workshops, Work/Life Balance, and Workplace Communication to educate and inspire workgroups to create a healthier, safer, and more productive workplace;
- c. a full range of onsite crisis intervention services to individuals and workgroups impacted by traumatic events;
- d. behavioral health expertise, guidance, and support to assist managers successfully navigate complex workplace situations; and
- e. information to intramural trainees about the resources offered by OITE.

### **2. The Office of the Ombudsman provides:**

- a. confidential, informal, and neutral assistance to all members of the NIH community to address workplace or lab-related conflicts and communication challenges;
- b. consultation, coaching, and facilitation services to individuals, groups, and organizations;
- c. workshops and presentations to the NIH community on conflict resolution, conflict management, negotiation, communication, and other topics aimed to prevent and mitigate workplace concerns; and
- d. information and support for Principal Investigators, trainees, and other intramural research staff regarding scientific collaboration and authorship disputes.

## I. References

For more information about the following references, please call Civil at 301-402-4845 or refer to the NIH Civil website - <https://hr.nih.gov/working-nih/civil>.

1. [Title VII of the Civil Rights Act of 1964](#)
2. [29 CFR Part 1614 – Federal Sector Equal Employment Opportunity](#)
3. [Executive Order on Advancing Racial Equity and Support for Underserved Communities Through the Federal Government](#)
4. [Executive Order on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation](#)
5. [What You Should Know About EEOC and Enforcement Protections for LGBT Workers](#)
6. [HHS Anti-Harassment Policy](#) (April 17, 2017)
7. <https://www.edi.nih.gov/>
8. <https://www.edi.nih.gov/policy/statutes>
9. [45 CFR Part 73, HHS Residual Standards of Conduct](#)
10. [5 CFR Part 2635 - Standards of Ethical Conduct for Employees of the Executive Branch](#)
11. [Department of Labor - Equal Employment Opportunity](#)
12. [Federal Acquisition Regulations - 52.222-26 Equal Opportunity](#)
13. [NIH Manual Chapter 2300-752-3 - Restricting, Removing and/or Banning Individuals from NIH Work Places](#)
14. [NIH Manual Chapter 1743, Keeping and Destroying Records](#)
15. [5 CFR Part 752 – Adverse Actions](#)
16. [OPM Guide on Responding to Domestic Violence: Where Federal Employees Can Find Help](#)