



Harassment Free Work Place

The U.S. Fish & Wildlife Service (Service), Your Employer of Choice, encourages and strives for a harassment free workplace. It is every employee's responsibility to learn about and exercise his/her basic rights.

To help avoid actions and/or statements that can be considered harassment, the following summarizes the Service's policy on harassment and zero tolerance.

Policy on Harassment and Zero Tolerance

It is the policy of the Service to provide employees with a work environment that is free from harassment of all kinds. The Service prohibits employment-related harassment on the basis of race, color, religion, age, disability, national origin, reprisal, sex (whether or not of a sexual nature) or sexual orientation, and genetic information.

What is the Definition of Harassment?

Harassment is a form of employment discrimination that violates federal laws when it involves discriminatory treatment on the basis of race, color, sex (sexual or non-sexual), religion, national origin, age, disability, or retaliation for engagement in protective activity which are protected by Title VII of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and the Age Discrimination in Employment Act of 1967. Additionally, Executive Orders 13087 and 13145 prohibits harassment based on sexual orientation and protected genetic information respectively.

Harassment on-the-job can take place in a variety of forms. Unlawful workplace harassment is defined as any unwelcome verbal or physical conduct that is so objectively offensive as to alter the victim's terms and conditions of employment. The conditions of employment are altered if the harassment culminated in a tangible employment action or was sufficiently

severe or pervasive to create a hostile work environment. Thus, there are two types of discriminatory harassment: Tangible Employment Action and Hostile Work Environment. A tangible employment action is "a significant change in employment status." Examples of tangible employment actions include but are not limited to: hiring and firing; promotion and failure to promote; demotion; undesirable reassignment; a decision causing a significant change in benefits; compensation decisions; and work assignment. Because only superiors are in a position to make these types of decisions, tangible employment action harassment can only be perpetrated by individuals in supervisory positions. An individual who is authorized to direct another employee's day-to-day work activities qualifies as his or her supervisor even if that individual does not have the authority to undertake tangible job decisions.

A hostile work environment results from harassment that is so sufficiently severe or pervasive that it unreasonably interferes with an employee's work performance or creates an intimidating, abusive, or offensive work environment. Anyone, including a management official, co-worker, or a non-employee can be accused of committing workplace harassment.

Examples of actions that may result in hostile work environment harassment include, but are not limited to:

- Use of racially derogatory words, phrases, or epithets;
- Demonstrations of a racial or ethnic nature, such as gestures, pictures, or drawings that would offend a particular racial or ethnic group;
- Comments about an individual's skin color or other racial/ethnic characteristics;

- Negative comments about an employee's religious beliefs;
- Negative stereotypes regarding an employee's birthplace or ancestry;
- Negative stereotypes regarding an employee's age when referring to employees 40 and over; or,
- Derogatory or intimidating references to an employee's mental or physical impairment.

What is Sexual Harassment

In reference to sexual harassment, the Equal Employment Opportunity Commission provides the following definition: "Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment."

Examples of sexual harassment include, but are not limited to:

- Making offensive remarks about an employee's appearance, clothing, or specific body parts;
- Telling sexual jokes, whistling, asking probing questions about personal sexual habits, throwing kisses, etc.;

- Displaying material of a sexual nature, such as cartoons, graffiti, reading materials, calendars, pictures, t-shirts, posters, etc.
- Physical contact in a manner that may make an employee feel uncomfortable, such as bumping up or brushing against the person, kissing, pinching, grabbing, poking, patting, stroking, massaging, hugging, etc.;
- Pressure for social interaction (dating) outside of the workplace; and
- Non-verbal actions that may make an employee feel uncomfortable, such as leering or staring.

What is Unwelcome Sexual Conduct?

Sexual conduct becomes unlawful only when it is unwelcome. The challenged conduct must be unwelcome in the sense that the employee did not solicit or incite it, and in the sense that the employee regarded the conduct as undesirable or offensive.

Who Can Be a Victim of Sexual Harassment?

The victim may be a woman or a man. The victim does not have to be of the opposite sex. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.

Who Can Be a Sexual Harasser?

The harasser may be a woman or a man. He or she can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.

Can One Incident Constitute Sexual Harassment?

It depends. A single sexual advance may constitute harassment if it is linked to the granting or denial of employment or employment benefits. In contrast, unless the conduct is quite severe, a single incident or isolated incidents of offensive sexual conduct or remarks generally do not create a "hostile environment." However, a single, unusually severe incident of harassment may be sufficient to constitute a Title VII violation; the more severe the harassment, the less need to show a repetitive series of incidents. This is particularly true when the harassment is physical. For example, unwelcome intentional touching of an employee's intimate body areas is sufficiently offensive to alter the condition of his/her working environment and constitute a "hostile environment."

What Should a Sexual Harassment Victim Do?

A victim of harassment need not always confront his/her harasser directly, so long as his/her conduct demonstrates that the harasser's behavior is unwelcome. The victim may directly inform the harasser that the conduct is unwelcome and must stop. It is important for the victim to communicate that the conduct is unwelcome, particularly when the alleged harasser may have some reason to believe that the advance may be welcomed.

How is Harassment Reported?

Employees should report any harassment immediately to the Service's Office of Equal Opportunity and Diversity, Diversity and Civil Right,

or Human Resources office, their immediate supervisor, or an appropriate management official. Allegations of any type of harassment cannot be ignored. Once the Service is made aware of a report, it must be taken seriously and management must immediately take appropriate action. It is also important for employees to be aware that once an issue of harassment (particularly sexual harassment) is made known to the Office of Equal Opportunity and Diversity, Diversity and Civil Rights, Human Resources, or management, an inquiry must be initiated and completed. Any action taken to resolve and address issues of harassment will be confidential and retaliatory action against an employee who raises a claim of harassment will not be tolerated. Any employee found to have participated in harassment of any kind will be subject to appropriate administrative or disciplinary action, which may include removal from federal service.

If you have any questions or require additional information on the Service's policy on Harassment and Zero Tolerance, contact your Office of Equal Opportunity and Diversity, Diversity and Civil Right, or Human Resources Office.

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