

National Park Service



Employee's Guide To Understanding, Preventing, And Reporting Harassment

The National Park Service wants you to know that harassment based on race, color, religion, sex (including pregnancy, gender identity, gender stereotyping, sexual orientation, and sex-based wage discrimination), national origin, age (40+), mental or physical disability, genetic information, or in retaliation for prior Equal Employment Opportunity (EEO) activity and other inappropriate conduct will not be tolerated in the workplace. Although not every instance of inappropriate behavior may fit the legal definition of harassment, such behavior in the workplace undermines morale and violates the National Park Service's policies and standards of conduct.

This guide provides information about workplace harassment and inappropriate conduct. This is important because the only way to achieve a workplace free of harassment and inappropriate behavior is to make sure everyone knows what it is, what to do if it happens, and how to prevent it. You, as an employee, must do your part. Read and become familiar with this guide and report improper behavior.

The Supreme Court has ruled that workplace harassment is improper and unlawful. The law requires employers to take reasonable steps to end harassment in the workplace. If you feel you are being harassed, report it to your immediate supervisor or manager, another supervisor or manager, Human Resources or your Regional EEO Manager, or EEO personnel. Help is available, but you must do your part by reporting it.

Know your rights. Take responsibility.

What You Should Know About Workplace Harassment

You have a right to work in an environment free of harassment.

The National Park Service is committed to providing its employees with a safe, productive, and inclusive workplace. To achieve a workplace free of harassment, the National Park Service wants to make sure that every employee knows what harassment is, what to do if it happens, and what they can do to prevent it. These three topics are covered in this guide.

Violation of the National Park Service Policy on workplace harassment may result in disciplinary action up to and including removal. Any inappropriate conduct even that which does not meet the legal definition of harassment may nonetheless result in disciplinary action. Such inappropriate behavior in the workplace undermines morale and violates the National Park Service's policies and standards of conduct.

What Is Harassment?

Although it's a familiar term, *harassment* is not always easy to define. What one person might think of as harassing behavior, another may think of as kidding or joking around, or if the harassment is sexual in nature, as mild, inoffensive flirtation. Harassment can cover a wide variety of behaviors. It may consist of words, actions, or, most often, a combination of the two. It can range from the display of derogatory cartoons to the crime of rape. The victim may not be the person who is harassed, but may be anyone who hears or witnesses the offensive conduct and is affected by it.

Under federal antidiscrimination law, harassment is defined as unwelcome verbal or physical conduct that demeans or shows hostility or aversion toward an individual or group of individuals because of their race, color, religion, sex, (including pregnancy, gender identity, gender stereotyping, sexual orientation, and sex-based wage discrimination), national origin, age (40+), mental or physical disability, genetic information, national origin, age (40+), mental or physical disability, or in retaliation for EEO activity. To be considered harassment under the law, the behavior must also (1) result in an intimidating, hostile, offensive work environment; (2) unreasonably interfere with an individual's work performance; or (3) otherwise adversely affect an individual's employment opportunities.

Harassment under the law is unwelcome conduct based on race, color, religion, sex (including pregnancy, gender identity, gender stereotyping, sexual orientation, and sex-based wage discrimination), national origin, age (40+), mental or physical disability, genetic information, national origin, age (40+), mental or physical disability, or in retaliation for prior EEO activity that, in its totality, alters the terms, conditions, and privileges of employment, thereby violating the antidiscrimination laws.

Examples of harassment may include: (1) making offensive or derogatory comments, nicknames, or slurs; (2) engaging in negative stereotyping; or (3) engaging in physically threatening, intimidating, or humiliating actions. Harassment also may include circulating written or graphic material (by paper or email or by making it viewable in the workplace) that belittles or shows hostility or aversion toward an individual or group. However, the antidiscrimination statutes are not a "general civility code." Petty slights, simple teasing, annoying behavior, offhand comments, or isolated incidents (unless extremely serious) will not rise to the level of illegality. To be considered harassment under the law, the conduct must be so objectively offensive that it changes the "conditions" of the victim's employment. The Equal Employment Opportunity Commission describes two types of harassment that change the conditions of employment: (1) harassment that results in a *tangible employment action*; and (2) harassment that is so severe or pervasive that it creates a *hostile work environment*.

Sexual harassment includes obvious things such as an invitation to have sex in exchange for favors or unwelcome intimate touching, patting, or grabbing. It can also include less obvious behaviors such as making repeated comments about a person's appearance. Other behaviors — such as brushing up against someone, displaying sexually explicit pictures or e-mails, and making frequent sexual comments or jokes — may also constitute sexual harassment.

Rape or other actions involving physical violence, force, or coercion are also criminal offenses. Report these immediately to local law enforcement in your area and park.

Two Types of Harassment Under the Law

- **Tangible Employment Action or Quid Pro Quo Harassment**

Tangible employment action harassment is the harassment of a subordinate by someone with supervisory authority that results in a tangible employment action. A tangible employment action is an action that significantly changes an employee's employment status, such as hiring, firing, promoting, demoting, changing work assignments, and reassigning an employee.

This is usually called "*Quid Pro Quo*" harassment. *Quid pro quo* means "something for something," and it usually involves sexual harassment. Following are examples of *quid pro quo* harassment: (1) a supervisor fires or demotes a subordinate because he or she rejects the supervisor's sexual demands; (2) a supervisor promotes a subordinate because he or she submits to the supervisor's sexual demands.

Quid pro quo harassment is the use of power and authority to alter an employee's job conditions or economic benefits because the employee or applicant either submits to or refuses to submit to the unwelcome demands of the person in authority. Be aware that if a subordinate rejects the demands of a person in authority and the threat is not carried out, the threat of a tangible employment action in itself could constitute hostile environment harassment.

- **Hostile Environment Harassment: Crossing the Line Between Social Nuisance and Harassment**

Hostile environment harassment covers a broad range of behaviors and situations. It is most often defined as a pattern of continuing unwelcome behavior that unreasonably interferes with an employee's work performance or that creates an intimidating, hostile, or offensive work environment.

Examples of behavior that could result in a finding of hostile environment harassment include:

- Using racially derogatory words, phrases, or nicknames.
- Telling jokes or stories with national origin themes.
- Displaying posters or symbols offensive to individuals of a certain race, sex, national origin, religion, etc.
- Making derogatory or intimidating references to an employee's mental or physical impairment.
- Applying pressure for dates.
- Making offensive remarks about a person's looks, clothing, or body parts.
- Whistling or catcalling.
- Using sexual innuendo.
- Spreading false rumors about a person's sex life.
- Blocking a person's path.
- Following a person continually (stalking).

Keep in mind that behavior which is not necessarily sexual in nature but which is nonetheless demeaning or abusive toward members of one sex may also constitute hostile environment harassment.

A single incident, unless it is severe, generally does not constitute harassment. The conduct must be severe or continuing and pervasive. Factors considered in a legal determination of hostile environment harassment include frequency of the discriminatory conduct, its severity, whether it was physically threatening or humiliating (as opposed to a mere offensive utterance), and whether it unreasonably interferes with work performance.

Determining whether the conduct at issue rises to the level of harassment is not easy. Behavior that is insensitive, juvenile, or boorish — even though it may be offensive to some people — may not constitute harassment as defined under the law. However employees should not, and managers must not, tolerate inappropriate behavior in the workplace. The National Park Service does not condone inappropriate behavior.

Who Is Protected From Harassment

Under the law, all employees are protected from harassment based on their race, color, religion, sex (including pregnancy, gender identity, gender stereotyping, sexual orientation, and sex-based wage discrimination), national origin, age (40+), mental or physical disability, genetic information, national origin, age (40+), mental or physical disability, or in retaliation for prior EEO activity. Both men and women are protected from sexual harassment by the opposite or the same sex.

The Problem of Perception

What one person considers offensive, another may consider harmless. Distinguishing between harassment and social insensitivity is very difficult. Unfortunately, the law does not provide a “bright-line rule” that identifies which comments and behaviors constitute harassment. However, bear in mind that, if a “reasonable person” would find the behavior so offensive as to interfere with his or her work performance, then it is likely to be considered harassment. National Park Service policy is to act to stop any inappropriate behavior, investigate, and ensure that the inappropriate conduct does not recur — even if the behavior doesn’t rise to the legal definition of harassment.

Importance of Communicating That Words or Actions Are Unwelcome

If you are being harassed, you should let the harasser know in no uncertain terms to stop the behavior. If you are not able to do so alone, you could ask a friend, a union representative, or a trusted coworker to help you talk to the harasser. This does not mean that you have to confront the alleged harasser or put it in writing. For instances of sexual harassment, nonverbal behavior may be sufficient in some cases to communicate that the behavior is unwelcome. “No” means “no,” whether it is communicated verbally or nonverbally. However, a clearly communicated verbal “no” is generally more effective in stopping harassment.

In all cases of harassment, you also should report the incident to your immediate supervisor or manager, to another supervisor or manager, Human Resources or to your Regional EEO Manager or EEO personnel.

Sexual Harassment and the Office Romance

This guidance strongly discourages supervisory and managerial employees from engaging in romantic and/or physical relationships with their subordinate employees. Perceptions of unfair treatment often arise under these circumstances and undermine employee morale.

When a supervisor or manager who engages in office romances appears to favor those with whom he or she is involved, the supervisor’s or manager’s behavior tends to foster a belief among other employees that their chances for advancement depend upon their willingness to engage in similar conduct with the supervisor or

manager. Relationships between supervisors or managers and employees that are based on such a belief are not considered fully consensual. Therefore, to avoid allegations of harassment and/or unfair treatment, supervisors and managers should not engage in relationships with their subordinate employees.

How to Tell If Your Behavior Amounts to Harassment

Sometimes actions intended as innocent fun may be perceived as harassing behavior. The line between harassment and overly friendly actions or joking around is often a fine one. The important distinction is that harassment is unwelcome. Also, keep in mind that your behavior may offend someone other than the person to whom it is directed.

The workplace should not be a place where people are subject to offensive comments, actions, or behavior. Be alert for signs, verbal or nonverbal, that your behavior is unwelcome. If you are unsure, consider asking.

Inappropriate Behavior

Inappropriate behavior in the workplace, even if it does not rise to the legal definition of harassment, may violate the National Park Service's policies and/or standards of conduct. Inappropriate behavior often leads to incidents of harassment. Make sure that your behavior does not offend anyone.

If you are offended by someone else's behavior, report the behavior to your supervisor or manager so that it can be addressed. If the offending person is your supervisor or manager, report the behavior to another supervisor or manager, Human Resources or your Regional EEO Manager or EEO personnel.

What to Do If You Are Harassed

- **First, Tell the Harasser to Stop!**

Sometimes, people are unaware that their behavior is offensive or harassing until it is brought to their attention. Communicating your belief that the behavior is offensive and making clear that you want it to stop may be sufficient to end the offensive or harassing behavior. Reminding people that harassment is illegal or inappropriate behavior can also help to reinforce your message.

If you are not comfortable confronting the harasser alone, ask a friend, a trusted coworker, or a union representative to help you talk to the harasser. However, you are not required to tell the harasser to stop prior to reporting the matter to those in authority.

- **Second, Report It!**

Whether or not you get the harasser to stop, report harassing behavior to those in authority who are responsible for stopping the harassment, and who will make a record of it. You can write, or just talk, to any of the following:

- Your immediate supervisor or manager.
- Any supervisor or manager.
- Human Resources
- EEO Manager or EEO personnel
- Park law enforcement, local law enforcement when you believe that criminal misconduct is involved.

If you are uncomfortable making a report yourself, you can ask a coworker or a union representative to speak to a manager on your behalf. The National Park Service will protect the confidentiality of harassment complaints to the extent possible.

Once you report the harassing behavior, it is management's responsibility to act to stop any inappropriate behavior, investigate, and ensure that harassing or inappropriate conduct does not recur — even if the behavior doesn't rise to the legal definition of harassment.

Keep a written record of everyone you speak to about the incident(s), including supervisors and witnesses and the dates you spoke to them. In some circumstances you could lose your right to pursue a successful legal action if you fail to take advantage of these internal National Park Service procedures for reporting and resolving harassment complaints. To preserve all of your rights, use the process and report harassing behavior.

The Employee Assistance Program (EAP) is available to give you emotional support for problems that may result from being harassed.

You also have the right to pursue a complaint through the EEO process. If you choose to do so, you must contact your Regional EEO Manager, EEO Counselor or EEO personnel within **45 days** of the act or acts giving rise to the claim. Your filing must be timely, or you could lose your right to pursue your complaint under federal law.

Bargaining unit employees also may seek relief through grievance procedures.

What Supervisors and Managers Must Do to Prevent Harassment

The law requires employers to take reasonable steps to end harassment in the workplace and to remedy the situation when harassment is found.

Managers or supervisors who receive information regarding a situation that may involve harassment are required to:

- Conduct a thorough inquiry (or ensure that the information reaches a manager or supervisor who has the authority to conduct the inquiry).
- Determine if the employees involved need to be moved apart.
- Take prompt action to put an end to the harassment. (i.e. Briefing; training; counseling)
- Follow up with corrective action when appropriate.

If you believe that a person to whom you have reported harassment has not taken prompt action, discuss the matter with another appropriate person. Even if you use the EEO complaint process or another process, National Park Service management is still required to address your report of workplace harassment.

What You Can Do to Prevent Harassment

You can help stop harassment in the workplace by the following actions:

- Do not condone harassment or inappropriate behavior by participating in the activity or remaining silent.
- Do not ignore teasing, jokes, remarks, or questions directed at you or at others that may be hurtful, inappropriate, or illegal.
- Ask the person or persons doing the harassing or behaving inappropriately to stop, even if the behavior is not directed at you.
- Report harassing behavior to your immediate supervisor or manager, another supervisor or manager, Human Resources or your EEO manager or EEO personnel.

When you report harassing behavior, those in authority have the responsibility to see that a prompt and thorough inquiry is conducted and to remedy the situation.

Help is available. Do your part. Take appropriate action.

Why You Need Not Fear Retaliation

Retaliation against an employee who raises a claim of harassment, reports inappropriate conduct, or provides evidence in an investigation or fact-finding inquiry is illegal and will not be tolerated. As a National Park Service employee, you need to understand that you are protected. Report retaliation to a supervisor, manager, or Human Resources, Regional EEO Manager or EEO personnel.

You also may initiate an EEO complaint by contacting your Regional EEO office to begin the EEO counseling process. Bargaining unit employees also may seek relief through grievance procedures. Some non-bargaining unit employees also may use the grievance procedures. Whistleblower Protection, describes procedures for reporting allegations of reprisal for making whistleblower-protected disclosures should be reported to the Office of Inspector General.

When Harassment Becomes Assault

If you believe you are the victim of a criminal assault, sexual or otherwise, contact local law enforcement, Park law enforcement, and seek immediate medical attention.

Contractors, Vendors, and Other Third Parties

Just as the National Park Service will not tolerate harassment by or against its employees, it also will not tolerate harassment by or against anyone in the workplace, including contractors, vendors, volunteers, and other third parties who may be in the workplace only temporarily. If you feel you are being harassed, you should report the incident to a manager, supervisor, Human Resources or your Regional EEO office or EEO personnel.

Other Resources

Further assistance and related Guidance:

National Park Service EEO office (local)

Director's Order #16D: Equal Employment and Zero Tolerance of Discrimination:

Director's Order #16E: Sexual Harassment

Director's Order #16F: -National Park Service Anti-Harassment Policy

National Park Service Law Enforcement

Local Law Enforcement

National Domestic Violence Hotline

800-799-7233

Rape, Abuse, and Incest Network

800-656-4673

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