



United States Department of the Interior

NATIONAL PARK SERVICE

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Washington, D.C. 20240

DIRECTOR'S ORDER #16E: NATIONAL PARK SERVICE ANTI-HARASSMENT POLICY

Approved: Michael J. Reynolds (Acting)
Director

Effective Date: 10/12/17

Duration: Until amended or rescinded

This Director's Order (Order), together with Reference Manual 16E (RM-16E), supersedes and replaces Director's Order #16E: Sexual Harassment Policy and Director's Order #16F: National Park Service Anti-Harassment Policy, both dated December 28, 2011, and any other previously issued conflicting guidance on this topic.

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1. Background and Purpose

The National Park Service (NPS) is committed to a workplace free of discrimination and harassment based on race, color, religion, sex (including pregnancy and gender identity), sexual orientation, national origin, age (40 years of age and over), disability, family medical history (including genetic information), status as a parent, marital status, political affiliation, and/or reprisal. The NPS will not tolerate offensive sexual or non-sexual harassing behavior against any NPS employee, intern, volunteer, contractor or other nonfederal employee, visitor, or other member of the public. The NPS also will not tolerate adverse treatment of employees because they report harassment or provide information related to such complaints.

The purpose of this Order is to ensure that the NPS takes immediate and appropriate corrective action, including appropriate disciplinary action, to eliminate harassing conduct regardless of whether the conduct rises to the level of a violation of law. Therefore, the goal of this Order is to

address harassing conduct at the earliest possible stage, before it can become “severe or pervasive,” i.e., harassment within the meaning of anti-discrimination law.

This Order replaces Director’s Orders #16E and #16F, and updates and amends the NPS’s anti-harassment policy on providing a work environment free from harassment by (1) defining harassing conduct that violates this policy; (2) outlining the rights and responsibilities of employees, supervisors, and managers; and (3) establishing reporting procedures and accountability measures. These procedures ensure that appropriate officials are notified of, and have the opportunity to promptly correct, harassing conduct that is, or has the potential to become, so severe or pervasive as to constitute a legal claim of harassment.

2. Authorities

2.1 Authority for this Director’s Order

Authority to issue this Director’s Order is contained in the National Park Service Organic Act ([54 USC 100101 et seq.](#)) and other laws, and the delegations of authority contained in [Part 245](#) of the Department of the Interior Manual.

This Director’s Order is intended only to improve the internal management of the NPS, and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

2.2 Authorities Pertaining to Civil Rights

U.S. Code

1. [42 USC 2000e through 2000e-17](#) (title VII of the Civil Rights Act of 1964)
2. [29 USC 633a](#) and [791\(f\)](#)
3. 5 USC [2302\(b\)\(10\)](#) and [7501 through 7543](#)

[Executive Order 11478, as amended](#)

Title 29 of the Code of Federal Regulations, [section 1604.11](#) and [part 1614](#)

2.3 Authorities Pertaining to Discipline and Adverse Actions

Part 370 of the Department of the Interior Manual, chapter 752 ([370 DM 752](#))

2.4 Related References

Secretary of the Interior’s [Harassment Policy Statement](#), issued April 12, 2017

3. Policy

3.1 Prohibited Harassing Conduct

The conduct prohibited by this policy includes, but is broader than, the legal definitions of harassment and sexual harassment. Harassing conduct prohibited by this Order is defined as

unwelcome conduct, verbal or physical, including intimidation, ridicule, insult, comments, or physical conduct, that is based on an individual's protected status, when:

- a) the behavior can reasonably be considered to adversely affect the work environment; or
- b) an employment decision affecting the employee is based upon the employee's acceptance or rejection of such conduct.

Protected status is defined as an individual's race, color, religion, sex (including pregnancy and gender identity), sexual orientation, national origin, age (40 years of age and over), disability, family medical history (including genetic information), status as a parent, marital status, or political affiliation.

Although not every instance of harassing conduct may rise to the level of illegal harassment, such behavior undermines morale and the NPS mission. Accordingly, the misconduct prohibited by this policy is broader than the definition of illegal harassment under title VII of the Civil Rights Act to ensure that appropriate officials are notified of, and can promptly correct, harassing conduct. Harassment becomes illegal when enduring the offensive conduct becomes a condition of continued employment or the conduct is sufficiently severe or pervasive as to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. All harassing conduct, as defined above, is a violation of this policy.

Employees are subject to disciplinary action, up to and including removal, for engaging in harassing conduct while in the workplace or in any work-related situation, including while on official travel. Off-duty misconduct may subject the employee to potential discipline if the misconduct is likely to have an adverse effect on the NPS (e.g., harassing a co-worker, visitor, contractor, or volunteer during off-duty hours). Harassing conduct can occur in person, through phone calls or in writing, or through the use of social media, or other forms of technology.

3.2 Employee Reporting Expectations

The NPS cannot correct harassing conduct if a supervisor, manager, or other NPS official does not become aware of it. Any employee who has been subjected to harassing conduct is encouraged to inform the person(s) responsible for the conduct that it is unwelcome and offensive, and request that it cease. If the conduct continues, is severe, or if the employee is uncomfortable addressing the responsible person(s) about the conduct, the employee **is encouraged to** report the matter to:

- a) the supervisor of the employee engaging in the misconduct;
- b) another supervisor or other management official;
- c) employee relations specialist (see RM-16E for a list of contacts); or
- d) the Department of the Interior (DOI) Office of the Inspector General.

Employees who know of or witness possible harassing conduct directed at others **are expected to** report the matter to any of the officials or offices listed above.

Reports made pursuant to this policy do **not** replace, substitute, or otherwise satisfy the separate obligations of an Equal Employment Opportunity (EEO) complaint, negotiated or administrative grievance, or other complaint process. Unlike this policy, other complaint procedures typically provide for remedial relief to the victims. See RM-16E for more information about how an

employee may pursue rights under one of these separate processes, in addition to reporting the misconduct under this policy.

3.3 Management Duty to Act

Managers and supervisors who observe or are informed of allegations of harassing behavior must follow the procedures in RM-16E to:

- a) report those behaviors/allegations to the appropriate officials, even if the employee raising the allegation requests confidentiality (see section 5, Maintaining Confidentiality);
- b) ensure that a prompt, objective, and thorough investigation is conducted; and
- c) take steps to ensure that the harassing conduct is appropriately addressed to deter further misconduct, including appropriate disciplinary action.

The fact that a potential victim of harassing conduct will or has filed an EEO complaint or grievance alleging harassment does not relieve a manager of his or her duty to act pursuant to this policy. Therefore, it is possible that multiple inquiries into a given complaint may proceed in parallel.

Appropriate corrective action, disciplinary or otherwise, up to and including removal, will be taken against any supervisor or other management official who fails to perform her or his obligations as set forth in this policy and RM-16E, including any unreasonable failure to report known violations of this policy.

3.4 Unlawful Retaliation

It is unlawful to retaliate against employees who engage in protected activity under this policy by raising a claim of harassment, reporting an allegation of harassing conduct or discrimination, providing evidence in any investigation, or intervening to protect others who may have suffered harassing conduct or discrimination. A manager may not fire, demote, harass, or otherwise take any personnel action against an individual for reporting an allegation of misconduct under this policy.

It is important that supervisors and managers protect employees who report alleged misconduct, and do not take any retaliatory personnel action against these individuals in order to deter reporting harassing conduct or filing a complaint. A manager found to have engaged in retaliation is subject to disciplinary action.

The following examples are a non-exhaustive list of actions that would be unlawful retaliation if they were taken because of or were motivated by an employee's protected activity: transferring the complainant or witness against his or her will, ignoring or not communicating with the complainant or witness, engaging in verbal or physical abuse, or non-selection for an employment opportunity.

Engaging in protected activity under this policy does not shield an employee from all personnel actions. Supervisors and managers can take personnel actions, including discipline and removal, if they are motivated by *non-retaliatory and non-discriminatory* reasons that would otherwise result in such consequences (e.g., transferring an employee for legitimate business reasons or closely monitoring the performance of an employee on a Performance Improvement Plan).

3.5 Distinction from EEO and Other Remedial Procedures

This policy and its reporting procedures are distinct from the EEO process, which focuses on making employees whole after they have experienced discrimination (including harassment) by issuing remedial relief, such as compensatory damages. This policy does not replace or augment an employee's EEO or other rights. Corrective action taken under this policy does not provide the remedies available in the EEO, administrative or negotiated grievance, or any other processes. Reporting allegations of misconduct under this policy ***does not*** satisfy the requirements for filing an EEO complaint, administrative or negotiated grievance, or other procedure, ***nor does it delay the time limits for initiating those procedures***. See RM-16E for more information on remedial processes and Director's Order #16C: National Park Service Discrimination Complaint Process.

4. Roles and Responsibilities

4.1 Associate Director, Workforce and Inclusion

The Associate Director, Workforce and Inclusion will:

- a) serve as the Service-wide anti-harassment point of contact;
- b) establish and carry out the policies, procedures, and standards necessary to implement this Order;
- c) issue, review, and revise, as appropriate, RM-16E, which will provide comprehensive procedures for the implementation of this Order;
- d) provide oversight, technical assistance, and support to NPS staff to ensure compliance with this Order;
- e) ensure that performance plans of all supervisors and managers include a critical element that would rate their performance on taking appropriate action against employees for misconduct;
- f) develop and provide periodic training for all NPS employees on this Order and related guidance;
- g) prepare anti-harassment policy statements for the Director's signature to be disseminated annually to all employees and posted on the Office of EEO website;
- h) maintain a written record of reports and actions taken pursuant to this policy and provide those reports to the Director and DOI Chief Human Capital Officer, as requested; and
- i) report to DOI's Office of Civil Rights (OCR) on the actions taken pursuant to this policy so the Director of OCR can determine the NPS's compliance with Federal sector EEO requirements.

4.2 Regional, Associate, and Assistant Directors

Regional, associate, and assistant directors will:

- a) ensure that supervisors and managers are rated on the critical element rating their performance on taking appropriate action against employee misconduct; and
- b) appoint anti-harassment points of contact (HPOC) at regional offices, Washington Support Office (WASO) directorates, parks, and programs.

4.3 Anti-Harassment Points of Contact (HPOCs)

HPOCs are senior officials designated at parks, programs, regional offices, and WASO, as described in RM-16E. All HPOCs will:

- a) monitor progress of complaint reporting, investigation and resolution, and approve corrective actions at various steps in the complaints process; and
- b) assist supervisors and managers in consulting with employee relations specialists and the Office of the Solicitor to evaluate complaints and make determinations about appropriate action.

4.4 Human Resources Functions

4.4.1 Regional Chiefs of Employee Relations

Regional chiefs of employee relations will:

- a) receive reports alleging violations of this policy and, as described in RM-16E, make or direct further inquiries into such reports, as appropriate and necessary, in consultation with the Office of the Solicitor;
- b) provide oversight, technical assistance, and supervision to employee relations specialists;
- c) support regional and park staff to ensure compliance with this Order; and
- d) maintain a record of reports made and actions taken pursuant to this policy and provide those reports to the Associate Director, Workforce and Inclusion, as requested.

4.4.2 Employee Relations Specialists

Employee relations specialists will:

- a) receive reports alleging violations of this policy and, as described in RM-16E, make or direct further inquiries into such reports, as appropriate and necessary, in consultation with the Office of the Solicitor;
- b) serve as the primary contact and advisor to supervisors and management officials within their servicing organizations;
- c) conduct investigations where assigned, generally in areas outside their direct servicing organizations, to maintain a level of objectivity and impartiality;
- d) coordinate third-party investigations within their servicing organizations;
- e) prepare draft actions to address harassing conduct, which include proposals and decisions of disciplinary actions and coordinate all draft actions with the Office of the Solicitor;
- f) report and coordinate actions with higher level employee relations and human resources officials to include, but not limited to, regional, WASO, and DOI; and
- g) record and track information about the status of allegations of harassing conduct and complaints in the appropriate tracking system to monitor compliance with this Order, understand trends related to harassing conduct, and support swift resolution of complaints.

4.5 Supervisors and Management Officials

Supervisors and management officials will:

- a) ensure their subordinates are aware of and follow this Order and its requirements;
- b) follow any additional procedures, handbooks, or guidelines issued by DOI or the NPS related to this policy;

- c) act promptly and effectively to stop harassing conduct of which they are aware, and hold employees who have committed harassing conduct accountable;
- d) receive reports alleging violations of this policy and, as described in RM-16E, make or direct further inquiries into such reports and take corrective action, as appropriate and necessary;
- e) notify appropriate officials of reported or observed conduct under this policy and of their efforts to correct the conduct;
- f) evaluate and hold accountable subordinate supervisors and managers for their performance under this policy; and
- g) take interim steps to protect employees who report misconduct from retaliation.

4.6 All Employees

All employees *must* refrain from engaging in harassing conduct, participate in periodic training required under this policy, and fully cooperate in any inquiry or investigation.

All employees *are expected to* understand their rights and responsibilities under this Order and report harassing conduct that they are aware of or witness in the work environment.

All employees who are victims of harassing conduct *are encouraged to* report the harassing conduct.

5. Maintaining Confidentiality

Managers must take action to investigate all allegations of harassing conduct, even if the employee raising the allegation requests confidentiality. All reports of harassing conduct and related information will be maintained on a confidential basis to the greatest extent possible. The identity of the employee alleging violations of this policy will be kept confidential, except as necessary to conduct an appropriate investigation into the alleged violation, to take appropriate disciplinary or corrective action, to comply with the reporting requirements of this policy, or when otherwise required by law.

6. Additional Resources Available to Victims

Employees who have experienced harassing conduct may obtain assistance and advice from multiple available resources, such as:

- a) consulting with or engaging in alternative dispute resolution procedures through:
 - o an Ombuds—an independent, impartial, informal, and confidential resource that works independently from management’s chain of command to explore and aid in the resolution of individual and systemic issues affecting an organization; or
 - o a CORE PLUS neutral—a qualified, certified person, from within or outside DOI, who delivers conflict management and alternative dispute resolution services.
- b) engaging Employee Assistance Program services;
- c) consulting with the DOI Office of Law Enforcement and Security’s Victim Assistance Program, if applicable; and
- d) consulting with a union representative, if covered by a bargaining unit.

Engaging with these resources ***does not*** constitute a report under this policy, as these entities do not have an obligation to inform management of allegations of harassing conduct. Additional information about these resources is available in RM-16E.

7. Records Management

All employees with responsibilities outlined in section 4 will follow established records management policies to maintain documentation related to allegations of harassing conduct. See [Director's Order #11D: Records and Electronic Information Management](#) and the accompanying Records and Electronic Information Management (REIM) Guide.

8. Related Guidance Documents

[Director's Order #16B: Diversity in the National Park Service](#)

Director's Order #16C: National Park Service Discrimination Complaint Process

[Director's Order #16D: Equal Employment Opportunity and Zero Tolerance of Discrimination](#)

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