

RECLAMATION

Managing Water in the West

Prevention and Elimination of Harassing Conduct

Implementing Procedures



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1. Purpose

These procedures provide the Bureau of Reclamation's (Reclamation) implementing guidance for the Department of Interior's (Department) Personnel Bulletin No. 18-01 (policy) on providing a work environment free from harassment by (1) defining unacceptable conduct that violates the Department's policy; (2) outlining the rights and responsibilities of employees, supervisors, and managers; and (3) establishing Reclamation's 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.

These procedures are not intended to, and do 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. Effective Date

These procedures are effective April 30, 2018.

3. Authorities

- A. Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352) (Title VII), as amended
- B. Title 42 of the United States Code, (U.S.C.) Section 2000e through 16
- C. Title 29 U.S.C., Section 633a and 791(f)
- D. Title 29 of the Code of Federal Regulations, Section 1604.11 and 1614
- E. Title 5 U.S.C., Section 2302(b)(1) and (10)
- F. Title 5 U.S.C., Chapter 75 and substantially similar authorities covering employees in alternate personnel systems
- G. Executive Order 11478, as amended
- H. 370 Departmental Manual 752
- I. Secretary of the Interior Harassment Policy Statement, issued April 12, 2017
- J. Department of Interior Personnel Bulletin No. 18-01, effective April 23, 2018

4. Coverage

These procedures apply to all employees within Reclamation and supersede any other policies or procedures that conflict with them. These procedures may not be further supplemented.

5. Policy

Reclamation is committed to providing a work environment free of discrimination and harassment based on race, color, religion, sex (including pregnancy and gender identity), sexual orientation, national origin, age, disability, genetic information (including family medical history), status as a parent, marital status, or political affiliation, and free from illegal retaliation. Reclamation will not tolerate any offensive harassing behavior against any Reclamation employee, intern, volunteer, contractor or other non-Federal employee, visitor, or other member of the public. Reclamation will not tolerate adverse treatment of employees because they report harassing conduct or provide information related to such complaints. The purpose of the Department's policy and these procedures is to ensure that Reclamation 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 the Department's policy and these procedures is to address harassing conduct at the earliest possible stage, before it becomes "severe or pervasive," i.e., harassment within the meaning of anti-discrimination law.

A. Prohibited Harassing Conduct

The conduct prohibited by the Department's policy and these procedures includes, but is broader than, the legal definitions of harassment and sexual harassment. Harassing conduct prohibited by the Department's policy and these procedures 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 or protected activities under the Department's policy and these procedures, when:

1. the behavior can reasonably be considered to adversely affect the work environment; or
2. 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, disability, genetic information (including family medical history), status as a parent, marital status, or political affiliation. Protected activities under the Department's policy and these procedures are defined in Section 5.B.

Although not every instance of inappropriate behavior may meet the legal definition of harassment, such behavior undermines morale and Reclamation's mission. Accordingly, the

misconduct prohibited by the Department's policy and these procedures 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 the Department's policy and these procedures.

Employees are subject to disciplinary action, up to and including removal from Federal service, 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 Reclamation (e.g., harassing a co-worker, visitor, contractor, or volunteer during off-duty hours). Harassing conduct can occur in person, in writing, or through phone calls, the use of social media, or other forms of technology.

B. Prohibited Retaliatory Conduct

It is a violation of the Department's policy and these procedures to retaliate against employees who engage in protected activity under these procedures. ***Protected activity*** includes reporting harassing, discriminatory, or retaliatory conduct; filing a claim of harassment; providing evidence in any investigation; or intervening to protect others who may have suffered harassing, discriminatory, or retaliatory conduct. A supervisor/manager may not fire, demote, harass, or otherwise take any personnel action against an individual for reporting an allegation of misconduct under these procedures.

It is important that supervisors/managers protect employees who report alleged harassing conduct, and do not take any retaliatory personnel action against these individuals in order to deter the employee from reporting harassing conduct or filing a complaint. A supervisor/manager found to have engaged in retaliation will be subject to disciplinary action. The following examples are a non-exhaustive list of actions that would be prohibited retaliation if they were taken because of, or were motivated by, an employee's protected activity: transferring the alleged victim or a witness against their will, ignoring or not communicating with the alleged victim or a witness, directing verbal or physical abuse towards the alleged victim or a witness, or not selecting the alleged victim or a witness for an employment opportunity.

Engaging in protected activity under these procedures does not shield an employee from all personnel actions. Supervisors/managers can take personnel actions, including discipline up to removal from Federal service, 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).

C. Employee Reporting Expectations

Reclamation cannot correct harassing conduct if a supervisor, manager, or other Reclamation official is not aware of the issue. 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:

- the supervisor of the employee engaging in the misconduct;
- another supervisor or manager;
- the servicing Human Resources (HR) Office; or
- the Office of the Inspector General (OIG).

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 these procedures 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 these procedures, other complaint procedures typically provide for remedial relief to the victims. See Sections 5.E. and 9 for more information about how an employee may pursue rights under one of these separate processes, in addition to reporting the misconduct under these procedures.

Engaging in additional processes and services available to support employees who have experienced harassing conduct, such as consulting with a union representative to get advice, engaging in alternative dispute resolution procedures, consulting an ombuds/CORE PLUS neutral¹, or contacting the employee assistance program, do **not** constitute a report under these procedures. See Section 10 for additional information.

D. Management Duty to Act

Supervisors/managers who observe or are informed of allegations of harassing conduct must comply with the following requirements:

1. report the conduct/allegations to the appropriate officials (see Section 7.C.), even if the employee raising the allegation requests confidentiality (see Section 8.A. for additional details);
2. ensure that a prompt, objective, and thorough investigation is conducted; and
3. take steps to ensure that the harassing conduct is appropriately addressed to deter further misconduct, including taking disciplinary action, if appropriate.

¹ Ombuds and other CORE PLUS neutrals are available to discuss any workplace-related concern, including those related to harassing or inappropriate conduct. Ombuds, in particular, work independently from management's chain of command, are impartial, and help with both individual and systemic issues.

The fact that a potential victim of harassing conduct will or has filed an EEO complaint or grievance alleging harassment ***does not*** relieve a supervisor/manager of their duty to act pursuant to these procedures. 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 from Federal service, will be taken against any supervisor/manager who fails to perform their obligations as set forth in the Department's policy and these procedures, including any failure to report known violations of the Department's policy and these procedures.

E. Distinction from EEO and Other Remedial Procedures

The Department's policy and Reclamation's reporting procedures are separate and 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. These procedures do not replace an employee's EEO or other rights. Corrective action taken under these procedures does not provide the remedies available in the EEO process, administrative or negotiated grievance procedures, or any other processes. Reporting allegations of misconduct under these procedures ***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 Section 9 for additional information on remedial processes.

6. Responsibilities

A. Deputy Assistant Secretary for Human Capital and Diversity

The Deputy Assistant Secretary for Human Capital and Diversity, as the Department's Chief Human Capital Officer (CHCO), is responsible for:

1. Disseminating the Department's policy to all employees on an annual basis and periodically reminding employees of their responsibilities under that policy.
2. Ensuring that performance plans of all supervisors/managers include a critical element that would rate their performance on taking appropriate action against employees for misconduct.
3. Fulfilling the role of Bureau Human Capital Officer, as defined in Section 6.C., for the Office of the Secretary.
4. Providing periodic reports to the Deputy Secretary of the Interior or their designee on information received from the Bureau Human Capital Officers pursuant to Section 6.C.5. of the Department's policy on allegations of misconduct under that policy and Bureau implementing procedures and the necessary corrective action taken, if any.

B. Reclamation Commissioner

The Commissioner is responsible for:

1. Ensuring that supervisors/managers are appropriately rated on the critical element described in Section 6.A.2.
2. Ensuring that Reclamation is in full compliance with requirements the Department's policy and these procedures.
3. Monitoring the work environment following a report alleging a violation of the Department's policy and these procedures to ensure that there are no further violations or incidents of retaliation against any individual who has reported harassing conduct or participated in the investigation.

C. Reclamation's Human Capital Officer (HCO)

The Director, Policy and Administration, as the Reclamation HCO, is responsible for:

1. Developing and providing periodic communications to all Reclamation employees on these procedures and incorporating these procedures into Reclamation's supervisory training curriculum.
2. Resolving any disagreements between supervisors/managers and consulting staff from servicing HR Offices or the Office of the Solicitor regarding whether and what type of investigation is necessary.
3. Providing oversight, technical assistance, and support to Reclamation staff to ensure compliance with the Department's policy and these procedures or exercise discretion to assume responsibility for reports of harassing conduct Reclamation-wide.
4. Ensuring that these procedures are properly executed by monitoring investigations of reported or otherwise discovered harassing conduct; providing guidance concerning the information to be gathered and methods to be used during investigations; and otherwise ensuring that the investigations are swift, thorough, impartial, and appropriate to the allegation.
5. Reviewing, on a monthly basis, the information contained in the system used by servicing HR Offices to track harassing conduct allegations, as described in Section 8.B., and providing information to the Commissioner and the CHCO as requested.
6. Providing the record of actions taken under these procedures to any office handling a parallel statutory or grievance claim when requested and as referenced in Section 7.F.

D. Human Resources Policy and Programs Division (HRPPD)

HRPPD is responsible for:

1. Drafting and coordinating periodic communications on these procedures for HCO distribution to Reclamation employees and integrating these procedures into Reclamation-wide training for supervisors.

2. Liaising with servicing HR Offices and the HCO on inquiries concerning disagreements between supervisors/managers and consulting staff regarding investigations.
3. Assisting the HCO to track that these procedures are properly executed by monitoring investigations of reported or otherwise discovered harassing conduct; providing guidance concerning the information to be gathered and methods to be used during investigations; and otherwise monitoring that the investigations are swift, thorough, impartial, and appropriate to the allegations.
4. Collecting, on a monthly basis, information contained in the system used by servicing HR Offices to track harassing conduct allegations, as described in Section 8.B., for review at a standing monthly meeting with the HCO.
5. Providing advice and guidance to servicing HR Offices to ensure compliance with these procedures.
6. Creating and maintaining an online tool for gathering intake information as outlined at Appendix A.
7. Developing and assigning annual anti-harassment training for Reclamation employees in the learning management system.

E. Servicing HR Offices

Servicing HR Offices are responsible for:

1. Receiving reports alleging violations of the Department's policy and these procedures, as described in Section 7, notifying and assisting the relevant supervisors/managers in handling allegations of harassing conduct and taking corrective action as appropriate and necessary.
2. Tracking all reports made and actions taken pursuant to these procedures in line with the Department's Office of Human Resources case tracking procedures, and reporting on them to HRPPD.
 - a. Servicing HR Offices receiving the report of alleged harassing conduct will list all new cases immediately after notifying the Harassment Duty Attorney as indicated in Sections 7.C.3.C. and 7.C.4.C.
 - b. Case information logged ***within one business day*** following the report will, at a minimum, include: alleged victim's name and supervisors name, the alleged harasser(s) name and supervisors name, the alleged harasser's current duty status (detailed, teleworking, etc.).
3. Maintaining case files (similar to those for disciplinary/adverse actions) for all reports of alleged harassing conduct in accordance with Department and Reclamation records management guidelines.
4. Acknowledging receipt of the report of alleged harassing conduct to the reporting party ***within one business day*** of receiving, notifying the Harassment Duty Attorney of, and logging the report by providing the individual a copy of the information captured in the [online intake tool](#).

5. For cases where supervisors/managers do not have access to the [online intake tool](#), providing a hard copy of the required intake information and entering the hard copy information into the [online intake tool](#) upon receipt from the supervisor/manager. This does not negate the ***one business day*** reporting requirement.
6. Providing advice and guidance to supervisors/managers on steps they should take to ensure safety of employees, conducting further investigations into reports alleged harassing conduct, and adjudicating the results of those investigations, including the initiation of appropriate corrective measures, to ensure compliance with these procedures.
7. Incorporating these procedures into local new employee in-processing and orientation programs.
8. Referring disagreements on whether and what type of further inquiry should be undertaken to the HCO (through the Manager, HRPPD) for resolution.
9. Expeditiously initiating required documents to secure third-party support for investigations, acting as the point of contact for investigations undertaken by the supervisor/manager, Reclamation or other Department employee, or, in accordance with the Department's Investigator Guide to Conducting Administrative Investigations, serving as investigators of the report of alleged harassing conduct themselves.
10. Assisting supervisors/managers with identifying training appropriate for corrective action as indicated in Section 7.E.3.
11. Assisting the HCO with the collection and dissemination of the records of the action taken under these procedures to any office handling a parallel statutory or grievance claim, as reference in Section 7.F.

F. Office of the Solicitor (SOL)

The SOL is responsible for advising and assisting the relevant supervisors/managers and servicing HR Offices in handling allegations of harassing conduct and taking corrective action, as appropriate and necessary. Within SOL, the Employment and Labor Law Unit (ELLU) is the initial point of contact for issues related to harassing conduct, and is responsible for providing Harassment Duty Attorney coverage on weekdays, 8:00 a.m. – 7:00 p.m. Eastern time.

G. Supervisors/Managers

Supervisors/managers are responsible for:

1. Making every effort to provide a work environment free of illegal harassment.
2. Ensuring that their subordinates are aware of these procedures and the requirements outlined herein.
3. Acting promptly and effectively to stop harassing conduct of which they are aware, and hold employees who have engaged in harassing conduct accountable.
4. Receiving reports alleging violations of the Department's policy and these procedures, as

described in Section 7, documenting these reports using the [online intake tool](#), and sending the verification email from the online tool to the servicing HR Office. For those without access to the [online intake tool](#), contact the servicing HR office for assistance.

5. Directing or conducting further investigations into reports of alleged harassing conduct, which could be as simple as obtaining witness statements, and taking corrective action as appropriate and necessary.
6. Notifying appropriate officials, as outlined in Section 7.C., of reported or observed alleged harassing conduct under the Department's policy and these procedures and of their efforts to correct the conduct.
7. Appropriately evaluating and holding subordinate supervisors/managers accountable for their performance under the Department's policy and these procedures.
8. Protecting employees who report misconduct from retaliation.
9. Taking corrective action if it is determined that harassing conduct occurred.
10. Writing and routing the memoranda described in Sections 7.E.1.B and 7.E.2 to document actions taken to close the report of alleged harassing conduct.

H. All Employees

1. All Reclamation employees **must**:
 - a. Refrain from engaging in harassing conduct.
 - b. Participate in any training required under these procedures.
 - c. Cooperate fully in investigations.
 - d. Certify they have read and understand these procedures.
 - e. Certify their understanding that any requests for anonymity or confidentiality will be honored to the greatest extent possible, except as required by the Department's policy and these procedures, as described in Section 8.
2. All Reclamation employees **are expected to**:
 - a. Understand their rights and responsibilities under these procedures.
 - b. Report harassing conduct of which they are aware or witness in the work environment, as described in Section 5.C. of these procedures.
3. All Reclamation employees who are victims of harassing conduct **are encouraged to** report the harassing conduct.

7. Management Response to Reports of Harassing Conduct

A. Documenting Reports of Alleged Harassing Conduct

A supervisor/manager or servicing HR Office who receives a report of, or otherwise becomes aware of, alleged harassing conduct, must *within one business day*:

1. Document the allegation using the [online intake tool](#).
2. Ensure the servicing HR Office receiving the report acknowledges receipt of the report to the reporting party.

B. Supervisor/Manager Immediate Actions

1. Determinations to be made: the supervisor/manager who receives a report of, or otherwise becomes aware of, alleged harassing conduct involving subordinates must promptly contact the servicing HR Office. In consultation with the servicing HR Office, the supervisor/manager must determine:
 - a. The conduct at issue, whether it arguably could be considered harassing conduct, and whether it is potentially criminal in nature;
 - b. Who may be involved; and
 - c. Whether the reported activity poses a security risk and whether it is necessary to alert law enforcement (e.g., but not limited to, in instances where there is a threat of immediate physical harm).

If the report is made outside of the regular business hours of the servicing HR Office (and the Harassment Duty Attorney is also unreachable), supervisors/managers should take action based on their best judgment to minimize any perceived risk of immediate harm and contact the servicing HR Office as soon as normal business hours resume.

2. Conflicts of Interest of Senior-Level Officials

If the Commissioner, a Deputy Commissioner, a Senior Advisor to the Commissioner, or the Commissioner's Chief of Staff is implicated in the alleged harassing conduct, the CHCO will designate an appropriate management official to be responsible for making the preliminary determinations and directing any further investigation that is warranted.

3. Interim Measures to Ensure Alleged Harassing Conduct Does Not Continue

Before directing a thorough investigation into the alleged harassing conduct, a supervisor/manager must take any necessary interim steps to ensure that the potentially harassing conduct does not continue. The interim measures taken will depend on the severity of the

conduct alleged. The two interim measures listed below are required in cases of serious misconduct, including, but not limited to, harassing conduct of a sexual nature, depending on the circumstances.

Before implementing either of the measures below, the supervisor/manager ***must*** consult with the servicing HR Office and the Harassment Duty Attorney of SOL/ELLU for advice and guidance. If the report is made outside of the regular business hours of the servicing HR Office (and the Harassment Duty Attorney is also unreachable), supervisors/managers should take action based on their best judgment to minimize any perceived risk of immediate harm and contact the servicing HR Office as soon as normal business hours resume.

a. Separation of the Alleged Harasser from the Alleged Victim

If the conduct is severe or pervasive, including, but not limited to, threatening behavior, touching, punching, or other egregious harassing behavior, the supervisor/manager should separate the alleged harasser from the alleged victim, at least until the matter otherwise can be resolved.

Supervisors/managers should ***not*** move the employee who reported or otherwise was the alleged victim of harassing conduct. If the alleged victim, without having been asked or prompted, specifically requests such a move or transfer, the supervisor/manager should inform the employee that they need not leave, and that instead the employee alleged to be responsible for the harassing conduct may be moved. Nonetheless, to the extent possible, supervisors/managers should honor the alleged victim's request. Appropriate steps to separate the alleged victim from the alleged harasser include, but are not limited to:

- moving alleged harasser to another office space, desk, or floor;
- placing alleged harasser on a temporary detail;
- assigning the alleged harasser to a telework status; or
- requesting approval to place the alleged harasser on administrative or investigative leave in accordance with Department and Reclamation guidelines.

b. Issuing No Contact Instructions

Another interim measure that a supervisor/manager may take to help ensure that harassing conduct stops immediately is to instruct the alleged harasser in writing to have no further contact or communications with the alleged victim. If necessary, communications required to conduct normal business can be accomplished through an intermediary, typically the supervisor/manager.

C. Notifying Appropriate Officials of Report

Management officials must notify the following parties ***within one business day***:

1. Supervisors/managers who become aware of alleged harassing conduct involving their

subordinates must notify their own supervisor or, if the conduct implicates the supervisor, notify the next supervisor/manager in their chain of command not implicated in the harassing conduct.

2. Supervisors/managers who become aware of alleged harassing conduct involving employees outside of their chain of command must:
 - a. Notify the alleged harasser's supervisor and/or the servicing HR Office if the employee's supervisor is unknown; and
 - b. Notify the alleged victim's supervisor or, if the conduct implicates the supervisor, notify the next supervisor/manager in the alleged victim's chain of command not implicated in the harassing conduct and/or notify the servicing HR Office if the employee's supervisor/manager is unknown.
 - c. When the alleged harasser or alleged victim is not an employee of Reclamation or the Department, the supervisor/manager should consult with the servicing HR Office and Harassment Duty Attorney of the SOL/ELLU to determine whom to notify (e.g. the contractor officer's representative [COR] when a contractor is implicated).
3. Once the supervisor/manager has consulted with the servicing HR Office regarding a report of alleged harassing conduct, the HR Office receiving the report will:
 - a. Notify the Harassment Duty Attorney of the SOL/ELLU at SOL-Antiharass@sol.doi.gov;
 - b. If the alleged harasser is serviced by a different HR office, notify that servicing HR Office;
 - c. Log the case into the tracking system as specified in Section 6.E.2.A. and 8.B.; and
 - d. Acknowledge receipt of the report to the reporting party by providing that individual a copy of the information captured in the [online intake tool](#).
4. When a report of alleged harassing conduct is made directly to the servicing HR Office, the HR Office receiving the report will:
 - a. Notify the SOL/ELLU Harassment Duty Attorney at SOL-Antiharass@sol.doi.gov;
 - b. Notify and assist the supervisor/manager of the alleged harasser with immediately making the determinations described in Section 7.B. and taking any other necessary and appropriate action;
 - c. Log the case into the tracking system as specified in Section 6.E.2.A. and 8.B.; and
 - d. Acknowledge receipt of the report to the reporting party by providing that individual a copy of the information captured in the [online intake tool](#).

D. Conducting Further Investigation

1. Deciding Whether Further Investigation is Necessary:

Within ***three business days*** of the receipt of the allegation, the supervisor/manager of the alleged harasser ***must*** consult with SOL and the servicing HR Office to determine whether and what type of further investigation is required (as described in Section 7.D.2.), or if the

preliminary inquiry is sufficient to determine whether corrective action is necessary. These decisions are fact-specific, and must be made on a case-by-case basis. Any disagreement between the responsible supervisor/manager and the consulting offices will be directed to the HCO (through the Manager, HRPPD).

If it is determined that an investigation is necessary, the servicing HR Office will ensure that the investigative process is initiated within two business days of the decision being made regarding the appropriate investigative entity (e.g., refer the case to the OIG, initiate the funding process and prepare a statement of work for a third-party investigator). The servicing HR Office will serve as the primary point of contact for logistics related to getting an internal or third-party investigator in place, as well as when the allegations have been referred for criminal investigation or to the OIG.

2. Deciding Who Will Conduct the Investigation

If it is determined that further investigation is necessary, the following general guidelines will apply for choosing the type of investigation:

- a. OIG: Allegations of criminal activity, allegations implicating a member of the Senior Executive Service, or other senior or prominent management official, senior law enforcement official, or any OIG employee, and allegations tied to waste, fraud, or abuse of Reclamation funds/programs or violations of Federal ethics regulations must be referred to OIG, which has the right of first refusal in conducting the investigation;²
- b. Reclamation Security, Safety and Law Enforcement (SSLE) Office Internal Affairs Unit: Allegations involving law enforcement and security personnel must be referred to the SSLE Internal Affairs Unit, contact information can be found at the following link: <https://www.usbr.gov/ssle/iacomplaint.html>;
- c. Third-party investigator:³ Allegations of harassing conduct of a sexual nature.

All other allegations under these procedures may be handled by a third-party investigator, employee relations specialist(s), supervisor/manager, or another employee trained to conduct investigations.⁴ The supervisor/manager of the alleged harasser, in consultation with the servicing HR Office and SOL, will make the final decision about the investigation method based on the complexity and scope of the allegation(s) and the availability of qualified investigators.

3. Conducting the investigation

All investigations must be conducted swiftly, impartially, and in a manner appropriate to the

² OIG may also undertake any criminal, civil, or administrative investigations regarding allegations of any grade employee involved in a serious or notorious allegation or incident that may negatively impact the operations and efficiency of Reclamation.

³ A third-party investigator can be a contract investigator, a DOI HR official from outside the servicing HR Office, or a management official outside of Reclamation or the Region chain of command.

⁴ Reclamation employees undertaking investigations under this provision must provide proof of applicable training to the servicing HR Office employee who is the point of contact for the investigation prior to initiating any investigation.

allegation. All investigations handled by a supervisor/manager, servicing HR Office employee, another employee trained to conduct investigations, or third-party investigator ***must*** be conducted in accordance with the Department's Investigator Guide to Conducting Administrative Investigations.

E. Adjudicating the Results of the Harassing Conduct Investigation

1. If facts uncovered during the investigation demonstrate that misconduct occurred, the supervisor/manager ***must*** take correction action.
 - a. To determine what corrective action is necessary, the supervisor/manager of the alleged harasser must consult with the servicing HR Office and SOL.
 - b. If there is disagreement between the supervisor/manager and the consulting offices on what corrective action is appropriate, the supervisor's manager will make the decision. If that manager decides against any corrective action, they must write a memorandum detailing why no corrective action was taken. This memorandum must be approved by that manager's manager, be included in the case file maintained by the servicing HR Office, and routed to the HCO through the Manager, HRPPD
 - c. The appropriate corrective action will depend on the severity and/or pervasiveness of the offense, the action that would be required to end such conduct, the offender's disciplinary/conduct history, and other surrounding circumstances. Corrective action may include counseling or any disciplinary action up to removal from Federal service, in accordance with 370 DM 752, Discipline and Adverse Actions.
2. If facts uncovered during the investigation demonstrate that the allegation should be closed with no finding of misconduct, the supervisor/manager, after consultation with the servicing HR Office and SOL, must write a memorandum detailing that determination.⁵ This memorandum must be approved by the supervisor/manager's supervisor for inclusion in the case file maintained by the servicing HR Office.
3. Where evidence indicates that employees are not sure about what conduct is appropriate and permissible, appropriate training should be provided; however, this does not eliminate the employee's responsibility for their actions or satisfy the supervisor/manager's responsibility for taking the proper corrective action.
4. A supervisor/manager's failure to take appropriate disciplinary and/or corrective action will generally support a charge of negligent supervision and be an actionable charge. Appropriate corrective action, disciplinary or otherwise, up to and including removal from Federal service will be taken against any supervisor/manager who fails to perform their obligations as set forth in these procedures, including any unreasonable failure to report known violations of these procedures. In addition, managers will appropriately evaluate and hold subordinate

⁵ Investigation reports do not make conclusions of fact; therefore, when the determination is made that no misconduct occurred or can be substantiated, this memorandum will make that conclusion and be used to close the servicing HR Office's record of the report.

supervisors/managers accountable for their performance under these procedures using the required supervisory critical element.

F. Responding to Reports of Alleged Harassment Raised in a Statutory, Administrative, or Negotiated Grievance Process

If an employee pursues a claim of harassment through the EEO process, an MSPB appeal, or a negotiated/administrative grievance, the Reclamation official who receives notice of such claim will promptly notify the supervisor/manager of the alleged harasser. That supervisor/manager has a duty to act promptly upon learning that harassing conduct has been alleged, must treat the notice as a report under these procedures, and must follow the steps outlined in this section, unless inconsistent with applicable regulatory or statutory requirements. It is possible that multiple inquiries into a given complaint may proceed in parallel.

8. Maintaining Confidentiality and Keeping Records

A. Maintaining Confidentiality

Supervisors/managers must take action to investigate all allegations of harassing conduct, even if the employee raising the allegation requests confidentiality. All reports of alleged 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 these procedures will be kept confidential, except as necessary to conduct an appropriate investigation into the alleged violations, to take appropriate disciplinary or corrective action, to comply with the reporting requirements of these procedures, or when otherwise required by law.

Upon inquiry from the alleged victim, the supervisor/manager must notify the alleged victim about the completion of the process to the extent permitted under the Privacy Act. The alleged victim ***may not be*** provided the outcome of any disciplinary action against the alleged harasser and may not be provided a copy of the investigative report. The supervisor/manager must consult with servicing HR Office and SOL ***prior*** to providing any response to the alleged victim.

B. Tracking Allegations of Harassing Conduct

The servicing HR Office will be responsible for tracking the information related to the allegations of harassing conduct in separate case files, in accordance with established records management policies. The servicing HR Office must monitor and record the status of allegations, including final resolution, in the appropriate tracking system approved by the Department's Office of Human Resources. This information will help Reclamation monitor compliance with these procedures, understand trends related to harassing conduct, and ensure swift resolution of complaints.

9. Distinction from Statutory and Grievance Claims

The purpose of these procedures is to stop harassing conduct that has occurred and deter its occurrence in the future. However, corrective action under these procedures does not provide the remedies available in the EEO, grievance, or other processes, such as compensatory damages. Filing a report under these procedures does ***not*** satisfy the requirements for filing an EEO complaint, negotiated grievance, or other procedure and obtaining remedies pursuant to them, nor does it delay the time limits for initiating those procedures. Thus, an employee who chooses to pursue statutory, administrative, or collective bargaining remedies for unlawful harassment must select one of the available forums as follows:

- A. For an EEO Complaint Pursuant to 29 C.F.R. §1614** (available for all claims of illegal harassment other than those based on status as a parent, marital status and political affiliation): contact an EEO counselor in any of Reclamation's Equal Employment Opportunity/Civil Rights Offices within 45 calendar days from the most recent incident of alleged harassment (or personnel action, if one is involved), as required in 29 C.F.R. §1614.105(a)(1); or
- B. For a Negotiated Grievance Claim:** file a grievance in accordance with the provisions of the applicable Collective Bargaining Agreement; or
- C. For an Administrative Grievance Claim:** file a written grievance in accordance with the provisions of 370 DM 771, Administrative Grievance Procedures; or
- D. For an Appeal to the Office of Special Counsel (OSC):** regarding claims of harassment related to marital status and political affiliation, pursuant to 5 U.S.C. §2302(b)(1) and (b)(10), file a written appeal with the OSC as described in 5 C.F.R. §1800.1 and on www.osc.gov; or
- E. For an Appeal to the Merit Systems Protection Board (MSPB):** pursuant to 5 C.F.R. § 1201.22, file a written appeal with the Board within 30 days of the effective date of an appealable adverse action as defined in 5 C.F.R. §1201.3, or within 30 days of the date of receipt of the agency's decision, whichever is later.

10. Additional Resources

A. Consultation Options

Employees who have experienced harassing conduct have multiple resources available that can provide assistance and advice. Engaging with the following resources ***does not*** constitute a report under these procedures, as these entities do not have an obligation to inform management of allegations of harassing conduct:

- **Ombuds/CORE PLUS neutrals.** Office of Collaborative Action and Dispute Resolution (CADR) ombuds work independently from management’s chain of command and are impartial. CORE PLUS neutrals are qualified, certified providers of conflict management and alternative dispute resolution services. Conversations with ombuds and other CORE PLUS neutrals are confidential and informal and provide managers and employees a safe place to explore options for addressing individual or organizational concerns. Ombuds and CORE PLUS neutrals are not obliged to report discussions (outside of imminent risk of harm). Information about CADR programs is available at <https://www.doi.gov/pmb/cadr/>;
- **Employee Assistance Program (EAP).** The Department’s EAP is an employee benefit program that helps employees with personal and/or work-related problems that may impact their job performance, health, and mental and emotional well-being. Information about EAP services is available at <https://www.doi.gov/pmb/hr/eap/>;
- **Victim Assistance Program.** The Department’s Office of Law Enforcement and Security Victim Assistance Program provides general information about rights and services available for victims of crime; and
- **Union Representative.** Employees who are covered by a bargaining unit can consult with a union representative.

B. Additional Information

To learn more about the Department’s anti-harassment resources and Reclamation-specific policies, visit www.doi.gov/employees/anti-harassment.

11. Inquiries

Any Reclamation employee or employee representative seeking further information concerning these procedures may contact their servicing HR Office. Servicing HR Offices may contact HRPPD for procedural questions or issues.

12. Distribution

These procedures will be distributed to all employees upon issuance, and annually thereafter. These procedures will also be distributed to all new Reclamation employees as part of their orientation materials. All employees will be required to certify their understanding of the procedures and the confidentiality limitations as described in Section 6.H. The Department’s policy can be viewed by employees on the Equal Employment and Workplace Conduct website accessible at www.doi.gov/employees/anti-harassment, which also provides additional anti-harassment resources.

13. Appendix

Anti-Harassment Intake Information

The following intake document is a hardcopy version of the [online intake tool](#). The hardcopy version can be used by any supervisor/manager or other Reclamation official receiving a harassing conduct complaint to record a report of harassing conduct when the [online intake tool](#) is unavailable. This form should be submitted to the servicing HR office upon completion.

RECLAMATION

Managing Water in the West

Anti-Harassment Intake Information

PRIVACY ACT STATEMENT: Maintenance and disclosure of the Anti-Harassment Intake form for the Bureau of Reclamation is made in accordance with the Privacy Act of 1974. Collection of the information on this form is authorized and/or required by 42 U.S.C. 2000d and 42 U.S.C. 2000e, et seq; 29 U.S.C. 791, et seq; 29 U.S.C. 794, et seq; 29 U.S.C. 621, et seq; Title IX of the Education Amendments of 1972 (Pub. L. 92-318); Section 403 of the Trans-Alaska Pipeline Authorization Act (Pub. L. 93-153.87 Stat. 576); the Americans with Disabilities Act of 1990 (Pub. L. 101-336); the Age Discrimination Act of 1975 (29 U.S.C. 621); the Architectural Barriers Act of 1968 (Pub. L. 90-480); the Civil Rights Restoration Act of 1987 (Pub. L. 100-259); the Civil Rights Act of 1991 (Pub. L. 102-166); the Health Insurance Portability and Accountability Act of 1996 (Pub. L.104-191); and Department of the Interior Regulations at 43 CFR Parts 17 and 41; Presidential Executive Orders 12898, 13160, 13166, 13152 and 13145; 373 DM 8, dated July 1, 2005, and 373 DM 7, dated December 1, 1998. All records, from which information is retrieved, by the name or personal identifier of a respondent, are maintained by a Department-wide Systems of Records: DOI-18, Civil Rights Complaints and Compliance Review Files. The information collected will be used by the Human Resources Office to determine whether your complaint is acceptable for investigation and in connection with any subsequent investigation and processing of your complaint. In the course of any investigation, this form may be shown to any individual who may be required by regulations, policies or procedures of the EEOC and/or Human Resources to provide information in connection with this complaint, including individuals you may have identified as responsible for the acts or events at issue in this complaint. Other disclosures may be: (a) to respond to a request form from a Member of Congress regarding the status of the complaint or appeal; (b) to respond to a court subpoena and/or to refer to a district court in connection with a civil suit; (c) to disclose information to authorized officials or personnel to adjudicate a complaint or appeal; or (d) to disclose information to another Federal agency or to a court or third party in litigation when the Government is party to a suit before the court. Providing the information is voluntary, however, not providing the information requested may result in the complaint being dismissed

Anti-Harassment Intake Information

This document can be used by any supervisor/manager or other Reclamation official to record a report of alleged harassing conduct. It can be used as a prompt during a conversation with an employee reporting alleged harassing conduct, or as a way to document the conversation after the fact.

* = Required

Organization - Bureau of Reclamation

1. Please select your Region (choose one) *

- Denver/Washington DC Offices
- Great Plains Region
- Lower Colorado Region
- Mid-Pacific Region
- Northwest Region
- Upper Colorado Region

Contact Information of Reclamation Official Taking the Report of Alleged Harassing Conduct

(Note: If you are the employee who witnessed or experienced harassing conduct, please enter your information here)

2. Full Name *

3. Position Title*

4. Organization and Mail Code *

5. Email Address*

6. Date Information Reported *

7. Time Information Reported *

Contact Information of Individual Reporting Alleged Harassing Conduct

8. Full Name *

9. Position Title*

10. Organization and Mail Code *

11. Phone Number

12. Job Location (Office, Building, Room, etc.)

13. Was the harassing conduct directed at you or someone else? *

Individual reporting *Skip to question 15.*

Someone else

14. If the harassing conduct was directed at someone else, please specify the individual's full name, organization, and job location in the space below.

Contact Information of Alleged Harasser(s)

(Note: If there are multiple alleged harassers, please provide this information for each, attaching additional sheets as necessary)

15. Full Name *

16. Position Title

17. Organization and Mail Code

18. Phone Number

19. Job Location (Office, Building, Room, etc.)

Harassing Conduct Incident Information

20. On what date(s) did the incidents/actions occur?

21. Please describe specifically the alleged harassing conduct currently at issue.

22. Was this an isolated event or a pattern of similar events or behaviors? *

Isolated event *Skip to question 24.*

Pattern of behaviors

23. If there has been a pattern of behaviors/events, please describe the pattern, including dates of previous incidents and whether you reported the previous incidents of harassing conduct by the same individual(s) to a supervisor or manager? If you reported previous incidents, please identify the individual(s) to whom you reported, the date(s) you reported the incidents, and the resolution(s), if any.

24. What was your reaction to the event(s) or behavior(s)?

25. Did you speak to the person who engaged in harassing conduct to ask them to cease?

Yes

No

26. What was their response?

27. How did this conduct or behavior affect you? How did it make you feel?

28. Can you identify other individuals with knowledge of the alleged conduct currently at issue or other actions/behaviors by the charged individual(s) in the past? (Include observations, what people heard, and who you told about the events in question.)

29. Are there any documents or physical evidence that may support the claim of alleged occurrences? If so, please identify them.

30. Do you feel that the alleged harasser(s) is a threat to your safety and well-being or that of others?

Yes (Please contact your servicing HR Office immediately)

No

31. If yes, how?

32. On which protected status do you believe the alleged harassing conduct was based?

Check all that apply.

- Race
- Color
- Religion
- Sex (including pregnancy and gender identity)
- Sexual orientation
- National origin
- Age
- Disability
- Genetic information (including family medical history)
- Status as a parent
- Marital Status
- Political affiliation
- Protected activities (reprisal)
- I was a witness to the conduct and don't know (NOTE: The protected status will need to be determined during initial phase of investigation)
- None of the above (NOTE: Please provide a narrative description below)

33. Narrative description detailing the reporting party's thoughts as to why the alleged harasser engaged in the conduct at issue.

34. Is there is any other information related to the incident(s)/action(s) or any other information related to the incident that you would like to provide?

35. I acknowledge that I have an affirmative responsibility to provide the information contained in this form to the appropriate servicing HR Office Anti-Harassment email box and that until I do so, I have not formally reported this incident.

I acknowledge

Please forward this information to the Anti-Harassment email box for your region to initiate the report with your servicing Human Resources Office:

DO-WO-Anti-Harass@usbr.gov

GP-Anti-Harass@usbr.gov

LC-Anti-Harass@usbr.gov

MP-Anti-Harass@usbr.gov

PN-Anti-Harass@usbr.gov

UC-Anti-Harass@usbr.gov