

**FISH AND WILDLIFE SERVICE  
EQUAL OPPORTUNITY**

**Equal Opportunity**

**Part 060 Equal Opportunity Program**

**Chapter 7 Anti-Harassment Policy and Procedures**

**060 FW 7**

**7.1 What is the purpose of this chapter?** This chapter:

**A.** Establishes the U.S. Fish and Wildlife Service's (Service) policy and procedures for responding to harassment in the workplace, and

**B.** Describes:

- (1)** The statutory prohibitions against harassment,
- (2)** The procedures and remedies the Service provides for addressing harassment, and
- (3)** What an individual must do and where they go to get help if they believe they have been harassed.

**7.2 What are the goal and objectives of the policy?**

**A. The goal** of the policy is to prevent and correct conduct that is, or has the potential to become, so severe or pervasive that it may constitute a violation of the law,

**B. The objectives** of our policy are to:

- (1)** Provide a clear process for employees to report harassment;
- (2)** Describe what a manager or supervisor must do when they receive an allegation of harassment or witness harassment of an employee;
- (3)** Define conduct that violates Service policy and outline the procedures for addressing it;
- (4)** Ensure that appropriate officials are notified and have the opportunity to promptly correct hostile or abusive conduct; and
- (5)** Establish a process that is:
  - (a)** Distinct and does not exist for the same purpose as the Equal Employment Opportunity (EEO) complaint process, and
  - (b)** Intended for management to take immediate and appropriate corrective action to eradicate harassment, regardless of whether the harassment rises to the level of violating the law (i.e., even if it is simply inappropriate).

**7.3 What is the Service's policy regarding harassment and reprisal?** The Service:

**A.** Strives to create and maintain a work environment in which people are treated with dignity, decency, and respect, and are free from harassment. Our workplace should be characterized by mutual trust and the absence of intimidation, oppression, and exploitation.

**B.** Does not tolerate the use of derogatory words, phrases, epithets, gestures, pictures, drawings, or cartoons that target race, color, religion, age (40 years or older), disability (physical or mental), national origin, sex, sexual orientation, or genetic information, regardless of the means of delivery (i.e., verbal or electronic communication).

**C.** Does not tolerate retaliation against any employee for reporting matters under this policy, or for assisting in a management inquiry related to such a report.

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D. Takes appropriate corrective and disciplinary action when a record of a management inquiry supports a finding that harassment has occurred, or when a manager or supervisor fails to follow the procedures in this policy.

**7.4 What are the authorities for this chapter?** See 060 FW 1 for a list of all the authorities relevant to the chapters in Part 060. In addition to those authorities, the following are specifically relevant to our anti-harassment policy:

A. Agency Administrative Grievance System (5 CFR 771).

B. 370 DM 771, Administrative Grievance Procedures.

C. Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, as amended (P.L. 107-174).

D. Equal Employment Opportunity Commission (EEOC) Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, Notice 915.002, June 18, 1999.

E. 370 DM 752, Discipline and Adverse Actions.

**7.5. What terms do you need to know to understand this chapter?**

**A. Employment actions** are decisions that significantly change an employee's employment status. Such actions include, but are not limited to, hiring, firing, promoting, demoting, and reassigning an employee.

**B. Reprisal or retaliation** occurs when employees are treated differently because they are, or were, involved in reporting harassment or a protected EEO activity. Examples include providing testimony in a harassment or EEO investigation, filing a complaint, or speaking out against activities that are discriminatory or involve harassment.

**C. Unlawful harassment** includes unwelcome intimidation, ridicule, insults, comments, or verbal or physical conduct that is based on race, color, religion, age (40 years or older), disability (physical or mental), national origin, reprisal, sex (whether or not of a sexual nature), sexual orientation, or genetic information when:

(1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

(2) A manager/supervisor makes an employee's submission to or rejection of such conduct the basis for employment decisions affecting the employee; or

(3) The conduct is intended to or actually has the effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive work environment.

**D. Workplace harassment** is any form of unwelcome, pervasive, persistent, and unsolicited verbal, non-verbal, written, or physical conduct that is so objectively offensive that it alters the victim's terms and conditions of employment. This happens by either culminating in a tangible employment action or by being sufficiently severe or pervasive as to unreasonably interfere with an employee's work performance by creating an intimidating, abusive, offensive, or hostile work environment.

**7.6 Who is responsible for implementing the anti-harassment policy?** See Table 7-1.

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<b>Table 7-1: Responsibilities for the Anti-Harassment Policy</b>	
<b>This official...</b>	<b>Is responsible for...</b>
<b>A. The Director</b>	<p>(1) Providing overall direction for the Service’s anti-harassment program, and</p> <p>(2) Ensuring Directorate members implement this policy Servicewide.</p>
<b>B. Directorate members</b>	<p>(1) Ensuring employees are informed of the Service’s anti-harassment policy and procedures,</p> <p>(2) Promoting management and employee efforts to eliminate harassment,</p> <p>(3) Ensuring appropriate actions are taken to enforce the anti-harassment policy and procedures,</p> <p>(4) Appropriately evaluating subordinate supervisors and managers on their performance under this policy, and</p> <p>(5) Displaying or making readily available copies of relevant policies and procedures.</p>
<b>C. Deputy Regional Directors/Deputy Assistant Directors/Deputy Chiefs (DRD/DAD/DC)</b>	<p>(1) Overseeing the process to address claims by ensuring the requirements for inquiries, reports, and any necessary employment actions comply with this policy; and</p> <p>(2) Preparing a summary of the Report of Management Inquiry (RMI) into allegations of harassment in consultation with the servicing Human Resources Office (HRO) as described in this policy.</p>
<b>D. Supervisors and Managers</b>	<p>(1) Receiving allegations of harassment;</p> <p>(2) Ensuring that employees know the specific procedures for dealing with harassment and providing training on those procedures;</p> <p>(3) Acting promptly and appropriately to prevent harassment in the workplace and preventing retaliation against those who report it;</p> <p>(4) Handling allegations of harassment promptly, thoroughly, and appropriately, in accordance with the procedures in this chapter;</p> <p>(5) Informing the alleged victim of his or her options and rights for addressing the alleged harassment, including his or her right to consult the Office of Diversity and Inclusive Workforce Management (ODIWM) or a Regional Diversity and Civil Rights Office (DCR) about harassment involving any allegations of unlawful discrimination;</p> <p>(6) Consulting with the servicing HRO and taking prompt and</p>

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<b>Table 7-1: Responsibilities for the Anti-Harassment Policy</b>	
<b>This official...</b>	<b>Is responsible for...</b>
<b>E. Chief, Headquarters Division of Human Resources (HQ HRO)</b>	<p>appropriate corrective and disciplinary action, as necessary; and</p> <p><b>(7)</b> Documenting all efforts to address harassment allegations.</p> <p><b>(1)</b> In collaboration with ODIWM, establishing and updating policies, procedures, and guidelines to administer the Service's anti-harassment program;</p> <p><b>(2)</b> Providing oversight, technical assistance, and support to all management officials/supervisors, employees, and Regional HROs to ensure compliance with this policy;</p> <p><b>(3)</b> Receiving reports alleging violations of the Service's policy and taking appropriate action as we describe in this chapter;</p> <p><b>(4)</b> Informing the alleged victim of his or her options and rights for addressing the alleged harassment, including his or her right to consult ODIWM or DCR about harassment involving allegations of unlawful discrimination;</p> <p><b>(5)</b> When there is a conflict of interest, such as an allegation against a Directorate member, referring allegations to the Deputy Director to assign another program or Region to conduct a management inquiry;</p> <p><b>(6)</b> Consulting with the DRD/DAD/DC on preparing a summary of the RMI into allegations of harassment and notifying the appropriate management official as described in this policy;</p> <p><b>(7)</b> Maintaining a written record of harassment reports and actions taken at HQ;</p> <p><b>(8)</b> Reporting quarterly on alleged harassment, findings, and actions taken at HQ to the Chief, ODIWM; and</p> <p><b>(9)</b> As appropriate, developing, conducting, and coordinating training with ODIWM and the National Conservation Training Center (NCTC) on harassment in the workplace.</p>

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<b>Table 7-1: Responsibilities for the Anti-Harassment Policy</b>	
<b>This official...</b>	<b>Is responsible for...</b>
<b>F. Chief, ODIWM</b>	<p>(1) In collaboration with the HQ HRO, establishing and updating policies, procedures, and guidelines to administer the Service’s anti-harassment program, and disseminating them annually;</p> <p>(2) Providing support and technical assistance on this policy and procedures, as requested, to ensure compliance, including explaining the differences between this policy and the EEO complaints process. (ODIWM staff should refer the alleged victim to the servicing HRO without getting into details about specific incidents).</p> <p>(3) Informing the alleged victim, as appropriate, of his or her options and rights for addressing the alleged harassment, including his or her right to consult an EEO counselor about harassment involving any allegations of unlawful discrimination;</p> <p>(4) Within 2 business days of receipt, referring reports alleging violations of the Service’s policy to the appropriate servicing HRO. The report must include the alleged victim’s name and contact information;</p> <p>(5) As appropriate, developing, conducting, and coordinating training with the HQ HRO and NCTC on harassment in the workplace; and</p> <p>(6) Collecting information quarterly on all alleged harassment, findings, and actions taken, and analyzing this information for compliance with this policy.</p>
<b>G. Regional Human Resources Offices (HRO)</b>	<p>(1) Providing technical assistance and support to management officials, supervisors, and employees in the Region to ensure compliance with this policy;</p> <p>(2) Receiving reports alleging violations of the Service’s policy, and taking appropriate action as we describe in this chapter;</p> <p>(3) Informing the alleged victim of his or her options for addressing the alleged harassment, including his or her right to consult ODIWM or DCR about harassment involving any allegations of unlawful discrimination;</p> <p>(4) When there is a conflict of interest, referring allegations of harassment to the HQ HRO;</p> <p>(5) Consulting with the DRD/DAD/DC on preparing a written summary of the RMI into allegations of harassment and notifying the appropriate management official as described in this policy;</p> <p>(6) Maintaining a written record of harassment reports and actions taken in the Region in accordance with this policy;</p>

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<b>Table 7-1: Responsibilities for the Anti-Harassment Policy</b>	
<b>This official...</b>	<b>Is responsible for...</b>
	<p><b>(7)</b> Reporting quarterly to the DCR on alleged harassment, findings, and actions taken in the Region; and</p> <p><b>(8)</b> As appropriate, developing, conducting, and coordinating training with DCR on harassment in the workplace.</p>
<b>H. Regional Diversity and Civil Rights Office (DCR)</b>	<p><b>(1)</b> Providing support and technical assistance on this policy and procedures, as requested, to ensure compliance, including explaining the differences between this policy and procedures and the EEO complaints process. (DCR staff should refer the alleged victim to the servicing HRO without getting into details about specific incidents);</p> <p><b>(2)</b> Upon receiving an allegation of harassment, informing the alleged victim, as appropriate, of his or her options and rights for addressing the alleged harassment, including his or her right to consult an EEO counselor about harassment involving any allegations of unlawful discrimination;</p> <p><b>(3)</b> Within 2 business days of receipt, referring reports alleging violations of the Service’s policy to the servicing HRO. Reports must include the alleged victim’s name and contact information;</p> <p><b>(4)</b> As appropriate, developing, conducting, and coordinating training with the servicing HRO on harassment in the workplace; and</p> <p><b>(5)</b> Collecting information quarterly on alleged harassment, findings, and actions taken in the Region, and providing it to ODIWM.</p>
<b>I. Employees and other people who are performing work on behalf of the Service</b>	<p><b>(1)</b> Acting professionally and refraining from engaging in harassment;</p> <p><b>(2)</b> Understanding the provisions of these procedures, complying with all procedural requirements, and cooperating with any inquiry;</p> <p><b>(3)</b> Participating in periodic training; and</p> <p><b>(4)</b> Promptly taking actions regarding incidents of harassment that are experienced or witnessed as this chapter requires.</p>

**7.7 What are the procedures for addressing harassment claims?** We’ve organized the procedures into the four basic steps shown in sections A through D below—reporting harassment, responding to allegations of harassment, conducting an inquiry, and taking action(s) after the inquiry is complete.

**A. Reporting harassment:** Individuals must take the following actions to avoid harm from unlawful harassment:

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- (1)** When appropriate, promptly and professionally inform the offender that his or her behavior is unwelcome and must stop.
- (2)** Individuals who believe they have been harassed, or have witnessed conduct that is in violation of our policy should immediately report the behavior either verbally or in writing to:
  - (a)** A supervisor or management official,
  - (b)** An employee in the servicing HRO, or
  - (c)** ODIWM or DCR.
- (3)** Non-employees, such as volunteers and visitors, should immediately notify a Service supervisor.
- (4)** Contractors should contact their employer immediately. They should also inform a Service supervisor or an employee in the servicing HRO.
- (5)** To the greatest extent possible, we will protect the confidentiality of the individual who reports harassment, except as necessary to conduct an appropriate inquiry of the alleged violation(s). We are committed to ensuring that allegations of harassment are shared only with those who have a business need to know.

**B. Responding to allegations of harassment:**

- (1)** *When a manager or supervisor* receives an allegation of harassment directly from an individual, is a witness to harassment, or is informed about an allegation of harassment, he/she must:
  - (a)** Within 2 business days, report the allegation to the servicing HRO. Failure to report the allegation could result in disciplinary or adverse action against the manager or supervisor for not adhering to policy.
  - (b)** Assure the employee who reports alleged harassment that the Service will:
    - (i)** Conduct a prompt, thorough, and impartial inquiry;
    - (ii)** Protect his/her confidentiality to the extent possible; and
    - (iii)** Take immediate and appropriate corrective action when it has been determined that harassment has occurred.
  - (c)** If the person who was allegedly harassed requests anonymity, the manager/supervisor must still perform the duties we describe in this policy by taking prompt action to prevent and correct any harassment. The manager/supervisor must make clear to the alleged victim that:
    - (i)** All reports of alleged hostile or abusive 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 or when otherwise required by law; and
    - (ii)** Information about the allegation of harassment will be shared only with those who have a business need to know about it.
  - (d)** When an allegation of harassment occurs in a manager's or supervisor's area of responsibility, he/she should take measures to immediately stop any inappropriate conduct and prevent further harassment or retaliation while an inquiry is being conducted. An example of such

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a measure would be to change work schedules to avoid contact between the parties or temporarily transfer the alleged harasser. The alleged victim should not be involuntarily transferred or otherwise burdened, since such measures could be considered unlawful retaliation.

(e) The manager or supervisor to whom the incident is reported must always inform the individual of his/her right to:

- (i) Seek counseling from the servicing DCR office or ODIWM in HQ within 45 calendar days from the date of the alleged harassment if the basis for the harassment is covered under EEO laws or statutes;
- (ii) File a grievance in accordance with the terms of his/her formal bargaining contract, if applicable, or pursue an administrative grievance under 370 DM 771; or
- (iii) Seek relief through any other statutory process (see section 7.9).

(f) Take appropriate corrective action in consultation with the servicing HRO.

**(2) When the servicing HRO** receives an allegation of harassment:

(a) The office must inform the alleged victim of his or her options and rights for addressing the alleged harassment, including the right to consult DCR or ODIWM on harassment involving any allegations of unlawful discrimination.

(b) The office must, within 2 business days, refer a report of harassment to the appropriate DRD/DAD/DC who will oversee an inquiry into the harassment allegation. The servicing HRO also serves as an advisor for conducting a management inquiry and monitors the processing of the harassment allegations to ensure that those responsible are meeting the required timeframes.

(c) When there is a conflict of interest at the Regional level, the HRO will refer it within 2 business days to the HQ HRO. When there's a conflict at HQ, the HQ HRO will refer it to the Deputy Director within 2 business days.

(d) The DRD/DAD/DC to whom the allegation is sent must ensure that a prompt, thorough, and impartial inquiry of the allegation begins within 10 business days from the date in which the allegations were brought to his/her attention.

**(3) When ODIWM or DCR** receives an allegation of harassment:

(a) The staff in these offices will provide support for and technical assistance on the policy and procedures, as requested, to ensure compliance with this policy, including explaining the differences in the requirements and responsibilities between this policy and the rights and requirements under the EEO complaints process. Staff should refer the alleged victim to the servicing HRO without getting into details about specific incidents.

(b) The staff in these offices, as appropriate, will advise the alleged victim of his/her options and rights for addressing the alleged harassment, including his or her right to consult about harassment involving any allegations of unlawful discrimination.

(c) The office must within 2 business days report the allegation to the servicing HRO, as appropriate, and provide them with the alleged victim's name and contact information.

**C. Conducting the inquiry:**

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- (1) An inquiry is an examination that usually involves collecting statements and, if relevant, supporting documents.
- (2) The inquiry must result in a record sufficient enough to:

  - (a) Support any corrective or disciplinary action taken, or
  - (b) Indicate that there is not enough evidence to support such an action.
- (3) The alleged harasser's program must pay for any costs for a management inquiry.
- (4) The DRD/DAC/DC to whom the allegation is sent may use one of the following resources to conduct the inquiry:

  - (a) A supervisor, manager, or other appropriate official from either within or outside of the program area or Region; or
  - (b) A contractor from an investigative firm.
- (5) The DRD/DAC/DC to whom the allegation is sent must ensure that the individual conducting the inquiry:

  - (a) Does not have a conflict of interest with either the alleged victim or the alleged harasser;
  - (b) Is trained in the skills that are required for interviewing witnesses, evaluating credibility, and gathering facts; and
  - (c) Within 21 business days, provides him/her with a completed RMI. Also see section 7.7D(1).
- (6) The person conducting the inquiry should, at a minimum, adhere to the following process:

  - (a) Coordinate with the manager or supervisor responsible for the inquiry and with the servicing HRO to ensure that all obligations are met;
  - (b) Confirm the name, position, and supervisory chain of the alleged victim and the alleged harasser, and identify any potential witnesses;
  - (c) Ask questions, as necessary, of the alleged victim, alleged harasser, and witnesses, and obtain signed statements from them;
  - (d) Identify the alleged misconduct, including:

    - (i) A detailed account of the specific actions/comments;
    - (ii) The dates, times, and locations of the alleged actions/comments; and
    - (iii) The names of any witnesses or others with knowledge of the alleged misconduct;
  - (e) Obtain a detailed response to each allegation from the alleged harasser as well as the witnesses who can corroborate the alleged harasser's account of events;
  - (f) Refrain from offering his/her opinion;
  - (g) Inform all interviewees that the individual who reported the harassment, the alleged victim, and all witnesses are protected against retaliation; and

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(h) Tell all interviewees to maintain confidentiality and not to discuss the inquiry with any other employees.

(7) In most cases, if the alleged harasser does not deny the accusation, there is no need to interview witnesses. Management officials should consult with the servicing HRO to determine if additional information is needed and take appropriate corrective action.

**D. Taking action(s) after an inquiry is complete:**

(1) Once the inquiry is complete, the person conducting the inquiry must provide a completed RMI to the DRD/DAD/DC to whom the allegation was sent. The DRD/DAD/DC must review this report and, in consultation with the servicing HRO, evaluate the evidence and determine, if possible, whether the alleged actions occurred.

(2) The DRD/DAD/DC, in consultation with the servicing HRO, must prepare a written summary of the documented findings in the RMI. The summary of outcomes may be brief depending on the complexity of the case. The RMI should not be shared with the alleged victim or the alleged harasser.

(3) The servicing HRO shares the summary of outcomes (but not the actual RMI) with the appropriate management official, normally the first-line supervisor of the person alleged to have engaged in the harassing conduct.

(4) The management official must promptly review the summary and determine the appropriate action to take. If a decision is made that disciplinary action is warranted, the full RMI may be shared with the management official.

(5) When the alleged harasser does not deny the accusation, the management official can immediately determine the appropriate corrective action in consultation with the servicing HRO.

(6) When an inquiry establishes that an employee/supervisor engaged in misconduct under this policy, he or she is subject to appropriate corrective action, disciplinary or otherwise, up to and including removal. The management official makes this decision in consultation with the servicing HRO. HRO staff may also consult with the Office of the Solicitor.

(7) The management official works with the servicing HRO to notify both the alleged victim and alleged harasser of the outcomes of the management inquiry. Managers should consult with the servicing HRO to determine the appropriate manner in which to communicate the results of the inquiry to the alleged victim and alleged harasser.

(8) If the inquiry establishes that immediate and appropriate corrective action is warranted, the alleged harasser must receive as part of the disciplinary process the relevant sections of the RMI used in making the decision of culpability.

(9) If the inquiry establishes that a manager or supervisor did not properly carry out his/her responsibilities under this policy, he or she is subject to appropriate corrective action, disciplinary or otherwise, up to and including removal. The first-line supervisor of the manager/supervisor found culpable must make this decision in consultation with the servicing HRO. .

(10) Managers/supervisors involved in the process must continually assess the need for training. In most situations, we recommend conducting training regardless of the outcome of the inquiry.

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(11) Managers/supervisors must maintain a record of all actions they take related to harassment allegations.

(12) The servicing HRO must maintain a record of all inquiries and actions taken related to allegations of harassment.

**7.8 What are the reporting requirements?** ODIWM will request quarterly reports from the HQ HRO and the DCRs, who will request the information from the Regional HROs. ODIWM will provide a reporting format when they send out the data call.

**7.9 Does compliance with this policy satisfy the Service's obligation under the grievance policy, EEO complaint process, collective bargaining agreements, or other processes?**

A. No. Compliance with the policy and procedures in this chapter does not replace, substitute, or otherwise satisfy the separate obligation, including the time limits under an EEO complaint process, formal bargaining contracts, administrative grievance, or any other statutory process.

B. Employees who want to pursue an EEO complaint alleging harassment must contact an EEO counselor no later than 45 calendar days from the day the alleged harassment occurred. For more information about filing a complaint based on a protected class, see the ODIWM [public Web site](#), [intranet site](#), and [061 FW 2](#), Pre-Complaints and Complaint Processing.

C. Employees who want to pursue an administrative grievance in accordance with 370 DM 771 should contact their servicing HRO for assistance within 15 days of the date of an incident or occurrence. Employees follow the procedures in 370 DM 771 if they have a grievance due to a concern or dissatisfaction related to their employment or a condition of employment subject to the control of management.

D. Employees covered under a collective bargaining contract should refer to their agreement for instructions on filing a grievance using the negotiated grievance procedures.

**7.10 How can employees get more information about the Service's policy and procedures on harassment?** If you have a question about this policy, contact HQ HRO, your Regional HRO, ODIWM, or your Regional DCR.

/sgd/ Stephen Guertin  
DEPUTY DIRECTOR

Date: December 15, 2015