

# Manager's Guide to Understanding Sexual Harassment

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## Understanding Sexual Harassment

### Purpose of Publication 552

This guide provides you, the manager, postmaster, or supervisor, with:

- Legal principles that define sexual harassment in the workplace.
- Information on the types of behavior that may constitute sexual harassment.
- Steps that you must follow when confronted with acts or allegations that could be construed as sexual harassment.

### Your Role As Management

You must know about sexual harassment so you can:

- Understand the types of behavior that could constitute sexual harassment and the potential costs of those inappropriate behaviors.
- Avoid behavior that could be interpreted as sexual harassment, because you should lead by example.
- Identify and stop workplace behavior that could constitute sexual harassment.
- Respond promptly<sup>1</sup> and appropriately to those who come forward with complaints of sexually harassing conduct.

### What the Cost Factors Are and Why You Should Care

Sexual harassment is illegal! It is also bad business — bad for the Postal Service™ and for the people who work here. When people are sexually harassed, it is hard for them to concentrate on their work. Their productivity, morale, and attendance may suffer. Your inaction in dealing with sexual harassment can increase the organization's exposure to legal liability and costs.

Sexual harassment allegations must never be taken lightly. It is very important that you understand the type of behavior that could constitute sexual harassment in today's workplace and its resulting costs. Moreover, its impact on the workplace can extend beyond monetary costs to intangible costs. Monetary costs can include attorney fees, settlements, court costs, lost productivity, absenteeism, employee turnover, and retention. The intangible costs can have lasting effects on many people in terms of time, resources, and a person's emotional and physical well-being, reputation, and physical safety. To maintain our effectiveness as a business and as an employer, these are costs the Postal Service cannot afford.

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<sup>1</sup> What is considered "prompt" depends upon the circumstances but the inquiry or investigation should begin as soon as possible after an allegation, and should be completed in no more time than is needed to thoroughly inquire into and, where applicable, document the matter.

## What Sexual Harassment Is

Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964. Although a familiar term, sexual harassment is not always easy to define. Issues of “he said–she said” abound, and behavior that seems harmless to some may be perceived by others as offensive. Nonetheless, over the years, a number of principles have become well established and offer guidance on what may constitute a sexual harassment claim.

Sexual harassment can cover a wide array of behaviors. For example, it can:

- Consist of words, actions, or, most often, a combination of the two.
- Range from the display of sexist cartoons to the crime of rape.
- Include obvious things, such as an invitation to have sex in exchange for favors, or unwelcome intimate touching, patting, or grabbing.
- Include less obvious behaviors, such as repeated comments about a person's appearance.
- Include other behaviors, such as deliberately brushing up against someone, displaying sexually explicit pictures, and making frequent sexual comments or jokes.

Rape and other sexual acts involving force or coercion are also criminal offenses and should be reported immediately to local law enforcement agencies and the Postal Inspection Service.

Although this guide is intended to give you tools to distinguish sexual harassment from other forms of misconduct, eliminating all harassing behavior from the workplace will enable you to have a more efficient operation and will contribute to a more productive, healthier work environment. Even if a certain behavior does not seem to be “sexual harassment” as defined by law, if it is inappropriate, take corrective action, if applicable, and stop it!

## Why You Must Know About Sexual Harassment

Your reaction to complaints of harassment plays a large part in whether the Postal Service will be held responsible for sexual harassment, particularly when claims of a hostile work environment are involved.

The law requires managers, postmasters, and supervisors to take action in the face of sexually harassing behavior. As the person in charge, you are often the first person to whom an employee complains about improper conduct. You are also in a position to do something about harassment. In short, you are expected to manage your workplace and foster an atmosphere conducive to work. You must conduct a thorough inquiry<sup>2</sup> into a sexual harassment complaint, see that any inappropriate conduct stops, and take action to ensure that such conduct does not recur.

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<sup>2</sup> A thorough inquiry or investigation includes interviews with all parties involved and all witnesses to the alleged conduct.

You cannot ignore the problem, because it may likely continue. Consequently, productivity continues to suffer, and worse, some employees may suffer serious emotional and psychological harm from such harassment. (The bottom line: Sexual harassment in the workplace is bad for your employees and bad for the Postal Service. You must respond promptly to all complaints and eliminate harassing behaviors.)

## Two Types of Sexual Harassment

There are two types of sexual harassment: quid pro quo and hostile work environment.

### Quid Pro Quo

Quid pro quo, which is Latin for “something for something,” means trading personnel decisions for personal gain. This type of sexual harassment arises when a person in authority (e.g., a supervisor) tries to trade job benefits for sexual favors. Stated another way, it is the use of power and authority to alter an employee's job conditions or withhold an economic or other benefit because an employee refuses to submit to the sexual demands.

#### Examples include the following:

- “Have dinner with me tonight, or I'll see to it that you don't pass your probationary period.”
- “You'll get that promotion, but only if you go out with me.”

If the employee does not submit to the demand and the manager, postmaster, or supervisor then carries out the threat so that a tangible employment action — e.g., demotion, denial of promotion, or discharge — results, it is quid pro quo harassment. The Postal Service could be automatically liable for sexual harassment. Note, however, that even if the threat is not carried out, the statement could still constitute hostile work environment harassment.

### Hostile Work Environment

Hostile work environment covers a broad range of behaviors and situations. It is most often defined as a pattern of continuing unwelcome behavior of a sexual nature that unreasonably interferes with an employee's work performance or that creates an intimidating, hostile, or offensive work environment. A hostile work environment may also be created when an employee submits to your sexual demands and receives a benefit as a result. Behavior that is not necessarily sexual in nature but that is demeaning or abusive toward members of one sex could also create a hostile work environment.

At times it is not easy to determine whether the conduct at issue rises to the level of sexual harassment. For example, behavior that is insensitive, juvenile, or vulgar, even though it may be offensive to some people, may not be interpreted as sexual harassment as defined under the law. However, it is Postal Service policy to stop any inappropriate behavior such as that described above.

One of the most difficult aspects of the hostile work environment claim is discriminating between conduct that is overly friendly, rude, or tasteless, and conduct that is so offensive, relentless, and severe that it warrants being labeled as sexual harassment.

Neither behavior should be tolerated, and corrective action should be implemented in either case. The following points are helpful in determining what constitutes sexual harassment:

- The inappropriate behavior must be severe or pervasive enough to interfere with the employee's work conditions or create an abusive work environment. As a general rule, there must be multiple incidents of verbal misconduct to create enough of a pattern of discriminatory behavior to alter the work environment. Isolated incidents of offensive sexual displays or remarks generally are not enough to create a hostile work environment. The exception is conduct that is extremely severe, such as sexual assault, which could constitute an abusive work environment the first time it happens. It is helpful to investigate whether the employee has previously complained about inappropriate behavior.
- The conduct must be unwelcome. It is neither invited nor solicited, and the person must consider it undesirable and offensive.
- The conduct must be evaluated from the perspective of a "reasonable person." Sexual harassment laws are not designed to protect the hypersensitive individual from offense. Again, this does not mean that a good manager allows employees to provoke even a hypersensitive colleague; harassing behavior is inappropriate, even if it is not illegal.
- Hostile work environment claims can encompass harassing behavior that is not necessarily sexual in nature. For example, it can be singling out one sex with acts of aggression, intimidation, hostility, rudeness, name calling, or other types of abusive conduct.
- Behavior or actions can be considered sexual harassment even if the alleged sexual harasser did not intend to offend.

**Examples include the following:**

Jane's supervisor subjected her to frequent obscenities, crowded her in her office, made knee-to-knee contact with her, and slapped her on the buttocks. The court found sexual harassment, saying, "A slap on the buttocks in the office setting has yet to replace the handshake."

Darla and two other women were subject to crude and obscene name calling; were intimately touched; and, when they used the restroom at their station, were spied upon by the men. The men also flashed pictures of couples engaged in sexual acts and scrawled obscenities on the women's vehicles. The women reported the abuse to their supervisor, but nothing was done. The three women eventually moved to lesser positions in other facilities. The court found sexual harassment was so severe and pervasive as to alter the women's working environment.

**The Problem of Perception**

What one person may perceive as sexually harassing behavior, another may think of as an expression of concern or mild, inoffensive flirtation. For example, Kathy, a clerk in mail processing, thought that her supervisor's compliments about her shoes and earrings, questions about her boyfriend and marriage plans, and assertions that she

would meet a nice guy in the future were so offensive as to warrant filing a sexual harassment claim. The judge who heard the case disagreed with her. Although the behavior complained of did not rise to the legal definition of sexual harassment, the supervisor's unprofessional behavior and poor judgment led to this problem.

You will undoubtedly see many cases where different people's perceptions of the activities at issue widely diverge. It is often difficult to distinguish between sexual harassment and social insensitivity. And unfortunately, the law does not provide a "bright-line" rule about exactly what comments and behaviors constitute sexual harassment. What you must do, therefore, is examine the totality of the conduct in the eyes of a "reasonable person." It is that objective standard that guides the determination of sexual harassment, rather than only the particular employee's actual reaction.

Although the behavior complained of might not rise to the legal definition of sexual harassment, inappropriate workplace behavior must also be addressed. Inappropriate behavior often leads to incidents of sexual harassment. If an employee is offended by and complains about the behavior, it needs to be addressed.

### **Importance of Communicating That Words or Actions Are Unwelcome**

Obviously, if someone is being harassed, he or she should be sure to let the alleged harasser know in no uncertain terms to stop the behavior. If the employee is not able to do so alone, the employee can ask a friend or a trusted coworker to help him or her talk to the alleged harasser. This does not mean that the victim has to confront the alleged harasser or put the allegation in writing. Nonverbal behavior can also be sufficient in some cases to communicate unwelcomeness. "No" means "no," whether it is communicated verbally or nonverbally. However, a clearly communicated "no" more often deters the harassment.

### **Sexual Harassment and the Office Romance**

The Postal Service strongly discourages management and employees from engaging in romantic and/or physical relationships. Perceptions of unfair treatment often arise under these circumstances and undermine employee morale.

When a manager or supervisor who engages in office romances appears to favor those with whom he or she is involved, the relationships tend to foster a belief among other employees that their chances for advancement or more favorable treatment may depend upon their willingness to engage in similar conduct with the supervisor.

Relationships between supervisors and employees that are based on such a belief are not fully consensual. Therefore, even though office romances are not illegal, those who aspire to be leaders in the Postal Service should avoid such relationships.

### **Same-Sex and Sexual Orientation Harassment**

Sexual harassment by a coworker or manager of the same sex as the employee is a violation of the law. Although the law does not provide a remedy for employees discriminated against based on sexual orientation, Postal Service policy prohibits such discrimination, and it will not be tolerated.



## **Contractors, Vendors, and Other Third Parties**

Just as the Postal Service will not tolerate sexual harassment by or against its employees, the organization also will not tolerate sexual harassment by or against anyone in the workplace, including contractors, vendors, and other third parties who may be in the workplace only temporarily. Employees have the right to complain about sexual harassment by such individuals. Conversely, these individuals can also complain about sexual harassment by Postal Service employees. Either way, once brought to the attention of the Postal Service, management must promptly take steps to investigate and stop any improper behavior.

## **Retaliation Is Illegal**

Retaliation against an employee who raises a sexual harassment claim or provides evidence in an investigation is illegal. Management employees who fail to fulfill their obligation under Postal Service policy addressing harassment claims may also be found to have retaliated against an employee because of the adverse effect of their willful indifference.

## **What You Must Do to Prevent Sexual Harassment**

### **Role and Responsibility of the Manager, Postmaster, and Supervisor**

It is your role to listen, inquire, and try to resolve a sexual harassment complaint. If you do not have the authority to conduct an inquiry, you must take it to a manager, postmaster, or supervisor who does.

### **Educate Personnel**

- Educate yourself on the topic of sexual harassment. Make sure your staff is aware that sexual harassment is illegal, and also ensure that your staff is aware of the Postal Service policy against sexual harassment. You should also:
- Identify for employees some of the possible consequences of engaging in improper behavior, whether or not it meets the definition of sexual harassment. In addition, express strong disapproval of sexual harassment in any form.
- Educate your employees and supervisors in identifying sexual harassment, the remedies available, and how to stop sexually-inappropriate behavior.
- Inform your employees of their right to report sexually-inappropriate conduct without fear of retaliation. Make sure they know that, to the extent possible, complaints will be kept confidential during the investigation. Ask Human Resources professionals in your local district or area office for help as necessary, and keep your Human Resources manager informed as you resolve complaints that may arise in your unit.
- Document employee training on sexual harassment.

## **Enforce Policies**

As a manager, postmaster, or supervisor, you must enforce Postal Service policy.

You must:

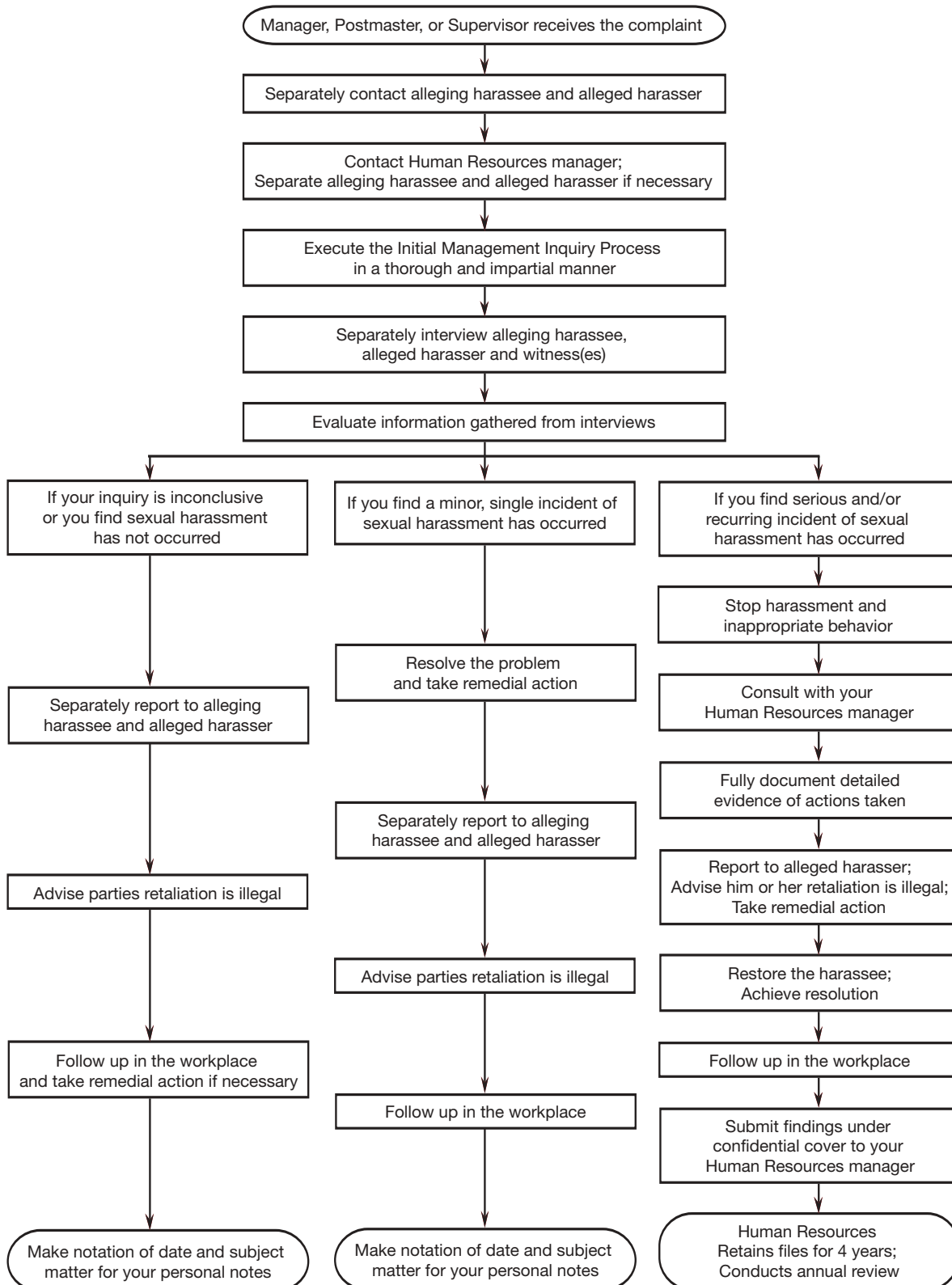
- Take every incident or complaint seriously. Do not ignore sexually harassing or improper behavior or believe it to be only a personal matter between the alleged harasser and alleging harassee.
- Conduct sexual harassment inquiries promptly and, where necessary, take inquiries to the next appropriate level.
- Stop all inappropriate behavior.
- Confer with and inform the Human Resources manager in your local district or area office of any sexual harassment allegations and inquiries. If Human Resources personnel or others conduct an inquiry or investigation, stay informed of their progress. It is your responsibility to ensure that any inquiry or investigation is brought to appropriate closure.
- Take remedial action when appropriate. The action should be commensurate with the severity of the conduct.
- Follow up to ensure that harassment does not continue and that retaliation does not occur.
- Inform employees of their rights and remedies, including their right to file a complaint with an Equal Employment Opportunity (EEO) dispute resolution specialist within 45-days of the inappropriate conduct. However, do not dismiss employees by telling them to file an EEO complaint and/or a grievance.

You must manage the problem yourself, even if the employee also chooses to file a grievance and/or an EEO complaint.

## **Maintain Confidentiality**

It is very important that you let employees know that confidentiality will be maintained to the greatest extent possible. It is equally important that you remind them, however, that at certain points in the management inquiry process and if applicable, the EEO process, it may be necessary to provide information (e.g., to the manager of Human Resources or an EEO dispute resolution specialist and/or EEO investigator) that will identify the harassee, harasser and all witnesses.

## Initial Management Inquiry Process At-A-Glance



## Initial Management Inquiry Process

### Purpose of the Initial Management Inquiry Process

The initial management inquiry process (IMIP) allows managers, postmasters, and supervisors, to whom a complaint is brought, to get enough information at the outset to:

1. Determine whether there is an immediate need to separate the harasser and harassee.
2. Determine whether there is an immediate need to recommend that an employee seek Employee Assistance Program (EAP) counseling.
3. Determine whether other employees are being harassed.
4. Assess the nature and scope of the problem in the workplace.
5. Decide whether the manager or supervisor can remedy the problem, or whether referral to your Human Resources manager for further investigation is warranted because of the individuals involved or the nature and scope of the charges.

The IMIP requires you to react promptly to complaints alleging sexual harassment and compels you to deal with the problem. In short, an inquiry prevents both blanket dismissal of such complaints or only referring the issue to an EEO dispute resolution specialist. While the latter is appropriate when the employee wishes to bring a complaint, it is not appropriate only to refer the employee to an EEO dispute resolution specialist instead of dealing with the employee's problem.

If for some reason you do not have the necessary authority to launch an inquiry, you must bring the complaint to the attention of a higher-level supervisor or manager who does. As a general rule, the IMIP will not replace or serve as a substitute for the sexual harassment investigation normally conducted by Human Resources. If, in the course of this initial management inquiry, you believe that the nature and scope of the complaint warrant outside investigation or that resolution is not feasible, you must refer the complaint to the manager of Human Resources in your local district or area office.

## Step 1: Receiving the Complaint and Beginning the Inquiry

Listed below are steps to follow when you receive a complaint and begin the IMIP:

1. Listen carefully to the person making the complaint. Note: You may receive a complaint with no prior warning.
2. Confer with the Human Resources manager or designee in your local district or area office about any sexual harassment allegations and inquiries.
3. Gather the necessary inquiry forms by following the IMIP in this publication and conduct a thorough and impartial inquiry.
4. Separately interview the alleging harasser, the alleged harasser, and all witnesses. (See "Step 2: Conducting the Interviews" for more information on this topic.) Begin with broad questions, and then ask questions specific to the complaint. Remember to pose your questions in a nonthreatening manner. Thoroughness is important.
5. Gather pertinent information (e.g., policies, procedures, laws, and practices) and contact your Human Resources manager or designee in your local district or area office, if necessary.
6. Act promptly. Do not let the complaint languish. Failure to act promptly may result in loss of evidence or a finding that the employer did not act reasonably to correct sexually-harassing behavior.

## Step 2: Conducting the Interviews

### Interviewing the Alleging Harasser

Listed below are steps to follow when you are interviewing the alleging harasser:

1. Find an appropriate place that ensures confidentiality to hear the complaint. Remain objective; listen with an open mind.
2. Ensure that the alleging harasser is comfortable with having you handle the inquiry.
3. Advise the alleging harasser of the need for confidentiality and its limitations — i.e., that confidentiality will be maintained to the greatest extent possible, but that at certain points in the management inquiry process it may be necessary to provide information (e.g., to the manager of Human Resources or EEO dispute resolution specialist) that will identify him or her.
4. Discuss your responsibilities in handling the complaint, such as the possible need to take it to another level or to take immediate action against the alleged harasser if it is found that sexual harassment or inappropriate behavior has occurred.
5. Listen carefully and empathetically, repeating what you hear if necessary for clarification. Take detailed notes of the facts (who, what, when, where, why, and how). Did anyone else observe the alleged harassment or have knowledge of the behavior at issue? Get the specific details, for example:
  - Type of conduct.
  - Time period over which the conduct occurred.

- Frequency of occurrence (i.e., is this an isolated event or one of a pattern of similar events).
6. Determine the identity of the alleged harasser(s). Has the alleged harasser engaged in similar behavior toward other employees?
  7. Ask for the alleging harassee's reaction to the behavior at issue. Did he or she ask the alleged harasser to stop? If not, determine, in a nonaccusatory manner, why not. Did the alleging harassee indicate in any other way that he or she objected to the conduct?
  8. Get information on the effect of this conduct on the alleging harassee. Try to discern whether the person suffered any adverse employment action, economic harm, or both.
  9. Determine the time between the conduct at issue and when the alleging harassee made the report. If there was a time delay, find out, in a nonaccusatory manner, why.
  10. Ask if the alleging harassee has spoken to others (in or outside the workplace), has taken notes, has received letters, or has documented the incident.
  11. Determine the alleging harassee's safety. Consider whether the alleged harasser should be moved. In general, if you believe the alleging harassee could benefit from counseling, suggest a referral to the EAP, which is available to provide employees with emotional support for problems that may result from being sexually harassed. Notify the Postal Inspection Service and local law enforcement in the event of possible criminal action.
  12. Find out what the alleging harassee needs to perform his or her work effectively. Can he or she continue to work for or with the alleged harasser?
  13. Request a written statement either before or after you act. However, do not insist on a written statement if the alleging harassee refuses to document the incident.
  14. Realize that another person's report is enough to start the inquiry. Do not insist that the alleging harassee personally report the allegation of harassment before you act.
  15. Do not insist on corroboration or detailed evidence. While it is certainly helpful, its absence should not deter your action.
  16. Show empathy and do not pass judgment on the allegations presented.
  17. Advise the alleging harassee that retaliation against any person for reporting or providing information on charges is illegal and will not be tolerated. Advise the alleging harassee to report any retaliation to you immediately.
  18. Thank the alleging harassee for making the report and invite him or her to come back if he or she has more facts to add.
  19. Document the interview and send your written report to the Human Resources manager in your local district or area office. You must document all serious and recurring cases of alleged sexual harassment or inappropriate actions, including corrective actions taken. You are not required to document the

interview for a minor, single incident. However, you should make a personal note of the incident. Personal notes must be kept confidential. They should be retained for future reference when necessary.

20. Follow up with the alleging harasser to:
  - Advise him or her of the progress of the investigation.
  - Ensure that the harassment has not resumed.
  - Ensure that the alleging harasser has not suffered retaliation.

*Note:* Confidentiality is important to prevent possible libel, slander, or invasion of privacy claims.

### **Interviewing the Alleged Harasser**

Listed below are steps to follow when you are interviewing the alleged harasser:

1. Contact the alleged harasser and set a time to meet with him or her. Do it promptly.
2. Advise the alleged harasser that this is an initial inquiry and that the purpose is to gather the facts. Emphasize that you take both the allegations and this IMIP seriously.
3. Advise the alleged harasser of the need for confidentiality and its limitations — i.e., that confidentiality will be maintained to the greatest extent possible, but that at certain points in the management inquiry process it may be necessary to provide information (e.g., to the manager of Human Resources, an or EEO dispute resolution specialist) that will identify him or her.
4. Be fair and remain objective; remember the concept of “innocent until proven guilty.”
5. Ask the alleged harasser open-ended questions to allow for elaboration.
6. Ask the alleged harasser to explain the incident(s). Request a written statement. However, do not insist on a written statement, either before you act or after, if the alleged harasser refuses to put something in writing. Get as many details as possible. Ask the alleged harasser, “Do you know of the incident(s) the alleging harasser is reporting?” Respond as follows, based on the alleged harasser’s “response” or “answer”. If he or she admits to the incident(s), determine:
  - When and where the incident(s) occurred.
  - Specific details about the incident.
  - Whether there were observers or whether the alleged harasser spoke to anyone else about the incident(s).
  - How the alleging harasser reacted to his or her comments or actions.

If he or she does not admit to the incident, determine:

- The alleged harasser’s perception of his or her working relationship with the alleging harasser.

- The alleged harasser's perception of the reported incident.
  - Whether the alleged harasser and alleging harassee socialize outside the workplace.
  - The alleged harasser's perception of why the alleging harassee made the allegation.
  - Whether the alleged harasser has recently taken any action relative to the alleging harassee that the alleging harassee found objectionable. Also determine whether the alleging harassee suffered any adverse employment action or tangible job detriment.
7. Repeat answers for clarification without changing what the alleged harasser says.
  8. Based on the answers provided, address new concerns and ask any necessary additional questions (For example: who, what, when, where, why, and how).
    - Are there other people I should talk to?
    - Were there other incidents that we need to discuss?
  9. Ask the alleged harasser to tell you in his or her own words how the alleging harassee reacted to his or her comments or actions.
  10. Inform the alleged harasser of the possibility of disciplinary action that may result because of his or her actions.
  11. Advise the alleged harasser that retaliation against the alleging harassee or anyone providing evidence is illegal and will not be tolerated. Advise him or her of the need to avoid contact with the alleging harassee until the inquiry is completed.
  12. Thank the alleged harasser for responding, and invite him or her to come back if he or she has more facts to add.
  13. Document the interview and send the information to the Human Resources manager in your local district or area office. You must document all cases involving allegations of sexual harassment or inappropriate actions, including corrective actions taken, if the actions are serious, recurring, or both. You are not required to document the interview for a minor, single incident. However, you should make a personal note of the incident. Personal notes must be kept confidential. They should be retained for future reference when necessary.
  14. Keep the alleged harasser informed by establishing a time when you will get back to him or her. Keep the scheduled time, or make contact with him or her to reschedule if more time is needed.

### **Interviewing the Witness(es)**

Listed below are steps to follow when you are interviewing the witnesses:

1. Assure the witness that his or her cooperation is important.
2. Inform the witness of the need for confidentiality and its limitations — i.e., that confidentiality will be maintained to the greatest extent possible, but that at



certain points in the management inquiry process, it may be necessary to provide information (e.g., to the manager of Human Resources or an EEO dispute resolution specialist) that will identify him or her.

3. Share the seriousness of the allegation.
4. Avoid giving details about the allegation. Your job is to get details.
5. Ask the witness what he or she knows of the incident. Get as many details as possible (e.g., ask, who, what, when, where, why, and how):
  - Were there other observers of the incident(s)?
  - How did the alleging harassee react?
  - Has the witness spoken to anyone else about the incident?
  - Is the witness aware of similar behavior by the alleged harasser toward other employees?
  - Is the witness aware of any other improper conduct in the workplace?
6. Based on the answers provided, address new concerns and ask any necessary additional questions (e.g., ask who, what, when, where, why, and how).
  - Are there other people you should talk to?
  - Are there other incidents that need to be discussed?
7. Advise the witness that retaliation against him or her for providing information on charges is illegal and will not be tolerated. Advise the witness to report any retaliation to you immediately.
8. Thank the witness for providing information and invite him or her to come back if he or she has more facts to add.
9. Document the interview and send the information to the Human Resources manager in your local district or area office. You must document all cases involving allegations of sexual harassment or inappropriate actions. Your documentation should include, corrective actions taken, if the actions are serious, recurring, or both. You are not required to document the interview for a minor, single incident. However, you should make a personal note of the incident. Personal notes must be kept confidential. They should be retained for future reference when necessary.

### Step 3: Evaluating the Information

Here are steps to follow when evaluating the information:

1. Determine your next step by reviewing your notes.
2. Assess the credibility of the information given by the alleging harassee, alleged harasser, and all witnesses. Stick to the facts. For example:
  - Do the stories of the alleged misconduct match or come close?
  - What is the chronology of events?
  - Did the alleged harasser deny anything?
  - Did the alleged harasser admit to anything?

- Did the alleged harasser contradict himself or herself?
3. Consider whether you need to conduct another interview to get missing information. Ask yourself these questions:
    - Have all inconsistencies between people interviewed been clarified?
    - If not, what other questions need to be asked?
  4. Ask yourself the following:
    - Did behavior occur that was sexual or based on sex?
    - Was the behavior unwelcome? Are all the facts based on observations and evidence rather than conclusions or assumptions?
  5. Consider:
    - The nature and severity of the conduct. If it was not necessarily sexual in nature, was it hostile, abusive, or threatening toward members of one sex?
    - The effect of the conduct on the alleging harassee and on a reasonable person.
    - The relationship of the two employees. Is there a difference in power (e.g., levels of employees in the organization)? Was there past, or is there present, romantic involvement? Is there an ongoing personal feud? Do the alleging harassee and alleged harasser get along well?
    - Did the alleging harassee communicate, verbally or non-verbally, that the alleged harasser's conduct was unwelcome? Did the alleged harasser continue the conduct?
  6. If the alleged harasser is a postmaster, manager or supervisor, determine whether the employee suffered a significant change in employment status due to his or her reaction to the alleged harassment (e.g., demotion, denial of promotion, or discharge). Use the following questions to help determine the reasons:
    - What reasons did the alleged harasser give for the personnel action (i.e., not to hire or promote or to give a poor performance evaluation or discipline)?
    - Does the evidence support the alleged harasser's reasons for the personnel action?
  7. If the alleged harassment is by a coworker, contractor, or other third party, assess whether management knew or should have known of the harassment.
    - Was the alleged harasser told that his or her behavior was unwelcome? Did he or she continue? Who else received or participated in the alleged harassment?
    - How widespread or pervasive was the conduct?
    - Did the alleged misconduct occur in private or in public areas?

- Were other complaints lodged against the alleged harasser?
- 8. Confer with the Human Resources manager in your local district or area office throughout the inquiry and resolution processes.
- 9. Determine corrective action in accordance with Postal Service policies, procedures, guidelines, rules, regulations, and bargaining agreements. Consult with your district or area labor relations as applicable. It is critical that you are consistent in the application of discipline and Postal Service policies and procedures.

#### **Step 4: Maintaining Confidentiality and Documenting the Inquiry**

Some complaints can be resolved simply and directly between the parties without the need for a formal written record. You need to decide early in the process whether formal documentation is warranted. A good rule of thumb: **When in doubt, document.** Always remember that confidentiality is key.

To maintain confidentiality:

- Do not leave documents exposed on your desk or on your computer.
- Do not give documents or notes to anyone to type for you.
- Place all documents in a separate, locked personal file. If you do not have a locked file, get one! Do not file by any identifier. File as “inquiry” only.
- Do not place documents in any of the involved parties’ personnel files.
- When the inquiry is completed, place all documents in a sealed envelope marked “CONFIDENTIAL — to be opened by Human Resources manager ONLY”, and sign your name on the seal.
- Send your documents to your applicable district or area Human Resources manager via certified, return receipt mail. All management inquiry files must be stored in a central location at the applicable district or area Human Resources office. The files must be kept for 4 years after the management inquiry is completed.

#### **Step 5: Consulting With Human Resources and Taking Remedial Action**

##### **Determination 1: Inquiry Is Inconclusive**

If the inquiry is inconclusive:

- 1A. Report to the alleging harassee.
  - Inform him or her that the investigation is inconclusive and why.
  - Emphasize that if another incident occurs, he or she should report it immediately.
  - Ask whether he or she feels able to continue to work in that area; if not, consult with your Human Resources manager to explore the possibility of transfer or relocation.
  - If appropriate, refer him or her to the Employee Assistance Program (EAP). The Postal Service EAP Hotline number is 1-800-EAP-4-YOU (1-800-327-4968.)

- 1B. Report to the alleged harasser.
  - Inform him or her that the investigation is inconclusive.
  - Inform him or her that nothing was placed in his or her personnel folder.
  - Advise him or her that if he or she engages in inappropriate behavior in the future, disciplinary action will result.
  - Emphasize that any other reported incidents will be thoroughly investigated.
  - Advise the alleged harasser that it is illegal to retaliate against a person who has either made a complaint of sexual harassment or who offers evidence in an investigation.
- 1C. Follow up and check in on the workplace to ensure that employees are aware of and are following appropriate standards of conduct.
  - Seriously consider whether remedial training will address the issues raised in the inquiry. For example, depending on the circumstances, training in sexual harassment awareness and prevention, communication skills, or diversity, could be effective in remedying workplace issues.
  - Monitor the workplace and make your monitoring actions known to the workforce. This way, employees will be aware that future misconduct will not be tolerated. Let employees know that you are available as a resource should any misconduct occur in the future.
  - Consider periodic stand-up talks or staff meetings as forums to reinforce your message that sexual harassment will not be tolerated in the workplace.

### **Determination 2: Sexual Harassment Has Not Occurred**

If you find that sexual harassment has not occurred:

1. Inform both the alleging harassee and alleged harasser — separately — of the determination that sexual harassment did not occur and the reasons for your conclusions.
2. Ask whether the alleging harassee feels able to continue to work in that area; if not, then consult with your Human Resources manager and explore the possibility of transfer or relocation.
3. Deal promptly with any conduct other than sexual harassment that needs improvement (e.g., rudeness, disparate treatment, or poor judgment)
4. Advise the alleged harasser that retaliation is illegal.
5. Follow up by monitoring the workplace to see that additional harassment, retaliation, or both does not occur and continue employee education. Consider whether sexual harassment training or EAP counseling would be helpful for the entire workgroup.
6. Note the date and subject matter for your personal notes.

**Determination 3: Sexual Harassment or Improper Conduct Has Occurred**

If you find that sexual harassment or improper conduct has occurred, you must do the following for a:

3A. Minor Single Incident:

1. Stop the conduct. Resolve the problem. Take remedial action as necessary.
2. Advise the alleged harasser that retaliation against any person for reporting or providing information on charges is illegal and will not be tolerated.
3. Report results to the alleging harassee.
4. Follow up in the workplace to see that additional harassment and/or retaliation does not occur.
5. Note the date and subject matter for your personal records or notes.

3B. Serious or Recurring Incident:

1. Take prompt action to end current harassment or improper conduct and to deter it in the future. Consult with the Human Resources manager in your local district or area office and your field counsel or the Managing Counsel Employment and Labor Law as appropriate, concerning remedies.
2. Fully document actions taken. Use the interview guidelines and forms in this publication.
3. Advise the alleged harasser that retaliation against any person for reporting or providing information on charges is illegal and will not be tolerated. Take disciplinary action if appropriate.
4. Make sure discipline is prompt and commensurate with the severity of the conduct. Remedial actions may include appropriate:
  - Discussion.
  - Remedial training.
  - Letter of warning.
  - Suspension.
  - Transfer, when appropriate.
  - Demotion.
  - Discharge.
5. Restore the alleging harassee to achieve satisfactory resolution of the matter. For example, consider apologizing to the employee on behalf of the organization, including upper management.
6. Follow up and check the workplace to see that additional harassment or retaliation does not occur and continue employee education.

7. Submit your findings to the Human Resources manager in your local district or area office under confidential cover. Human Resources will keep files on the inquiry for 4 years. Human Resources will conduct annual reviews to ensure a work climate that is free from inappropriate and unlawful behavior.

### **Checklist for Initial Management Inquiry Process**

Before you finalize your IMIP please ensure you:

- Advise all parties of the need for confidentiality and its limitations.
- Advise all parties of your responsibility to conduct an inquiry and mention the potential for requesting further investigation by Human Resources.
- Investigate promptly. Conduct a thorough and impartial inquiry. Get detailed facts from the parties involved (e.g., who, what, when, where, why, and how). Follow all procedures in this publication and conduct a thorough impartial inquiry. Use the guidelines in this publication for interviewing the alleging harassee, alleged harasser, and all witnesses. Use additional sheets as necessary.
- Take immediate remedial action when necessary (e.g., separate employees and offer counseling). Consult with Human Resources manager in your local district or area office.
- Advise all parties that retaliation against any person for reporting or providing information on potential sexual harassment is illegal and will not be tolerated.
- Follow up with the alleging harassee to advise on what he or she can expect to occur during the inquiry, and keep the alleging harassee advised of the progress of your inquiry.
- Remember that the inquiry is an ongoing process; invite all persons interviewed to come back if they have more facts to add.
- Take prompt disciplinary action where appropriate, after consulting with Labor Relations.
- Advise harassee of his or her rights with regard to resolving the complaint.
- Convey the Postal Service's commitment to eliminating sexual harassment and your responsibility to see that a fair, impartial, prompt, and thorough investigation of the alleged misconduct takes place.
- Contact the Human Resources manager or a designee promptly after receipt of the complaint.
- Submit all forms under confidential cover to the district or area Human Resources manager as applicable upon prompt completion of the management inquiry. The manager of Human Resources reviews the information to ensure that the inquiry is appropriately resolved.

## Guidelines for Interview with Alleging Harassee

Date of interview: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Job location: \_\_\_\_\_

Tour and hours of duty: \_\_\_\_\_

Provide times the events occurred: \_\_\_\_\_

Advise alleging harassee of your responsibility to see that a prompt and thorough management inquiry on the conduct takes place.

List names of individuals who allegedly committed sexual harassment:

1. Name: \_\_\_\_\_ Title: \_\_\_\_\_

Work Location: \_\_\_\_\_

2. Name: \_\_\_\_\_ Title: \_\_\_\_\_

Work Location: \_\_\_\_\_

3. Name: \_\_\_\_\_ Title: \_\_\_\_\_

Work Location: \_\_\_\_\_

Describe specifically the action(s) and the date(s) on which they occurred:

Was this an isolated event or a pattern of similar events or behavior?

What was your reaction?

How did this conduct or behavior affect you?

Can you continue to work at your current location?





## Guidelines for Interview with Alleged Harasser

Date of interview: \_\_\_\_\_

Name: \_\_\_\_\_

Job location: \_\_\_\_\_

Tour and hours of duty: \_\_\_\_\_

Provide a factual statement regarding the allegations.

How did the alleging harassee react to your words or actions?

Can you identify any witnesses with knowledge of this incident, either directly or indirectly through you?

Can you identify any documents or other supporting evidence?

Is there any other information that should be considered in evaluating this case — e.g., perception of working relations with alleging harassee or perception of why the charge was made?

Has anyone ever made allegations of this type against you before? When? And where? Describe the circumstances, including whether the allegations were investigated and the outcome.

Have you ever been disciplined for improper conduct or sexual harassment?

\_\_\_\_\_  
Manager's or Supervisor's Signature

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Alleging Harasser's Signature

\_\_\_\_\_  
Date:

Submit all forms under confidential cover to the district or area Human Resources manager as applicable upon prompt completion of the management inquiry. The Human Resources manager reviews the information to ensure appropriate resolution to the inquiry.

## Guidelines for Interview with Witness(es)

Date of interview: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Job location: \_\_\_\_\_

Tour and hours of duty: \_\_\_\_\_

Length of time known alleging harassee: \_\_\_\_\_

Length of time known alleged harasser: \_\_\_\_\_

Provide a factual statement regarding the allegations, noting what you saw or heard, where and when the incident occurred, and anyone else who was there.

If you observed the incident(s), describe the parties' reactions.

Provide identities of other persons with knowledge of information relevant to this inquiry — e.g., awareness of similar behavior by the alleged harasser toward other employees, or whether you spoke to anyone else about the incident(s).

Provide any other information that should be considered in this case.

\_\_\_\_\_  
Manager's or Supervisor's Signature

\_\_\_\_\_  
Date:

\_\_\_\_\_  
Witness's Signature

\_\_\_\_\_  
Date:

Submit all forms under confidential cover to the district or area Human Resources manager as applicable upon prompt completion of the management inquiry. The Human Resources manager reviews the information to ensure appropriate resolution to the inquiry.

## **Policy Statements, Regulations, and Publications**

The following policy statements and publications can be accessed from the Blue Page (Postal Service Intranet) links listed below. The publications can also be ordered from the Material Distribution Center.

- Postal Service Policy on Sexual Harassment  
*<http://blue.usps.gov/diversitynet/sexual/welcome.htm>.*
- Equal Employment Opportunity and Affirmative Employment Policy Statement  
*<http://blue.usps.gov/diversitynet/employment/welcome.htm>.*
- Policy Statement on Sexual Orientation  
*<http://blue.usps.gov/diversitynet/sexual/welcome.htm>.*
- Code of Ethical Conduct –  
*Employee and Labor Relations Manual (ELM) 661*  
*<http://www.usps.com/cpim/manuals/elm/elm.htm>*
- Postal Service Standards of Conduct – ELM 666  
*<http://www.usps.com/cpim/manuals/elm/elm.htm>*
- Publication 552, *Manager's Guide to Understanding Sexual Harassment*  
*<http://blue.usps.gov/cpim/ftp/pubs/pub552.pdf>*
- Publication 553, *Employees' Guide to Understanding Sexual Harassment*  
*<http://blue.usps.gov/cpim/ftp/pubs/pub553.pdf>*

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