

*MANAGER'S GUIDE TO*  
**UNDERSTANDING  
SEXUAL HARASSMENT**

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## Understanding Sexual Harassment

### Purpose

This guide provides managers, postmasters, and supervisors with the legal principles that define sexual harassment in the workplace. With these guidelines, you will be able to recognize sexual harassment more easily. Just as important, this guide provides specific information on what managers, postmasters, and supervisors must do when confronted with acts that could be construed as sexual harassment.

### 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 bad for the people who work here. Managers, postmasters, and supervisors are responsible for ensuring that the work environment allows employees to put forth their best effort, and employees cannot do that if they are worrying about sexual harassment. When people are sexually harassed, it is hard for them to concentrate on their work. Productivity, morale, and attendance can all suffer. Moreover, a manager's, postmaster's, or supervisor's inaction in the face of sexual harassment can expose the Postal Service to, or increase the Postal Service's exposure to, legal liability and costs.

Therefore, sexual harassment allegations can never be taken lightly. It is very important that you understand the prevalence of behavior that could constitute sexual harassment in today's workplace and its resulting costs. Moreover, its impact on the workplace can extend beyond just monetary costs to costs that 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, this is a cost we cannot afford.

### What Sexual Harassment Is

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 is perceived as offensive to others. Nonetheless, over the years, a number of principles have become well established and offer guidance as to what can constitute a sexual harassment claim.

Sexual harassment can cover a wide array of behaviors. It can consist of words, actions, or, most often, a combination of the two. It can range from the display of sexist cartoons to the crime of rape. It includes obvious things, like an invitation to have sex in exchange for favors, or unwelcome intimate touching, patting, or grabbing. However, it can also include less obvious behaviors, such as repeated comments about a person's appearance. Other behaviors, such as brushing up against someone, displaying sexually explicit pictures, and making frequent sexual comments or jokes, can also constitute sexual harassment. 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 for distinguishing between sexual harassment and 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. Therefore, even if a certain behavior does not seem to be "sexual harassment" as defined by law, if it is inappropriate, **stop it!**

## What You Must Know About Sexual Harassment

As managers, postmasters, and supervisors, you must know about sexual harassment so you can:

- Avoid behavior that could be interpreted as sexual harassment, since you lead by example.
- Identify and stop behavior in the workplace that could constitute sexual harassment.
- Respond promptly and appropriately to those who come forward with complaints of sexually harassing conduct.

How you react to complaints about harassment will play a large part in whether the Postal Service will be held responsible for sexual harassment, particularly when claims of a hostile 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, and 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. Therefore, you must conduct a thorough inquiry into a sexual harassment complaint, see that any inappropriate conduct stops, and take action to ensure that such conduct does not recur.

If you simply ignore the problem, it is likely to 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.** It is your obligation to respond quickly to all complaints and eliminate harassing behaviors.

## Two Types of Sexual Harassment

### 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 tries to trade job benefits for sexual favors. It is the use of power and authority to alter an employee's job conditions or withhold an economic or other benefit because the employee refuses to submit to the sexual demands.

## Examples

- “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’ll 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 is now automatically liable for sexual harassment. Note, however, that even if the threat is not carried out, the statement could still constitute hostile environment harassment.

## Hostile Environment

*Hostile 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 environment may also be created when an employee submits to a manager’s, postmaster’s, or supervisor’s 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 can 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 boorish, 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.

One of the most difficult aspects of the hostile 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 and/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 can constitute an abusive work environment the first time it happens. It may be helpful to investigate whether the employee has previously complained about the 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 the “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; such behavior is inappropriate, even if it is not illegal.
- Hostile environment claims can encompass harassing behavior that is not necessarily sexual in nature. For example, it can be sexual harassment to single out one sex with acts of aggression, intimidation, hostility, rudeness, name calling, or other types of abusive conduct.
- An alleged sexual harasser does not have to intend to offend.

### Examples

- 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 touched in intimate places, and when they used the restroom, were spied upon by the men at their station. The men also flashed pictures of couples engaged in sex and scrawled obscenities on the women’s vehicles. The women reported the abuse to their supervisor, but nothing was done. Both women eventually moved to lesser positions in other facilities. The court found sexual harassment. The abuse was so severe and pervasive as to alter their 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. Although the judge who heard the case disagreed with her, in many cases perception may become reality for those who feel victimized. 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. This very same 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 it 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 supervisors 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 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 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, managers who hope 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, it also will not tolerate it by or against anyone in the workplace, including contractors, vendors, and other third parties who may be in the workplace only temporarily. If you feel you are being sexually harassed, you should report the incident to a manager, supervisor, Equal Employment Opportunity (EEO) counselor, or the manager of Human Resources.

## **Retaliation Is Illegal**

Retaliation against an employee who raises a sexual harassment claim or provides evidence in an investigation is illegal. A manager who fails to fulfill his or her obligation under Postal Service policy to address harassment claims may also be found to have retaliated against an employee because of the adverse effect of that 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.
- 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 it.
- 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 for assistance as necessary, and keep your Human Resources manager informed as you progress through a final resolution of complaints that may arise in your unit.

### **Enforce Policies**

- 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 alleged harassee.
- Enforce policies. You must conduct sexual harassment inquiries promptly and, where necessary, take inquiries to the next appropriate level.
- Stop all inappropriate behavior.
- Confer with and inform Human Resources of any sexual harassment allegations and inquiries. If Human Resources personnel conduct an investigation, stay informed of their progress.

- 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 an EEO complaint within 45-days of the inappropriate conduct. However, do not dismiss employees by telling them to file an EEO complaint or a grievance. You must manage the problem yourself, even if the employee also chooses to file a grievance 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 investigation, it may be necessary to provide information (e.g., to the manager of Human Resources or an EEO counselor) that will identify them.

## Initial Management Inquiry Process

### Purpose

The initial management inquiry allows managers, postmasters, and supervisors to whom a complaint is brought to obtain enough information at the outset to:

- Determine whether there is an immediate need to separate the parties from one another.
- Determine whether there is an immediate need to recommend that an employee seek Employee Assistance Program (EAP) counseling.
- Determine whether other employees are being harassed.
- Assess the nature and scope of the problem in the workplace.
- Decide whether the manager or supervisor can remedy the problem, or whether referral to Human Resources for a full investigation is warranted because of the individuals involved or the nature and scope of the charges.

This inquiry imposes upon managers, postmasters, and supervisors the obligation to react promptly to complaints alleging sexual harassment and compels them to deal with the problem. In short, it avoids both wholesale dismissal of such complaints and referral of the issue to an EEO counselor. 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 counselor instead of dealing with the employee's problem.**

If for some reason supervisory employees do not have the necessary authority to launch an inquiry, they must bring the complaint to the attention of a higher level supervisor or manager who does. As a general rule, the initial management inquiry will not replace or serve as a substitute for the sexual harassment investigation normally conducted under the auspices of Human Resources. If, in the course of this initial management inquiry, the manager believes that the nature and scope of the complaint warrant outside investigation and/or that resolution is not feasible, management must refer the complaint to Human Resources.

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

1. You may receive a complaint with no prior warning. Listen carefully to the person making the complaint.
2. Gather the necessary inquiry forms.
3. Outline the questions that need to be asked.
4. Interview the alleged 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, practices), and contact your Human Resources representative, 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 Alleged Harassee**

1. Find an appropriate place to hear the complaint that ensures confidentiality. Remain objective; listen with an open mind.
2. Ensure that the alleged harassee is comfortable with your handling an inquiry.
3. Advise the alleged harassee 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 investigation, it may be necessary to provide information (e.g., to the manager of Human Resources or an EEO counselor) that will identify them.
4. Discuss your responsibilities in handling the complaint, such as the possible need to take it to another level and/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:
  - 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 alleged 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.
8. Get information on the effect of this conduct on the alleged harassee. Try to discern whether the person suffered any adverse employment action and/or economic harm.
9. Determine the time relationship between the conduct at issue and when the alleged harassee made the report. If there was a time delay, find out, in a nonaccusatory manner, why.
10. Ask if the alleged harassee has spoken to others (in or outside the workplace), has taken notes, has received letters, or has documented the incident.

11. Determine the alleged harasser's safety. Consider whether the alleged harasser should be moved. In general, if you believe the person could benefit from counseling, suggest a referral to the EAP, which is available to provide the employee with emotional support for problems that result from being sexually harassed. Notify the Postal Inspection Service in the event of possible criminal action.
12. Find out what the alleged harasser 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 — however, do not insist on a written statement, either before you act or after, if the alleged harasser refuses to put something in writing.
14. Do not insist that the alleged harasser report the allegation of harassment before you act. Another person's report is enough to start the inquiry.
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 alleged harasser that retaliation against any person for reporting or providing information on charges is illegal and will not be tolerated. Advise the alleged harasser to report any retaliation to you immediately.
18. Thank the alleged harasser 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.
20. Follow up with the alleged harasser to:
  - Advise of the progress of the investigation.
  - Ensure that the harassment has not resumed.
  - Ensure that the alleged harasser has not suffered retaliation.

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

### **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 inquiry process 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 investigation, it may be necessary to provide information (e.g., to the manager of Human Resources or an EEO counselor) that will identify them.
4. Be fair and remain objective; remember the concept of “innocent until proven guilty.”
5. Ask the alleged harasser questions in an open-ended manner to allow for elaboration.

6. Ask the alleged harasser for an explanation of 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. Obtain as many details as possible. Does the alleged harasser know of the incident(s) the alleged harassee is reporting?  
If he or she admits to the incident(s), determine:
  - When and where the incident(s) occurred.
  - Specific details.
  - Whether there were observers or whether the alleged harasser spoke to anyone else about the incident(s).
  - How the alleged harassee reacted to his or her comments and/or actions.If not, determine:
  - The alleged harasser's perception of his or her working relationship with the alleged harassee.
  - The alleged harasser's perception of the reported incident.
  - Whether the alleged harasser and alleged harassee socialize outside the workplace.
  - The alleged harasser's perception of why the alleged harassee made the allegation.
  - Whether the alleged harasser has recently taken any action relative to the alleged harassee that the alleged harassee found objectionable. Also determine whether the alleged 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 (who, what, when, where, why, and how).
  - Are there other people you should talk to?
  - Were there other incidents that need to be discussed?
9. Ask the alleged harasser to tell you in his or her own words how the alleged harassee reacted to his or her comments and/or actions.
10. Inform the alleged harasser of the possibility of disciplinary action that could result because of his or her actions.
11. Remind the alleged harasser that retaliation against the alleged harassee or anyone providing evidence is illegal and will not be tolerated. Advise him or her of the need to avoid contact with the alleged harassee until the inquiry process 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.

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**

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 investigation, it may be necessary to provide information (e.g., to the manager of Human Resources or an EEO counselor) that will identify them.
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. Obtain as many details as possible (who, what, when, where, why, and how):
  - Were there other observers of the incident?
  - How did the alleged harasser 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 (who, what, when, where, why, and how).
  - Are there other people you should talk to?
  - Were 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.

### **Step 3: Evaluating the Information**

1. Determine your next step by reviewing your notes.
2. Assess the credibility of the information given. Stick to the facts.
  - Do the stories match or come close?
  - What does the chronology of events look like?
  - Did the alleged harasser deny anything?
  - Did he or she admit to anything?
  - Did he or she contradict himself or herself?



3. Consider whether you need to conduct another interview to “fill in the blanks.”
  - Have all inconsistencies between people 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 alleged harasser 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 alleged harasser and alleged harasser get along well?
  - Did the alleged harasser 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 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, 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 conduct complained of occur in private or in public areas?
  - Were other complaints lodged against the alleged harasser?
8. Confer with Human Resources throughout the inquiry and resolution processes.
9. Determine corrective action in accordance with Postal Service policies, procedures, guidelines, rules, regulations, and bargaining agreements. 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.

- 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 these documents to the district or area Human Resources manager via certified, return receipt mail.

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

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

1. Report to the alleged harassee.
  - Inform him or her that the investigation is inconclusive and why.
  - Emphasize that, if another incident occurs, he or she should report it at once.
  - Ask whether he or she feels able to continue to work in that area; if not, explore the possibility of transfer or relocation.
  - If appropriate, refer him or her to the EAP.
2. 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 any inappropriate behavior in the future, disciplinary action will result.
  - Emphasize that any other reported incidents will be thoroughly investigated.
3. Follow up and check in on the workplace to ensure appropriate standards of conduct.

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

1. Inform both the alleged harasser and alleged harasser — separately — of the determination that sexual harassment did not occur and why you so concluded.
2. Inquire whether the alleged harasser feels able to continue to work in that area; if not, explore the possibility of transfer or relocation.
3. Deal promptly with any conduct other than sexual harassment that needs improvement (rudeness, disparate treatment, poor judgment, etc.).

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

1. Stop the conduct.
  - Have Human Resources review proposed corrective action.
  - Take action to end current harassment or improper conduct and deter it in the future.
  - Make sure discipline is prompt and commensurate with the severity of the conduct. Options include:
    - Counseling.
    - Remedial training.
    - Letter of warning.
    - Suspension.
    - Transfer, when appropriate.
    - Demotion.
    - Discharge.
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. Follow up and check in on the workplace to see that additional harassment and/or retaliation does not occur.
4. Continue employee education.
5. Restore the alleged harasser.
  - Consult with the alleged harasser concerning possible appropriate ways to resolve the matter.
  - Consult with Human Resources and your field counsel or the managing counsel of employment law, as appropriate, concerning remedies.
  - Consider apologizing to the employee on behalf of the organization, including upper management in the apology.

## Checklist for Initial Management Inquiry Process

- Advise all parties of the need for confidentiality and its limitations.
- Advise all parties of your responsibility, including the potential for requesting further investigation by Human Resources.
- Advise all parties that retaliation against any person for reporting or providing information on potential sexual harassment is illegal and will not be tolerated.
- Take immediate remedial action when necessary (e.g., separate employees, offer counseling).
- Follow up with the alleged harasser to advise of the progress of your inquiry by \_\_\_\_\_.  
*date*
- Remember that the inquiry is an ongoing process; invite all persons interviewed to come back if they have more facts to add.
- Submit findings to the Human Resources manager.
- Take prompt disciplinary action where appropriate.

## Guidelines for Interview With Alleged Harassee

Date of Interview: \_\_\_\_\_

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

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

Job Location: \_\_\_\_\_

Tour or Hours of Duty: \_\_\_\_\_

Provide time period of the events involved: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

List 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?

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What was your reaction?

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How did the conduct/behavior affect you?

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Can you continue to work at your current location?

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

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

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Have you lost any workdays as a result of the alleged harassment? If so, identify the dates and types of leave used.

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Have you previously complained about this or related acts of sexual harassment to a supervisor or manager? If so, please identify the individual to whom you complained, the date(s) of the complaint(s), and the resolution(s), if any.

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[Note to the interviewer: Tell the alleged harasser that he or she has the option to answer the following two questions.]

1. Have you sought any medical treatment or counseling as a result of the alleged harassment?

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2. Are there any other ill effects that you wish to disclose that may be caused by the alleged harassment?

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Appropriate date to follow up: \_\_\_\_\_

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*Manager's or Supervisor's Signature*

## Guidelines for Interview With Alleged Harasser

Date of Interview: \_\_\_\_\_

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

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

Job Location: \_\_\_\_\_

Tour or Hours of Duty: \_\_\_\_\_

Provide a factual statement regarding the allegations.

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

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

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Can you identify any documents or other supporting evidence?

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

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Has anyone ever made allegations of this type against you before? Why? When?

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

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*Manager's or Supervisor's Signature*

## Guidelines for Interview With Witness

Date of Interview: \_\_\_\_\_

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

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

Job Location: \_\_\_\_\_

Tour or Hours of Duty: \_\_\_\_\_

Length of Time Known: Alleged 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.

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

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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).

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

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*Manager's or Supervisor's Signature*