

GSA ORDER

SUBJECT: Anti-Harassment Procedures in the Workplace

1. Purpose. This Order establishes procedures to ensure the General Services Administration (GSA) maintains a workplace free from unlawful harassment. It defines harassing, hostile, or abusive conduct, outlines the rights and responsibilities of employees, requires periodic training on harassment and establishes a system of accountability for ensuring a workplace free from unlawful harassment. This Order is a part of GSA's ongoing efforts to provide a model workplace for its employees.

2. Background. Harassment in the Federal workplace is defined as any unwelcome conduct, verbal or physical, based on an individual membership in a protected class as outlined in the [GSA Policy Statement on Harassment, Including Sexual and Non-Sexual](#). It is also defined as retaliation for making reports or allegations of harassment or providing information related to such allegations when: (1) The behavior can reasonably be considered to adversely affect the work environment, or (2) An employment decision affecting the employee is based upon the employee's acceptance or rejection of such conduct.

Harassment in the workplace violates Federal law and policy when it is based on the protected Equal Employment Opportunity (EEO) classes of race, color, religion, sex (including pregnancy, gender identity, sexual orientation), national origin, age, disability, or genetic information, and retaliation based on previous EEO activity as described in:

- [Title VII of the Civil Rights Act of 1964](#), as amended;
- the [Age Discrimination in Employment Act of 1967](#);
- the [Rehabilitation Act of 1973](#), as amended under the Americans with Disabilities Act Amendments Act of 2008; and
- [Genetic information under the Genetic Information Nondiscrimination Act of 2008](#).

In addition, all employees and applicants are to be free from harassment without regard to their:

- Parental status under Executive Order 13152 (signed May 2, 2000); and/or
- Marital status and political affiliation under the Civil Service Reform Act of 1978.

3. Scope and Applicability.

a. This policy applies to all employees working for GSA.

b. This Order does not apply to allegations of harassment brought by contractor employees against the contractor, the contractor employees' supervisors and/or the contractor employees' co-workers.

c. The Office of Inspector General (OIG) has independent personnel authority. See Section 6 of the Inspector General Act of 1978, (5 U.S.C. App.3), as amended and GSA Order, [ADM P 5450.39D CHGE 1 GSA Delegations of Authority Manual \(Delegations Manual\), Chapter 2, Part 1](#). Similarly, GSA specifically recognizes that the Inspector General (IG) has independent authority to formulate policies and procedures for addressing harassment in the workplace. The OIG in establishing its workplace procedures, can consider this Order, to the extent that it does not infringe on the IG's independent personnel authority and does not conflict with other OIG policies.

4. Cancellation. This directive cancels and supersedes HRM 9700.6 CHGE 1, Anti-Harassment Procedures in the Workplace.

5. Policy. It is the Agency's policy that GSA employees shall be free from harassment, including sexual harassment and sexual misconduct. In accordance with the [GSA Policy Statement on Harassment, Including Sexual and Non-Sexual](#), these procedures are designed to address the Agency's handling of harassment allegations.

6. Authority. The process established under this Order is entirely separate and apart from the EEO complaint process. An employee who reports harassment in accordance with this Order has not filed an EEO complaint under 29 CFR 1614. An employee who wishes to file an EEO complaint must contact the [Office of Civil Rights \(OCR\)](#) within 45 days of the alleged harassment.

7. Responsibilities.

a. Employees are expected to:

- (1) Understand their rights and responsibilities under this Order;
- (2) Refrain from engaging in unwelcomed harassing, hostile, or abusive conduct;
- (3) Report promptly any incident of harassing conduct by employees or others in the workplace;
- (4) Inform the supervisor, or another management official, or the Office of Human Resources Management (OHRM) if subjected to unwelcome harassing conduct;
- (5) Cooperate fully in any inquiry or investigation; and
- (6) Participate in training as required by the agency.

- b. Supervisors and management officials, in addition to the above, shall:
 - (1) Promote a workplace free from unwelcomed harassing conduct;
 - (2) Ensure that their subordinates are aware of this Order and its requirements;
 - (3) Act promptly, in accordance with this Order, to address any harassing conduct of which they are aware;
 - (4) Notify their first and second level supervisors and the Anti-Harassment Coordinator of reported or observed harassing conduct;
 - (5) Take immediate and appropriate corrective action when it's determined that harassment has occurred, including disciplinary action, as necessary in consultation with OHRM and the Office of General Counsel (OGC);
 - (6) Evaluate appropriately subordinate supervisors and managers of their performance under this Order;
 - (7) Protect the confidentiality of employees who allege or report harassment, to the extent possible;
 - (8) Participate in training as required by the agency;
 - (9) Act as or designate a fact-finder to conduct fact-finding into allegations of harassment where fact-finding is necessary.
- c. Associate Administrator, Office of Civil Rights (OCR) will:
 - (1) Ensure an effective functioning of anti-harassment policy and procedures, in collaboration with OHRM and OGC;
 - (2) Ensure that the head of the EEO Office or designee provides advice on all EEO matters to employees, supervisors, and management officials.
- d. Chief Human Capital Officer (CHCO), OHRM will:
 - (1) Appoint an individual to serve as the agency Anti-Harassment Coordinator (AAHC) at the national level who will work with the Director, Office of Human Resources Services to appoint Employee Relations Specialists to serve as Anti-Harassment Coordinators (AHC). The AHCs will provide for multiple points of contacts for employees to raise allegations of harassing conduct;
 - (2) Ensure that performance plans of all supervisors and managers include language addressing compliance with this Order; and
 - (3) Provide to the Associate Administrator, OCR, annual data on the actions taken pursuant to this Order for the purpose of determining GSA's compliance with Federal sector EEO requirements.

e. Agency Anti-Harassment Coordinator (AAHC) will:

(1) Work in partnership with the designated Anti-Harassment Coordinators (AHC) and OCR to provide appropriate training to all employees on this Order, and evaluation of the anti-harassment procedures, and its requirements;

(2) Collaborate with OCR to publish the anti-harassment policy and procedures throughout GSA to ensure that the names and locations of the AHCs are readily available, including the appropriate dissemination of the anti-harassment policy, procedures, and informational materials, including but not limited to, posting on GSA web sites and in common areas throughout GSA;

(3) Ensure dissemination of this Order to all employees on an annual basis and periodically remind employees of their responsibilities under this Order;

(4) Receive reports of alleged violations of this Order and, as described in this Order, make or direct further inquiries into such reports, as appropriate and necessary;

(5) Provide oversight, technical assistance, training, and support to GSA staff to assure compliance with this Order;

(6) Maintain a written record of reports made and actions taken pursuant to this Order. These records will be maintained in a secure location; and

(7) Maintain an e-mail address to respond to inquiries from GSA employees.

f. Anti-Harassment Coordinator (AHC), a designated Employee Relations Specialist, will:

(1) Be familiar with the requirements of this Order, and assist the AAHC to ensure compliance;

(2) Assist managers and supervisors regarding allegations of harassment, e.g., fact-finding, as appropriate;

(3) Assist managers and supervisors in ensuring immediate and appropriate corrective action is taken if the GSA determines that harassing conduct has occurred as stated in *Taking Corrective Action*, section 3. b.(13)(a) below;

(4) Ensure that the fact-finding is completed,

(5) Provide consultation to managers and supervisors with the proper selection of a designated fact-Finder;

(6) Assist with the consultation of union representative, or other representatives, as needed;

(7) Assist the supervisor with providing interim relief to alleged harassees, pending the outcome of fact-finding, as appropriate;

(8) Protect the confidentiality of employees who allege or report harassment, to the extent possible; and

(9) Maintain proper tracking and case files in accordance with this Order, the Privacy Act of 1974, and the GSA Records Retention Schedules.

g. OGC shall be consulted by, and shall provide legal advice to, supervisors, managers, and OHRM, as needed.

h. Fact-Finder shall:

(1) Be appointed by the manager or supervisor, in consultation with the AHC, to conduct a thorough inquiry/investigation into the allegation(s) of harassment, to the extent that the manager or supervisor does not personally act as the fact-finder;

(2) Not be subordinate to any official involved in the matter being investigated;

(3) Be impartial and competent to perform the fact-finding, as verified by the AAHC and/or AHC, if needed; and

(4) Upon the completion of the fact-finding, prepare a fact-finding Report to be given to the manager or supervisor. If the fact-finder is not the AHC, the fact-finder shall notify the servicing AHC/AAHC that the report has been completed.

8. Explanation of Changes. To ensure compliance with U.S. Equal Employment Opportunity Commission (EEOC) guidance, this Change Order:

a. Added harassment definition (from Appendix I) to paragraph 2.

b. Listed protected EEO classes in paragraph 2.

9. Implementation Action. Implementation of this Order must be carried out in accordance with applicable laws, regulations, and as it affects employees represented by a labor bargaining unit is contingent upon completion of labor relations obligations.

10. Signature.

/S/

TRACI DIMARTINI
Chief Human Capital Officer
Office of Human Resources Management

HRM 9700.6 Anti-Harassment Procedures in the Workplace

Table of Contents

<u>Section</u>	<u>Page</u>
1. <u>Introduction</u>	7
2. <u>General Provisions</u>	7
a. Separation between EEO Complaint and Anti-Harassment Process....	7
b. Confidentiality	7
c. Privacy Act Compliance	8
d. Harassment Allegations Involving Contractors	8
3. <u>Procedures</u>	8
a. Reporting Harassment.....	8
b. Response to Harassment Reports.....	9
c. Filing Complaints.....	16
Appendixes:	
<u>Appendix A.</u> Notice of Rights and Responsibilities of GSA Employees Alleging Harassing Conduct	18
<u>Appendix B.</u> Checklist of Basic Information to Alleged Harassers	20
<u>Appendix C.</u> Sample Fact-Finding Authorization Letter	21
<u>Appendix D.</u> Interview Tips	22
<u>Appendix E.</u> Questions to Ask Parties and Witnesses	25
<u>Appendix F.</u> Sample Statement of Facts	27
<u>Appendix G.</u> Fact-Finding Report Template	28
<u>Appendix H.</u> Harassment Activity Reporting/Tracking Form	30
<u>Appendix I.</u> Frequently Asked Questions	31
<u>Appendix J.</u> Privacy Act Information	35

HRM 9700.6 Anti-Harassment Procedures in the Workplace

1. Introduction. GSA's Anti-Harassment Policy and Procedures are intended to ensure that immediate and appropriate action is taken in response to allegations of harassing conduct, including the use of disciplinary action, and to eliminate harassing conduct regardless of whether the conduct violated the law. The overarching goal of this Order is to provide procedures for addressing harassing conduct at the earliest possible stage, before it can become severe or pervasive, e.g., behavior that is widespread, common, or repeated.

2. General Provisions.

a. Separation Between the EEO Complaint and Anti-harassment Processes.

(1) The EEO complaint process and the anti-harassment process are separate and distinct. The former is designed to make individuals whole for discrimination that already has occurred and to prevent the recurrence of the unlawful discriminatory conduct. The latter seeks to address and resolve harassing conduct before it ever reaches the level of discrimination, as defined under the anti-discrimination laws. For this reason the EEOC stresses the need to maintain separate EEO complaint and anti-harassment processes. Therefore, it is important to note that the anti-harassment process does not affect an employee's right to file an EEO complaint, nor does it alter required timelines for filing such a complaint. Employees may access either or both processes as discussed later in these procedures.

(2) When determining the appropriate process, a supervisor and/or AHC must ensure that the employee who is raising allegations of harassment is fully aware that the GSA's anti-harassment process is separate and apart from the EEO complaints process. Therefore, the supervisor and/or AHC will begin by providing each employee with a Notice of Rights and Responsibilities clearly stating the distinctions between the two processes. (See Appendix A. Notice of Rights and Responsibilities of GSA Employees Alleging Harassing Conduct.)

b. Confidentiality. All information obtained from allegations of harassing conduct must be kept confidential to the greatest extent possible. Managers and supervisors should make this clear to employees. GSA will not guarantee complete confidentiality, since it cannot conduct an effective fact-finding without revealing certain information to the alleged harasser and potential witnesses. However, information about the allegation of harassment should be shared only with those who need to know about it. Records relating to harassment complaints will be kept confidential on the same basis. Supervisors have an obligation to take immediate action regardless of an employee's confidentiality request. Supervisors should explain that they will maintain as much confidentiality as possible, but they must investigate the matter. Inaction by the supervisor in such circumstances could lead to GSA's liability and possible disciplinary action against the supervisor. Further, the EEOC states, "While it may seem reasonable

to let the employee determine whether to pursue a complaint, the employer must discharge its duty to prevent and correct harassment.”

c. Privacy Act Compliance. It is the responsibility of the OHRM to ensure that all records pertaining to allegations of harassment are compliant with the Privacy Act. Managers, supervisors, and anti-harassment coordinators receiving allegations of harassment should provide the alleged harassee with a Privacy Act Statement. During fact-finding, fact-finders should provide all witnesses in the fact-finding a copy of the Privacy Act Statement. Consistent with Privacy Act requirements, the alleged harassee shall not receive a copy of the fact-finding report. (See [Appendix J. Privacy Act Information](#))

d. Harassment Allegations Involving Contractor Employees. While GSA does not have the authority to address harassment of a contractor employee by another contractor employee, it is expected that all contractor employees in GSA facilities or performing work for GSA will refrain from engaging in harassing conduct. For allegations of harassment by a contractor employee, GSA supervisors or the AHC shall immediately contact the appropriate Contracting Official.

(1) In the event a contractor employee is alleging harassing conduct by a GSA employee, or vice versa, the allegations should be reported to the AHC for further processing consistent with this Order. This should include determining the scope of the alleged harassing conduct. The AHC may also raise the matter with the appropriate Contracting Official, as appropriate.

(2) Where only one of the parties is a contractor employee, or when a contractor employee has been identified as a witness, GSA fact-finders need to request access through the Contracting Official or designee, before the fact-finder interviews any contractor employee. GSA cannot compel cooperation by the contractor; it would be voluntary on the part of the contractor employee. It is important for AHCs to know this and to communicate this to managers, supervisors, and employees.

3. Procedures.

a. Reporting Harassment.

(1) Any employee who believes that the employee has been subject to, or has been a witness to, harassment in violation of this Order must report the matter promptly to:

- (a) The employee’s first line supervisor;
- (b) Another management official in the employee’s supervisory chain; or
- (c) The AHC.

(2) Bargaining unit employees may also seek assistance from their union and

initiate grievances pursuant to the governing collective bargaining agreement, as appropriate.

(3) Contractor employees should contact their employer immediately.

(4) Employees who know of harassing conduct directed at others are encouraged to report the matter to the supervisor of the offending employee, another supervisor, other management official, or to the AHC.

(5) Employees may obtain information about this Order from, or report harassing conduct to, the AHC or their servicing human resources office.

NOTE: Reports made pursuant to this Order do NOT replace, substitute, or otherwise satisfy the separate obligations of an EEO complaint, negotiated grievance, Merit Systems Protection Board appeal, or other statutory processes. Unlike this Order, those procedures typically provide for remedial relief to the alleged harasser of a violation. For further information concerning how an employee may pursue rights under one of these separate processes, see Paragraph 3, Section c, "[Filing Complaints](#)," of this Order.

b. Response to Harassment Reports.

(1) Conducting Preliminary Inquiries. A supervisor or manager who is informed of, or otherwise becomes aware of, harassing conduct involving subordinates within the supervisor's chain-of-command, must initiate an inquiry within 10 days of receipt to determine:

(a) What conduct is at issue and whether it arguably could be considered harassing conduct;

(b) Who may be involved;

(c) Whether any immediate action is required to insulate the alleged harasser from further harassment; and

(d) Consult the local AHC; and

(e) Take the necessary action as appropriate to address the claim.

(2) Notifying Appropriate Officials of Report.

(a) A supervisor or manager who becomes aware of allegedly harassing conduct involving employees outside of the supervisor's chain of-command must, within one business day, notify the following appropriate officials:

1. The harassing employee's supervisor and their second and third level supervisors or, if the conduct implicates the supervisor or the supervisory chain, the local AHC; and

2. The harassee's supervisor and their Office Director or, if the conduct implicates the supervisor or the Office Director, the local AHC.

(b) Supervisors and managers who become aware of harassing conduct within their chain-of-command must promptly notify the local AHC. This notification must include a description of any initial steps taken in response to the conduct and a plan of necessary and appropriate action to address the report.

(c) When a report is made directly to the AHCs, s/he shall:

1. Immediately acknowledge receipt of the report;

2. Notify the Office(s) implicated in the report, and their higher level management official; and

3. Require the Offices implicated in the report to immediately conduct a preliminary inquiry and take any other necessary and appropriate action.

(3) Performing Further Investigation.

(a) Deciding whether further investigation is necessary. The supervisor and/or manager of an alleged harasser, in consultation with the AAHC/AHC and OGC shall decide whether further investigation is required, or if the preliminary inquiry is sufficient to determine whether corrective action, to include interim relief, is necessary. These decisions are fact specific and must be made on a case-by-case basis.

(b) Deciding how investigations will be carried-out. When the supervisor and/or manager of the alleged harasser, in consultation with the AAHC/AHC and OGC, determines that further investigation is necessary:

1. The AHC and the alleged harasser's supervisor and/or manager shall determine who will direct further investigations. The AHC may engage management officials from outside the involved Office, conduct the investigation, or engage an outside investigative service if s/he deems it necessary and appropriate. The affected Office is responsible for the costs associated with outside investigative services.

2. The investigation must be conducted swiftly, impartially, and in a thorough manner appropriate to the allegation.

(4) Conducting Fact-finding.

(a) Where fact-finding is determined to be necessary, supervisors or managers will act as or designate the fact-finder to conduct fact-finding into allegations of harassing conduct. The primary goal of fact-finding is to ascertain the facts pertinent to the incident, what caused the incident, the outcome of the incident, and what actions need to be taken that will improve the probability that similar incidents will be prevented in the future.

(b) Whether the supervisor acts as the fact-finder or one is appointed, the fact-finder should conduct this assigned inquiry as official duty. Conflicts with pre-existing regular duties should be resolved within the management chain. Finally, the appointed fact-finder may not be subordinate to any official or employee involved or alleged to be involved in the matter.

(c) The supervisor shall also ensure that designated fact-finders have been provided a copy of this Order and have had an opportunity to familiarize themselves with the requirements of this Order. Additionally, AHCs shall coordinate with OCR to ensure that designated fact-finders have been provided access to other available resource materials on the Agency's anti-harassment procedures, such as online education and awareness information.

(d) There may be some situations where fact-finding is not needed. For example, if the alleged harasser does not deny the accusation, there would be no need to interview witnesses, and the supervisor could immediately determine appropriate corrective action. However, there needs to be a document for the record, noting the incident and its resolution, with a copy to the AHC.

(5) Authorizing the Fact-finding.

(a) Upon a determination that a fact-finding is needed, the supervisor will either:

1. Conduct the fact-finding, or
2. Prepare an authorization letter designating a fact-finder and outlining the scope of the fact-finding.

(b) The essential elements of the authorization letter are set forth below. (See Appendix D. Sample Fact-Finding Authorization Letter)

(6) Conducting Interviews. The fact-finding shall include, at a minimum, interviews with key individuals such as the alleged harassee, the alleged harasser, and any witnesses to the alleged harassing conduct. For a detailed discussion on

conducting interviews, see Appendix E, Interview Tips. For various examples of appropriate questions to ask alleged harassees, alleged harassers and other witnesses, see Appendix F, Questions to Ask Parties and Witnesses. Several other considerations impacting the interview process are addressed below.

(7) Statement of Facts. Fact-Finders will request witnesses interviewed during fact-finding to sign a Statement of Facts. (See Appendix G. Sample Statement of Facts.) The AHC can provide guidance to supervisors and/or the fact-finders on the use of statement of facts.

(8) Retaliation Prohibition.

(a) Fact-Finders should be aware that the anti-harassment process prohibits retaliation against employees who report harassment or provide information related to such allegations, and.

(b) Therefore, when conducting interviews during a fact-finding, the official who interviews the parties and witnesses should remind these individuals about the prohibition against retaliation.

(9) Allegations Beyond the Scope of the Fact-finding.

(a) If a fact-finder receives other allegations of harassment beyond the allegations into which the fact-finding is being conducted, the fact-finder should consult immediately with the supervisor or manager who appointed the Fact-Finder. The manager or supervisor should, in turn, consult with the AHC and subject matter experts to determine whether the new incident(s) of alleged harassment is supporting evidence of the original allegations but does not raise a new allegation, whether the new incident(s) is like or related to the original allegations of harassing conduct, or whether the new incident is not an allegation of harassment.

(b) If the fact-finder receives other allegations unrelated to harassment, he or she shall refer such allegations to the AHC. Such allegations shall not be part of the written report.

(10) Concluding Fact-finding. There is no set formula to dictate when enough information has been gathered to ensure that a fact-finder has fully completed an inquiry. There are, however, some general concepts that can be followed in determining when enough testimony and evidence have been collected. Here are some tips to assist in making this determination:

- When all evidence has been collected and all witnesses have been interviewed.

- When the preponderance of testimonial and physical evidence clearly indicate that the facts of the case in question are or are not substantiated.
- When the testimony is redundant and it is unlikely that further testimony will discover new information essential to the fact-finding.
- When it is determined that all disputed facts are resolved and continuing the fact-finding will disrupt the normal operation of the Office.

(11) Notifying the Alleged Harassee. The supervisor shall notify the alleged harassee of the completion and outcome of the process to the extent permitted under the Privacy Act. A harassee does not need to know and may not be provided the outcome of any disciplinary action against a harasser. A harassee is not to be provided with a copy of the fact-finding Report. The supervisor should consult with the AHC and OGC about this notification.

(12) Resolving Conflicts of Interest in Inquiries or Investigations.

(a) If a Head of Service or Staff Office, or similar high ranking official, is implicated in the potentially harassing conduct, the AAHC shall be responsible for conducting the preliminary inquiry and directing any further investigation that is warranted.

(b) Any dispute between the affected Office and the AAHC regarding further investigation will be resolved by the CHCO, OHRM.

(13) Taking Corrective Action.

(a) If it is determined that harassing conduct has occurred, corrective action should be taken which includes interim relief and/or disciplinary action. Interim relief must occur within 60 days from receiving the complaint. Disciplinary action must be initiated within 60 days of receiving the investigative report, if any.

(b) To determine the appropriate corrective action, the Office(s) implicated in the report will consult with the AAHC and OGC, as appropriate. The action necessary will depend on the severity and/or pervasiveness of the offense, the action required in order to end such conduct, the harasser's prior disciplinary and conduct history, and other factors which federal personnel law requires be considered. A non-exclusive list of possible corrective actions follows:

1. If the conduct consisted of only occasional remarks that are arguably

offensive but not severe, corrective action may consist of no more than discussing the matter with the responsible individual(s), explaining why it was inappropriate, and instructing them that it should not continue.

2. If more than one person has engaged in inappropriate but not severe conduct, if there is other evidence that employees are not sure about what conduct is appropriate and permissible, or if employees appear unaware of how to properly respond to such conduct, appropriate training should be provided.

3. If the conduct is more severe or pervasive, including frequent offensive remarks, touching, or other egregious harassing behavior or results in a negative employment action, the employee responsible for the hostile or abusive conduct should be separated from the harassee, at least until the matter otherwise can be resolved. This should not be accomplished by transferring the harassee who reported or otherwise was the subject of the hostile or abusive conduct. If the harassee, without having been asked or prompted, specifically requests such a transfer, management should inform the employee that he/she need not leave, and that instead the employee responsible for the hostile or abusive conduct may be transferred. Nonetheless, to the extent possible, the harassee's request should be honored.

4. For the most serious incidents, corrective action may include any disciplinary action otherwise available for violations of conduct standards, such as suspension, demotion, or removal. See GSA Order [HRM 9751.1, Maintaining Discipline](#). The OHRM must review and concur on determinations that an employee's conduct has violated the agency's policies.

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

(14) Maintaining Confidentiality, Keeping Records, and Monitoring Compliance.

(a) Maintaining confidentiality. All reports of harassment and related information will be maintained on a confidential basis to the greatest extent possible. The identity of the employee alleging violations of this Order will be kept confidential, except as necessary to conduct an appropriate investigation into the alleged violations or when otherwise required by law.

(b) Writing reports and maintaining records. A brief written report must be made to the AHC regarding the final resolution of each allegation of harassment under this Order.

1. These reports must identify the individuals implicated, the conduct involved, and the corrective action taken, if any. These reports must be sufficient to aid the AHC in determining how to address any future incidents.

2. If requested by the AHC, written reports also may include a detailed description of the inquiry or investigation, an explanation of any conclusions, the reasoning for any corrective action issued, and/or any documents or other tangible evidence obtained during or created as a result of the inquiry or investigation. Tips for Developing the Fact-Finding Report:

- Remember the audience—it may include individuals unfamiliar with functions, terminology, and organizations.
- Explain references, terminology, and acronyms as needed.
- Identify the specific evidence relied upon for each finding of fact.
- Ensure that all evidence relied upon is contained and referenced as an exhibit in the report and file.
- Where appropriate, use official titles rather than personal names.
- Identify how you resolved significant inconsistencies or conflicts in evidence with an objective analysis.

For additional information on the Fact-Finding Report, please see Appendix H. Fact-Finding Report Template.

NOTE: Where the fact-finder is not the supervisor, the fact-finder shall return to the supervisor all draft copies, tapes, notes, and working papers relevant to the allegations of harassment and/or used to formulate the final Fact-Finding Report. Nothing relating to the case should be retained by the fact-finder. The original copy of the completed report, all exhibits, and the authority for conducting the fact-finding should be submitted to the supervisor in the manner specified in the letter authorizing the fact-finding. A copy of the report shall reside with the AAHC.

(c) The AHC shall maintain the written reports in a secure location. These written reports are protected by the Privacy Act and will be maintained in accordance with its requirements and exemptions.

(15) Monitoring the Procedures. The AHC must ensure that these procedures

are properly executed by:

(a) Monitoring inquiries and investigations under this Order of reported or otherwise discovered hostile or abusive conduct;

(b) Providing guidance concerning the information to be gathered and methods to be used during inquiries and investigations; and

(c) Otherwise assuring that the investigations are swift, thorough, impartial, and appropriate to the allegation.

(16) Monitoring the Work Environment. Supervisors will be responsible for ensuring that their offices are in full compliance with requirements of this order. In addition, these officials are responsible for monitoring the work environment following a report alleging a violation of this Order to ensure that there are no further violations or incidents of retaliation against any individual who has reported harassment or participated in the inquiry or investigation.

c. Filing Complaints . Procedures under this Order are separate from statutory and collective bargaining claims.

(1) Filing Statutory or Administrative Complaints or Negotiated Grievances. The purpose of this Order is to stop harassment that has occurred and deter its occurrence in the future. Once management is satisfied that its corrective action has stopped harassment and deterred its recurrence, no further action is necessary. Therefore, corrective action under this Order does not provide the remedies available in the EEO, collective bargaining, or other processes, such as compensatory damages. Filing a report under this Order does not prevent an employee from filing an EEO complaint, union grievance, or other procedure and obtaining remedies pursuant to them, nor does it delay the time limits for initiating those procedures. Thus, an employee who chooses to pursue statutory, administrative, or collective bargaining remedies for unlawful harassment must select one of the available fora as follows:

(a) For an EEO complaint pursuant to 29 C.F.R. § 1614 , contact an EEO counselor in OCR at eeo@gsa.gov within 45 days from the most recent incident of alleged harassment (or personnel action if one is involved), as required by 29 C.F.R. § 1614.105(a)(1); or

(b) For a collective bargaining claim, file a written grievance in accordance with the provisions of the appropriate Collective Bargaining Agreement; or

(c) For an appeal to the Merit Systems Protection Board pursuant to 5 C.F.R. § 1201.22, file a written appeal with the Board within 30 days of the effective date

of an appealable adverse action as defined in 5 C.F.R. § 1201.3, or within 30 days of the date of receipt of the agency's decision, whichever is later; or

(d) For a complaint with the Office of Special Counsel, file electronically at <https://osc.gov/pages/file-complaint.aspx> or in writing.

(2) Reporting Harassment Raised in the Statutory, Administrative, or Collective Bargaining Process. This Order is designed to address harassment before it rises to the level of illegal discrimination for which an employee can exercise the statutory right to file an EEO complaint, grievance, or MSPB appeal. Its purpose is to ensure that management is notified of and has the opportunity to correct any hostile or abusive conduct, and applies whether or not the employee has filed an EEO complaint, union grievance, or MSPB appeal. GSA's liability for an EEO complaint, grievance, or other action may depend upon whether it was aware of and promptly corrected the hostile or abusive conduct.

(a) If an employee pursues a claim of harassment through the EEO process, an MSPB appeal, or a union grievance, the GSA official who receives notice of such claim shall promptly notify the appropriate responsible management official. The management official must treat the notice as a report under Section 3 of these procedures, unless inconsistent with applicable regulatory or statutory requirements.

(b) The AHC shall provide the record of actions taken under this Order to the office handling a parallel statutory or collective bargaining claim.

Appendix A. Notice of Rights and Responsibilities of GSA Employees Alleging Harassing Conduct

Employees who believe they have been subjected to harassing conduct have the right to:

1. Report the matter immediately to their first-line supervisor or the AHC. In the event that the employee's first-line supervisor is the alleged harasser, the employee shall contact the second-line supervisor or the AHC.
2. Report the alleged incident of harassing conduct to the second level supervisor or the AHC, when the person to whom the alleged harassment was reported failed to take prompt action.
3. Pursue the matter under the GSA's Anti-Harassment Procedures, the EEO complaint procedures, or both processes simultaneously. The process established under the Anti-Harassment Procedural Requirements is entirely separate and apart from the EEO complaints process. An employee who reports harassment in accordance with the Anti-Harassment Procedures has not filed an EEO complaint under 29 CFR 1614. A consultation with an AHC is not EEO counseling for purposes of filing an EEO complaint. An employee who wishes to file a complaint of discrimination must contact OCR within 45 days of the most recent act alleged to be harassment.
4. Present and pursue the allegation of harassing conduct free from restraint, interference, coercion, harassment, and reprisal.
5. Prompt notification upon completion of the fact-finding. However, to the extent that disciplinary action is taken, the employee shall not be apprised of the disciplinary action taken against an alleged harasser.

Employees alleging harassment have the responsibility to:

1. Fully cooperate with the presentation of information, to include scheduling of interviews or meeting, responding to correspondence, and providing requested material or information, in the processing of their allegations of harassing conduct.
2. Keep the Agency informed of their contact information.
3. Notify the AHC or the AAHC of any questions or concerns about the Anti-Harassment Process.

This is to acknowledge that a copy of this form was provided to me.

Employee Alleging Harassment

Date

Supervisor or AHC

Date

Appendix B. Checklist of Basic Information to Alleged Harassers

1. The Agency must inform the alleged harasser that an allegation of harassing conduct has been brought against him or her. This must include the name of the alleged harassee, the allegations brought to the Agency's attention, and when the allegation was reported.
2. As a person identified or alleged to be responsible for harassing conduct, the employee will be asked to provide information relating to the allegations. The alleged harasser is responsible for fully cooperating with the fact-finding process.
3. If there are individuals who can provide information concerning the allegations of harassment, the alleged harasser should be prepared to furnish the supervisor, the AHC, or the fact-finder, with their full name, position, and contact information. The fact-finder will determine what interviews and documentation are necessary.
4. The information in the Fact-Finding Report is protected by the [Privacy Act](#), and the information contained therein may only be shared with those who have a need to know in the performance of their duties.
5. An alleged harasser may be an employee covered under a collective bargaining agreement and may be entitled to certain rights. It is recommended that the supervisor or AHC consult with the local [Labor Relations](#) personnel regarding these rights.
6. An alleged harasser is required to keep GSA informed of the person's contact information.
7. An alleged harasser must notify the AHC or AAHC of any questions or concerns he or she may have about the Anti-Harassment Process.

Appendix C. Sample Fact-Finding Authorization Letter

[DATE]

To:

From:

Subject: Authorization of Fact-Finding

_____, an employee at [NAME OF CENTER] has raised an allegation(s) of harassment. In accordance with HRM XXXX, I hereby authorize [NAME OF FACT-FINDER] to conduct a fact-finding into this allegation(s).

NAME

TITLE

AHC, Fact-Finder

Upon identification, Mr/s. _____ will expect your complete cooperation in this matter.

[Appointing AUTHORITY’S SIGNATURE BLOCK with name and official GSA Title]

cc:

Agency Anti-Harassment Coordinator
Anti-Harassment Coordinator

Appendix D. Interview Tips

1. Purpose of the Interview Questions. It is essential that fact-finders understand the purpose of interviews is to obtain relevant facts. Relevant facts are those that are important to deciding the previously identified ultimate issues. They are outcome determinative. Therefore, fact-finding questions must be designed to obtain the relevant facts. Also, remember that for every piece of disputed evidence, there should be a factual finding.

2. Interviewing Techniques. Interviewing techniques vary, depending upon the facts, circumstances, and witnesses. The following suggestions should be considered as techniques to elicit the best, most reliable information:
 - a. All questions asked during the interview must be directed toward discovering the answers to “who, what, when, where, why, and how.”

 - b. Avoid beginning an interview with specific questions, as they may inhibit the witness. The witness may feel that only those items mentioned are pertinent.

 - c. The first set of questions should establish the witness’ title, experience, education (where appropriate) and job-related duties for the record.

 - d. The second set of questions should establish the witness’ knowledge of the event(s) under fact-finding. Elicit a description of the scene first; then the related action. Asking an open-ended question allows the witness to tell the witness’ rendition of events. Once the person has completely related the narrative, specific questions may be asked to clarify specific points and gather additional information.

 - e. Compound questions are confusing and should be avoided.

 - f. Leading questions are questions that suggest an answer. Examples: “This isn’t the first time you’ve had performance issues, is it?” “You confronted your subordinate, didn’t you?” The disadvantages inherent in leading questions are that they can lead to distortions of the statements made and can potentially lead to witness intimidation. Leading questions should be avoided.

 - g. Problems can also arise when asking questions that are answered by a simple yes or no. This limits the witness to answering only specific questions, and in many instances the witness has a tendency to answer affirmatively just to be agreeable. They are appropriate in limited situations, where a direct response is important.

h. Keep the format simple and carefully choose the language as word choice can affect an answer.

i. Actual interview—If fact-finding addresses specific events, inquire about all events during the relevant time frame in chronological blocks of time. For each block ask, who, what, when, where, why and how. Examples include:

1. What was the alleged conduct?
2. Who was present?
3. What was said?
4. What exactly occurred?
5. When did it occur?
6. Where did it occur?
7. How did this affect you?
8. How did it occur?
9. Where did it happen?
10. Who else has information?

j. The fact-finder should also determine the following:

1. What was said?
2. Who said it?
3. When was it said?

k. The fact-finder should keep in mind the following:

1. Always ask if there is any other information they have about the situation that he or she believes could be significant.
2. Don't tell one witness what another specific witness said.
3. Always maintain control.
4. Don't discuss personal opinions or conclusions.
5. Don't make accusatory statements.
6. Have the witness explain terms and phrases.
7. Resolve contradictions.

3. Interview closing phase.

a. At the end of every interview, bolster the witness, whether he or she is friendly or hostile. This can be accomplished by employing the following statements:

(1) "Is there anything else I should ask you that I haven't?"

(2) "Anything else I need to know?"

(3) "If you have any doubts, is there anything else you think you should tell me?"

(4) Remind the witness "it's for the record."

(5) "Certainly you appreciate that this matter may go to a higher level. Is there anything you'd like to amend or supplement?"

b. Always give the witness the privilege of contacting the fact-finder if additional information is later recalled or comes to their attention. Not everyone can think of every detail on the spot, and the questioning may well trigger further search of memory and records.

Appendix E. Questions to Ask Parties and Witnesses

The following are examples of questions that may be appropriate to ask the parties and potential witnesses. Any actual fact-finding should be tailored to the particular facts.

1. Questions to Ask the Alleged Harassee:

a. Who, what, when, where, and how: Who engaged in the alleged conduct? What exactly occurred or was said? When did it occur and is it still ongoing? Where did it occur? How often did it occur? How did it affect you?

b. How did you react? What response did you make when the incident(s) occurred or afterwards?

c. Are there any persons who have relevant information? Was anyone present when the alleged conduct occurred? Did you tell anyone about it? Did anyone see you immediately after the alleged conduct?

d. Did the person who you believe harassed you engage in what you consider inappropriate conduct toward anyone else at that time? Do you know whether anyone complained about inappropriate conduct by that person?

e. Are there any notes, physical evidence, or other documentation regarding the incident(s)?

f. How would you like to see the situation resolved?

g. Do you know of any other relevant information?

2. Questions to Ask the Alleged Harasser:

a. What is your response to the allegations? Give us your recollection of the who, what, when, where, and how concerning the alleged event(s).

b. Are there any persons who have relevant information?

c. Are there any notes, physical evidence, or other documentation regarding the incident(s)?

d. Do you know of any other relevant information?

3. Questions to Ask Third Parties:

a. What did you see or hear? When did this occur? Describe the alleged harasser's behavior toward the harassee and toward others in the workplace.

b. What did the harassee tell you? When did she/he tell you this?

c. Do you know of any other relevant information?

d. Are there other persons who have relevant information?

Appendix F. Sample Statement of Facts

STATEMENT OF FACTS

I, _____, (position title, grade, and series), (location), GSA, make the following statement freely and voluntarily to _____, who has identified himself/herself to me as a fact-finder for the Agency, obtaining information and fact-finding in relation to an allegation(s) of harassment in violation of GSA policy.

I have been informed that this statement may be used in evidence. I understand that this statement may be shown to the interested and relevant parties and those with a legal right to know.

[STATEMENT]

I have read the above statement, consisting of ___ pages, and it is true and complete to the best of my knowledge.

Witness Name and Date

Appendix G. Fact-Finding Report Template

The Fact-Finding Report will vary from case to case. In simple cases, for example, an incident that occurs with the supervisor present, the “report” may consist of a supervisor’s brief memorandum to the file describing the inappropriate conduct and what was done to address it. In more complex cases, the fact-finder will need to prepare a more in-depth document. However, the document should be as concise as possible, laying out only the needed information to make a decision as to whether prompt action should be taken to address the matter, and if so, what action is needed. The template below provides an outline of the information to be provided when it is determined that an in-depth report is appropriate.

1. Preliminary Statement.

- a. Identify the authority for conducting fact-finding.

The paragraph should generally read as follows: “This fact-finding was authorized by _____ (name/title) on (date) per Memorandum dated _____.”

- b. Identify the purpose and scope of the fact-finding.

(1) The initial purpose of the fact-finding should be concisely stated. For example: “to conduct a fact-finding into whether harassment in violation of GSA policy occurred when . . .”

(2) The fact-finding should always be limited in scope to just the allegation for which the fact-finding has been authorized. However, if during the course of the fact-finding, information was provided to the fact-finder that goes beyond the scope of the current fact-finding, a note to the reader should be provided:

Example: “Fact-finding was limited to the alleged incident. Two employees and one contractor employee found to have knowledge pertinent to the incident were interviewed.”

Example: “During the course of the fact-finding, two other employees made two additional allegations of harassment by Mr. Oxford.”

2. List or Summarize the Witnesses Interviewed.

3. Findings of Fact.

a. Findings go to the when, who, what, why, where, and how. Findings are the resolutions of the details.

b. The findings should be set forth in a narrative addressing all the pertinent evidence. In a good narrative, the issues are set out and resolved in an orderly way. The simplest way to organize the narrative is to describe the allegation and then describe what each witness had to say about it.

c. Keep in mind that there must be a reference to exhibits in support of every factual assertion. Therefore, after every factual statement, the exhibits supporting that statement should be identified in parentheses (). The exhibits are not repeated in the narrative; they are described. This must be done correctly and fairly. It is not fair, for example, to describe a witness as “admitting” a fact when he merely stated it and the fact doesn’t bear on his culpability. In other words, watch the use of emotionally-charged language. Such language will impair credibility.

4. Signature.

a. The fact-finder shall sign the Fact-Finding Report.

b. Signatures reflect the accuracy of the Fact-Finding Report and view of the fact-finder.

5. Exhibits.

a. This section of the Fact-Finding Report includes an index of all exhibits supporting the findings and a descriptive heading of each. The exhibits should be included in their entirety. The Fact-Finding Report is incomplete if the exhibits are not part of the package.

b. This section includes any material referred to or considered in the findings of fact, e.g., e-mails and photographic images.

c. Exhibits may also include signed statements from the parties and witnesses, depending on the complexity and severity of the allegations.

Appendix H. Harassment Activity Reporting/Tracking Form

GENERAL SERVICES ADMINISTRATION

ORGANIZATION: _____

Harassment Activity Reporting/Tracking

Case Number	Date Allegation Reported	Time In Inventory	Basis(es)	Issue(s)	Relationship of Alleged Harasser and Alleged Harassee (e.g., supervisor-employee ; employee-employee)	Fact-Finder	Status

Appendix I. Frequently Asked Questions

What is harassment?

GSA policy defines harassment/harassing conduct as any unwelcome conduct, verbal or physical, based on an individual membership in a protected class as outlined in the [GSA Policy Statement on Harassment, Including Sexual and Non-Sexual](#). It is also defined as retaliation for making reports or allegations of harassment or providing information related to such allegations when: (1) The behavior can reasonably be considered to adversely affect the work environment, or (2) An employment decision affecting the employee is based upon the employee's acceptance or rejection of such conduct.

What are some examples of harassment as defined above?

Harassment that violates GSA policy can occur in a number of ways. Various examples include:

- (1) Threatening that rejection of sexual overtures will affect appointments, promotions, transfers, or evaluations;
- (2) Belittling caricatures or objects depicting persons of a particular race, national origin, religion or other protected category;
- (3) Racial or ethnic jokes or stories;
- (4) Teasing, mimicking or repeatedly commenting on an individual's disability, accent, or other protected category;
- (5) Offensive comments, jokes or suggestions about an employee's gender;
- (6) Obscene or lewd comments, slurs, jokes, epithets, suggestions or gestures;
- (7) Commenting on an employee's body or sexual characteristics;
- (8) Displaying nude or sexually suggestive objects, pictures, images or cartoons;
- (9) Continuing prohibited behavior after a co-worker has objected;
- (10) Laughing at, ignoring or retaliating against an employee who raises a harassment allegation; and
- (11) Bullying, intimidating or threatening behavior.

What if I believe I have been harassed, but not based on the reasons above?

GSA's anti-harassment policy and procedures are not intended to establish a general civility code for the Agency. Therefore, petty slights or minor annoyances are not covered. In addition, harassment is limited to the definition and protected categories as defined in the [GSA Policy Statement on Harassment. Including Sexual and Non-Sexual](#). If the alleged conduct does not involve one of these categories, or you are not sure whether it does or not, but the behavior is nonetheless unwelcome and offensive, you may still wish to report it to your supervisor or your AAHC, who can then decide whether the Anti-Harassment Program office is the appropriate venue. There are also a number of other options you may wish to explore to address your concerns. Your [Human Resources Offices](#) can provide additional information regarding those options.

Where should I go to report harassment?

GSA employees who believe they have been the target of harassment should report the matter immediately to their first-line supervisor, another management official in their reporting structure, the OHRM and/or the AHC or other officials as designated.

What is the intent of the GSA Anti-Harassment Program and its procedures?

The anti-harassment procedures set up a process for management to address employee allegations of harassment and take immediate and appropriate corrective action, including use of disciplinary actions to eliminate harassing conduct regardless of whether the conduct violated the law. The goal of anti-harassment policy and procedures is to address harassing conduct at the earliest possible stage, before it can become "severe or pervasive" harassment within the meaning of anti-discrimination laws.

Is reporting harassment the same as filing an EEO complaint?

No. The anti-harassment procedures do not affect rights under the EEO complaints process. The anti-harassment process is entirely separate and apart from the EEO complaints process. This means that an employee who reports allegations of harassment in accordance with the Agency's anti-harassment procedures has not filed an EEO complaint. An employee who wishes to file a discrimination complaint should contact OCR within 45 days of the alleged harassing conduct. OCR can be contacted at eeo@gsa.gov.

What is the role of managers and supervisors?

Managers and supervisors are responsible for maintaining a work environment free of harassment. Managers or supervisors who observe or are made aware of allegations of harassing conduct are required to act promptly, effectively, and in accordance with GSA anti-harassment policy and procedures to determine the scope of the alleged harassing

conduct and take corrective or disciplinary action as appropriate and necessary.

What is the role of the AAHC?

The AAHC is responsible for serving as the Point of Contact (POC) for all anti-harassment matters. Their role includes, but is not limited to, assisting managers and supervisors in addressing allegations of harassment and maintaining Agency records. For instance, the Coordinator helps ensure that a proper fact-finding process is completed and that prompt and appropriate corrective action is taken if the Agency determines that harassing conduct has occurred.

What is the role of the Local AHC?

The AHC is a designated servicing OHRM Employee Relations Specialist and is the first point of contact with supervisors and managers regarding an allegation of harassment. The AHC is responsible for assisting the manager and supervisors in addressing alleged harassment, as appropriate. Their role may include, but is not limited to, conducting the fact-finding and making recommendations concerning disciplinary action.

If I report harassment, will the information provided be kept confidential?

All information shall remain confidential to the greatest extent possible in accordance with the Privacy Act. Information is restricted to those who have a “need to know” and may include fact-finders, the AAHC, witnesses, the alleged harasser, and supervisors who are required to take action on the matter raised.

If I’m a contractor employee who believes that I’m a target of harassment by another contractor employee, where should I go?

GSA anti-harassment policy and procedures only cover Federal civil servants. GSA does not have the authority to address issues pertaining to harassment involving contractor employees; however, it is expected that all contractor employees conducting work on GSA premises will refrain from engaging in harassing conduct. For allegations of harassment involving a contractor employee, GSA supervisors should immediately contact the appropriate Contracting Officer.

If I’m a contractor employee who believes I have been harassed by a Federal civil servant, what should I do?

Contact your AAHC for information and guidance.

If I report harassment and then change my mind about going forward with the allegations, what happens?

The Agency is still obligated to look into the allegations raised.

If I make a report of harassment, will it remain confidential?

All reports of 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 Order will be kept confidential, except as necessary to conduct an appropriate investigation into the alleged violations or when otherwise required by law.

What happens if there are no witnesses to a claim of harassment?

Even if there are no witnesses, the agency would conduct an inquiry and talk to those persons involved.

Is it possible to be harassed by someone who is not my supervisor?

Yes. The harasser does not have to be your supervisor for the harassment to be illegal. GSA has a responsibility to provide a workplace free from harassment, whether the harasser is your supervisor, a supervisor in another department, a co-worker, a subordinate, or even a customer or client.

Can I be punished for complaining about harassment?

No. It is against the law and is a violation of Title VII for you to be retaliated against for reporting harassment. If you believe you have been subjected to retaliation, please contact OCRat eeo@gsa.gov.

What if I witness inappropriate conduct?

Employees who know of harassing or abusive conduct directed at others are encouraged to report the matter to the supervisor of the offending employee, another supervisor or other management official, or the AHC or other officials as designated.

Appendix J. Privacy Act Information

1. Managers, supervisors, and anti-harassment coordinators receiving allegations of harassment should provide the alleged harassee with a Privacy Act Statement. During fact-finding, fact-finders should provide all witnesses in the fact-finding a copy of the Privacy Act Statement. The following Privacy Act Statement should be utilized.

Any information concerning this matter shall not be disclosed, discussed, or shared with other individuals unless they have a direct need-to-know in the performance of their official duties. Unauthorized disclosure of any information concerning this matter may result in CIVIL and CRIMINAL penalties.

2. When providing document(s) for review or signature, fact-finders should utilize the following cover sheet containing the Privacy Act Statement.

PRIVACY ACT DATA COVER SHEET

DOCUMENTS ENCLOSED ARE SUBJECT TO THE PRIVACY ACT OF 1974

Contents shall not be disclosed, discussed, or shared with individuals unless they have a direct need-to-know in the performance of their official duties. Deliver this/these document(s) directly to the intended recipient. DO NOT drop off with a third-party.

The enclosed document(s) may contain personal or privileged information and should be treated as "For Official Use Only." Unauthorized disclosure of this information may result in CIVIL and CRIMINAL penalties. If you are not the intended recipient or believe that you have received this document(s) in error, do not copy, disseminate or otherwise use the information and contact the owner/creator or your Privacy Act Officer regarding the document(s).