

Anti-Harassment Procedures v. the EEO Complaint Process

Employees alleging harassment have difficulty distinguishing between the anti-harassment procedures and the EEO complaint process. It is very important to inform employees of the differences in the two processes and their rights early and often in the process. Ames will provide this notice to the employee.

Anti-Harassment

Harassment is defined as any unwelcome verbal or physical conduct, based on an individual's race, color, gender, national origin, religion, age, disability, sexual orientation, status as a parent, gender identity, genetic information, or retaliation...which can reasonably be considered to adversely affect the work environment or an employment decision affecting the employee based upon the employee's acceptance or rejection of such conduct.

- HOWEVER, harassment allegations that are not based on one of the EO categories may need to be investigated too -- as a matter of good management practice.

Managements' obligation is to stop harassing behavior in the workplace before it becomes severe or pervasive.

- Supervisors must take immediate action, regardless of the employee's request for confidentiality. They should explain they will maintain as much confidentiality as possible, but they must investigate. Inaction by the supervisor could lead to Agency liability and a possible disciplinary action against the supervisor.

The process is designed to ensure that allegations of harassment are immediately addressed and that appropriate corrective action is taken before harassment reaches the level of discrimination.

- May alleviate the need for an employee to file an EEO complaint

Allegations of harassment often occur in connection with other ER/EO activity. It is important to ensure separation of roles when adverse action or other case activity is present and to be mindful of separate employee rights regarding retaliation allegations.

Not a new appeal/grievance/complaint process

EEO Complaint Process

Under the law, NASA has a policy to provide equal employment opportunity (EEO) for all employees and applicants for employment regardless of race, color, national origin, sex, religion, age, disability, genetic information, or retaliation. Sexual orientation is not a protected category under federal EEO law. Pursuant to this policy, NASA prohibits unlawful discrimination on these bases in the workplace and the Agency's employment practices.

Employees' avenue for redress:

- To initiate the EEO complaint process, an employee must contact an EEO counselor within 45-days of the alleged unlawful discriminatory conduct
- The EEO counselor will have 30 days to assist the employee and Agency with resolving the allegation of unlawful discrimination. However, the employee may approve an extension of time for resolution not to exceed an additional 60 days
- Alternative Dispute Resolution (ADR) may be sought by the employee and the Agency at any time during the EEO complaint process
- The EEO complaint procedure has two stages of processing: (1) informal, and (2) formal

The EEO complaint process is designed to make individuals whole for discrimination that has already occurred and to prevent the recurrence of unlawful discriminatory conduct.

The anti-harassment process does not affect an employee's right to file an EEO complaint, nor does it alter timelines for filing. Employees may access either or both processes simultaneously.

Anti-Harassment Procedures (NPR 3713.3)

<http://nodis3.gsfc.nasa.gov/displayDir.cfm?t=NPR&c=3713&s=3>.

EEO Complaints Processing (NPR 3713.6P)

http://odeo.hq.nasa.gov/documents/EEO_Complaints.pdf
