

# DO WHAT'S RIGHT



## PREVENTION OF SEXUAL HARASSMENT PARTICIPANT GUIDE

BUREAU OF LAND MANAGEMENT  
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# Prevention of Sexual Harassment

## Discussion Notes



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You are accountable for your actions on the line just as you are in the office.

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## Appendix 1 – The EEO Process

### EEO Counseling

As an employee or job applicant, you are protected from discrimination based on race, color, national origin, sex (including sexual harassment and sexual orientation), religion, age (40 years old or older), disability, or reprisal for your participation in the EEO process. Federal statutes and regulations—Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Rehabilitation Act, the Fair Labor Standards Act (Equal Pay Act), and 29 CFR. Part 1614 – are in place to offer relief to victims of discrimination.

An allegation of discrimination may result from any employment issue or action such as hiring, promotion, time and attendance, work environment, training, appraisal, discipline, firing, layoffs, or other terms, privileges, conditions, and benefits of employment.

#### What You Have To Do

If you believe you have been discriminated against, you have **45** days to contact an EEO Counselor to try to resolve the matter. EEO Counseling provides an opportunity to raise questions, discuss allegations, get timely information, and seek solutions.

#### What Counselors Do

- Determine the issue (actions the agency has taken that cause you to believe you have been discriminated against) and the basis (race, color, sex, religion, national origin, age, sexual orientation, disability or reprisal) of the matter.
- Conduct an inquiry in the **30** calendar days following the initial interview. Counseling can be extended an additional 60 days if you have agreed in writing to participate in an alternative dispute resolution (ADR) procedure.
- Seek resolution acceptable to both you and management.
- Document the resolution or advise you of your right to file a formal discrimination complaint.
- Counselors never act as advocates either for you or management.
- Counselors never determine if discrimination has occurred.

#### When Counseling Doesn't Resolve the Matter

If the problem has not been resolved by the end of the counseling period, the Counselor holds a final interview and issues a Notice of Final Interview. This provides information on how to file a formal complaint along with the names and addresses of persons authorized to receive complaints. You have **15** days to file a written formal complaint.

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## Alternative Dispute Resolution – Mediation

ADR is an umbrella term for any one of several approaches to settling disputes and is a strategy for producing winners on both sides of a conflict.

ADR can be used to resolve both informal and formal EEO matters. If you choose ADR, your rights to traditional administrative redress and due process systems are preserved if ADR fails.

### Why Choose ADR

- It promotes the early resolution of EEO disputes;
- It reduces disruptions resulting from interpersonal conflicts in the work place;
- It promotes lasting solutions and may reduce the potential for future conflict;
- It fosters an environment of teamwork and cooperation.

### Mediation

Mediation, a type of ADR, is a confidential problem-solving process conducted in a neutral environment. It can be a timely, cost-effective and less-stressful alternative to other processes. Mediators are trained to facilitate communication about difficult issues. They guide individuals in reaching mutually-agreeable solutions to disputes using a process which ensures that the concerns of all parties are understood and considered.

### Who Uses Mediation?

Mediation can be appropriate when disputing parties want to resolve conflict and take responsibility for implementing agreed-upon solutions, especially when the primary relationship between the disputants extends beyond the conflict at hand. Mediation can help you to attain a better understanding of the issues.

### Who Are the Mediators?

Mediators may be BLM or other-agency employees, private-sector practitioners, or qualified persons from other sources. Mediators are neutral and do not render judgment or decision.

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## Formal Complaints

Once the informal EEO counseling process is completed and there has not been a resolution, you can choose to file a formal complaint of discrimination. The complaint of discrimination must:

- be submitted in writing;
- be filed **within 15 days** of receipt of the EEO Counselor's Notice of Right to File a Discrimination Complaint;
- be specific and limited to matters discussed during informal counseling;
- should state to the complainant's best knowledge, information, and belief what personnel matter or action occurred in which they were treated differently from others not in their protected group (e. g., race, sex, age) and when it occurred; and
- be signed by you, the complainant, or your attorney.

The complaint can be mailed to the offices indicated on the Notice of Final Interview.

## Investigation of Complaints

If your complaint is accepted it must be processed within 180 days. An investigator is assigned who compiles a case file that includes witness statements and relevant documents. You will then be provided with a copy of the Record of the Investigation. Settlement attempts will continue.

After receiving the Record of Investigation you have 30 days to request either an immediate decision by the Department of Interior or a hearing before an Administrative Judge from EEOC. If a hearing is requested, the Administrative Judge will issue findings of fact and conclusions within 180 days and provide the Department with a recommended decision. The Department has 60 days to reject or modify or use the recommended decision.

## Age Discrimination Complaints

For complaints based on age, you may choose to forego the complaint process and go directly to court. You must advise the EEOC 30 days before such filing in District Court.

## Freedom from Reprisal

The complainant, representatives, witnesses, EEO Officers, investigators, and counselors are to be free from restraint, interference, coercion, discrimination, or reprisal at all stages of an EEO complaint. If any of these persons allege reprisal, they may file an individual complaint of discrimination.

## Appendix 2 – Sexual Harassment Quick Reference Guide

If you are a victim of sexually harassing behavior, you have several courses of action:

- Indicate to the harasser that the behavior is unwelcome.
- Ask co-workers if they observed the behavior or are aware of similar behavior.
- Indicate to your supervisor that the behavior is unwelcome.
- Keep a record of any instances of harassment and follow-up actions.
- Talk to your supervisor, someone in the chain of command, an EEO Counselor or the EEO Manager in your office about the behavior and courses of action available to you.

If you are an observer of questionable behavior:

- Ask the affected employee if it is a problem.
- Mention the incident or situation to your supervisor.
- Talk to the harasser about any behavior that bothers you personally.

Is it or isn't it sexual harassment? Here's an easy guideline. It is sexual harassment when:

- It goes beyond the point of comfort and is pervasive and severe.
- It is unwelcome and repeated.
- It interferes with a person's ability to work.
- It creates a hostile environment for an employee whether the harasser agrees or not.
- It includes same sex harassment and non-employee harassment.
- Employment opportunities or benefits are granted because of submission to requests for sexual favors.