



# United States Department of the Interior

NATIONAL PARK SERVICE

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Washington, D.C. 20240

## **DIRECTOR'S ORDER #16E: NATIONAL PARK SERVICE ANTI-HARASSMENT POLICY**

**Approved:**

Deputy Director  
Exercising the Authority of the Director

**Effective Date:** April 19, 2018

**Duration:** Until amended or rescinded

This Director's Order (Order), together with Reference Manual 16E (RM-16E), supersedes and replaces the October 12, 2017, edition and any other previously issued guidance on this topic.

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### **1. Background and Purpose**

The National Park Service (NPS) is committed to providing a work environment free from (1) discrimination and harassment based on race, color, religion, sex (including pregnancy and gender identity), sexual orientation, national origin, age, disability, family medical history (including genetic information), status as a parent, marital status, political affiliation; and (2) illegal retaliation. The NPS will not tolerate offensive sexual or non-sexual harassing behavior against any NPS employee, intern, volunteer, contractor or other nonfederal employee, visitor, or other member of the public. The NPS also will not tolerate adverse treatment of employees because they report harassment or provide information related to such complaints.

The purpose of this Order is to ensure that the NPS takes immediate and appropriate corrective action, including appropriate disciplinary action, to eliminate harassing conduct regardless of whether the conduct rises to the level of a violation of law. Therefore, the goal of this Order is to

address harassing conduct at the earliest possible stage, before it becomes “severe or pervasive,” that is harassment within the meaning of anti-discrimination law.

This Order updates and amends the NPS’s anti-harassment policy on providing a work environment free from harassment by (1) defining unacceptable conduct that violates this policy; (2) outlining the rights and responsibilities of employees, supervisors, and managers; and (3) establishing reporting procedures and accountability measures. These procedures ensure that appropriate officials are notified of, and have the opportunity to promptly correct, harassing conduct that is, or has the potential to become, so severe or pervasive as to constitute a legal claim of harassment.

## **2. Authorities**

### **2.1 Authority for this Director’s Order**

Authority to issue this Director’s Order is contained in the National Park Service Organic Act ([54 USC 100101 et seq.](#)) and other laws, and the delegations of authority contained in [Part 245](#) of the Department of the Interior Manual.

This Director’s Order is intended only to improve the internal management of the NPS, and is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or equity by a party against the United States, its departments, agencies, instrumentalities or entities, its officers or employees, or any other person.

### **2.2 Authorities Pertaining to Civil Rights**

U.S. Code

1. [42 USC 2000e through 2000e-17](#) (title VII of the Civil Rights Act of 1964)
2. [29 USC 633a](#) and [791\(f\)](#)
3. 5 USC [2302\(b\)\(10\)](#) and [7501 through 7543](#)

[Executive Order 11478, as amended](#)

Title 29 of the Code of Federal Regulations, [section 1604.11](#) and [part 1614](#)

### **2.3 Authorities Pertaining to Discipline and Adverse Actions**

Part 370 of the Department of the Interior Manual, chapter 752 ([370 DM 752](#))

### **2.4 Related References**

Department of the Interior Policies

1. Secretary of the Interior’s [Harassment Policy Statement](#), issued April 12, 2017
2. Personnel Bulletin No: 18-01 (Prevention and Elimination of Harassing Conduct)

### **3. Policy**

#### **3.1 Prohibited Harassing Conduct**

The conduct prohibited by this Order includes, but is broader than, the legal definitions of harassment and sexual harassment. Harassing conduct prohibited by this Order is defined as unwelcome conduct, verbal or physical, including intimidation, ridicule, insult, comments, or physical conduct, that is based on an individual's protected status or protected activities, when:

- a) the behavior can reasonably be considered to adversely affect the work environment; or
- b) an employment decision affecting the employee is based upon the employee's acceptance or rejection of such conduct.

Protected status is defined as an individual's race, color, religion, sex (including pregnancy and gender identity), sexual orientation, national origin, age, disability, family medical history (including genetic information), status as a parent, marital status, or political affiliation. (See section 3.2, Prohibited Retaliation, for the definition of protected activities).

Although not every instance of inappropriate behavior may meet the legal definition of harassment, such behavior undermines morale and the NPS mission. Accordingly, the misconduct prohibited by this Order is broader than the definition of illegal harassment under title VII of the Civil Rights Act to ensure appropriate officials are notified of, and can promptly correct, harassing conduct. Harassment becomes illegal when enduring the offensive conduct becomes a condition of continued employment or the conduct is sufficiently severe or pervasive as to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. All harassing conduct, as defined above, is a violation of this Order.

Employees are subject to disciplinary action, up to and including removal, for engaging in harassing conduct while in the workplace or in any work-related situation, including while on official travel. Off-duty misconduct may subject the employee to potential discipline if the misconduct is likely to have an adverse effect on the NPS (for example, harassing a co-worker, visitor, contractor, or volunteer during off-duty hours). Harassing conduct can occur in person, through phone calls or in writing, or through the use of social media, or other forms of technology.

#### **3.2 Prohibited Retaliation**

It is a violation of this Order to retaliate against employees who engage in protected activity under this policy. Protected activity includes reporting harassing conduct, discrimination, or retaliation; filing a claim of harassment; providing evidence in any investigation; or intervening to protect others who may have suffered harassing conduct, discrimination, or retaliation. A manager may not fire, demote, harass, or otherwise take any personnel action against an individual for reporting an allegation of misconduct under this Order.

It is important that supervisors and managers protect employees who report alleged misconduct, and do not take any retaliatory personnel action against these individuals in order to deter reporting harassing conduct or filing a complaint. A supervisor or manager found to have engaged in retaliation is subject to disciplinary action.

The following examples are a non-exhaustive list of actions that would be prohibited retaliation if they were taken because of or were motivated by an employee's protected activity: transferring the complainant or witness against his or her will, ignoring or not communicating with the complainant or witness, engaging in verbal or physical abuse, or non-selection for an employment opportunity.

Engaging in protected activity under this Order does not shield an employee from all personnel actions. Supervisors and managers can take personnel actions, including discipline and removal, if they are motivated by *non-retaliatory and non-discriminatory* reasons that would otherwise result in such consequences (for example, transferring an employee for legitimate business reasons or closely monitoring the performance of an employee on a Performance Improvement Plan).

### **3.3 Employee Reporting Expectations**

The NPS cannot correct harassing conduct if a supervisor, manager, or other NPS official is not aware of it. Any employee who has been subjected to harassing conduct is encouraged to inform the person(s) responsible for the conduct that it is unwelcome and offensive, and request that it cease. If the conduct continues, is severe, or if the employee is uncomfortable addressing the responsible person(s) about the conduct, the employee ***is encouraged to*** report the matter to:

- a) the supervisor of the employee engaging in the misconduct;
- b) another supervisor or other management official;
- c) an employee relations specialist; or
- d) the Department of the Interior (DOI) Office of the Inspector General.

Employees who know of or witness possible harassing conduct directed at others ***are expected to*** report the matter to any of the officials or offices listed above.

Reports made pursuant to this Order do ***not*** replace, substitute, or otherwise satisfy the separate obligations of an Equal Employment Opportunity (EEO) complaint, negotiated or administrative grievance, or other complaint process. Unlike this Order, other complaint procedures typically provide for remedial relief to the victims. See RM-16E for more information about how an employee may pursue rights under one of these separate processes, in addition to reporting the misconduct following the requirements of this Order.

### **3.4 Management Duty to Act**

Supervisors and managers who observe or are informed of allegations of harassing conduct must follow the procedures in RM-16E to:

- a) report the conduct or allegations to the appropriate officials, even if the employee raising the allegation requests confidentiality (see section 5, Maintaining Confidentiality);
- b) ensure that a prompt, objective, and thorough investigation is conducted; and
- c) take steps to ensure the harassing conduct is appropriately addressed to deter further misconduct, including taking appropriate disciplinary action.

The fact that a potential victim of harassing conduct will or has filed an EEO complaint or grievance alleging harassment does not relieve a manager of his or her duty to act as required by

this Order. Therefore, it is possible that multiple inquiries into a given complaint will proceed in parallel.

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 or his obligations as set forth in this Order and RM-16E, including any failure to report known violations of this policy.

### **3.5 Distinction from EEO and Other Remedial Procedures**

This Order and its reporting procedures are distinct from the EEO process, which focuses on making employees whole after they have experienced discrimination (including harassment) by issuing remedial relief, such as compensatory damages. The policy in this Order does not replace an employee's EEO or other rights. Corrective action taken under this Order does not provide the remedies available in the EEO process, administrative or negotiated grievance procedures, or any other processes. Reporting allegations of misconduct under this Order ***does not*** satisfy the requirements for filing an EEO complaint, administrative or negotiated grievance, or other procedure, ***nor does it delay the time limits for initiating those procedures***. See RM-16E for more information on remedial processes and Director's Order #16C: National Park Service Discrimination Complaint Process.

## **4. Roles and Responsibilities**

### **4.1 Associate Director, Workforce and Inclusion**

The Associate Director, Workforce and Inclusion will:

- a) serve as the Service-wide anti-harassment point of contact;
- b) establish and carry out the policies, procedures, and standards necessary to implement this Order;
- c) issue, review, and revise, as appropriate, RM-16E, which will provide comprehensive procedures for the implementation of this Order;
- d) coordinate the review and approval of RM-16E, and any other implementation procedures for this Order, by the Director of the DOI Office of Human Resources;
- e) provide oversight, technical assistance, and support to NPS staff to ensure compliance with this Order;
- f) ensure the procedures in this Order are properly executed by monitoring inquiries and investigations of reported or otherwise discovered harassing conduct; providing guidance concerning the information to be gathered and methods to be used during inquiries and investigations; and otherwise ensuring that investigations are swift, thorough, impartial, and appropriate to the allegation;
- g) ensure the performance plans of all supervisors and managers include a critical element that would rate their performance on taking appropriate action against employees for misconduct;
- h) develop and issue periodic communications to all NPS employees on this Order and related guidance;
- i) incorporate this Order and related guidance into the training curriculum for NPS supervisors and employees;

- j) maintain a written record of reports and actions taken under this Order and submit those reports to the Director and DOI Chief Human Capital Officer, as requested;
- k) provide the record of actions taken under this Order to any office handling a parallel statutory or grievance claim; and
- l) prepare anti-harassment policy statements for the Director's signature to be disseminated annually to all employees.

#### **4.2 Regional, Associate, and Assistant Directors**

Regional, associate, and assistant directors will:

- a) ensure that supervisors and managers are rated on the critical element for their performance on taking appropriate action against employee misconduct; and
- b) appoint anti-harassment points of contact (HPOC) at regional offices, Washington Support Office (WASO) directorates, parks, and programs.

#### **4.3 Anti-Harassment Points of Contact (HPOCs)**

HPOCs are senior officials designated at parks, programs, regional offices, and WASO, as described in RM-16E. All HPOCs will:

- a) monitor progress of complaint reporting, investigation and resolution, and approve corrective actions at various steps in the complaints process; and
- b) assist supervisors and managers in consulting with employee relations specialists and the Office of the Solicitor to evaluate complaints and make determinations about appropriate action.

#### **4.4 Human Resources Functions**

##### **4.4.1 Regional Chiefs of Employee Relations**

Regional chiefs of employee relations will:

- a) receive reports alleging violations of this Order and, as described in RM-16E, make or direct further inquiries into such reports, as appropriate and necessary, in consultation with the Office of the Solicitor;
- b) provide oversight, technical assistance, and supervision to employee relations specialists;
- c) support regional and park staff to ensure compliance with this Order; and
- d) maintain a record of reports made and actions taken pursuant this Order and submit those reports to the Associate Director, Workforce and Inclusion, as requested.

##### **4.4.2 Employee Relations Specialists**

Employee relations specialists will:

- a) receive reports alleging violations of this Order and, as described in RM-16E, make or direct further inquiries into such reports, as appropriate and necessary, in consultation with the Office of the Solicitor;
- b) serve as the primary contact and advisor to supervisors and management officials within their servicing organizations;
- c) promptly notify the supervisor or manager of an allegedly harassing employee about the claim of harassment;

- d) conduct investigations where assigned, generally in areas outside their direct servicing organizations, to maintain a level of objectivity and impartiality;
- e) coordinate third-party investigations within their servicing organizations;
- f) prepare draft actions to address harassing conduct, which include proposals and decisions of disciplinary actions, and coordinate all draft actions with the Office of the Solicitor;
- g) report and coordinate actions with higher level employee relations and human resources officials to include, but not limited to, regional, WASO, and DOI;
- h) record and track information about the status of allegations or complaints of harassing conduct in the appropriate tracking system to monitor compliance with this Order, understand trends related to harassing conduct, and support swift resolution of complaints;
- i) maintain separate paper records about allegations of harassing conduct following records management procedures in RM-16E; and
- j) respond to any NPS or DOI data calls for information related to complaints about harassing conduct.

#### **4.5 EEO Counselors**

If an EEO counselor has been notified about a claim of harassment through the EEO process, he or she must promptly notify the supervisor or manager of the allegedly harassing employee once the complainant no longer requests anonymity. See also Director's Order #16C.

#### **4.6 Supervisors and Management Officials**

Supervisors and management officials must:

- a) make every effort to provide a work environment free of illegal harassment;
- b) ensure their subordinates are aware of and follow this Order and its requirements;
- c) follow any additional NPS or DOI procedures, handbooks, or guidelines related to this Order;
- d) act promptly and effectively to stop harassing conduct of which they are aware, and hold employees who have engaged in harassing conduct accountable;
- e) receive reports alleging violations of this Order and, as described in RM-16E, make or direct further inquiries into such reports and take corrective action, as appropriate and necessary;
- f) notify appropriate officials of reported or observed conduct under this Order and of their efforts to correct the conduct;
- g) evaluate and hold accountable subordinate supervisors and managers for their performance under this Order; and
- h) take steps to protect employees who report misconduct from retaliation.

#### **4.7 All Employees**

All employees **must**:

- a) refrain from engaging in harassing conduct;
- b) participate in periodic training required under this Order; and
- c) cooperate fully in any inquiry or investigation.

All employees **are expected to:**

- a) understand their rights and responsibilities under this Order; and
- b) report harassing conduct of which they are aware or witness in the work environment.

All employees who are victims of harassing conduct **are encouraged to** report the harassing conduct.

## **5. Maintaining Confidentiality**

Supervisors and managers must take action to investigate all allegations of harassing conduct, even if the employee raising the allegation requests confidentiality. All reports of harassing 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 violation, to take appropriate disciplinary or corrective action, to comply with the reporting requirements of this Order, or when otherwise required by law.

Upon completion of the investigation or management review of the allegation, the supervisor or manager must notify the alleged victim of the harassing conduct about the completion of the process to the extent permitted under the Privacy Act. The alleged victim may not be provided the outcome of any disciplinary action against the allegedly harassing employee and may not be provided a copy of the fact-finding report. The supervisor or manager must consult with the servicing employee relations specialist and the Office of the Solicitor about this notification.

## **6. Additional Resources Available to Employees**

Employees who have experienced harassing conduct have multiple resources available from which to obtain assistance and advice. Employees may:

- a) consult with or engage in alternative dispute resolution procedures through
  - o an Ombuds—an independent, impartial, informal, and confidential resource that works independently from management’s chain of command to explore and aid in resolving individual or organizational issues; or
  - o a CORE PLUS neutral—a qualified, certified person, from within or outside DOI, who delivers conflict management and alternative dispute resolution services.
- b) engage Employee Assistance Program services;
- c) consult with the DOI Office of Law Enforcement and Security’s Victim Assistance Program, if applicable; and
- d) consult with a union representative, if covered by a bargaining unit.

Engaging with these resources **does not** constitute a report under this Order, as these entities do not have an obligation to inform management of allegations of harassing conduct. Additional information about these resources is available in RM-16E.

## **7. Records Management**

All employees with responsibilities outlined in section 4 will follow established records management policies to maintain documentation related to allegations of harassing conduct.



See [Director's Order #11D: Records and Electronic Information Management](#) and the accompanying Records and Electronic Information Management (REIM) Guide.

## **8. Related Guidance Documents**

[Director's Order #16B: Diversity in the National Park Service](#)

Director's Order #16C: National Park Service Discrimination Complaint Process

[Director's Order #16D: Equal Employment Opportunity and Zero Tolerance of Discrimination](#)

*-----End of Director's Order-----*