

## FHWA's Anti-Harassment Process – FAQs for Employees

### 1. What is the Anti-Harassment Process?

The Anti-Harassment Process (Process) provides individuals with a neutral forum where they can report harassment and be confident that their allegations will be seriously considered by management.

### 2. What is the purpose of the Process?

The purpose of the Process is to ensure prompt inquiry of harassment allegations, to take prompt and effective action to stop any ongoing harassment and, if appropriate, discipline the responsible party.

### 3. Who is implementing this Process?

The Process is being implemented by the Anti-Harassment Coordinator (Coordinator) who is authorized to coordinate allegations of any type of harassment relating to the FHWA workplace. The Coordinator reports to the Associate Administrator for Civil Rights. Through this Associate Administrator, the Process reports to Executive Management, which may intervene if the Coordinator reports that management's actions regarding an allegation are not sufficiently prompt or thorough; thus, there will be institutional support for taking prompt and effective action when harassment exists.

### 4. Who can utilize this Process?

This Process may be utilized by FHWA employees, contractors, employees of FHWA partners (such as State DOT employees) or applicants for employment.

### 5. How does the Process work start to finish?

If an Aggrieved Person (AP) believes he or she has been harassed in the workplace, the AP may contact the Coordinator who will subsequently set up an intake meeting with the AP. The AP should do his or her best to be available for this meeting as quickly as possible to initiate the process in a timely manner. At the intake meeting, the AP and the Coordinator will discuss the timing and details of the potential harassment, identify the claimed perpetrator of the harassment (Respondent), and identify the pertinent supervisors of the Respondent. After the meeting, the Coordinator will provide notice of the allegations to the Respondent's supervisor and will begin to obtain and consider information relating to the allegations.

Within two days, the Coordinator will then respond to the AP by email, either accepting the AP's allegation(s) for inquiry or dismissing the allegations if they are not within the scope of the Process. If an allegation is accepted, the Coordinator will prompt the first line supervisor of the Respondent to coordinate with a neutral fact finder to conduct an inquiry into the allegations, make a decision as to

whether the allegations are substantiated, and report the results back to the Coordinator within 10 business days. If the allegations are substantiated, the first line supervisor of the Respondent is required to provide a report to the Coordinator that includes a plan of proposed relief and discipline. While the inquiry is ongoing, the supervisor, in coordination with Human Resources (HR), may implement interim measures to prevent further harassment. The Coordinator will review the supervisor's report and determine whether the inquiry and accompanying relief are in compliance with the Process.

#### **Timeline of a Harassment Allegation**

Allegation → Intake Meeting → Coordinator's Preliminary Inquiry → Allegation Accepted or Rejected → If Accepted: Inquiry and Possible Interim Relief → Allegation Substantiated or Unsubstantiated → If Substantiated: Relief and/or Discipline

6. What is the difference between "accepting" a harassment allegation and "substantiating" a harassment allegation?

A harassment allegation is "accepted" when the Coordinator determines that the allegation fits within the scope of the Anti-Harassment Process. This initial determination confirms that the subject matter that the AP has raised are allegations the Process can address and that the AP may be able to obtain relief from harassment through the Process. Once an allegation is accepted, the first line supervisor then coordinates with a neutral fact finder to have an inquiry conducted into the allegation. If the inquiry reveals that harassment has indeed occurred, one or more of the allegations is then "substantiated," and the first line supervisor drafts a plan of proposed relief and discipline. In sum, the allegation is "accepted" by the Coordinator based on preliminary information, some of which involves process issues, whereas the allegation is "substantiated" by the first line supervisor based on information obtained from an actual inquiry and involves the merits of the allegations.

7. Is the process confidential?

This process is somewhat confidential but the AP will not be anonymous; by participating in the process, the AP is agreeing that he or she wants the Agency to investigate the allegations, which will require notification of HR, the Office of Chief Counsel, and Respondent's chain of command. Inquiry nearly always requires an interview between a member of the Respondent's management team and the Respondent and may involve the AP's coworkers who may be questioned about their knowledge of what occurred. Dissemination of information by the Coordinator and management about the allegations, however, will be limited to those individuals who have a need to know.

8. Is the Anti-Harassment Coordinator a neutral party?

Yes, the Coordinator is a neutral party and is not an advocate for the AP, the manager(s) or the Respondent.

9. When is the AP required to report the alleged harassment to use this process?

There is no specific number of days within which an allegation must be brought.

10. How will the AP find out the result of the inquiry?

The first line supervisor of the Respondent will notify the Coordinator of the results of the inquiry and any proposed relief and discipline by submitting a resolution document to the Coordinator within 10 business days. The Coordinator then will review the resolution document to make sure it meets process requirements and will follow up if additional information is needed. Upon acceptance of the finalized resolution document, the Coordinator will inform the AP by email of the results of the inquiry and the relief to be provided. The manager who served as the Decision Maker will thereafter contact the AP regarding implementation of relief.

11. Can an AP appeal a decision in this process?

There is no appeal process to challenge the decision or relief, however, the AP may pursue other options to address the original allegations (for instance, EEO, ADR, etc.).

12. How long does this process take?

In the Process the initial goal is that interim relief will begin to be considered within a few days and a decision will be made within 10 days whether the allegations are substantiated. If allegations are substantiated, the initial goal is that the AP will be notified of the relief within 2 days of substantiation. These timeframes may change as the Agency gains experience with the Process. Any discipline that is proposed or administered resulting from the substantiated allegations will occur after the inquiry has concluded. Because of privacy concerns for the Respondent, the Agency cannot discuss the Respondent's discipline with the AP. The AP is encouraged to return to the Coordinator if, following a substantiated allegation, there are further incidents of harassment. The Coordinator may then assist the AP in expediting a response to address the new incidents.

13. How is this Process different from the Equal Employment Opportunity Process?

The EEO Process is based on Title VII of the Civil Rights Act, which prohibits discrimination (including harassment) based on sex (including sexual orientation, gender identity, and pregnancy), race, color, religion, national origin, disability, reprisal, or age. It is designed to make people whole if they have suffered discrimination and thus it may result in monetary or equitable relief (for instance, a retroactive promotion), but the EEO process can be lengthy (up to several years) and may require litigation. The Anti-Harassment Process, on the other hand, can

resolve incidents of harassment relatively quickly and is available to employees regardless of whether the harassment allegation is based on a specific EEO category. The Process also enables disciplinary action against the Respondent, although it does not offer the payment of monetary relief. Lastly, it should be noted that reporting harassment under this Process does not replace or satisfy the requirements for filing EEO complaints or complaints in other forums, nor does it delay or waive the time limits for initiating claims in these forums.