



March 19, 2012

TO: All NIH Staff

FROM: Director, NIH

SUBJECT: National Institutes of Health Anti-Harassment Policy

Purpose:

The purpose of this policy is to affirm the National Institutes of Health's (NIH) commitment to achieving the goal of a workplace free of harassment. The NIH is taking all steps necessary to prevent harassment in the workplace and to correct any inappropriate conduct that occurs before it becomes severe or pervasive.

Background:

Harassment, as defined in this policy, is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, as amended by the ADA Amendments Act of 2008, the Genetic Information Non-Discrimination Act of 2008, or Executive Order 11478, Equal Employment Opportunity in the Federal Government, as amended by Executive Order 13087 of May 1998.

Definition:

Harassment is unwelcome conduct that may be based on race, color, national origin, sex, religion, age, disability, genetic information, sexual orientation, gender identity or retaliation. Harassment occurs when:

1. The conduct is a term or condition of employment; and
2. Employment decisions are based on whether an individual accepts or rejects such conduct, or
3. The conduct is severe or pervasive and has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidation, abusive, or hostile work environment.

Harassing conduct includes but is not limited to slurs, epithets, ridicule, negative stereotyping, insults, offensive jokes, offensive objects or pictures, intimidation, threats or assaults that are directly or indirectly related to race, color, national origin, sex, religion, age, disability, genetic information, sexual orientation, gender identity, or retaliation.

The harasser can be a supervisor, co-worker, or non-employee (e.g. trainee, contractor). The person who alleges harassment does not have to be the person harassed but can be anyone impacted by the offensive conduct.

Anti-Harassment Policy:

It is the policy of the NIH to promote and maintain a work environment free from harassment as defined. The NIH has a zero tolerance for any form of unlawful harassment. A management inquiry will be conducted into allegations of harassment. Information obtained during management inquiries will be held in confidence and will be disclosed only on a "need to know" basis in order to resolve matters. The NIH will take prompt corrective action as deemed appropriate to correct harassing conduct. Reprisal or retaliation against anyone who engages in the equal employment opportunity (EEO) process will not be tolerated.

A hostile work environment claim requires demonstration of a pattern of offensive conduct. Isolated incidents of unwelcome conduct generally do not violate Federal law. To be unlawful, the conduct must create a work environment that would be hostile, intimidating, or offensive to a reasonable person. For

the purpose of this policy, the “reasonable person” standard considers the aggrieved person’s perspective and assesses whether a reasonable person exposed to the same or similar circumstances would find the environment hostile, intimidating, or offensive.

However, the NIH will not wait for patterns of inappropriate conduct to become severe or pervasive. Conduct that does not rise to the level of unlawful harassment actionable under Title VII of the Civil Rights Act of 1964, The Age Discrimination in Employment Act of 1967, the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, as amended by the ADA Amendments Act of 2008, the Genetic Information Non-Discrimination Act of 2008, or Executive Order 11478, Equal Employment Opportunity in the Federal Government, as amended by Executive Order 13087 of May 1998, may be treated as misconduct subject to the NIH Table of Penalties.

Responsibilities:

All Employees

Each NIH employee is responsible for:

1. Acting professionally and refraining from harassing conduct;
2. Becoming familiar with the provisions of this policy and complying with all requirements of the policy;
3. Promptly reporting any incident of harassing conduct. The NIH can correct harassing conduct only if it is aware of the behavior. Employees should report harassing conduct to their supervisor, another management official, or to the Office of Human Resources (OHR). Employees are not required to report allegations of harassment to their immediate supervisor when the supervisor is the alleged harasser; and
4. Initiating contact with an EEO counselor in the Office of Equal Opportunity and Diversity Management (OEODM) within 45 days of the date of alleged harassment. Any employee who believes that she or he has been subjected to harassment must initiate contact with an EEO counselor within 45 days of the alleged discriminatory action or, in the case of personnel actions, within 45 days of the effective date of the action, as outlined in Title 29 Code of Federal Regulations Part 1614.105 (a)(1).

Supervisors and Managers

All supervisors and managers are responsible for:

1. Taking prompt and appropriate actions to prevent harassment in the workplace, and to assist in inquiries of harassment;
2. Taking immediate steps to stop harassment once it is reported;
3. Taking steps to prevent retaliation against employees who complain of harassment, or who assist in conducting management inquiries;
4. Protecting the confidentiality of employees who allege or report harassment, to the extent possible;
5. Providing interim relief to alleged victims of harassment, pending the outcome of a management inquiry to ensure that further misconduct does not occur;
6. Consulting with the Office of Human Resources and the Office of Equal Opportunity and Diversity Management when warranted regarding the agency’s legal responsibility and liability; and
7. Attending anti-harassment training mandated by the Agency.

Office of Equal Opportunity and Diversity Management

The Office of Equal Opportunity and Diversity Management is responsible for:

1. Ensuring that this policy is available and accessible to all NIH employees;
2. Advising supervisors and managers on how to provide interim relief to individuals alleging subjection to harassing conduct. This will ensure that further misconduct does not occur, pending the outcome of a management inquiry;
3. Advising the NIH Director and other agency leaders who need to know of the allegations of harassment and the resolution of those allegations under this policy;
4. Providing technical assistance and support to the Institutes and Centers to ensure compliance with this policy; and
5. Providing anti-harassment training to managers and supervisors.

Office of Human Resources

The Office of Human Resources is responsible for:

1. Advising managers and supervisors on appropriate actions and penalties for misconduct in the workplace; and
2. Collaborating with the OEODM to advise and guide supervisors and managers on options for interim relief available to individuals alleging harassment.



Francis S. Collins, M.D., Ph.D.
Director