

National Archives and Records Administration

Transmittal Memo

DATE: August 27, 2013

TO: All Employees

SUBJECT: NARA 396, Anti-Harassment Policy

Purpose of this transmittal memo. This memo transmits the updated NARA directive on anti-harassment and NARA's new Anti-Harassment Policy Statement at Appendix B. The policy statement at Appendix B should be posted in public spaces, on NARA bulletin boards, in research rooms, and in offices throughout the agency.

Major changes to the policy include:

- adding a new Ad Hoc Committee on Harassment;
- clarifying language for NARA's strong commitment to preventing harassment;
- encouraging employees to report harassment occurrences; and
- explaining how the Anti-Harassment reporting process works with other programs such as the grievance and Equal Employment Opportunity (EEO) processes.

Significant provisions.

- NARA does not permit harassment in its facilities or services. NARA's anti-harassment policy is intended to prevent harassment and to correct harassing behavior before it becomes severe or pervasive.
- This policy covers broader conduct than what is covered by the EEO system. It includes hostile or abusive conduct based on race, color, religion, sex (including pregnancy and gender identity), genetic information, sexual orientation, national origin, age (40 or older), disability (mental or physical), marital status, political affiliation, status as a parent, retaliation, or any other reason.
- This policy applies to all NARA employees, others acting on NARA's behalf (such as volunteers, contractors, and interns), and people interacting with or using NARA's services. All of these individuals are protected by NARA 396 from harassment in the

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course of conducting business with NARA. They are also expected not to engage in harassment in the course of doing business with or for NARA.

Canceled policy or policies. This directive supersedes the previous NARA 396, Anti-Harassment, dated January 12, 2010, and all previous anti-harassment policy statements issued by the Archivist.

Effective Date. This directive is effective on date of signature.

Contact information. You may direct questions about this directive to Ismael Martinez (NEEO) in room 3310, AII, by telephone at 301-837-1849, by fax at 301-837-0869, or by e-mail at ismael.martinez@nara.gov; Stephani Abramson (NGC) in room 3100, AII, by telephone at 301-837-1888, by fax at 301-837-0293, or by e-mail at stephani.abramson@nara.gov; or Emmalisa Hobbs (HTL) in room 1331, AII, by telephone at 301-837-1981, by fax at 301-837-3533, or by e-mail at emmalisa.hobbs@nara.gov.

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Archivist of the United States

National Archives and Records Administration

NARA 396
August 27, 2013

SUBJECT: NARA 396, Anti-Harassment Policy

396.1 What is the purpose of this directive?

The purpose of this directive is to:

- a. Prevent harassment in NARA facilities and services;
- b. Correct harassing conduct that does occur before it becomes severe or pervasive;
- c. Ensure all NARA employees, contractors, volunteers, interns, foundation staff, visitors, and customers are aware that NARA does not tolerate discrimination or harassment; and
- d. Identify what to do in the event of an incident of harassment at NARA.

396.2 What is the scope of this directive?

This directive covers conduct that falls within the EEO's definition of unlawful harassment, as well as other conduct.

- a. The EEO definition of unlawful harassment is unwelcome verbal or physical conduct based on a protected class (i.e. race, color, religion, sex, nation origin, age (40 and older), or disability) that has the purpose or effect of unreasonably interfering with an employee's work performance and/or creating an intimidating, hostile, or offensive work environment. To rise to the level of unlawful harassment, conduct must be severe or pervasive.
- b. By contrast, this policy includes hostile or abusive conduct based on race, color, religion, sex (including pregnancy and gender identity), sexual orientation, national origin, age (40 and older), disability, genetic information, marital status, political affiliation, status as a parent, retaliation, or any other reason, even if the conduct has not risen to the level of illegality, or is not severe or pervasive.
- c. This policy also covers any type of harassment that interferes with, or alters, the condition of an employee's employment, regardless of the reason.

Employees should be aware that the anti-harassment process is NOT the same as the EEO complaints process (see para. 396.10 for more details).

396.3 Who is covered by this directive?

- a. The following individuals are protected by, and subject to, this directive:

- (1) All NARA employees (full-time, part-time, and intermittent, permanent and temporary), students, and interns;
- (2) Non-employees who perform work/services at facilities owned or leased by NARA, including:
 - (a) Contractor employees working under NARA contracts (as included in NARA contract Terms and Conditions); and
 - (b) NARA volunteers and unpaid interns;
- (3) Employees, volunteers, and contractors of the Foundation for the National Archives and Presidential library support organizations (“foundation/institute staff”);
- (4) Visitors to NARA-owned or -leased facilities, including:
 - (a) Applicants for Federal employment;
 - (b) Customers who use NARA facilities or onsite NARA systems (e.g., researchers with valid researcher identification cards); and
 - (c) Any other visitors who interact with NARA employees and non-employees while at NARA facilities or while using NARA services.

b. If you believe you have been subjected to harassment:

- (1) You are not required to make a complaint through the anti-harassment program;
- (2) However, you are strongly encouraged to report the incident by one means or another. NARA cannot correct harassing conduct if it does not know about the conduct;
- (3) If you use the anti-harassment program to make a complaint, you are protected from retaliation for reporting incidents of harassment; and
- (4) You may also choose another avenue (such as EEO or grievance processes) for pursuing your concerns if another process applies (see para.396.10 for more information on other options).

c. Managers and supervisors. Managers and supervisors who are, or become, aware of harassment by others must follow the procedures identified in this policy and must report the harassment or allegations of harassment to the Ad Hoc Committee.

d. Other employees. Employees who are, or become, aware of harassment by others are strongly encouraged to report such incidents of harassment. If you do report

the conduct, you are protected from retaliation for reporting it, and you should follow the procedures identified in this policy.

396.4 What are the authorities for this directive?

- a. Title VII of the Civil Rights Act of 1964 (Title VII), as amended;
- b. Equal Pay Act of 1963, as amended;
- c. The Age Discrimination in Employment Act of 1967 (ADEA);
- d. The Rehabilitation Act of 1973, Sections 501 and 505, as amended;
- e. Americans with Disabilities Act (ADA) of 1990, as amended;
- f. Federal Sector Equal Employment Opportunity Regulations, 29 CFR Part 1614;
- g. Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002;
- h. Genetic Information Nondiscrimination Act of 2008;
- i. Executive Order 13087, which amended Executive Order 11478, prohibiting discrimination in federal employment based on sexual orientation;
- j. Executive Order 13152, which amended Executive Order 11478, prohibiting discrimination in federal employment based on status as a parent;
- k. [36 CFR Part 1280](#), Use of NARA Facilities;
- l. Equal Employment Opportunity Commission (EEOC) [Model EEO Programs Must Have an Effective Anti-Harassment Program](#) (2005);
- m. EEOC's Enforcement Guidance: [Vicarious Employer Liability for Unlawful Harassment by Supervisors](#) (1999);
- n. Equal Employment Opportunity Commission Management Directive 715 (2003);
and
- o. NARA 395, Equal Employment Opportunity Complaints Program.

396.5 What is NARA's anti-harassment policy?

- a. NARA does not, and will not, tolerate discrimination or harassment within NARA facilities or services. This means:
 - (1) It does not condone acts of harassment committed **by** employees, volunteers, interns, contractors, foundation/institute staff, visitors, or customers using NARA facilities or services, and

- (2) It does not condone harassment of employees, volunteers, interns, contractors, foundation/institute staff, visitors, or customers using NARA facilities or services.

- b. NARA is committed to maintaining a work environment that is courteous, respectful, and free from harassment for its employees, contractors, volunteers, interns, foundation/institute staff, visitors, and customers.

- c. The most effective way to prevent harassment is to treat it as misconduct, even if it does not rise to the level actionable under Title VII of the Civil Rights Act of 1964, as amended. NARA's anti-harassment policy therefore is to take swift and appropriate corrective action, including the use of disciplinary action, to eliminate harassing conduct even if the conduct does not violate the law. Harassing actions may also result in corrective actions such as revoking privileges to use NARA facilities or services.

- d. If you are subjected to harassment of the type covered by this policy while using NARA facilities or services, you may use the procedures in this policy to report the incident, and your report will be handled swiftly and with consideration.

- e. Employees, volunteers, contractors, interns, and foundation/institute staff will be informed of this policy through their on-boarding process.

- f. All managers and supervisors are required to take anti-harassment training annually through NARA's Learning Management System (LMS).

- g. NARA's anti-harassment policy statement ([Appendix B](#)) must be posted on all NARA bulletin boards and in research rooms (see subpara. 396.6h(6) for information on who is responsible for carrying this out).

396.6 Responsibilities

- a. **Archivist of the United States (N)** - Exercises personal leadership in establishing, maintaining, and carrying out a continuing program designed to promote EEO within NARA and to deter harassment.

- b. **Deputy Archivist of the United States (ND)** - Ensures that adequate resources are available, and represents and speaks for the Archivist on equal employment opportunity and harassment matters.

- c. **Office of Human Capital, Labor/Employee Relations and Benefits Branch (HTL)** –
 - (1) Serves on the Ad Hoc Committee on Harassment;

 - (2) Assists the Ad Hoc Committee and management officials in conducting prompt and impartial inquiries into allegations of harassment;

- (3) Assists the Ad Hoc Committee on Harassment and management officials in preparing reports of inquiry for supervisors or management officials;
 - (4) If it appears that the allegations might rise to the level of fraud, waste, abuse, or mismanagement, immediately notifies the OIG; and
 - (5) Works with managers and supervisors to process any disciplinary action managers decide to implement.
- d. **Office of Equal Employment Opportunity (NEEO)** –
- (1) Processes EEO complaints regarding harassment;
 - (2) Provides technical assistance to NARA staff and offices and training regarding harassment;
 - (3) Refers harassment allegations to the Ad Hoc Committee on Harassment if they are not brought as part of an EEO complaint; and
 - (4) Serves on the Ad Hoc Committee on Harassment.
- e. **General Counsel (NGC)** – Provides legal advice, represents NARA in matters relating to harassment, reviews documents for legal sufficiency, and serves on the Ad Hoc Committee on Harassment.
- f. **Office of Inspector General (OIG)** – May investigate allegations of harassment in connection with fraud, waste, abuse, or mismanagement. The OIG may also investigate allegations of conflicts of interest or impropriety within NARA’s anti-harassment program and coordinate with the Ad Hoc Committee on Harassment as needed. Because the OIG is an independent office, any investigations into harassment by or of OIG staff will be coordinated with the OIG or an appropriate body, depending upon the allegations.
- g. **Ad Hoc Committee on Harassment** – Provides advice to managers and supervisors on matters relating to harassment allegations. The Committee is empowered to, and may appoint, a team to conduct inquiries into allegations of harassment on behalf of the agency, may conduct further informal inquiries itself, and may recommend or take other appropriate inquiry action. The Committee is comprised of officials from Labor/Employee Relations and Benefits Branch, Office of General Counsel, and Office of EEO.
- h. **NARA manager, supervisor, or volunteer coordinator** –
- (1) Takes appropriate steps to ensure that NARA provides a workplace, facilities, and services free of harassment;
 - (2) Promptly reports any harassment or allegations of harassment to the Ad Hoc Committee on Harassment. Failure by a supervisor, volunteer

coordinator, or management official to report an incident of harassment may result in administrative action, including disciplinary action;

- (3) Works with the Ad Hoc Committee on Harassment to ensure allegations of harassment are investigated and addressed;
- (4) Acts promptly and effectively to stop hostile or abusive conduct of which they are or become aware;
- (5) Ensures that their subordinates/staff are aware of NARA's anti-harassment policy;
- (6) Takes action to prevent retaliation against those who complain of harassment;
- (7) Ensures that NARA's anti-harassment policy statement (at [Appendix B](#)) is posted on office bulletin boards and research rooms, as relevant; and
- (8) Takes anti-harassment training annually.

i. **Contracting Officer's Representative (COR) –**

- (1) Takes appropriate steps to ensure the workplace for contractors is free of harassment;
- (2) Promptly reports any harassment or allegations of harassment of or by contractor employees to the Ad Hoc Committee on Harassment. Failure by a COR to report an incident of harassment may result in administrative action, including disciplinary action;
- (3) Works with the Ad Hoc Committee on Harassment to ensure allegations of harassment are investigated and addressed;
- (4) Acts promptly and effectively to stop hostile or abusive conduct of which they are or become aware;
- (5) Coordinates with the contractor as needed to address any harassment; and
- (6) Takes action to prevent retaliation against those who complain of harassment.

j. **NARA employees, contractors, volunteers, and interns** -- All employees, contractors, volunteers, interns, and foundation/institute staff are responsible for abiding by NARA's anti-harassment policy. In addition, training will be available through LMS to ensure everyone understands their rights and responsibilities for maintaining a work environment that is free from harassing conduct and the options available for reporting such conduct. Everyone is strongly encouraged to take the staff training to become aware of the actions they may take in support of this directive. They are also highly encouraged

to participate in awareness activities. If you engage in harassing conduct, it may be reported and you will be subject to corrective action, which may include disciplinary action. If you are subjected to harassment, you may report the incident through the process identified in this policy, or see paras. 396.3b and 396.10 to determine which alternative process you might want to pursue. If you are aware of harassment by or between others you are strongly encouraged to report the incident through the process identified in this policy, so that NARA may take action to stop and/or prevent harassment.

k. Employees, volunteers, and contractors of the Foundation for the National Archives and Presidential library support organizations (foundation/institute) --

All employees, contractors, and volunteers of foundation/institute staff are responsible for abiding by NARA's anti-harassment policy. If you engage in harassing conduct, it may be reported and you will be subject to corrective action, which may include disciplinary action. If you are subjected to harassment, you may report the incident through the process identified in this policy, or see paras. 396.3b and 396.10 to determine which alternative process you might want to pursue. If you are aware of harassment by or between others you are strongly encouraged to report the incident through the process identified in this policy. NARA cannot take action about conduct it is unaware of.

l. NARA visitors and customers – All visitors and customers are responsible for abiding by NARA's anti-harassment policy. If you engage in harassing conduct, it may be reported and you will be subject to corrective action, which may include losing your access to NARA facilities or services. If you are subjected to harassment, you may report the incident through the process identified in this policy. If you are aware of harassment by or between others you are strongly encouraged to report the incident through the process identified in this policy. NARA cannot take action about conduct it is unaware of.

396.7 What is harassment?

a. Harassment is unwanted and unwelcomed behavior that demeans, threatens, or offends someone and results in a hostile environment for that person. This type of behavior may create significant anguish for another person.

b. Unlawful harassment is the same sort of conduct, but is also a form of discrimination under Title VII. It is based on race, color, national origin, religion, age (over 40), disability, gender, or retaliation only. The harassment must rise to the level of being severe or pervasive before it becomes unlawful.

c. Harassment covers a broader range of conduct than unlawful harassment: It is unwelcome verbal, visual, physical, or other conduct based on race, color, national origin, religion, age (over 40 or older), disability (mental or physical), genetic information, sex (including pregnancy and gender identity), sexual orientation, marital status, political affiliation, status as a parent, retaliation for engaging in protected activity, including making a good faith allegation of harassment under this policy, or any other reason, that

makes an individual feel devalued, embarrassed, offended, aggravated, intimidated, humiliated, insulted, ridiculed, or afraid.

d. Harassing conduct under this policy does not need to rise to the level of being severe or pervasive for it to constitute misconduct, and may be subject to corrective and disciplinary action at any level. It is NARA's goal and intention to stop any harassment before it gets severe or pervasive.

396.8 What kinds of actions qualify as harassment?

a. Unwelcome visual, verbal, or physical conduct constitutes harassment when:

- (1) It creates an intimidating, hostile, or offensive work environment;
- (2) It causes unreasonable interference with an individual's work performance;
- (3) Submission to, or rejection of, such conduct is the basis for an employment decision;
- (4) It otherwise adversely affects an individual's employment opportunities;
or
- (5) It creates an intimidating, hostile, or offensive environment that unreasonably interferes with a visitor's or customer's use of NARA services or facilities.

b. Harassing verbal conduct may include (if it meets the factors listed in subpara. a), but is not limited to:

- (1) Slurs;
- (2) Derogatory remarks;
- (3) Spreading rumors;
- (4) Swearing;
- (5) Jokes;
- (6) Obscenities;
- (7) Incessant teasing;
- (8) Bullying; and
- (9) Expressing or insinuating threats.

c. Harassing visual conduct may include (if it meets the factors listed in subpara. a), but is not limited to:

- (1) E-mails;
- (2) Screen savers;
- (3) Posters;
- (4) Cartoons; and
- (5) Social media.

d. Harassing physical conduct may include (if it meets the factors listed in subpara. a), but is not limited to:

- (1) Threatened assault;
- (2) Hitting, punching, grabbing, massaging, other unwanted touching; and
- (3) Malicious or insulting gestures.

396.9 What do I do if I have been harassed?

a. It is NARA's goal and intention to stop any harassment as soon as possible. However, NARA cannot stop conduct it is not aware of. Therefore, you are strongly encouraged to report harassing conduct.

b. If you believe that you have been the subject of an incident of harassment by anyone in the workplace or while using NARA facilities or services (including supervisors, co-workers, contractors, student interns, foundation/institute staff, visitors, or customers), you may report the harassment to any supervisor or manager at NARA or to any member of the Ad Hoc Committee on Harassment.

c. You are encouraged to report the incident as soon as possible.

d. You may also contact the OIG, engage in alternative dispute resolution (via NARA's RESOLVE program), and may also choose one of NARA's formal complaints or grievance processes, if applicable. If you pursue one of these options, you will need to follow the rules and timelines for those processes, which differ from the ones in this policy. See para. 396.10 for more information.

e. In addition, you are encouraged to inform the harasser directly that the conduct is unwelcome and must stop.

f. When you report an incident of harassment under this policy, your information will be maintained on a confidential basis to the greatest extent possible. However, such information may be disclosed to defend NARA in any litigation to which the information

may be relevant and necessary. Further, unless you request that NARA take no action on the basis of your report, information may need to be disclosed to those officials and employees within NARA with a need to know in order to carry out the purpose and intent of this policy.

396.10 How does this policy relate to the EEO program, NARA's grievance systems, OIG complaints, and other avenues for reporting harassment?

a. Reporting harassment to a supervisor or the Ad Hoc Committee does not stop you from also raising harassment in a different forum (*i.e.* EEO, OIG, Office of Special Counsel (OSC), Union), if applicable.

b. The anti-harassment process in this directive differs from the EEO complaint process because it is broader and faster: it allows non-employees and NARA customers to file a harassment complaint, it addresses more kinds of harassment than the EEO statutes allow, and it allows you to also file complaints in other processes, such as EEO, Union, or OIG (the EEO complaint process has some restrictions on what else you may do if you have an EEO complaint).

c. NARA has a number of avenues available to employees and non-employees to address concerns about harassment, such as:

- (1) The anti-harassment process described in this directive (for employees & non-employees);
- (2) The EEO complaint process, beginning with an informal EEO complaint (for only Federal employees and applicants; see NARA 395);
- (3) Contacting the NARA Office of Inspector General (OIG);
- (4) Filing a grievance with the Union (for bargaining unit employees) under the Administrative Grievance Procedure (for non-bargaining unit employees); and/or
- (5) Contacting RESOLVE, NARA's Alternative Dispute Resolution (ADR) program, to assist in dealing with situations of harassment (see NARA 320).

d. However, some of these options may have rules that you need to be aware of when you decide what you want to do. For example:

- (1) Importantly, **filing a complaint through one of these avenues might prevent you from being able to use another one of the avenues**; it depends on the rules of the processes involved. You should check the rules for the programs you might want to use.
- (2) Each of these avenues has its own requirements, such as time frames for filing a complaint, and each has rules about the areas it addresses.

For example, the anti-harassment process covers harassment on the basis of political affiliation, but the EEO complaint process does not.

- (3) The different avenues may have different protections, and may only allow certain groups to file complaints.

For example, you may keep your identity confidential when filing a complaint with the OIG or an informal EEO complaint, but NARA customers cannot file an EEO complaint with the agency. You can remain anonymous when contacting the OIG or EEO, although it may limit what action can be taken in response. Only bargaining unit employees may file a grievance through the Union.

- (4) If you want to file in the anti-harassment process and another avenue, you also must still meet any timeliness requirements the other process has. Filing in this process does not mean you have filed in that process.

For example, if you make a complaint through the anti-harassment program and also want to file an EEO complaint about the same incident, you must make contact with an EEO counselor within 45 days of the event (or becoming aware of it), even if you have already made a complaint through the anti-harassment process. Or, if you want to also file a grievance through the Union, you must do so within 20 days of the event (or becoming aware of it), even if you have reported the incident as harassment otherwise before then.

e. You may also choose to report any harassment or file a complaint outside NARA, if you prefer. For example, you may file a complaint directly with the Equal Employment Opportunity Commission ([EEOC](#)), with the Office of Special Counsel ([OSC](#)), or with the Merit Systems Protection Board ([MSPB](#)), if eligible. However, these options also have rules about timing, what types of harassment they will handle, and who can file with them, just as NARA programs do.

f. NARA encourages anyone subjected to harassment to follow the procedures addressed in this policy so that NARA can take corrective action at the lowest level of harassment, and as swiftly as possible. However, the important thing is to report harassment, so if you prefer to use another avenue, you are also encouraged to do so. You should research your options and make an informed and independent decision about which avenue(s) to choose.

396.11 What should I do if I become aware of harassment?

a. If you are an employee, contractor employee, intern, other staff, visitor, or customer and you become aware of possible harassment, you are strongly encouraged to immediately report the matter to any supervisor or management official or any member of the Ad Hoc Committee on Harassment. See [Appendix C](#) for details on the Ad Hoc Committee on Harassment.

- b. Employees and non-employees are assured that all information will be maintained on a confidential basis to the greatest extent possible. However, such information may be disclosed to defend NARA in any litigation to which the information may be relevant and necessary. Further, information may need to be disclosed to those officials and employees within NARA with a need to know in order to carry out the purpose and intent of this policy.
- c. Supervisors, volunteer coordinators, CORs, and management officials must immediately report (usually within 48 hours of becoming aware of it) harassing conduct, or allegations of harassing conduct, by others to any member of the Ad Hoc Committee on Harassment. Failure to report an incident of harassment may result in administrative action, including disciplinary action.

396.12 What will the Ad Hoc Committee on Harassment do?

- a. The Committee will review the allegation of harassment to determine whether a fact-finding inquiry is merited, and who should conduct the fact-finding inquiry. The Committee will coordinate as necessary with EEO and other offices to ensure that any investigation is not duplicative and will not interfere with any other investigation. See [Appendix C](#) for details on the Ad Hoc Committee on Harassment.
- b. If the fact-finding inquiry reveals that harassment occurred, the Committee will notify the supervisor or management official responsible for taking corrective and disciplinary action of the findings so that appropriate action may be taken.
- c. If the allegations are related to, or appear that they might rise to the level of, fraud, waste, abuse, or mismanagement, the Committee will immediately notify the OIG.
- d. If the report of harassment involves a contractor or foundation/institute staff, HTL (or its designee) will work with the appropriate contracting and/or foundation/institute officials, including Presidential library officials, as appropriate, to conduct the impartial inquiry and to implement any necessary corrective action.
- e. If the report involves a member of the OIG staff, HTL will coordinate with the OIG, or an appropriate outside organization, to conduct the inquiry, and to recommend any corrective action.
- f. If the report is between two contract employees or two foundation/institute employees, volunteers, or contractors, NARA will refer the report to the contractor or foundation/institute.

396.13 How are records created by this directive maintained under the NARA Records Schedule?

See [Appendix A](#) for records management instructions.

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Appendix A – Records Management

To ensure confidentiality, all responsible parties must keep any records of harassment allegations/cases in separate folders (from other records in the same series) and in a locked file drawer or cabinet.

1. **NARA employees, volunteers, and student interns** – Keep your copies of records for your own personal reference. Do not file your copies with any records maintained by your supervisor.
2. **Any NARA unit EXCEPT in a Federal Records Center or a Regional Archives**
 - a. **Supervisor, management official, or volunteer coordinator** – Use *File no. 205, “Office Administration Files,”* when anyone (employee or non-employee) reports alleged harassing conduct. As needed, carry forward records until the matter has been closed (i.e., investigated/dismissed, investigated/corrective actions taken, etc.). Cut off records at the end of that fiscal year and then destroy records two years later.
 - b. **Supervisor or management official** – Keep records in an offending employee’s *“Unofficial Personnel File” (#303-1)* if any disciplinary/adverse actions have been taken against the employee for committing harassment against another employee or a non-employee.
 - c. **Volunteer coordinator or student intern’s supervisor** – File records in an offending volunteer’s or intern’s *“Volunteer Program Files: Individual Volunteer File” (#1605-3)* if corrective action (i.e., dismissal) has been taken against the volunteer or student intern for committing harassment against a NARA employee, another volunteer or student intern, or another non-employee.
 - d. **COR** – Place documentation into a separate folder within the larger “COR” file under *#519-1a or #519-1b* (see the *Procurement Guide*, chapter 10, for further guidance about COR records) for the following situations:
 - (1) When a contractor reports allegedly harassing conduct by a NARA employee, another contractor, or another non-employee;
 - (2) When a NARA employee, volunteer, student intern, foundation staff member, visitor, or customer makes a harassment allegation against a contractor; and
 - (3) If corrective action (i.e., dismissal) is taken against an offending contractor who has committed harassment.
3. **Any unit in a Federal Records Center or a Regional Archives**

- a. **Supervisor, management official, or volunteer coordinator** – Use *File no. 266, “Administrative Functions,”* when anyone (employee or non-employee) reports alleged harassing conduct.
 - b. **Supervisor or management official** – Keep records in an offending employee’s *“Unofficial Personnel File” (#269-1)* if any disciplinary/adverse actions have been taken against the employee for committing harassment against another employee or a non-employee.
 - c. **Volunteer coordinator or student intern’s supervisor** – File records in an offending volunteer’s or intern’s *“Individual Volunteer/Intern File”* under *“Regional Outreach” (#1618)* if corrective action (i.e., dismissal) has been taken against the volunteer or student intern for committing harassment against a NARA employee, another volunteer or student intern, or another non-employee.
 - d. **COR** – Use *File no. 267-1, “Collections and Expenditures of Funds...,”* (see subpara. 2d above for situations involving a contractor). Refer to the *Procurement Guide*, chapter 10, for further guidance about COR records.
4. **HTL** –
- a. When anyone (employee or non-employee) reports alleged harassing conduct, establish an “inquiry file” under *“Disciplinary, Adverse, and Performance-Based Actions Case Files” (#329-2a)*. Maintain inquiry files apart from the case files of actual disciplinary/adverse actions.
 - b. If any disciplinary or adverse action(s) is/are taken against an offending employee, establish a case file under #329-2a and track the action(s) in the electronic *“Discipline Log” (#329-2b)*.
5. **NEEO** – When NEEO receives a discrimination complaint of harassment from:
- a. A NARA employee – Use *File no. 332-1, “EEO Records: Official Discrimination Complaint Case Files.”* Or use *File no. 332-3b* if the employee does not initiate an informal or formal complaint of discrimination.
 - b. A non-employee (contractor, volunteer, student intern, foundation staff member, visitor, or customer) – Keep records under *File no. 332-3b, “EEO Records: Preliminary and Background Files – Records documenting complaints that do NOT develop into Official Discrimination Complaint Cases.”*
6. **NGC** – When NGC receives a request for assistance regarding alleged harassing conduct:
- a. If request is for legal advice – Establish a case file under *“Program Operation: General Legal Advice – Files for all other [non-precedential] cases” (#1103-1b)*.
 - b. If request is for participation in RESOLVE – Maintain an official case file for the RESOLVE proceeding under *“Program Operation: ADR – Operations” (#1103-5a)*.

7. **OIG** – When OIG receives a referral of a case of harassment that it believes has risen to the OIG level:

a. The Assistant Inspector General for Investigations determines whether and what type of case file is established, and, if a case file is established, files according to the established records schedule for that type of file. For example, if the AIGI establishes a complaint case file, it is maintained under “*Complaint Files*” (#1208-1), and if the AIGI opens an investigative file, it is maintained under “*Investigation Files*” (#1208-2a).

b. Any cases the Office of Investigations also tracks in its electronic tracking system are maintained for records management purposes under “*Inspector General Case Management and Tracking System*” (#1208-3).

8. **Operations of Research Rooms (Archival Holdings)** – If an inquiry finds that a researcher has committed harassment and has had NARA research privileges revoked:

a. Research Services – Washington, DC (R) Units –

(1) Use *File no. 1418-1a, “Researcher Application and Authorization Files: Researcher Application Forms – Issuing office”* (for paper records).

(2) For electronic records, follow disposition instructions for the *Researcher Registration System Database* (#1418-1c[1] and #1418-1c[2]).

b. **Regional Records Services Facilities – Directors of Archival Operations** – Use *File no. 1474-3c, “Archives Services: Reference – User Registration/Retrieval Documentation.”*

c. Legislative Archives, **Presidential Libraries, and Museum Services (L) – Libraries, Projects, and Staffs** –

(1) If records are filed in separate series, use #1418-1a (for paper records) and *File no. 1418-5, “Researcher Application and Authorization Files: Electronic database of researcher applications...”* (for electronic records).

(2) If consolidated case files are maintained, follow instructions for either *File nos. 1470-1, “Researcher Case Files...for researchers who have produced significant and/or controversial research”* or *1470-2, “All other researcher case files.”*

9. **Ad Hoc Committee on Harassment** – Do not destroy records created by this body until further notice; they are unclassified. The appropriate program offices will analyze business processes and record values to determine suitable dispositions for these records.



Anti-Harassment Policy Statement

Policy Statement

NARA is committed to maintaining a work environment that is courteous, respectful and free from harassment behaviors for its employees, contractors, volunteers, visitors, and customers. NARA will not tolerate harassment of any kind.

Harassment

Unlawful harassment is defined as any unwelcome verbal, non-verbal, or physical conduct based on race, color, religion, sex (including pregnancy and gender identity), national origin, age (40 or older), disability (mental or physical), genetic information, sexual orientation, marital status, political affiliation, status as a parent, or retaliation when:

1. An employee actually suffers a personal loss or harm with regard to a term, privilege, or condition of employment relating to any of the protected bases; or
2. The behavior can reasonably be considered severe or pervasive, creating an intimidating, hostile, or offensive work environment.

Harassment undermines the integrity of the employment relationship and interferes with work productivity. Harassing conduct includes, but is not limited to: bullying, slurs, derogatory or disrespectful remarks, spreading rumors, swearing, jokes, obscenities, incessant teasing, expressing or insinuating threats, threatened assault, hitting, punching, other unwanted touching, and malicious or insulting gestures.

NARA has appropriate measures to prevent harassment (sexual or non-sexual) in the workplace and to correct harassing behavior before it becomes severe or pervasive. Harassing behavior by a NARA employee does not need to rise to the level of unlawful harassment in order for it to constitute misconduct. Violations of this policy may result in administrative or disciplinary actions against offenders.

Sexual Harassment

Sexual harassment is a form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career;

2. Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or
3. Such conduct interferes with an individual's work performance or creates an intimidating, hostile, or offensive environment.

Retaliation

In addition, NARA prohibits any retaliation against an employee who reports a concern about workplace harassment, other inappropriate behavior, or assists in any inquiry about such a report.

Training

All managers and supervisors are required to take the anti-harassment training annually through NARA's Learning Management System (LMS).

Reporting Violations

All NARA employees are strongly encouraged to report misconduct, including discriminatory or harassing behavior. Supervisors, volunteer coordinators, CORs, and management officials must immediately report (usually within 48 hours of becoming aware of it) harassing conduct, or allegations of harassing conduct, by others to any member of the Ad Hoc Committee on Harassment. Failure to report an incident of harassment may result in administrative action, including disciplinary action.

Employees who believe they have been subjected to harassment should report the incident(s) to their supervisor or a manager in their chain of command, any other NARA manager, or one of the members of the Ad Hoc Committee on Harassment (which is comprised of officials from the Labor/Employee Relations and Benefit Branch (HTL); Office of Equal Employment Opportunity (NEEO); and Office of General Counsel (NGC)). See NARA 396, Anti-Harassment Policy, for detailed information.

You may submit incidents to **HTL** by:

1. Calling 301-837-3558
2. Sending a fax to 301-837-3533
3. Sending an email to emmalisa.hobbs@nara.gov

You may also submit an incident to **NGC** by:

1. Calling 301-837-2928
2. Sending a fax to 301-837-0293
3. Sending an email to chris.runkel@nara.gov

You may also submit an incident to **OIG** by:

1. Calling the OIG Hotline:

- 301-837-3500 (Washington, DC metro area)
800-786-2551 (toll-free and outside the Washington, DC metro area)
2. Sending a document to:
OIG Hotline
NARA
P.O. Box 1821
Hyattsville, MD 20788-0821
 3. Confidentially reporting online at:
<http://www.archives.gov/oig/referral-form/index.html>

Employees who wish to file an EEO complaint alleging discrimination and/or harassment should file a complaint with the Office of Equal Employment Opportunity (NEEO) within **45 calendar days** of the date of incident(s). See NARA 395, EEO Complaints Program, for guidance.

You may initiate an informal **EEO** complaint by:

1. Calling 301-837-0939;
2. Sending a fax to 301-837-0869; or
3. Sending an email to NEEO@nara.gov

If all or part of the complaint is pursued under the negotiated grievance procedure covering bargaining unit employees, a grievance must be filed within **20 days** of the alleged incident, or 20 days after the grievant becomes aware of the alleged incident. Personnel may contact their union representative at any time regarding discrimination and/or harassment.

DAVID S. FERRIERO
Archivist of the United States

National Archives and Records Administration

NARA 396
August 27, 2013

Appendix C -- Ad Hoc Committee on Harassment

1. Agency managers and supervisors must act when they become aware of alleged incidents of harassment. This is true even where the employee allegedly being harassed does not request action against the alleged harasser. This is also true even if the alleged conduct does not ultimately rise to the level of legally-actionable harassment. Accordingly, managers and supervisors must immediately report (usually within 48 hours of becoming aware of it) harassing conduct, or allegations of harassing conduct by others, to any member of the Ad Hoc Committee on Harassment. This can be done by writing or e-mailing any of the three officials named below.
2. The Ad Hoc Committee on Harassment, established by the Archivist of the United States, consists of one representative appointed by each of the following officials:
 - a. The Director of EEO (NEEO);
 - b. The General Counsel (NGC); and
 - c. The Chief Human Capital Officer (H).
3. A manager/supervisor may contact any one of these officials to activate consideration of the alleged incident(s) of harassment. Within 10 business days of receiving the allegation of harassment, any of the committee members or their designee will convene a meeting with the other members to consider the matter. The Committee will review the allegation of harassment to determine whether a fact-finding inquiry is merited, and who should conduct the fact-finding inquiry. The Committee will coordinate as necessary with EEO and other offices to ensure that any investigation is not duplicative and will not interfere with any other investigation. If the report involves a member of the OIG staff, the Ad Hoc Committee will coordinate with the OIG, or an appropriate outside organization, to conduct the inquiry, and to recommend any corrective action.
4. If, based on a fact-finding inquiry or other source of facts, it appears that harassment occurred, the Committee will notify the supervisor, management official, or other entity responsible for taking corrective and disciplinary action of the findings so that appropriate action may be taken. Such action may include, but is not limited to, discipline of the employee found to have harassed another person. The Committee will not take such action itself, but instead will refer the matter to the appropriate supervisor, management official, or other body for further action.
5. Managers/supervisors who fail to report an incident of harassment may be subject to administrative action, including disciplinary action.

6. Any action by the Committee can be undertaken concurrently with the processing of individual or class complaints of discrimination regarding the same or similar issues. The aggrieved person must contact an EEO Counselor within 45 days of the alleged incident if the aggrieved person wishes to pursue a complaint through the EEO process, regardless of whether the matter has been raised with the Committee.

7. If all or part of the complaint is pursued under the negotiated grievance procedure covering bargaining unit employees, a grievance must be filed within 20 days of the alleged incident, or 20 days after the grievant becomes aware of the alleged incident. See paras. 396.2, 396.3, and 396.10 for more information on other avenues complainants may follow.