



U.S. Department  
of Transportation  
Federal Highway  
Administration

# Memorandum

Subject: **INFORMATION**: Harassment Reporting  
Requirements

Date: OCT 29 2010

From: Allen Masuda   
Associate Administrator for Civil Rights

In Reply Refer To: HCR-40

To: Associate Administrators  
Acting Chief Counsel  
Chief Financial Officer  
Director, Innovative Program Delivery  
Directors of Field Services  
Federal Lands Highway Division Engineers  
Director of Technical Services  
Division Administrators

In accordance with the instructions provided by the U.S. Equal Employment Opportunity Commission (EEOC), the Office of Civil Rights developed the guidance in this Memorandum to outline the FHWA's policy regarding matters involving harassment that is not of a sexual nature. Procedures for reporting sexual harassment were included in a Memorandum dated January 25, 2010, signed by me to the Leadership Team.

The EEOC defines harassment as a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, Sections 501 and 505 of the Rehabilitation Act of 1973, and the Genetic Information Nondiscrimination Act of 2008. In addition, harassment based on sexual orientation violates the Department's policy.

Harassment is any verbal or physical conduct, based on race, color, religion, national origin, age, disability, sex, genetic information, or sexual orientation that either results in a tangible employment action or is so severe and pervasive so as to constitute an intimidating, hostile or offensive work environment, including, but not limited to: (1) verbal conduct that could include racial epithets, foul language, ethnic jokes, derogatory statements or slurs; (2) physical conduct that could include assault; or (3) visual harassment that could include racial or derogatory posters, cartoons or drawings, or obscene gestures.



Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under the anti-discrimination laws; or opposing employment practices that they reasonably believe discriminate against individuals in violation of these laws.

Employees are encouraged to report harassment **before** it becomes severe or pervasive. While isolated incidents of harassment generally do not violate Federal law, a pattern of such incidents may be unlawful. Therefore, the FHWA's policy includes necessary procedures to cease harassment before it rises to the level of a violation of Federal laws.

It is the policy of the FHWA to maintain a work environment free of any form of discrimination, including harassment. Any supervisor or manager who becomes aware of an allegation of harassment must report the incident to the senior management official (i.e., Associate Administrators; Chief Counsel; Chief Financial Officer; Director, Innovative Program Delivery; Directors of Field Services, Federal Lands Highway Division Engineers; Director of Technical Services; or Division Administrators) in the organizational unit in which the infraction occurred. Additionally, the supervisor or manager should contact the Employee Relations Specialist in the servicing Human Resources Office for technical advice and guidance to ensure that appropriate investigative and corrective actions are taken. This process will ensure that FHWA takes immediate and appropriate corrective action to end any form of harassment.

Employees who believe that they have been the victims of harassment may seek the **immediate** assistance of a senior management official or the Employee Relations Specialist in the servicing Human Resources Office. This guidance in no way is intended to replace or circumvent the current internal discrimination complaint process. Employees who believe they have been discriminated against must initiate the pre-complaint stage (i.e., request an EEO Counselor or request to participate in mediation) within 45 days of the alleged discriminatory act, or the effective date of the alleged discriminatory personnel action. Employees may initiate the pre-complaint stage by contacting an EEO Counselor directly or the Office of Civil Rights for assistance.

Please forward a copy of this memorandum to all employees under your management authority. If you have any questions or concerns regarding the information contained in this memorandum, please contact Ms. Thalia Williams, Office of Civil Rights, at 202-366-1595 or Ms. Page Daggett, Office of Human Resources, Employee Relations, at 202-366-1185.