




U.S. Department
of Transportation
**Federal Highway
Administration**

Memorandum

Subject: **INFORMATION:** Sexual Harassment
Reporting Requirements

Date: JAN 25 2010

From: 
Allen Masuda
Associate Administrator for Civil Rights

In Reply Refer To: HCR-40

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

The purpose of this memorandum is to provide the leadership team with information on reporting requirements for dealing with allegations of sexual harassment in the workplace. Attached to this memorandum is information provided by the U.S. Equal Employment Opportunity Commission explaining the meaning of sexual harassment.

As you are aware, it has been the longstanding policy of the Department and FHWA to maintain a work environment free of any form of discrimination, including sexual harassment. Any supervisor or manager who becomes aware of an allegation of sexual harassment must report the incident to the senior management official in the organizational unit in which the infraction occurred. The senior management official must then forward the allegation to the Associate Administrators for Administration and Civil Rights for assessment, coordination, and advisory services. This procedure is necessary to ensure that FHWA takes immediate and appropriate corrective action to end sexual harassment.

Employees who believe that they have been victims of sexual harassment may seek the immediate assistance of a management official or the Office of Human Resources. In addition, employees may contact an Equal Employment Opportunity Counselor or the Office of Civil Rights. This guidance is in no way intended to replace or circumvent the current internal discrimination complaint process.



You are encouraged to forward a copy of this memorandum to all subordinate supervisors, managers, and staff under your management authority. If you have any questions or concerns regarding this matter, please feel free to contact Brenda Armstead at (202) 366-1583. You may also contact your servicing Office of Human Resources.

Attachment



Facts About Sexual Harassment

Sexual harassment is a form of sex discrimination that violates [Title VII of the Civil Rights Act of 1964](#). Title VII applies to employers with 15 or more employees, including state and local governments. It also applies to employment agencies and to labor organizations, as well as to the federal government.

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

Sexual harassment can occur in a variety of circumstances, including but not limited to the following:

- The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
- The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
- The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
- Unlawful sexual harassment may occur without economic injury to or discharge of the victim.
- The harasser's conduct must be unwelcome.

It is helpful for the victim to inform the harasser directly that the conduct is unwelcome and must stop. The victim should use any employer complaint mechanism or grievance system available.

When investigating allegations of sexual harassment, EEOC looks at the whole record: the circumstances, such as the nature of the sexual advances, and the context in which the alleged incidents occurred. A determination on the allegations is made from the facts on a case-by-case basis.

Prevention is the best tool to eliminate sexual harassment in the workplace. Employers are encouraged to take steps necessary to prevent sexual harassment from occurring. They should clearly communicate to employees that sexual harassment will not be tolerated. They can do so by providing sexual harassment training to their employees and by establishing an effective complaint or grievance process and taking immediate and appropriate action when an employee complains.

It is also unlawful to retaliate against an individual for opposing employment practices that discriminate based on sex or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under Title VII.