

INDIAN AFFAIRS MANUAL

Part 8

Equal Employment Opportunity

Chapter 4

Harassment-Free Workplace and Harassment Claims

Page 1

- 1.1 Purpose.** The intent of this chapter is to ensure that Indian Affairs (IA) takes immediate and appropriate corrective action, including disciplinary action, to eliminate harassing conduct regardless of whether the conduct rises to the level of a violation of law. The goal of this policy is to address harassing conduct at the earliest possible stage, before such conduct can become severe or pervasive.
- 1.2 Scope.** This policy applies to the Office of the Assistant Secretary – Indian Affairs (AS-IA), as well as to all bureaus, offices, and programs that operate under the authority of the AS-IA (collectively, “Indian Affairs”).
- 1.3 Policy.** IA is committed to a workplace free of harassment and reprisal, and will not tolerate offensive sexual or non-sexual harassing behavior against any IA employee, intern, volunteer, contractor, or other non-federal employee, visitor, or other member of the public. Additionally, IA will not tolerate adverse treatment of employees because they report harassment or provide information related to such claims.

In keeping with its commitment, IA fully adopts the Department of the Interior’s (DOI) policy and procedure on the Prevention and Elimination of Harassing Conduct, Personnel Bulletin 18-01. The policy may be viewed at: <https://www.doi.gov/employees/anti-harassment/policies>. The IA memorandum announcing its adoption of the DOI policy is also in Attachment 1. All IA management officials and employees must follow its provisions.

1.4 Authority.

A. Statutes and Regulations.

- 1) P.L. 88-352 (Title VII), Civil Rights Act of 1964, as amended
- 2) 5 U.S.C. § 2302(b)(1) and (10)
- 3) 5 U.S.C. Chapter 75 and substantially similar authorities covering employees in alternate personnel systems
- 4) 29 U.S.C. §§ 633a and 791(f)
- 5) 42 U.S.C. §2000e through 16
- 6) 29 CFR 1604.11 and 1614

B. Guidance.

- 1) Executive Order 11478, as amended

INDIAN AFFAIRS MANUAL

- 2) Secretary of the Interior's Harassment Policy Statement, issued April 12, 2017
- 3) 370 Departmental Manual (DM) 752, Discipline and Adverse Actions

1.5 Responsibilities.

A. AS-IA, Principal Deputy Assistant Secretary – Indian Affairs, Deputy Assistant Secretary – Policy and Economic Development, and Deputy Assistant Secretary - Management are responsible for:

- 1) Providing overall direction for establishing and maintaining a harassment-free workplace.
- 2) Ensuring implementation of this policy within their organizations.
- 3) Appropriately evaluating subordinate management officials (in their immediate line of authority) on their performance under this policy.

B. Bureau Directors, Deputy Bureau Directors, Regional Directors (or Designees) and Office Directors are responsible for complying with Section 6.B. of the Department's policy on the Prevention and Elimination of Harassing Conduct, Personnel Bulletin 18-01. Specifically:

- 1) Ensuring that supervisors/managers are appropriately rated on the critical element described in Section 6.A.2 of Personnel Bulletin 18-01.
- 2) Ensuring that their organizations are in full compliance with the requirements of this policy.
- 3) Monitoring the work environment following a report alleging a violation of this policy to ensure that there are no further violations or incidents of retaliation against any individual who has reported harassment or participated in the investigation.

C. Supervisors and Managers are responsible for complying with Section 6.F. of the Department's policy on the Prevention and Elimination of Harassing Conduct, Personnel Bulletin 18-01. Specifically:

- 1) Making every effort to provide a work environment free of harassment.
- 2) Ensuring that their subordinates are aware of this policy and its requirements.
- 3) Acting promptly and effectively to stop harassing conduct of which they are aware, and holding employees accountable who have engaged in harassing conduct.

INDIAN AFFAIRS MANUAL

- 4) Receiving reports alleging violations of this policy and, as described in Section 7 of Personnel Bulletin 18-01, making or directing further inquiries into such reports and taking corrective action as appropriate and necessary, and in accordance with BIA policies.
- 5) Following any additional procedures, handbooks, or guidelines issued by the Department or the Bureau/Office as related to this policy.
- 6) Notifying appropriate officials in their chain of command of reported or observed conduct under this policy and of their efforts to correct the conduct.
- 7) Appropriately evaluating and holding accountable subordinate supervisors/managers on their performance under this policy.
- 8) Protecting employees who report misconduct from retaliation.

D. Bureau and Equivalent Human Capital Officers (Bureau HCOs) are responsible for complying with Section 6.C. of the Department's policy on the Prevention and Elimination of Harassing Conduct, Personnel Bulletin 18-01. Specifically:

- 1) Developing and providing periodic communications to all Bureau/Office employees on this policy and any Bureau/Office-specific requirements, and incorporating this policy into the Bureau/Office's supervisory training curriculum.
- 2) Resolving any disagreements involving investigations between management officials, and consulting staff from servicing Human Resources Offices or the Office of the Solicitor regarding whether and what type of investigation is necessary.
- 3) Providing oversight, technical assistance, and support to Bureau/Office staff to ensure compliance with this policy.
- 4) Ensuring that the procedures in this policy are properly executed by monitoring inquiries and investigations of reported or otherwise discovered harassing conduct; providing guidance concerning the information to be gathered and methods to be used during inquiries and investigations; and otherwise ensuring that the investigations are swift, thorough, impartial, and appropriate to the allegation.
- 5) Reviewing on a monthly basis the information contained in the system used by servicing Human Resources Offices to track harassing conduct allegations, as described in Section 8.B. of the Department's policy, and providing information to the Bureau/Office Director and the Chief Human Capital Officer (CHCO) as requested.

INDIAN AFFAIRS MANUAL

- 6) Providing the record of actions taken under this policy to any office handling a parallel statutory or grievance claim, as referenced in Section 7.F. of Personnel Bulletin 18-01.

E. Servicing Human Resources (HRO's) (normally the Employee Relations function in particular) are responsible for complying with Section 6.D. of the Department's policy on the Prevention and Elimination of Harassing Conduct, Personnel Bulletin 18-01. Specifically:

- 1) Receiving reports alleging violations of this policy and, as described in Section 7 of Personnel Bulletin 18-01, notifying and assisting the relevant management officials in handling allegations of harassing conduct and taking corrective action, as appropriate and necessary.
- 2) Ensuring that all reports made and actions taken pursuant to Personnel Bulletin 18-01 are in line with the Department's Office of Human Resources case tracking procedures, and reporting on them to the Bureau HCO.

F. Employees, contractors, temporary employees, and all others performing work on behalf of the Bureaus *must* comply with Section 6.G. of the Department's policy on the Prevention and Elimination of Harassing Conduct, Personnel Bulletin 18-01. Specifically:

- 1) Refraining from engaging in harassing conduct.
- 2) Participating in any training required under this policy.
- 3) Cooperating fully in any inquiry or investigation.

Employees, contractors, temporary employees, and all others performing work on behalf of the Bureaus *are expected to*:

- 1) Understand their rights and responsibilities under this policy.
- 2) Report harassing conduct of which they are aware or witness in the work environment, as described in Section 5.C. of Personnel Bulletin 18-01.

All Department employees who are victims of harassing conduct *are encouraged to* report the harassing conduct.

1.6 Standards and Requirements.

A. Standards.

- 1) **Indian Affairs Harassing Conduct Allegations Intake Form** – This intake form will be used by all IA management and/or HR officials to record a report of

INDIAN AFFAIRS MANUAL

Part 8
Chapter 4

Equal Employment Opportunity
Harassment-Free Workplace and Harassment Claims

Page 5

harassing conduct to comply with Section 7 of Personnel Bulletin 18-01. A sample of the form is in Attachment 2. The form itself is available on the IA Online Forms website under “Indian Affairs Specific Forms and Guidance” here: <https://www.bia.gov/policy-forms/online-forms>

- 2) **Records Management** – All employees with responsibilities outlined in this policy will follow established records management policies/provisions/guidelines to maintain documentation related to allegations of harassing conduct.

B. Requirements.

- 1) **Duty to Act** – Managers and supervisors who observe or are informed of allegations of harassing behavior must:
 - a. report those behaviors/allegations to the appropriate officials, even if the employee raising the allegation requests confidentiality;
 - b. ensure that a prompt, objective, and thorough investigation is conducted; and
 - c. take steps to ensure that the harassing conduct is appropriately addressed to deter further misconduct, including appropriate disciplinary action.

Approval



John Tahsuda

Principal Deputy Assistant Secretary – Indian Affairs

Exercising the Authority of the Assistant Secretary – Indian Affairs

6/18/18
Date

INDIAN AFFAIRS MANUAL

Part 8
Chapter 4

Equal Employment Opportunity
Harassment-Free Workplace and Harassment Claims

Page 6

Attachment 1 – AS-IA Policy Announcement




United States Department of the Interior

OFFICE OF THE SECRETARY
Washington, DC 20240

APR 23 2018

Memorandum

To: Indian Affairs Employees
Bureau of Indian Affairs Employees
Bureau of Indian Education Employees

From: Principal Deputy Assistant Secretary - Indian Affairs 
Exercising the Authority of the Assistant Secretary – Indian Affairs

Subject: Prevention and Elimination of Harassing Conduct Policy

On April 23, 2018, the Department of the Interior (Department) issued the policy on Prevention and Elimination of Harassing Conduct, Personnel Bulletin 18-01, to address and prevent harassment in the workplace. This policy supersedes all other Departmental or Bureau/Office policies and applies to all Department employees, which include the Bureau of Indian Affairs (BIA), Bureau of Indian Education (BIE), and Indian Affairs (IA).

Attached are the Department's Prevention and Elimination of Harassing Conduct, Personnel Bulletin 18-01 and the IA Harassing Conduct Allegation Intake Form. The IA Harassing Conduct Allegation Intake Form is adapted from the Department's Sample Intake Form and should be utilized by all IA, BIA, and BIE staff when addressing allegations of harassment.

The policy provides a clear definition of unacceptable harassing conduct, and establishes required reporting procedures and accountability measures. It is expected that management take prompt action to correct harassing conduct and eliminate such conduct, even in circumstances that do not necessarily violate the law. It is further expected that management clearly communicate that IA will not tolerate harassing behavior. Management is required to hold employees accountable at the earliest possible occurrence of inappropriate conduct. Early intervention may address such conduct before it rises to the level of harassment within the meaning of anti-discrimination law by becoming "severe or pervasive."

All IA, BIA, and BIE employees will receive a mandatory training notice via email concerning the Prevention and Elimination of Harassing Conduct Policy. Employees must certify receipt of the subject policy in DOI Learn no later than May 15, 2018.

The Department and IA are committed to a workplace free of all forms of harassment and it is essential to ensure that adequate measures are in place. If you have any questions, please contact your servicing human resources office.

Attachments:
Personnel Bulletin 18-01
Indian Affairs Harassing Conduct Allegation Intake Form

INDIAN AFFAIRS MANUAL

Part 8
Chapter 4

Equal Employment Opportunity
Harassment-Free Workplace and Harassment Claims

Page 7

Attachment 2 – Indian Affairs Intake Form (SAMPLE)



INDIAN AFFAIRS HARASSING CONDUCT ALLEGATION INTAKE FORM

Adapted from Appendix A of Personnel Bulletin 18-01: Prevention and Elimination of Harassing Conduct

This intake form is to be used by all Indian Affairs management officials to record a report of harassing conduct. It can be used as a prompt during a conversation with an employee reporting harassing conduct, and then used to document the conversation after the fact. Gathering as much information as possible immediately from the individual reporting the alleged harassing conduct will aid management in swiftly determining the best course of action. Please consult with your servicing Employee Relations Specialist if you have questions regarding this form.

Management Official Taking the Report

Name: _____ Title: _____

Organization: _____

Date Information Reported: _____ Time: _____

Individual Reporting Harassing Conduct

Name: _____ Title: _____

Organization: _____

Phone: _____ Job location: _____

INDIAN AFFAIRS MANUAL

Individuals Allegedly Engaging in Harassing Conduct (if known)

1. Name: _____ Title: _____

Organization: _____

Phone: _____ Job location: _____

2. Name: _____ Title: _____

Organization: _____

Phone: _____ Job location: _____

3. Name: _____ Title: _____

Organization: _____

Phone: _____ Job location: _____

Questions to Ask the Individual Reporting the Harassing Conduct

1. Date(s) of alleged incident(s)/action(s):

2. Please describe specifically the alleged harassing conduct, including the protected status on which you believe it was based [i.e., race, color, religion, sex (including pregnancy and gender identity), sexual orientation, national origin, age, disability, family medical history (including genetic information), status as a parent, marital status, or political affiliation]:

INDIAN AFFAIRS MANUAL

Part 8
Chapter 4

Equal Employment Opportunity
Harassment-Free Workplace and Harassment Claims

Page 9

3. Was this an isolated event or a pattern of similar events or behaviors?

4. Was the harassing conduct directed at you or someone else? If someone else, to whom was it directed?

5. What was your reaction?

6. How did this conduct or behavior affect you? How did it make you feel?

7. Did you speak to the person who engaged in harassing conduct to ask them to cease? If so, what was their response?

8. Can you identify other individuals with knowledge of the alleged conduct at issue or other

INDIAN AFFAIRS MANUAL

actions/behaviors by the charged individual(s) in the past? (Include observations, what people heard, and who you told about the events in question.)

9. Are there any documents or physical evidence that may support the claim of alleged occurrences? If so, please identify them.

10. Do you feel that the alleged harasser(s) is a threat to your safety and well-being or that of others? If so, how?

11. Have you previously complained about this or related acts of harassing conduct by the same individual(s) to a supervisor or manager? If so, please identify the individual(s) to whom you complained, the date(s) of the complaint(s), and the resolution(s), if any.

12. Is there is any other information related to the incident(s)/action(s) or any other information related to the inquiry that you would like to provide?