

Preventing and Addressing Harassment and Inappropriate Conduct



TOOLKIT FOR EMPLOYEES

The following are tools and guidance to assist employees in understanding Manual Chapter 1311: Preventing and Addressing Harassment and Inappropriate Conduct.

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Contents

Purpose	3
What is Harassment and Inappropriate Conduct?	3
How do I report a concern?	4
What to Expect: Harassment Allegation Process Overview	5
Report	5
Initial Review	5
Administrative Inquiry	5
Evaluation	5
Closeout	5
What to Expect During an Administrative Inquiry	6
Sample Civil Program Language	6
Frequently Asked Questions	8
What is my role regarding harassment in the NIH workplace?	8
What is the difference between harassment and inappropriate conduct?	8
What should I do if I am either subjected to harassment or witness harassing behavior?.....	8
What is the difference between reporting harassment to the Civil Program and reporting harassment to the Office of Equity, Diversity, and Inclusion?	9
What should I do if my direct supervisor is harassing me?	9
What if someone makes an allegation of harassment against me?	9
Does a complaint to the Civil Program have to be made within a certain timeframe?	9
Can the Civil Program assist me with finding a new position at the NIH?	9
If I make a report to Civil that is not about my supervisor, will you tell my supervisor?	9
Can reports be made to Civil anonymously?	10
Can I ask Civil to hold off on an inquiry while I weigh my options or request not to get anyone in trouble?	10
What if I report harassment and the harasser retaliates against me?	10
Will Civil Specialists serve as my advocate during this process?	10
Will I find out the results of the administrative inquiry?	10

Purpose

The contributions of each and every member of the National Institutes of Health's community are vital to successfully improving people's health and reducing the burden of disease. An environment where people feel welcome, respected, and valued is necessary for all individuals to contribute to their fullest potential. In alignment with this, the NIH is committed to creating and maintaining a work environment that is free of harassment and other inappropriate conduct. Harassment, bullying, intimidation, threats, or other disruptive behaviors are unacceptable and will be handled with administrative and/or legal action, as appropriate. Actions that run counter to our mission and goals will be met with consequences, no matter who the offender.

The following are tools and guidance for employees to assist them in understanding Manual Chapter 1311: Preventing and Addressing Harassment and Inappropriate Conduct.

What is Harassment and Inappropriate Conduct?

Harassment:

Harassment is unwelcome, deliberate, or repeated unsolicited verbal or physical conduct that is based upon protected class status (race, color, religion, sex, national origin, age, and disability). Harassment includes, but is not limited to, comments, gestures, graphic materials, physical contact, or solicitation of favors when:

- Submission to or rejection of the conduct by the individual could be used as the basis for employment decisions; OR
- The conduct is severe or pervasive enough that it substantially interferes with an individual's work performance or creates a work environment that is intimidating, hostile, or abusive.

Sexual Harassment:

Sexual harassment is a form of harassment that includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that 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.

Examples: unwanted sexual advances; sharing or displaying inappropriate images; sending suggestive communications; lewd jokes; sharing of sexual anecdotes; inappropriate sexual gestures; suggestive staring and whistling; comments about appearance; inappropriate touching; or offensive comments or questions regarding sexual history, orientation, or gender identity.

Inappropriate Conduct:

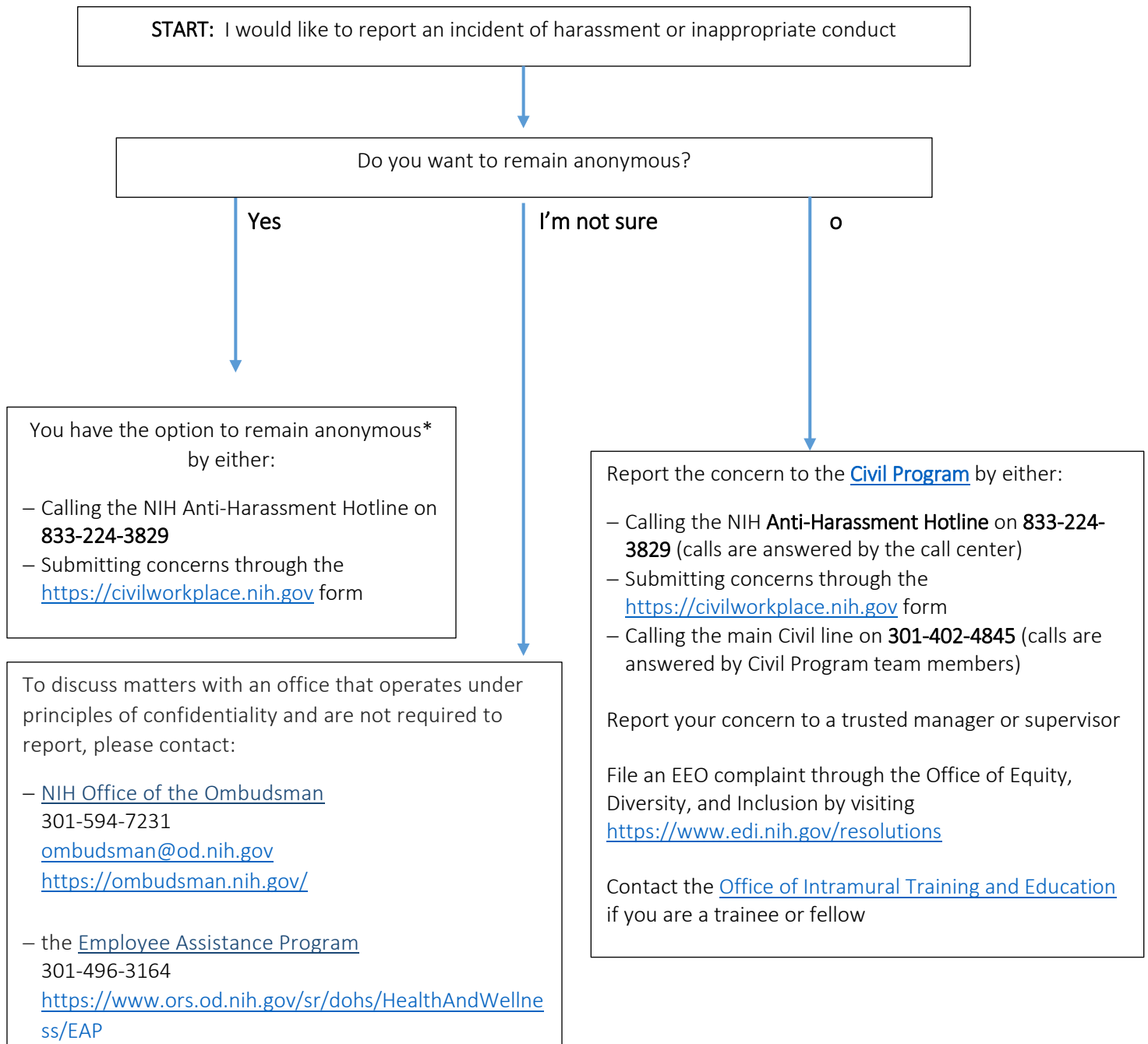
Inappropriate conduct is broader than harassment, because it does not require membership in a protected class. Inappropriate conduct includes any comments or conduct that disparages or demonstrates hostility or aversion towards any person that could reasonably be perceived as disruptive, disrespectful, offensive, or inappropriate in the workplace.

Examples: Inappropriate communications including slurs, epithets, ridicule, or insults; yelling or emotional outburst, cursing, throwing objects, slamming doors; physical intimidation or aggressions; inappropriate gestures; threats made against others or threatening behavior; psychological bullying or intimidation; making statements that are false, malicious, disparaging, or derogatory with the intent to hurt another's reputation.

What behaviors do not meet the definition of harassment?

Some workplace behaviors are problematic, and should be dealt with, but do not rise to the level of harassment or inappropriate conduct. This may include misunderstandings of behavior by other staff members, non-threatening and non-inappropriate arguments or disputes, a miscommunicated or misinterpreted comment or similar isolated incidents. If you are ever in doubt about whether or not a behavior constitutes harassment or inappropriate conduct, please contact the [Civil Program](#) for further guidance and always err on the side of reporting.

How do I report a concern?



** Reports can be made anonymously, which means the reporting party does not have to identify themselves. However, Civil Specialists will have to follow up on information provided and the reporting party's identity may become apparent during the administrative inquiry process. Please note that remaining anonymous requires key details about the allegation or concern to be omitted, which will limit the NIH's ability to conduct an inquiry and take corrective action as warranted.*


What to Expect: Harassment Allegation Process Overview

Report

The incident may be reported either directly or anonymously to Civil. If contact information is provided, Civil Specialists will contact the reporting party to discuss the facts surrounding the incident. If the reporting party chooses to remain anonymous, Civil Specialists will review the allegation to the greatest extent possible given the information available.

Initial Review

Civil Specialists will review the initial documentation to determine if an administrative inquiry is required. If they determine the matter would be more appropriately and efficiently handled by a Civil partner organization, Civil Specialists will refer the matter to the most appropriate resource(s). Those resources include, but are not limited to:

- Institute/Center/Office (ICO) Leadership
- [Office of the Ombudsman](#)
- [Employee and Labor Relations](#) 
- [Office of Intramural Training and Education](#)
- [Employee Assistance Program](#)
- [Division of Police](#) (*if there is an immediate safety concern, call 911*)

Administrative Inquiry

For those cases that require further review, Civil Specialists will notify ICO leadership and initiate an administrative inquiry. This process is designed to be a prompt, objective review of the incident. This includes collecting documentation and may also include interviews with all parties who may have knowledge of the situation. This inquiry may be done internally by Civil Specialists or externally by a contract investigator determined on a case-by-case basis.

Evaluation

Evidence collected during the inquiry is evaluated to determine if a policy has been violated. If a policy has been violated, Civil Specialists will work with the appropriate management officials and the [Employee & Labor Relations Office](#) to develop corrective administrative actions.

Closeout

A close-out notification will be sent to all affected parties notifying them that the inquiry is complete and that Civil Specialists will continue to work closely with management officials to address concerns and ensure a safe and professional work environment for employees. To protect staff privacy, no further information will be provided.

Note: Should management not cooperate with the Civil Program throughout the process outlined above, including failing to implement corrective administrative action in whole or in part, Civil Specialists will notify the NIH Principal Deputy Director, who will request a meeting with the Institute/Center/Office (ICO) Director and Executive Officer so they may explain their lack of coordination or their rationale for not implementing appropriate corrective administrative action.

What to Expect During an Administrative Inquiry

The purpose of an administrative inquiry is to ensure allegations of harassment are examined objectively and expeditiously and any inappropriate behavior is curtailed quickly through appropriate corrective action.

Administrative inquiries may take a variety of forms, but generally involves collecting and reviewing documentation. Some may also include interviews with affected parties. At the conclusion of the administrative inquiry, an objective analysis is made based on the information provided.

The following are sample emails you may receive if you are asked to participate in an administrative inquiry. When possible, Civil Specialists try to reach out to participants to speak with them prior to sending an email.

Sample Civil Program Language

Sample Email to the Reporting Party

(Salutation)

I work with the [NIH Civil Program](#), which addresses uncivil, disruptive, or harassing workplace behaviors. I am initiating a review/administrative inquiry into the allegations you raised. Please provide me with the information below by *(DATE – typically 3 to 5 business days)*. Please let me know if you would like to schedule a call to discuss this process or any questions you may have.

1. Please provide a brief summary for each incident. Include date, time, location, involved persons, and information about the incident(s).
2. Is there anyone else who may have knowledge of the situation that the Civil Program should contact? If so, please provide his/her name and contact information.

In order to protect the privacy of those involved and the integrity of the process, you are not to discuss this review or the circumstances with other staff members or colleagues. You are not precluded from discussing this matter with your chain of supervision, attorney, union representative (if applicable), the [Employee Assistance Program](#), and the [Office of the Ombudsman](#). You are also not prevented from exercising your right to consult with or initiate an EEO complaint with the [Office of Equity Diversity and Inclusion](#), but you must contact them within 45 days of the discriminatory incident.

The aforementioned provisions do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to the [Office of Management Assessment](#) or the [HHS Office of Inspector General](#) of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection.

You will be protected from reprisal for providing truthful information or otherwise cooperating with this review. If you feel that you are being retaliated against for such actions, please inform the Civil Program immediately. You may also contact other appropriate officials, including the [Office of Equity Diversity and Inclusion](#) or the U.S. Office of Special Counsel, if you feel you are being retaliated against for your cooperation with this inquiry.

NIH also has a variety of resources to support your wellbeing during and after this process. Please visit [Employee Assistance Program](#) and [Wellness@NIH](#) for more information.

Thank you and please let me know if you have any questions,

Asks for summary of incidents, including pertinent details and witnesses

Requests discretion and provides NIH resources

Provides reminder that retaliatory treatment is prohibited and instructs that this type of behavior should be reported

Asks customized questions for specific allegations

Asks for any additional witnesses

Requests discretion and provides NIH resources, including OITE, for trainee witnesses

Provides reminder that retaliatory treatment is prohibited and instructs that this type of behavior should be reported

(Salutation)

I work with the [NIH Civil Program](#), which addresses uncivil, disruptive, or harassing workplace behaviors. I am initiating a review/administrative inquiry into concerns in office/IC and you have been identified as an individual with relevant knowledge. Please provide me with the information below by *(DATE – typically 3 to 5 business days)*. Please let me know if you would like to schedule a call to discuss this process or any questions you may have.

1. *(Customize questions based on the initial statement from the Reporting Party, do not use overly broad questions starting with, "Have you ever...")*
2. Is there anyone else who may have knowledge of the situation that the Civil Program should contact? If so, please provide his/her name and contact information.

In order to protect the privacy of those involved and the integrity of the process, you are not to discuss this review or the circumstances with other staff members or colleagues. You are not precluded from discussing this matter with your chain of supervision, attorney, union representative (if applicable), the [Employee Assistance Program](#), and the [Office of the Ombudsman](#). You are also not prevented from exercising your right to consult with or initiate an EEO complaint with the [Office of Equity Diversity and Inclusion](#), but you must contact them within 45 days of the discriminatory incident.

The aforementioned provisions do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to the [Office of Management Assessment](#) or [the HHS Office of Inspector General](#) of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection.

You will be protected from reprisal for providing truthful information or otherwise cooperating with this review. If you feel that you are being retaliated against for such actions, please inform the Civil Program immediately. You may also contact other appropriate officials, including the [Office of Equity Diversity and Inclusion](#) or the U.S. Office of Special Counsel, if you feel you are being retaliated against for your cooperation with this inquiry.

NIH also has a variety of resources to support your wellbeing during and after this process. Please visit [Employee Assistance Program](#) and [Wellness@NIH](#) for more information.

Thank you and please let me know if you have any questions,

Sample Email to Respondent *(the person being accused of the behavior)*

Per our discussion, I work with the [NIH Civil Program](#), which addresses uncivil, disruptive, or harassing workplace behaviors. I am conducting an administrative inquiry into allegations raised in the workplace and you have been identified as someone who may have relevant information. Please provide me with the information below by *(DATE – typically 3 to 5 business days)*.

1. *(Customized questions are based on the initial statement from the Reporting Party...)*
2. Is there anyone else who may have knowledge of the situation that the Civil Program should contact? If so, please provide their name and contact information.

In order to protect the privacy of those involved and the integrity of the process, please do not discuss the circumstances of this matter with any other staff members or colleagues. You are not precluded from discussing this matter with your supervisory chain of command, the [NIH Office of Equity Diversity and Inclusion](#), the [Employee Assistance Program](#), or the [Office of the Ombudsman](#).

Retaliatory treatment toward any NIH employee or non-federal worker for reporting allegations of inappropriate conduct or harassment or for participating as a witness in an administrative inquiry is prohibited.

Asks customized questions for specific allegations

Asks for any additional witnesses

Requests discretion and provides NIH resources

Provides reminder that retaliatory treatment is prohibited and instructs that this type of behavior should be reported

Sent after Civil Specialists call the affected parties to provide advance notice

Notifies of inquiry completion

Sent after corrective action taken

Provides resources

No other information provided

(Salutation)

Per our phone conversation/voicemail, this is notification that Civil Program has completed the recent review/administrative inquiry/climate assessment in the office/IC.

First, thank you for your willingness to share your experience and help us ensure a safe and professional workplace. Please know that the NIH takes these matters seriously and the Civil Program ensured a thorough review of the matter and will continue to work closely with management to ensure appropriate actions are taken, if warranted. If there are any concerning incidents moving forward, please let me know as soon as possible.

I want to remind you of the other available NIH resources, including the [Office of Equity, Diversity, and Inclusion](#) (please note, you must contact them within 45 days of the discriminatory incident) and the [Office of the Ombudsman](#).

NIH also has a variety of resources to support your wellbeing moving forward. Please visit [Employee Assistance Program](#) and [Wellness@NIH](#) for more information. *(If a trainee, also include [Office of Intramural Training & Education](#))*

Thank you again and please let me know if you have any questions,

Frequently Asked Questions

What is my role regarding harassment in the NIH workplace?

As an NIH employee, your role is to conduct yourself in a manner that promotes civility, promptly report inappropriate conduct, and cooperate fully in administrative inquiries.

What is the difference between harassment and inappropriate conduct?

Harassment is unwelcome, deliberate, or repeated unsolicited verbal or physical conduct that is based upon protected class status¹ AND the submission to or rejection of the conduct by an individual could be used as the basis for employment decisions affecting the individual OR the conduct is severe or pervasive enough that it substantially interferes with an individual's work performance or creates a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Inappropriate conduct is much broader than the definition of harassment and does not have to be based on one's protected class. It may include similar behaviors, such as comments or conduct that could reasonably be perceived as disruptive, disrespectful, offensive, or inappropriate in the workplace.

What should I do if I am either subjected to harassment or witness harassing behavior?

As part of the NIH community, we are all responsible for reporting harassment. You can report it to the Civil Program directly or anonymously. You also have the option of filing an Equal Employment Opportunity (EEO) complaint with the [Office of Equity, Diversity, and Inclusion](#). If you're not sure how to proceed, you may talk through options with a confidential resource, such as the [Employee Assistance Program](#) or the [Office of the Ombudsman](#).

You may also report the behavior to a supervisor or management official. However, please know that when you report harassment to a supervisor or manager, even if they are outside of your chain of command, they are obligated to report the information to the [Civil Program](#). You can talk through different options to report

¹ Conduct that is based on a protected class (race, color, religion, sex, and national origin), the ADEA (discrimination on the basis of age when the aggrieved individual is at least 40 years of age), the Rehabilitation Act (discrimination on the basis of disability), the Equal Pay Act (sex-based wage discrimination), or GINA (discrimination on the basis of genetic information which constitutes a violation of 29 C.F.R. Part 1614, and, thus falls within the purview of [Title VII of the Civil Rights Act of 1964](#).)

the allegation with the supervisor, but ultimately, they must act on the information and cannot guarantee confidentiality.

[What is the difference between reporting harassment to the Civil Program and reporting harassment to the Office of Equity, Diversity, and Inclusion?](#)

Reporting a concern to the Civil Program is not equivalent nor does it replace filing an Equal Employment Opportunity (EEO) Complaint of Discrimination. The Civil Program carries out NIH's responsibility to conduct an administrative inquiry. This is a stand-alone requirement to ensure that all allegations of harassment are examined expeditiously and any inappropriate behavior is curtailed quickly through appropriate corrective action.

An EEO complaint is initiated by the employee and the process is focused on investigating and resolving discrimination that has already occurred. It prevents the recurrence of unlawful discriminatory conduct, but cannot require an agency to discipline its employees. Employees must contact the [Office of Equity, Diversity, and Inclusion](#) within 45 days of the discriminatory incident in order to file a Pre-Complaint of Discrimination.

Once an EEO complaint is filed with an allegation of discriminatory workplace harassment, the [Office of Equity, Diversity, and Inclusion](#) will notify the Institute/Center/Office and the [Civil Program](#) of the allegation, which will initiate NIH's obligation to conduct an administrative inquiry. The line of questioning will be similar for both processes, so you may ask the Civil Specialist if you can use your EEO submission for the inquiry process.

[What should I do if my direct supervisor is harassing me?](#)

You should report the harassment to the [Civil Program](#), the [Office of Equity, Diversity, and Inclusion](#), or to someone in your supervisor's chain of command. You are not obligated to report the harassment directly to your supervisor of record.

[What if someone makes an allegation of harassment against me?](#)

You will have the opportunity to respond to the allegations through the administrative inquiry process. You may contact the Civil Program with questions or concerns about the process at any time. In the meantime, you must conduct yourself in a professional and respectful manner. Retaliatory treatment toward any federal employee or non-federal worker for reporting allegations of inappropriate conduct or harassment, or for participating as a witness in an administrative inquiry or EEO complaint process, is prohibited. We understand that this process can be stressful and strongly recommended you seek additional support from the [Office of the Ombudsman](#) and/or the [Employee Assistance Program](#).

[Does a complaint to the Civil Program have to be made within a certain timeframe?](#)

There is no timeframe to report an allegation to the Civil Program. However, old information may limit the NIH's ability to conduct a thorough inquiry and take corrective action. This timeframe differs from the EEO complaint process in which a complaint must be filed from 45 days of the discriminatory treatment.

[Can the Civil Program assist me with finding a new position at the NIH?](#)

No, the purview of the Civil Program is to determine if an NIH policy has been violated and recommend administrative action to managers. Civil Program Specialists do not mediate interpersonal conflicts, nor do they negotiate resolutions. However, you may discuss options with the [Office of the Ombudsman](#) and/or the [Office of Equity, Diversity, and Inclusion](#).

[If I make a report to Civil that is not about my supervisor, will you tell my supervisor?](#)

It depends. It is often a good idea for the supervisor to know and help manage the day-to-day interaction and Civil Specialists will have to notify them if they directly supervise the harasser or if they are the alleged

harasser. If you would like to remain completely anonymous, you can also submit a complaint via the Anti-harassment hotline or the online web form.

Can reports be made to Civil anonymously?

Reports **can** be made anonymously, which means the reporting party does not have to identify themselves. However, staff will have to follow up on information provided and the reporting party's identity may become apparent during the administrative inquiry process.

Reports **cannot** be made to Civil or OITE *confidentially*. Confidentiality indicates that what one says is private or secret and staff will not follow up on the information provided or take action to stop the harassment. To discuss matters with an office that operates under principles of confidentiality, please contact [the Employee Assistance Program](#) or the [Office of the Ombudsman](#).

Please note that while management officials must be discreet in address these types of issues, they cannot guarantee confidentiality to staff. If a federal or non-federal worker reports an allegation of harassment to a supervisor or manager, they **must** contact the Civil Program to address the matter.

Can I ask Civil to hold off on an inquiry while I weigh my options or request not to get anyone in trouble?

Civil has some discretion, but ultimately, they must act on information provided to them, just like any other management official. They must also follow the process dictated by Manual Chapter 1311, which ensures that all allegations of harassment are addressed appropriately. To discuss matters with an office that operates under principles of confidentiality, please contact [the Employee Assistance Program](#) or the [Office of the Ombudsman](#).

What if I report harassment and the harasser retaliates against me?

Document the retaliatory treatment and report it to the [Civil Program](#) and/or the [Office of Equity, Diversity, and Inclusion](#) as soon as possible.

Will Civil Specialists serve as my advocate during this process?

Civil Specialists carry out the NIH's obligation to look into and address harassment allegations swiftly and objectively, as well as provide advice to deescalate and address difficult situations. They do not advocate for anyone during this process. For assistance with options and stress management during the process, please contact the [Employee Assistance Program](#) or the [Office of the Ombudsman](#).

Will I find out the results of the administrative inquiry?

The reporting party will receive notification that the inquiry is complete and that Civil Specialists are working with management to ensure a safe and civil work environment, but no other information will be provided. Civil Specialists do not release reports or findings, as they are responsible for safeguarding the privacy of all staff.