

Preventing and Addressing Harassment and Inappropriate Conduct



TOOLKIT FOR MANAGERS & SUPERVISORS

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

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Purpose

The contributions of each and every member of the National Institutes of Health (NIH) 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 managers and supervisors t 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:

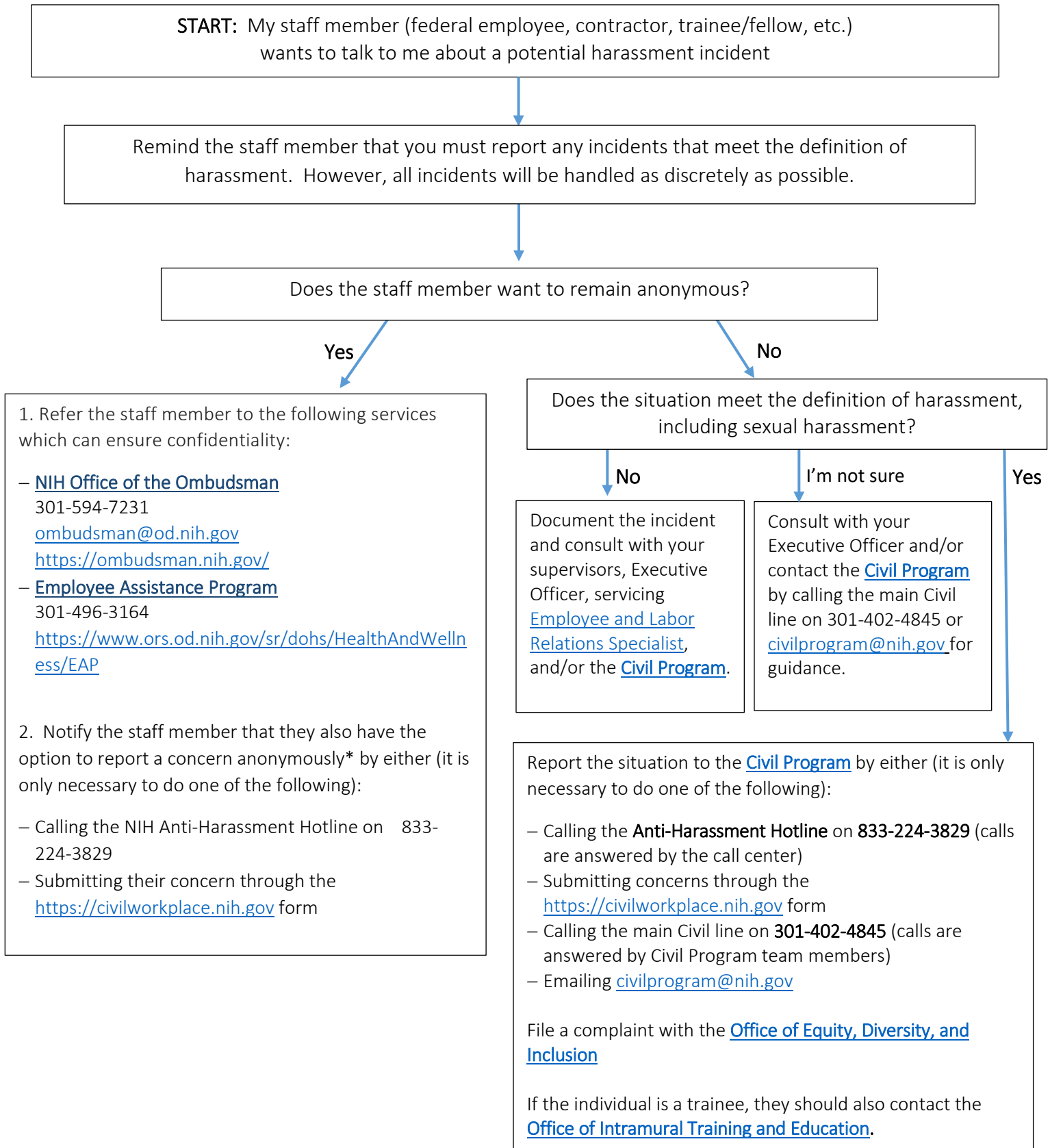
Inappropriate conduct is broader than harassment, because it does not require membership in a protected class. Inappropriate conduct includes any comments or conduct that disparages or demonstrates hostility or aversion towards any person that could reasonably be perceived as disruptive, disrespectful,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

Responding to a Report of Harassment for Managers and Supervisors



**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. This inquiry may be done internally by Civil Specialists or externally by a contract investigator depending on the circumstances.

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 that employees have a safe and professional work environment. Due to privacy rights and procedures, 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. 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 with Recommended Talking Points

What is my role regarding harassment in the NIH workplace?

Management must report any allegations of harassment, sexual harassment, retaliation, and hostile work environment directly to the Civil Program and must fully cooperate throughout the course of the inquiry. Managers and supervisors must not guarantee confidentiality to any staff and, as representatives for the agency, have an obligation to report allegations of harassment or sexual harassment as soon as possible to the [Civil Program](#). Some improper workplace behaviors are problematic, and should be dealt with, but do not rise to the definitions of harassment and do not need to be reported to the Civil Program. This may include misunderstandings and misinterpretations of behavior by other staff members, non-threatening and non-inappropriate arguments or disputes between staff members, or similar minor isolated incidents.

Suggested Talking Points

- *As a management official, once I am made aware of an allegation of harassment, NIH is considered officially on notice. This triggers management's obligation to ensure the behavior stops and is addressed as soon as possible. It is NIH policy that I must report allegations of harassment, including sexually harassment, to the Civil Program.*
- *If would like to explore all of your options in a confidential setting before making an official report of harassment, please contact the [Employee Assistance Program](#) and/or the [Office of the Ombudsman](#).*
- *You may report your concern to the Civil Program anonymously through their toll-free hotline (833-224-3829) or the <https://civilworkplace.nih.gov> form.*
- *You may also contact the [Office of Equity, Diversity, and Inclusion](#) to initiate the EEO complaint process.*
- *You may use a reasonable amount of time during the work day to use these resources.*

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 to, nor does it replace, filing an 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.

The 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 if the employee is not my direct report?

All managers and supervisors are obligated to report an allegation of harassment to the Civil Program, even if the employee reporting the allegation to you is not your direct report. You can talk through different ways to report the allegation with the employee, but you must also contact the [Civil Program](#).

What if my direct report is alleging harassment against me?

You should reach out to the Civil Program and cooperate fully with the inquiry. Additionally, you must continue to supervise the employee, including addressing conduct and performance issues utilizing guidance from your servicing [Employee Relations Specialist](#). It also may be helpful to seek support or coaching with the Employee Assistance Program and/or the Office of the Ombudsman.

What if there is an active inquiry involving my staff?

Discuss the most effective ways to communicate with the Civil Program and your servicing [Employee Relations Specialist](#). If staff ask you about the inquiry, encourage them to actively participate in the process. Let them know that they should be truthful and forthcoming and also emphasize that they should not discuss the inquiry with coworkers. Show that you support the process and encourage them to direct their questions to the Civil Specialist conducting the inquiry.

Suggested Talking Points

- *You should answer the questions the Civil Specialist asks honestly and share your perspective. Please be as forthcoming as possible and provide any documentation that you think may be relevant.*
- *If you have any questions or concerns about the process or the questions that you are being asked to answer, I encourage you to reach out to the Civil Specialist.*
- *We need to be respectful of each other's privacy. Internal gossip only detracts from a healthy work environment and I expect work to proceed without further disruption.*
- *I appreciate that this can be a stressful and uncomfortable process and encourage you to utilize all of the NIH resources available to you, including the Office of the Ombudsman and the Employee Assistance Program.*

Can the Civil Program assist me with finding a new position for one of my direct reports?

No, the purview of the Civil Program is to determine if a policy has been violated and to ensure any inappropriate behavior is stopped and addressed appropriately. Civil Specialists do not mediate interpersonal

conflicts, nor do they negotiate resolutions, such as a job transition. If you would like guidance on how to address employee performance or conduct concerns, please contact your servicing [Employee Relations Specialist](#). If you'd like assistance with communication facilitation, mediation, or other resolutions, please contact the [Office of the Ombudsman](#) or the [Office of Equity, Diversity, and Inclusion](#).

How do I determine the most appropriate corrective action for a case?

Once an administrative inquiry is complete, Civil Specialists begin an interactive process with Employee Relations Specialists and the appropriate management officials to review the facts of the case to determine what, if any, corrective action is necessary. Corrective action is based on Federal Employee Relations regulations and combined experience in handling cases. If the corrective action does not reflect the severity of the situation, Civil Specialists may escalate to the Principal Deputy Director for NIH.

What are my obligations if an allegation presents safety concerns?

Share your concerns with the Civil Program Specialist and your servicing [Employee Relations Specialist](#) and they can help you come up with a plan. For a temporary solution, they may recommend moving the alleged harasser to another office or placing them on telework until more information is gathered.

In severe cases of harm to self or others, they may also consult with the NIH Police and ICO leadership for an NIH facilities ban and administrative leave. In these extreme cases, you should let your staff know that you take their concerns seriously but should not provide details regarding the ban or any other personnel information.

Suggested Talking Points:

- *Please know that I take these concerns very seriously and am working with the appropriate resources to ensure a secure working environment.*
- *If you have any new safety concerns, please share them directly with me. You may also contact the Civil Program and/or the NIH Police to report your concerns. In the event of an emergency, please call 911.*

Can I share the results of the administrative inquiry or the corrective action with concerned staff?

The findings of an administrative inquiry and any related corrective action taken is a private personnel matter and should not be shared with staff.

Suggested Talking Points:

- *I understand it is frustrating not to know the details of the outcome, but I can assure you that if any issues were found, they have been addressed appropriately. If you experience any other concerns, please know that you can always report them to me.*
- *As a supervisor, I must be mindful of everyone's privacy and cannot share another individual's private personnel information.*