



ANTI-HARASSMENT POLICY

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1. PURPOSE

The Smithsonian Institution (“SI” or “Smithsonian”) establishes this *Anti-Harassment Policy* (“policy”) to ensure immediate and appropriate corrective action is taken to eliminate harassing conduct (as defined below), regardless of whether the conduct is unlawful. This policy defines unacceptable conduct that violates this policy; outlines the rights and responsibilities of Smithsonian employees, affiliated persons (as defined below), supervisors, and other management officials; and establishes reporting procedures and accountability measures. Further information on reporting procedures is outlined in the associated *SI Civil Program Handbook*.

2. BACKGROUND

In seeking to maintain a work environment that is free of harassment and workplace violence, the Smithsonian established the “SI Civil Program.” The SI Civil Program includes both this *Anti-Harassment Policy* and the *Workplace Violence Prevention Policy* ([SD 217](#)), along with an associated handbook and materials. The name “Civil” is not an acronym but represents the goal of “civil behavior in the workplace.” Both policies and other guidance related to the SI Civil Program may be found on [the SI Civil website](#).

This anti-harassment policy and related procedures do not exist for the same purposes as the Equal Employment Opportunity (EEO) complaints process. The EEO process is designed to make individuals whole due to discrimination that already has occurred. The internal Smithsonian anti-harassment process is intended to take immediate and appropriate corrective action, including the use of disciplinary action, to eliminate harassing conduct regardless of whether the conduct violated the law.

3. POLICY

The Smithsonian is committed to maintaining a work environment that is free from harassment. An environment where people feel welcome, respected, and valued is necessary for all individuals to contribute to their fullest potential. The Smithsonian will not tolerate offensive sexual or non-sexual harassing behavior against any Smithsonian employee or affiliated person. The misconduct prohibited by this policy is broader than the definition of harassment under Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Americans with Disabilities Act of 1990. The goal of this policy is to address harassing conduct at the earliest possible stage, regardless of whether the conduct is based on a protected class. The Smithsonian will not wait for harassing conduct to become severe or pervasive before taking corrective action.

Employees and affiliated persons are subject to disciplinary action, up to and including removal, for engaging in harassing conduct while in the workplace or in any work-related situation, including off-duty situations or while on official travel. Off-duty misconduct that violates this policy may subject the employee or affiliated person to potential discipline if the misconduct is likely to adversely affect the work environment (e.g., harassing a co-worker, visitor, contractor, or volunteer during off-duty hours).

The Smithsonian also will not tolerate retaliation against employees or affiliated persons because they report harassing conduct or provide information related to such reports (also known as “protected activity”). It is a violation of this policy to retaliate against employees or affiliated persons who engage in protected activity under this policy. A manager may not fire, demote, harass, or otherwise take any personnel action against an individual for engaging in protected activity. Anyone reporting what he or she believes to be a legitimate concern or providing information related to a report shall be protected from retaliation.

To prevent and remedy incidents of workplace harassment, the Smithsonian must be made aware of the conduct or behavior. Smithsonian employees and affiliated persons are encouraged, but not required, to report harassing conduct (as defined in the “*Definitions*” section below) they are subjected to or witness. Any employee or affiliated person who has been subjected to harassment is encouraged to inform the person(s) responsible for the conduct that it is unwelcome and offensive, and request that it cease. If the conduct continues or if the employee is uncomfortable communicating with the responsible person(s) about the conduct, the employee is encouraged to report the matter in accordance with the “*Reporting and Response*” section below.

Smithsonian employees and affiliated persons should be aware that management officials, supervisors, mentors, advisors, and sponsors cannot keep allegations regarding workplace violence or harassment completely confidential, even if the management official, supervisor, mentor, advisor, or sponsor is outside of the individual’s chain of command. When a report is

made, the Smithsonian will conduct a prompt, objective, and thorough investigation, as appropriate.

4. APPLICABILITY

This policy covers all Smithsonian employees and affiliated persons, as identified in the “*Definitions*” section below, and supersedes any other Smithsonian policies or procedures which conflict with this policy. Because the Office of the Inspector General (OIG) is statutorily independent, the requirements of this policy do not apply to the OIG.

5. DEFINITIONS

These definitions are provided for use in the context of this directive and should not be construed as legal definitions. Definitions of other terms related to harassment and reporting procedures are available in the *SI Civil Program Handbook*. Please contact SI Civil if you have any questions as to whether these definitions apply in a specific situation.

Administrative Investigation or Inquiry. An impartial investigation related to the non-criminal conduct or actions of an employee or affiliated person to determine whether such conduct or actions violates Smithsonian policies.

Administrative Investigator. An individual, whether internal to the Smithsonian or a third-party contract investigator, who conducts the administrative investigation and prepares the fact-finding report.

Affiliated Persons. This term refers to the following categories of individuals who are not Smithsonian employees, but who are regularly present and/or work within Smithsonian facilities and property, including Smithsonian leased facilities and property:

- Contractors who perform work that is similar to Smithsonian employees, such as temporary help firms’ employees;
- Other contractors, such as construction contractors and food service contractors’ employees;
- Volunteers, as defined in SD 208, *Standards of Conduct Regarding Smithsonian Volunteers*;
- Interns, as defined in SD 709, *Smithsonian Institution Interns*;
- Fellows, as defined in SD 701, *Smithsonian Institution Fellows*;

- Research Associates, as defined in SD 205, Smithsonian Institution Research Associates;
- Emeriti, as defined in SD 206, Emeritus Designations;
- Friends of the National Zoo (FONZ) employees;
- Smithsonian Early Enrichment Center (SEEC) employees;
- Visiting researchers, including scientists, scholars, and students;
- Employees of federal, state, and local agencies working with Smithsonian employees at Smithsonian facilities and property; and
- Regents and advisory board members.

Harassing Conduct. The conduct prohibited by this policy includes, but is broader than, the legal definition of harassment covered by the EEO complaint process, which is administered by the Smithsonian's Office of Equal Employment and Supplier Diversity (OEESD). The conduct described below is prohibited even if the actions are not based on a protected characteristic such as race or disability.

Harassing conduct prohibited by this policy is defined as unwelcome conduct, that a reasonable person would find objectionable, when:

1. the behavior can reasonably be considered to adversely affect the work environment; or
2. an employment decision affecting the employee or affiliated person is based upon the employee's or affiliated person's acceptance or rejection of such conduct.

Harassing conduct can be verbal or physical; it can occur in-person, through phone calls or in writing, or through social media, or other forms of technology. Petty slights, annoyances, and isolated incidents (unless extremely serious) will generally not rise to the level of harassment. Generally, a dispute or conflict related to work assignments or performance will also not rise to the level of harassment. Employees and affiliated persons should be aware that any misconduct, regardless of whether it rises to the level of harassment, may result in disciplinary action. Examples of harassing conduct covered by this policy include but are not limited to:

- racial epithets or slurs;
- stereotyping;
- sexual advances;
- sexually explicit/graphic material;
- inappropriate jokes/pranks; and

- other bullying or abusive behaviors (e.g., repeated and malicious work sabotage, slander, ridicule, or verbal abuse).

Retaliation. It is a violation of this policy to retaliate against employees or affiliated persons who engage in protected activity under this policy. Protected activity includes reporting harassing conduct or providing information related to such reports. A manager may not fire, demote, harass, or otherwise take any personnel action against an individual for engaging in protected activity.

The **SI Civil Coordinator** is the Smithsonian's Anti-Harassment and Workplace Violence Prevention Coordinator and manages SI Civil, including the reporting process.

SI Civil Program (SI Civil). A team of Smithsonian experts and specialists who help address and prevent harassment and workplace violence through: managing this policy and [SD 217, Workplace Violence Prevention Policy](#); educating Smithsonian employees and affiliated persons on policies and reporting processes; providing guidance to Smithsonian management officials and employees; assessing allegations to determine the appropriate management response; and immediately responding to violent or potentially violent incidents or threats. Smithsonian employees and affiliated persons may contact [SI Civil](#) for assistance by phone, email, or by visiting the SI Civil website on the Smithsonian intranet (Prism) and the public-facing Smithsonian website.

6. REPORTING AND RESPONSE

A supplementary *SI Civil Program Handbook* provides additional guidance on the reporting and response process. Please contact [SI Civil](#) if you have any questions regarding reporting.

Reporting Harassment. The Smithsonian cannot correct misconduct if a supervisor or other Smithsonian management official is not aware of it. Any employee or affiliated person who has been subjected to harassing conduct, or witnesses the behavior, is encouraged to inform the person(s) responsible for the conduct that it is unwelcome and offensive, and request that it cease.

If the conduct continues or if the reporting party is uncomfortable communicating with the responsible person(s) about the conduct, the reporting party is encouraged to report the matter to:

- the supervisor, mentor, advisor, or sponsor of the employee or affiliated person engaging in the harassing behavior;
- his or her own supervisor, mentor, advisor, or sponsor;

- another supervisor or Smithsonian management official; or
- SI Civil.

Note that since employees and affiliated persons have these other reporting options as described above, they are not required to make such a report only to their immediate supervisor, mentor, advisor, or sponsor (or in the case of contractors, their Contracting Officer's Representative [COR] or employing company).

Employees or affiliated persons who know of or witness possible harassing conduct directed at others are encouraged to report the matter to a Smithsonian management official or SI Civil. Management officials, supervisors, mentors, advisors, and sponsors have an obligation to report the allegation to SI Civil and an internal administrative investigation may be conducted, *if necessary*. This obligation to report exists even if the reporting party is not under the supervision of the manager who received the allegation about harassment.

Employees and affiliated persons are expected to report allegations of harassment in good faith. Failure to cooperate in an investigation may subject an employee or affiliated person to disciplinary action.

Engaging in additional processes and services available to support employees and affiliated persons who have experienced harassing conduct, such as consulting with a union representative to get advice, engaging in alternative dispute resolution procedures, contacting the Employee Assistance Program (EAP), or consulting the Ombuds, do not constitute a report under this policy.

Management Response. When a management official, supervisor, mentor, advisor, or sponsor receives an allegation of harassment directly from an employee or affiliated person, is a witness to harassment, or is informed about an allegation of harassment, he or she must promptly take steps to respond by:

- reporting to SI Civil as soon as possible (*even if the individual raising the allegation wishes to remain anonymous, requests complete confidentiality, or does not wish the report to be addressed with the alleged harasser*);
- ensuring a prompt, objective, and thorough investigation is conducted (if necessary); and
- taking immediate and appropriate corrective action if it is determined a violation of this policy has occurred.

Smithsonian employees and affiliated persons who come forward with an allegation of harassment should be informed that management officials, supervisors, mentors, advisors, and

sponsors have an obligation to report the allegation and an internal administrative investigation may be conducted, *if necessary*. This obligation exists even if the reporting party is not under the supervision of the manager who received the harassment allegation. Failure by management officials, supervisors, mentors, advisors, or sponsors to report allegations to SI Civil may result in appropriate disciplinary and/or administrative action against the management official, supervisor, mentor, advisor, or sponsor who received the initial report. Failure to cooperate in an investigation may subject an employee or affiliated person to disciplinary action.

Specific response and reporting requirements and procedures are outlined in the associated *SI Civil Program Handbook*. Supervisors and managers may conduct their own administrative investigation into matters covered by this policy, but they still must report to [SI Civil](#), even if it was determined that no violation of the policy has occurred.

Prohibited Retaliatory Conduct. It is important that supervisors and managers protect employees and affiliated persons who report alleged misconduct under this policy, and do not take any retaliatory personnel action against these individuals in order to deter reporting harassing conduct or filing a report. A management official, supervisor, mentor, advisor, or sponsor found to have engaged in retaliation is subject to disciplinary action.

Engaging in protected activity under this policy does not shield an employee from all personnel actions. Supervisors can take personnel actions, including discipline and removal, if they are for non-retaliatory and non-discriminatory reasons that would otherwise result in such consequences (e.g., transferring an employee for legitimate business reasons or closely monitoring the performance of an employee on a Performance Improvement Plan).

Distinction from Statutory Claims and Grievances. Raising an allegation with the SI Civil Program under this policy is not equivalent to or in lieu of filing an Equal Employment Opportunity (EEO) complaint, under 29 *Code of Federal Regulations* (CFR) 1614 and [SD 214](#), a grievance under the administrative or negotiated grievance procedures, or any other complaint process.

The Smithsonian's responsibility to conduct an administrative investigation is a stand-alone requirement to ensure that the allegation is examined expeditiously, and any inappropriate behavior is promptly addressed. Employees and affiliated persons who allege harassment based on race, color, national origin, religion, sex (sexual orientation, gender identity, gender stereotyping and pregnancy), disability, age, genetic information and/or retaliation for protected EEO activity may also initiate the EEO discrimination complaint process in accordance with [SD 214](#) and the [Equal Opportunity Handbook](#) by contacting an EEO counselor in OEESD within 45 calendar days of the date of the alleged discriminatory conduct. Once an individual gives OEESD permission to disclose his or her identity during the pre-complaint stage or when a formal EEO complaint is filed with an allegation of harassment, OEESD will notify the SI Civil Coordinator of the allegation, which will initiate the Smithsonian's obligation to conduct a separate administrative investigation, if necessary.

For affiliated persons associated with universities or colleges, filing a report under this policy does not constitute filing a complaint under Title IX of the Education Amendments of 1972.

7. RESPONSIBILITIES

Additional information on responsibilities, such as reporting time frames, may be found in the *SI Civil Program Handbook*. Please contact [SI Civil](#) if you have any questions regarding responsibilities.

Smithsonian employees and affiliated persons are responsible for:

- conducting themselves in a manner that promotes and facilitates a safe and civil organizational culture, and an environment where all individuals are treated with respect and dignity;
- complying with this policy and refraining from engaging in harassing conduct;
- following the reporting procedures in this policy when they choose to report allegations of harassment;
- cooperating fully and truthfully in any administrative investigations of allegations of harassment or inappropriate conduct; and
- participating in any mandatory training required by this policy and [SD 214, EEO Program](#).

Note: Under this policy, all Smithsonian employees and affiliated persons are *encouraged*, but not required, to report harassing conduct of which they are aware or witness in the workplace to a management official or SI Civil. Employees and affiliated persons should be aware that management officials, supervisors, mentors, advisors, and sponsors cannot keep allegations regarding harassment completely confidential, even if the management official, supervisor, mentor, advisor, or sponsor is outside of the individual's chain of command.

Managers, Supervisors, Mentors, Advisors, and Sponsors. In addition to the responsibilities set forth above, managers, supervisors, mentors, advisors, and sponsors are responsible for:

- working to prevent and address harassing conduct in the workplace, promoting a safe and civil organizational culture, and creating an environment where all individuals are treated with respect and dignity;
- notifying employees and affiliated persons of this policy and its requirements;
- informing employees and affiliated persons who report allegations of behaviors covered by this policy that Smithsonian managers have an obligation to report the allegation and

that an internal administrative investigation may be conducted;

- reporting all known allegations and/or incidents of harassing conduct to SI Civil;
- coordinating closely with the SI Civil Program and Office of Human Resources — Labor and Employee Relations Branch (OHR-LER) to appropriately address allegations of harassing conduct and any efforts to correct the conduct (including promptly investigating and taking appropriate action);
- protecting employees and affiliated persons who file reports or participate in inquiries related to matters covered by this policy from retaliation;
- ensuring all employees and affiliated persons take any training required by this policy and [SD 214, EEO Program](#); and
- referring employees to the EAP or other SI resources, as appropriate.

Unit Directors. In addition to the responsibilities set forth above, unit directors, and/or their designees, are responsible for:

- ensuring that their organizations are in full compliance with the requirements of this policy;
- authorizing investigations into reports of harassment originating in their organization; and
- ensuring that managers, supervisors, mentors, advisors, and sponsors report allegations of harassing conduct as soon as possible and that they cooperate fully with the SI Civil Program on related inquiries and corrective administrative action to address matters appropriately.

Office of Human Resources. OHR will offer initial and recurring awareness training to all employees on the SI Civil Program and this policy, disseminate and maintain this policy, and provide annual notices to all employees and affiliated persons. OHR will manage the SI Civil Program and provide support as needed.

Office of Human Resources — Labor and Employee Relations Branch. OHR-LER is responsible for:

- managing the SI Civil Program, including the SI Civil Coordinator;
- offering training to supervisors and managers regarding the appropriate use of management tools such as probationary periods and disciplinary actions to address employee misconduct, including violations of this policy;
- providing advice and guidance to supervisors and managers to assist in determining

what type of disciplinary action, if any, is appropriate if a violation of this policy occurs; and

- providing advice and guidance to supervisors and managers to assist them in determining what types of interim actions are appropriate during an administrative investigation (e.g., placing an employee on administrative leave).

SI Civil Coordinator. The SI Civil Coordinator is responsible for:

- serving as the main point of contact for questions and issues related to this policy and the *Workplace Violence Prevention Policy* (and related materials);
- managing SI Civil by developing policies, programs, and guidance to implement this policy and the *Workplace Violence Prevention Policy*;
- tracking cases and providing periodic reports to Smithsonian leadership and the Smithsonian Board of Regents (as required by the Bylaws of the Board of Regents);
- ensuring the initial review of the allegations is conducted within 10 calendar days of the initial report;
- guiding managers, supervisors, human resources liaisons, and fact-finding investigators through the reporting process;
- 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;
- when there is a finding of harassment, or an individual is placed on administrative leave related to an allegation of harassment, the SI Civil Coordinator will check the [Office of Sponsored Projects \(OSP\) website](#) the same day to determine if the individual has an active grant award from the National Science Foundation (NSF) or the National Aeronautics and Space Administration (NASA) which will trigger required reporting to these agencies by either OSP or the Smithsonian Astrophysical Observatory's Sponsored Projects & Procurement Department ([SAO-SPPD](#)). If the name of the individual with a finding or administrative action appears on the OSP list, the SI Civil Coordinator will immediately notify the OSP Director or SAO-SPPD Manager, as appropriate, to inform them that the finding or action has occurred, since reporting is required within 10 business days of the finding or action;
- developing training and technical assistance on this policy and [SD 217](#), *Workplace Violence Prevention Policy* and related procedures, including, but not limited to, training

for designated investigators, training for new managers and supervisors, periodic training for managers and supervisors, incorporation into employee orientation materials (e.g., handbooks, brochures, toolkits), and consultation with units and offices on their own education and awareness efforts;

- increasing awareness of SI Civil;
- convening the SI Civil Program Advisory Committee; and
- maintaining relationships and communications with all stakeholders.

SI Civil Program Advisory Committee (SI Civil PAC). The SI Civil PAC, consisting of the SI Civil Coordinator and representatives from the Office of the Under Secretary for Administration, Office of Protection Services (OPS), OHR-LER, Employee Assistance Program (EAP), Office of General Counsel (OGC), Office of Equal Employment and Supplier Diversity (OEESD), Office of Fellowships and Internships (OFI), and the Ombuds, is responsible for:

- reporting to the Under Secretary for Administration on current cases and the SI Civil Program in general (to include this policy, the *Workplace Violence Prevention Policy*, associated guidance, and reporting processes);
- meeting regularly to assess and evaluate the SI Civil Program and discuss ongoing cases and trends;
- reviewing and approving training and guidance related to the SI Civil Program; and
- recommending specific changes or updates to the SI Civil Program.

Administrative Investigator. An administrative investigator, who may be an internal Smithsonian employee or a third-party contract investigator, is responsible for:

- conducting administrative investigations, when assigned, in accordance with relevant policies, procedures, and guidelines;
- ensuring that the investigations are swift, thorough, impartial, and appropriate to the allegation; and
- limiting disclosure of sensitive information to only individuals with a need-to-know for business-related reasons.

Office of Equal Employment and Supplier Diversity. In addition to the responsibilities set forth in [SD 214, EEO Program](#), OEESD is responsible for:

- notifying the SI Civil Coordinator of an allegation of harassment when an individual gives OEESD permission to disclose his or her identity during the pre-complaint stage or when

a formal EEO complaint is filed;

- partnering with the SI Civil Coordinator on joint training related to harassment;
- updating the mandatory training courses for Smithsonian supervisors and employees to include information on the Smithsonian's Anti-Harassment Policy and reporting procedures (e.g., SI Civil contact information); and
- assigning an OEESD representative(s) as a member of the SI Civil PAC.

Employee Assistance Program. EAP counselors are responsible for:

- providing short-term counseling to employees experiencing personal, health, and/or work-related issues;
- referring employees needing long-term counseling to outside treatment resources;
- participating in post-incident trauma counseling; and
- assigning an EAP representative(s) as a member of the SI Civil PAC.

Office of Fellowships and Internships. OFI is responsible for:

- disseminating information related to this policy and the SI Civil Program to Smithsonian interns, Fellows, and research associates (regardless of the individual's working title adopted by the unit);
- ensuring that all Smithsonian interns, Fellows, and research associates are made aware of their obligation to comply with Smithsonian policies; and
- assigning an OFI representative(s) as a member of the SI Civil PAC.

Standards of conduct related to prevention of harassment identified in [SD 205](#), *Smithsonian Institution Research Associates*, [SD 701](#), *Smithsonian Institution Fellows*, and [SD 709](#), *Smithsonian Institution Interns*, provide additional guidance.

Ombuds. The Smithsonian Ombuds is responsible for providing a confidential, impartial, and informal environment where Smithsonian employees and affiliated persons can consider options to analyze and address work-related conflicts and complex or sensitive situations. The Ombuds will also serve as a member of the SI Civil PAC.

8. CONFIDENTIALITY AND PRIVACY

Confidentiality. All reports of harassing conduct and related information will be maintained on a confidential basis *to the greatest extent possible*. The identity of the employee alleging

violations of this policy and any witnesses will be kept confidential, except as necessary to conduct an appropriate investigation into the alleged violations, to take appropriate disciplinary or corrective action, to comply with the reporting requirements of this policy, or when otherwise required by law. Federal reporting requirements obligate the Smithsonian to report findings of harassment and certain administrative actions related to individuals who have an active grant award from NSF or NASA. In these specific situations, the subject's name will be disclosed to those agencies.

If any party would like to discuss the allegations in a completely confidential setting, he or she should contact the EAP or the Ombuds, both of which operate under principles of confidentiality. Once an allegation is raised to a management official or to SI Civil, the Smithsonian is required to initiate a prompt, objective, and thorough administrative investigation. SI Civil will notify the reporting party of the status of the administrative investigation, when it has been referred to the appropriate management officials, and when the matter has been addressed. However, because of privacy rights and procedures, no further information will be provided.

Privacy. Personally identifiable information (PII) and other sensitive information collected pursuant to this policy will be stored in electronic personnel systems. Access to any PII or other sensitive information is limited to persons with a valid business reason and only in the performance of their official duties (e.g., conducting an administrative investigation). These practices are consistent with the Smithsonian Privacy Office guidelines identified in [SD 118](#), *Privacy Policy*, and [SD 119](#), *Privacy Breach Policy*.

SUPERSEDES: Not applicable/New directive.

INQUIRIES: Office of Human Resources (OHR).

RETENTION: Indefinite. Subject to review for currency 36 months from date of issue.
