

NASA Policies, Merit System Principles, and Prohibited Personnel Practices

Conscientious and principled decision making is a must for NASA managers and others who exercise personnel authority. Those who take, direct others to take, recommend, or approve any personnel action should be familiar with NASA policies on Diversity and Inclusion, Equal Employment Opportunity (EEO), Anti-Harassment, and laws governing Merit System Principles and Prohibited Personnel Practices.

NASA Policy on Diversity and Inclusion

Diversity and inclusion are integral to mission success at NASA. Commitment to these principles helps to ensure fairness and equity in hiring and decision making. Diversity and inclusion engage and utilize the talents, backgrounds, and capabilities of individuals and teams to create and maintain a work environment where diverse ideas are highly valued. NASA strives to build and maintain an environment in which employees are encouraged to offer their viewpoints and perspectives before critical decisions are made. To do so, NASA must cast the widest net possible on all hiring actions and be an organization where the expression of ideas and opinions is welcomed and encouraged.

The NASA Policy Statement on Diversity and Inclusion is accessible at:

http://odeo.hq.nasa.gov/documents/Diversity_Inclusion_Policy_Statement.pdf.

NASA Policy on EEO

Equal opportunity in employment means opportunity not just for some, but for all. NASA provides equal opportunity in Federal employment regardless of race, color, sex (including pregnancy, sexual harassment, sex stereotyping, caregiving responsibilities, gender identity, and sexual orientation), national origin, religion, age, disability (physical or mental), or genetic information (including family medical history). (Note: Although discrimination based on caregiving responsibilities may be a form of sex-based discrimination, it may also be a form of discrimination under other bases, such as disability, race, or national origin.) EEO covers all human capital and employment programs, management practices, and decisions including, but not limited to, recruitment, hiring, merit promotion, transfer, reassignment, training and career development, benefits, and separation. NASA supports employee rights under EEO law, and reprisal against individuals who exercise their rights will not be tolerated. NASA will continue to strive for a workplace that is free from all forms of illegal discrimination, including harassment and retaliation. NASA will also continue to provide reasonable accommodations to qualified individuals with disabilities, as appropriate.

The NASA Policy Statement on EEO is accessible at:

http://odeo.hq.nasa.gov/documents/EEO_Policy_Statement_TAGGED.pdf.

To discuss an EEO concern or initiate a complaint, contact an EEO Counselor at your Center. The NASA EEO Complaints process is accessible at: http://odeo.hq.nasa.gov/complaint_process.html.

NASA Policy on Anti-Harassment

NASA remains committed to providing a work environment free from harassment and to addressing harassing conduct as early as possible, before it becomes pervasive or severe. Therefore, it is NASA policy to take immediate and appropriate action when the Agency is made aware of allegations of harassment or determines that harassing conduct has occurred. Harassment is defined

as any unwelcome verbal or physical conduct, based on an individual's race, color, gender, national origin, religion, age, disability, sexual orientation, status as a parent, or gender identity, which can reasonably be considered to adversely affect the work environment or an employment decision based upon the individual's acceptance or rejection of such conduct. It is the responsibility of all employees to immediately report possible incidents of harassment. Employees who make a good faith report of harassing conduct or who assist in any inquiry regarding such a report are protected from retaliation.

The NASA Policy Statement on Anti-Harassment is accessible at:

http://odeo.hq.nasa.gov/documents/Anti-Harassment_Policy_Statement_TAGGED.pdf.

The NASA Anti-Harassment Procedures are accessible at:

<https://nodis3.gsfc.nasa.gov/displayDir.cfm?t=NPR&c=3713&s=3>.

Merit System Principles (5 USC 2301)

The Merit System Principles are basic standards governing the management of the executive branch workforce. The Principles state that supervisors and managers shall:

- Recruit qualified individuals from all segments of society and select and advance employees on the basis of relative ability, knowledge, and skill after fair and open competition.
- Treat employees and applicants fairly and equitably, without regard to race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation, and with proper regard for their privacy and constitutional rights.
- Provide equal pay for equal work and appropriate recognition for excellent performance.
- Maintain, and ensure that employees maintain, high standards of integrity, conduct, and concern for the public interest.
- Manage employees efficiently and effectively.
- Retain or separate employees on the basis of their performance; inadequate performance should be corrected, and employees who do not meet required standards should be separated.
- Educate and train employees when it will result in better organizational or individual performance.
- Protect employees from improper political influence.
- Protect employees against reprisal for the lawful disclosure of information in "whistleblower" situations (i.e., protecting people who report things like illegal and/or wasteful activities).

Prohibited Personnel Practices (5 USC 2302)

Prohibited Personnel Practices are those things a Federal employee with personnel authority may not do. A Federal employee has personnel authority if he/she can take, direct others to take, recommend, or approve any personnel action.

Personnel actions include appointments, promotions, discipline, details, transfers, reassignments, reinstatements, performance evaluations, significant changes in duties or working conditions, orders for psychiatric testing or examination, and any decisions concerning pay, benefits, awards, or training.

NSEN-3000-0200

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The Code states that supervisors and managers shall not:

- Discriminate for or against an employee or applicant on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation.
- Solicit or consider any employment recommendation not based on personal knowledge or records, and that relate to the individual's performance, ability, aptitude, general qualifications, character, loyalty, or suitability.
- Coerce the political activity of any person, or take any action as reprisal against an employee or applicant who refuses to engage in such political activity.
- Deceive or willfully obstruct any person with respect to such person's right to compete for employment.
- Influence a person to withdraw from competition for any position for the purpose of improving or injuring the prospects of another person for employment.
- Grant any preference or advantage not authorized by law, regulation, or rule to any employee or applicant for the purpose of improving or injuring the prospects of any particular person for employment.
- Employ or advocate for the employment or advancement of a relative, to a position over which the supervisor exercises jurisdiction or control.
- Retaliate or threaten to retaliate against a whistleblower, whether an employee or an applicant.
- Retaliate or threaten to retaliate against an employee or applicant who exercises his/her appeal/complaint/grievance rights, testifies for or lawfully assists another individual exercising such rights, cooperates with an Inspector General or the Special Counsel, or refuses to obey an order that would require the individual to violate a law.
- Discriminate for or against an employee or applicant based on conduct which does not adversely affect performance of the employee, applicant, or others.
- Knowingly violate Veterans' Preference requirements.
- Violate any law, rule, or regulation implementing or directly concerning the merit principles.
- Implement or enforce a nondisclosure agreement or policy lacking notification of whistleblower rights.

For more information, please refer to the attached file titled "Your Rights as a Federal Employee Enforced by The U.S. Office of Special Counsel." Failure to follow the law or Agency policy may result in disciplinary action up to and including removal from Federal service.

To report a violation of the Prohibited Personnel Practices, you may contact the U.S. Office of Special Counsel (OSC) either by visiting their Web site at www.osc.gov, and filing a complaint by clicking the **File A Complaint** tab at the top, or by clicking the **Contact** tab at the top and contacting the Point of Contact (POC) listed for your specific needs. You may also contact NASA's Office of Inspector General (OIG) at: <http://oig.nasa.gov>. Click the **HOTLINE** button at the top of the page to view its address, phone numbers, and e-mail link.

For questions concerning this notice, contact:
NASA Shared Services Center (NSSC) Customer Contact Center
1-877-677-2123 (1-877-NSSC123) or nssc-contactcenter@nasa.gov

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YOUR RIGHTS AS A FEDERAL EMPLOYEE

—enforced by—

THE U.S. OFFICE OF SPECIAL COUNSEL

- I. The U.S. Office of Special Counsel (OSC) is an independent federal agency that investigates and prosecutes allegations of prohibited personnel practices (PPP).

What is a PPP?

Under 5 U.S.C. §2302(b)(1) – (b)(13) a federal employee authorized to take, direct others to take, recommend or approve any personnel action may not:

1. Discriminate (including discrimination based on marital status and political affiliation).
Supervisor Joe refuses to promote employee Jane because Jane is a registered Republican, or his refusal is because she is a single mother. (OSC will generally defer Title VII discrimination allegations to the EEO process, rather than duplicating already existing procedures.)
2. Solicit or consider employment recommendations based on factors other than personal knowledge or records of job-related abilities or characteristics.
Selecting official Joe hires applicant Jack based on Senator Smith's recommendation that Jack be hired because Jack is a constituent, or fails to hire applicant Jane because of Congressman Smith's recommendation based on the Congressman's friendship with Jane's parents.
3. Coerce the political activity of any person, or take action against any employee as reprisal for refusing to engage in political activity.
Supervisor Jane takes away significant job duties of employee Jack because Jack will not make a contribution to Jane's favorite candidate.
4. Deceive or willfully obstruct any person from competing for employment.
Supervisor Joe, located in headquarters, orders that no vacancy announcements be posted in the field office where employee Jack works because he does not want Jack to get a new job, or falsely states that there will be extensive travel in the position when he knows that there is no travel.
5. Influence any person to withdraw from competition for a position to improve or injure the employment prospects of any other person.
Supervisor Jane, in an effort to hire employee Joe, tells employee Jack that he should not apply for a position because he is not qualified and will never be selected. Employee Jack is qualified.
6. Give an unauthorized preference to a person to improve or injure the employment prospects of any particular employee or applicant.
Supervisor Jane specifies that Spanish-speaking skills are necessary for a vacant position, for the purpose of selecting employee Jack, who speaks fluent Spanish. The position, however, does not require Spanish-speaking skills.
7. Engage in nepotism.
Second-level supervisor Jane asks first-level supervisor Joe to hire her son or to promote her daughter.
8. Take a personnel action against an employee because of whistleblowing.
Supervisor Joe directs the geographic reassignment of employee Jack because Jack reported safety violations to the agency's Inspector General, or because employee Jill reported a gross waste of funds to the Office of Internal Affairs.
9. Take a personnel action against any employee because of the exercise of an appeal, complaint, or grievance right.

Supervisor Jane places employee Jack on an undesirable detail because employee Jack filed an administrative grievance about his performance rating.

10. Discriminate against an employee on the basis of conduct, which does not adversely affect the performance of the employee.
Jack's employment is terminated because he is gay.
11. Take or fail to take a personnel action, if such action would violate a veterans' preference requirement.
Supervisor Jane hired employee Jack, without considering veteran Jennifer, who was included on the list of eligible employees. (OSC's jurisdiction is for disciplinary actions only; the Dep't of Labor has jurisdiction to investigate for corrective actions.)
12. Take a personnel action against an employee which violates a law, rule, or regulation which implements a merit systems principle.
Supervisor Joe terminates the probationary appointment of employee Jack because of Jack's letter to the editor criticizing affirmative action – a valid exercise of First Amendment rights, a law implementing a merit system principle.
13. Implement or enforce a nondisclosure agreement or policy lacking notification of whistleblower rights.
A manager requires all employees in his program to sign a non-disclosure agreement that prohibits the employees from discussing the program in any way, and fails to notify employees of protected channels for making disclosures.

What can you do if you believe a PPP has been committed?

An employee who believes a PPP has been committed can file a written complaint with the U.S. Office of Special Counsel. Complaint forms are available on the Web at www.osc.gov. Employees do not need attorneys to file a complaint. OSC is an independent and prosecutorial agency. It will investigate allegations of prohibited personnel practices, and seek any corrective and disciplinary action.

II. OSC receives confidential disclosures and enforces the Hatch Act.

Receiving Confidential Disclosures (5 U.S.C. § 1213):

Current and former federal employees and applicants can confidentially report information evidencing a violation of any law, rule, or regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. OSC has the authority to require the head of the agency concerned to investigate the matter if OSC determines that a disclosure has been made.

Enforcing the Hatch Act (5 U.S.C. § 7321-26):

The Office of Special Counsel is authorized to issue advisory opinions that respond to federal employee questions about whether or not they may engage in specific political activities under the Act. The OSC also prosecutes violations of the Hatch Act before the Merit Systems Protection Board. These violations include: using official authority to interfere with an election result; soliciting, accepting or receiving political contributions; soliciting or discouraging political activity of persons before the employing agency; and running for public office in a partisan political election.

III. OSC also enforces the Uniformed Services Employment and Reemployment Rights Act (USERRA).

USERRA protects military service members and veterans from employment discrimination on the basis of their service, and allows them to regain their civilian jobs following a period of uniformed service. USERRA applies to both public and private employers. The Office of Special Counsel, in conjunction with the Department of Labor, investigates and enforces USERRA claims involving federal government employers.

USERRA complaints must be filed with the Department of Labor, Veterans Employment and Training Service (DOL-VETS) at www.dol.gov/vets.

U.S. Office of Special Counsel

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Rev. 05/2015