



Court Services and Offender Supervision Agency
For the District of Columbia
Office of the Director

POLICY STATEMENT

Title: Anti-Harassment
Number: 1510
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Marcus Hodges
Interim Director, CSOSA

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Overview

Background

The Court Services and Offender Supervision Agency (CSOSA or Agency) is committed to creating and maintaining a work environment free from harassment and establishing an effective anti-harassment program to prevent and correct any harassing conduct promptly in the workplace. CSOSA's Anti-Harassment program is managed by the Office of Professional Responsibility (OPR).

CSOSA's Anti-Harassment Policy is designed to assist the Agency in:

- Preventing harassing conduct before it becomes severe or pervasive (i.e., harassment within the meaning of the Equal Employment Opportunity laws).
- Prohibiting unwelcome conduct based on non-EEO bases (i.e., political affiliation, parental status, marital status);
- Conducting a prompt and impartial inquiry or, if appropriate, an investigation into allegations of harassing conduct; and
- Taking immediate and appropriate corrective action, including discipline, when the Agency determines that harassing conduct has occurred.

This Policy and accompanying Operational Instruction (OI) do not preclude managers from providing their employees with the required feedback or action on work performance, time and attendance, and conduct. While perceived negative feedback or action from managers on these matters may be unpleasant for employees, they do not rise to the level of harassment

Relationship to Other Redress Processes

The Agency's anti-harassment process is separate and distinct from the EEO and other processes that may also have authority to process and adjudicate the employee's harassment complaint. In addition to filing an anti-harassment complaint under this policy, employees may also elect to use one of the following processes to adjudicate a harassment complaint:

- Alternative Dispute Resolution (ADR);
 - Equal Employment Opportunity (EEO);
 - Grievance process (negotiated or otherwise); or
 - Any other statutory or regulatory process (e.g., Merit Systems Protection Board (MSPB), Office of Special Counsel (OSC), etc.).
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Overview, Continued

Relationship to Other Redress Processes, Continued

Reporting an allegation of harassing conduct in accordance with the Anti-Harassment policy does not satisfy, suspend, or delay the running of a time period to file a complaint under any of the other redress processes (i.e., EEO) cited above.

Conduct that constitutes harassment under this Policy may also violate the Standards of Employee Conduct.

Summary of Changes

- Updates to Principles.
 - Updates to Authorities.
 - Updates in Definitions.
 - Clarification of responsibilities.
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Coverage

This Policy Statement applies to employees (current and former), applicants, interns, and contractors. However, certain rights and remedies under the policy may be limited to federal employees only.

Authorities

- 42 USC §§ 2000 et seq., Title VII, [Civil Rights Act of 1964](#)
 - 42 USC §§ 2000gg, [Pregnant Workers Fairness Act \(PWFA\)](#)
 - 29 USC §§ 621 et seq., [Age Discrimination in Employment Act of 1967 \(ADEA\)](#)
 - 29 USC §§ 206 et seq., [Equal Pay Act of 1963](#)
 - 29 USC §§ 791 et seq., [Rehabilitation Act of 1973](#)
 - 29 CFR Title 29 Subtitle B Chapter XIV Part 1614, [Federal Sector Equal Employment Opportunity](#)
 - 5 USC § 2301 et seq., [Civil Service Reform Act of 1978](#) and [Federal Employee Antidiscrimination and Retaliation \(No FEAR\) Act of 2001](#)
 - [The Genetic Information Non-Discrimination Act of 2008 \(GINA\)](#)
 - [Executive Order 11478](#), as amended.
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Supersedes

This Policy Statement supersedes PS 1510 *Anti-Harassment* dated *September 14, 2020*.

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Overview, Continued

Disclaimer	The contents of this guidance do not have the force and effect of law and are not meant to bind the public in any way. This document is intended only to clarify existing requirements under the law or agency policies to the public.
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References	• HRD 752.1 Disciplinary and Adverse Actions • PS 1102 Standards of Employee Conduct • PS 1005 Alternative Dispute Resolution Program • GM 1012 Equal Employment Opportunity • OI-OD-OPR-2015-01 The Office of Professional Responsibility • OI-OD-OPR-1510.1 Anti-Harassment Operational Instruction • OI-OD-1005.1 Alternative Dispute Resolution Program • OI-OGC-1102.1 Standards of Employee Conduct
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Administrator	The Office of Professional Responsibility (OPR) is responsible for the administration and contents of this Policy Statement.
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Policy

Principles

The Agency:

- Does not tolerate harassment.
- Maintains a complaint process that provides for a prompt and impartial inquiry and, if appropriate, investigation by the Office of Professional Responsibility (OPR).
- Takes immediate and appropriate corrective action when it determines that harassing conduct has occurred.
- Applies the preponderance of evidence standard to determine whether harassment has occurred.
- Protects the confidentiality of the individuals reporting harassment claims, to the extent possible, and restricts access to information to individuals who have a demonstrated need to know the information.
- Strongly encourages Alternative Dispute Resolution (ADR) at the earliest opportunity, when appropriate.

Employees:

- Who make claims of harassment or provide information related to such claims are protected against retaliation (or reprisal).
- Must complete mandatory harassment awareness training every two years and other training as designated by the Agency.

Supervisors and management officials are required to take training every two years to understand their responsibilities under this Policy and accompanying OI.

Definitions

Complainant	Individual who reports alleged harassing conduct, as defined below , to a manager, supervisor, and/or OPR. This person may or may not be the target of the alleged harassing conduct.
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Discipline	Measures intended to correct employee misconduct that adversely affects the efficiency of the Federal service and encourage employees to comply with standards of conduct and criminal and civil statutes, policies, and procedures of the Agency.
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Harassment (or Harassing Conduct)	For purposes of this policy - • <u>Harassment or harassing conduct</u> is any unwelcome verbal or physical conduct that is based on an individual's race, color, religion, sex, national origin, age (40 or over), disability, genetic information (including family medical history), pregnancy, childbirth, or related medical conditions, marital status, political affiliation, parental status, or retaliation (or reprisal) for prior EEO activity when: 1) The conduct can reasonably be said to unreasonably interfere with the workplace; or 2) The employee endures the offensive conduct as a condition of continued employment. • <u>Harassment or harassing conduct does not have to rise to the level of unlawful harassment that violates EEO laws. Unlawful harassment or harassing conduct, in turn,</u> is harassing conduct that is based on one or more protected basis and where: 1) Enduring offensive conduct becomes a condition of continued employment; or 2) The conduct is severe or pervasive enough to create a work environment that a reasonable person would find intimidating, hostile or abusive.
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Even though a single utterance or act of misconduct is generally not severe and pervasive to establish unlawful harassment, it may nonetheless constitute harassment covered under, and prohibited by, this Policy if the utterance or act adversely affects the work environment.

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Definitions, Continued

Harassment (or Harassing Conduct), Continued	Sexual harassment is a type of harassment. Harassment committed by third parties in the workplace may be actionable under this Policy (e.g., harassment by a supervisee (private citizen) or a contractor).
Harassment (or Harassing Conduct) Examples	Examples of harassment include, but are not limited to: • Offensive or derogatory jokes based on disability (i.e., mental or physical impairment). • Racial or ethnic slurs. • Pressure for dates or sexual favors. • Unwelcome comments about a person's religion (or lack of religious belief) or religious garments. • Obscene gestures, jokes, or sounds. • Offensive graffiti, cartoons, or pictures. • Negative stereotypes about nationality. • Age related comments (40 and over). • Unwanted physical contact, including touching.
Protected Activity	Protected activity includes participating in an EEO process or opposing discrimination. • Participation in an EEO process refers to: – Raising a claim, – Testifying, – Assisting, or – Participating in any manner in an investigation, proceeding or hearing under the EEO laws. • Opposition activity includes opposing any practice made unlawful by the EEO statutes. The protection for opposition is limited, however, to those individuals with: – A reasonable good faith belief that a potential EEO violation exists; and – Who act in a reasonable manner to oppose it.

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Definitions, Continued

Retaliation (or Reprisal)	Taking (i.e. firing) or threatening to take an action against an individual (i.e. change in job assignment) that is reasonably likely to deter the individual from engaging in EEO protected activity or because the individual has already engaged in an EEO protected activity (i.e. filed a complaint of harassment).
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The protections against retaliation apply to all employees of any employer, employment agency, or labor organization covered by the EEO laws. This includes applicants, current employees (full-time, part-time, probationary, seasonal, and temporary) and former employees.

Subject of Complaint	An individual who is reported to have engaged in alleged harassing conduct.
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Targeted Individual (or Target)	An individual who is the direct recipient of the alleged harassing conduct.
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Roles and Responsibilities

Employees

- Comply with this Policy and accompanying OI.
 - Refrain from engaging in harassing conduct.
 - Promptly report any incident of harassing conduct.
 - Fully cooperate with any inquiry, investigation, or other proceeding into allegations of harassing conduct.
 - Review and sign witness statement when instructed by OPR.
 - Complete federally mandated anti-harassment training and any other Agency mandated training.
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Contractors and Interns

- Refrain from engaging in harassing conduct.
 - Promptly report any incident of harassing conduct by employees or others in the workplace.
 - Attend anti-harassment training as determined by Training and Career Development Center (TCDC), for interns.
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Managers and Supervisors

Promote a workplace that is free of harassing conduct and retaliation by:

- Complying with this Policy and Operational Instruction.
- Refraining from engaging in harassing conduct and retaliation.
- Acting promptly and appropriately to prevent harassment and retaliation in the workplace.
- Promptly reporting any incident of harassing conduct in accordance with this Policy.
- In consultation with Office of Human Resources (OHR)-ELR, providing interim relief to alleged targeted individual of harassment pending the outcome of the inquiry and/or investigation to ensure that further misconduct does not occur.
- In consultation with ELR, taking prompt and appropriate disciplinary action, up to and including removal where harassment is determined to have occurred or where there has been a failure to carry out responsibilities under this Policy.
- Maintaining the confidentiality of individuals who report allegations of harassment to the extent possible.

NOTE: If the supervisor or management official does not have the authority to provide appropriate or interim relief or corrective action in a particular instance, the matter is referred to the appropriate management official.

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Roles and Responsibilities, Continued

**Office of
General
Counsel (OGC)**

- Conducts a legal sufficiency review of the findings of an OPR inquiry and investigation, as needed.
 - Provides legal advice or manages litigation resulting from alleged employee misconduct.
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**Office of
Human
Resources
(OHR),
Employee Labor
Relations (ELR)**

- Provides guidance and support to managers and supervisors on interim relief to individual(s) alleging harassment, as necessary and appropriate.
 - Reviews the Reports of Investigation (ROI) with managers and supervisors and provides guidance and support on appropriate corrective or disciplinary action, up to and including removal.
 - Documents and issues notice to OPR as to whether any action (Letter of Reprimand or higher) is taken, including if no action is taken.
 - Provides closing memorandum to the OPR including action taken, if any.
 - Consults with OGC, as appropriate.
 - Maintains and tracks alleged harassment cases and their outcomes using a centralized system.
 - Maintains disciplinary files.
 - Maintains confidentiality to the extent possible.
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**OHR, Training
and Career
Development
Center (TCDC)**

- Provides federally mandated biennial Anti-Harassment training to:
 - Employees; and
 - Supervisors and managers.
 - Maintains and tracks training records in accordance with the Agency's Record Management policy.
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Roles and Responsibilities, Continued

**Office of
Professional
Responsibility
(OPR)**

- Acts as the Anti-Harassment Coordinator (AHC) for the Agency and provides training and guidance on this Policy and Operating Instruction to management and staff, as needed.
 - Receives and conducts an inquiry into allegations of harassment and/or retaliation (or reprisal) pursuant to this Policy and the accompanying OI to determine if there is a harassment claim. If not, issues a Letter of Declination.
 - Investigates allegations of harassment and/or retaliation (or reprisal), where appropriate, and issues ROI.
 - Maintains confidentiality of the process, targeted individual(s), witness(es), and the subject of the complaint, to the extent possible, and release information only to those individuals who have a demonstrated need to know,
 - Maintains and tracks alleged harassment cases and their outcome using a centralized system.
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**Alternative
Dispute
Resolution
(ADR)**

- Provides informal and neutral assistance to staff to address and resolve work-related conflicts, including alleged harassment as appropriate.
 - Provides consultation, coaching, mediation, and facilitation services when requested and as appropriate.
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Agency Director

Sets the Agency policy on the Anti-harassment and ensures the implementation and compliance with the policy.
