



# **POLICY STATEMENT**

Title: Anti-Harassment  
Number: 1510  
Effective Date: 9/14/2020  
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## Overview

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### Background

The Court Services and Offender Supervision Agency (CSOSA or the Agency) is committed to creating and maintaining a work environment free from harassment of any type.

The Agency does not tolerate harassing behavior of any type regardless of whether the behavior rises to the level of a violation of law or related authorities. The Agency also does not tolerate retaliation against those who oppose harassing behavior, report harassing behavior, or assist in any inquiry, investigation, lawsuit, or other proceedings regarding a report of harassing behavior.

This policy establishes the Agency's commitment to:

- Communicating that harassing behavior of any type is not to be tolerated;
- Fostering a work environment free from harassment by ensuring that appropriate officials are notified of, and have the opportunity to correct harassing behavior promptly; and
- Addressing harassing behavior and holding employees accountable at the earliest possible stage.

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### Relationship to other processes

This anti-harassment policy is intended to supplement, not replace or supersede, other processes that permit employees to pursue complaints of alleged harassment. As such, the referenced procedures in this policy are separate and apart from the Equal Employment Opportunity (EEO) complaint process administered by the Office of Equal Employment Opportunity (OEEO), the negotiated grievance process, the Merit Systems Protection Board (MSPB) appeal process, or any other statutory or regulatory complaint process that seeks to provide remedial relief for allegations of harassment that violate federal law or related authorities.

Reporting harassment under this policy does not satisfy or toll the applicable time limits for initiating an EEO complaint, a union grievance, an MSPB appeal, or other statutory or regulatory complaint processes.

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## Overview, Continued

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### General Disclaimers

- This policy establishes definitions as it relates to this policy.
  - Depending on the facts and circumstances, a single incident of harassing behavior may warrant discipline.
  - Behavior that constitutes EEO-based harassment and/or non-EEO based harassment may also violate the Standards of Employee Conduct.
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### Summary of Changes

- This updated policy implements:
- A policy number change to reflect a change in administrator.
  - One Anti-harassment Policy Statement, combining the Sexual Harassment and Anti-Harassment policies, formerly addressed in separate documents.
  - Separation of policy from procedures.
  - [Executive Order 11478](#), as amended.
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### Coverage

This Policy Statement applies to CSOSA employees, contractors, and interns. However, certain rights and remedies under the policy may be limited to individuals who are federal employees.

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### Authorities

- 42 U.S.C. §§ 2000 et seq., Title VII, *Civil Rights Act of 1964*
  - 29 U.S.C. §§ 621 et seq., *Age Discrimination in Employment Act of 1967 (ADEA)*
  - 29 U.S.C. §§ 206 et seq., *Equal Pay Act of 1963*
  - 29 U.S.C. §§ 791 et seq., *Rehabilitation Act of 1973*
  - 29 C.F.R. Title 29 Subtitle B Chapter XIV Part 1614, *Federal Sector Equal Employment Opportunity*
  - 5 U.S.C. § 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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### 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 provide clarity to the public regarding existing requirements under the law or agency policies.

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## Overview, Continued

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**Supersedes** This Policy Statement supersedes:

- PS 1010 *Equal Employment Opportunity Anti-Harassment Policy* dated July 7, 2010
- PS 1011 *Sexual Harassment Policy* dated May 11, 2011

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**References**

- [HRD 752.1](#) (02/26/2011) – Disciplinary and Adverse Actions
- [PS 1102](#) (04/11/2014) – Standards of Employee Behavior
- [PS 1005](#) (04/05/2006) – Alternative Dispute Resolution Program
- [PS 1012](#) (06/17/2014) – Equal Employment Opportunity and Diversity
- [OI-OD-OPR-2015-01](#) – The Office of Professional Responsibility
- [OI-OD-OPR-1510.1](#) – Anti-Harassment Operational Instruction

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**Administrator** The Office of Professional Responsibility (OPR) is responsible for the contents of this Policy Statement.

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## Policy

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### Principles

- The Agency does not tolerate harassing behavior of any type.
  - The Agency conducts a prompt, thorough, and impartial investigation when the Agency receives a complaint or is made aware of allegations of harassing behavior.
  - The Agency takes immediate and appropriate corrective action, including but not limited to the use of discipline against any individual found to violate this policy.
  - The Agency protects the confidentiality of the harassment complaint process to the maximum extent possible.
  - Retaliation for reporting or opposing allegations of harassing behavior of any type or for participating in any investigation, inquiry, lawsuit, or other proceedings, is prohibited and any complaints or allegations thereof are investigated.
  - Each employee must complete harassment awareness training every two years or as otherwise directed by Agency management.
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### Reporting Violations

Corrective action for harassing behavior can only be imposed when Agency officials are notified or become aware of it. To address harassing behavior at the earliest possible stage:

- Employees and non-employees, as defined in this policy, who believe that they have been subject to an incident of harassing behavior in violation of this policy may report this matter, in writing or orally, to any supervisor, management official, and/or OPR.
  - Supervisors and management officials must immediately report harassing behavior of any type or allegations of harassing behavior by others to the appropriate officials. Failure to report an incident of harassment may result in corrective action, including discipline up to and including removal.
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## Definitions

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**Discipline** Measures intended to correct employee misbehavior that adversely affects the efficiency of the service, and/or to encourage employee behavior that is consistent with the law, standards of behavior, policies, goals, work procedures, and office practices of the Agency. Discipline for this policy includes oral admonishments, letters of caution, letters of reprimand, suspensions without pay, reductions in grade or pay, and removal.

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**Discriminatory Harassment (EEO-based)** Any unwelcome behavior that is based upon the EEO- protected categories of:

- Race;
- Color;
- Religion;
- Sex (including pregnancy, sexual orientation, and gender identity);
  - Sexual harassment is a type of discriminatory harassment. However, harassing behavior on the basis of sex does not need to be sexual in nature to be prohibited.
- National origin;
- Age (40 or over);
- Disability;
- Genetic information (including family medical history) and
- Retaliation for previous EEO activity.

Or categories protected by other federal laws and authorities, including:

- Marital status;
- Parental status; and/or
- Political affiliation.

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## Definitions, Continued

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**Discriminatory  
Harassment  
(EEO-based),  
continued**

Harassing behavior becomes unlawful when:

1. Enduring the offensive behavior becomes a condition of continued employment; or
2. The behavior is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. The “reasonable person” standard considers the employee’s perspective and assesses if a reasonable person exposed to the same or similar circumstances would find the environment hostile, intimidating, or offensive.

**Note:** Individuals other than an employee’s supervisor can engage in unlawful harassing behavior.

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**Workplace  
Harassment  
(Non-EEO  
based)**

Behaviors that violate the Standards of Employee Conduct, disrupt the work performance or productivity of the individual(s), or disrupt Agency operations. These behaviors are not motivated or based upon an employee’s protected EEO category, and include, but are not limited to, comments, gestures, displays or postings of materials, intimidation, insult, ridicule, teasing, physical contact, solicitation of favors, the pressure to engage in unwelcome conduct, and bullying.

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**Retaliation**

Taking or threatening to take an unjustified employment action against an employee because that employee resisted, opposed, or reported harassing behavior, or testified or otherwise participated in any inquiry, investigation, lawsuit, or other proceedings regarding a report of harassing behavior.

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## Examples

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### **Discriminatory Harassment (EEO-based)**

Examples include, but are not limited to:

- The use, display, or posting of gestures, photographs, or drawings which would offend a particular racial, ethnic, or religious group or a particular gender.
  - Negative comments about an individual's skin color or other racial/ethnic characteristics.
  - Making disparaging remarks about an individual's gender.
  - Negative comments about an employee's religious beliefs (or lack of religious beliefs).
  - Expressing negative stereotypes regarding an employee's birthplace or ancestry.
  - Negative comments regarding an employee's age, when referring to employees 40 and over.
  - Derogatory or intimidating references to an employee's mental or physical impairment.
  - Repeated attempts to establish an unwanted relationship or repeated requests for dates.
  - Inappropriate touching, including pinching, patting, rubbing, or purposefully brushing up against another person.
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### **Workplace Harassment (non-EEO based)**

Examples include, but are not limited to:

- Slandering, ridiculing, demeaning, or insulting a person or their family, including to others.
  - Persistent name-calling, including nicknaming that is hurtful, insulting, or humiliating.
  - Making abusive or offensive remarks, including personal attacks and profanity, directed towards a specific person.
  - Threatening or committing physical acts such as intentionally pushing, poking, kicking or tripping, making intimidating gestures, and communicating the desire or intent to commit harm.
  - Damaging a person's property or work area.
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## Roles and Responsibilities

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### Employees

- Attend federally mandated anti-harassment training as outlined in this policy.
  - Refrain from engaging in harassing behavior.
  - Promptly report any incident of harassing behavior by employees or others in the workplace.
  - Fully cooperate in inquiries, investigations, or other proceedings into allegations of harassing behavior.
  - Respect the integrity of the process by truthfully and accurately participating in all proceedings.
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### Contractors and Interns

- Refrain from engaging in harassing behavior.
  - Promptly report any incident of harassing behavior by employees or others in the workplace.
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### Managers and Supervisors

- Promote a workplace that is free of harassing behavior and retaliation.
  - Inform employees about policies and procedures for handling incidents of workplace harassment.
  - Monitor the portion of the workplace under their control and supervision to ensure that incidents of harassing behavior and/or retaliation are detected promptly.
  - Ensure that employees who resist, oppose, or report harassing behavior, or participate in any proceeding regarding a report of harassing behavior are protected from retaliation.
  - Maintain, to the greatest extent possible, the confidentiality of those employees who report, resist, or oppose harassing behavior and/or participate in any proceedings regarding a report of harassing behavior.
  - Respond promptly to allegations of EEO and non-EEO-based harassing behavior, and, when warranted, implement corrective and/or disciplinary actions.
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## Roles and Responsibilities, Continued

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### Managers and Supervisors, continued

- Comply with procedures for processing complaints, and cooperate fully with any inquiry, investigation, lawsuit, or other proceedings regarding a report of harassing behavior or retaliation. Exercise authority, in consultation with EEO, OPR, and/or Office of Human Resources (OHR) to provide interim relief to any person who has been the target of any alleged harassing behavior when appropriate.

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

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### Office of Equal Employment Opportunity (OEEO)

- Promotes a diverse and inclusive working environment where individuals are treated equitably and valued for their individuality.
  - Provides Agency-wide leadership and guidance on issues of equal employment opportunity, diversity, and inclusion.
  - Receives and investigates all EEO-based harassment and/or retaliation complaints filed under 29 CFR Part 1614.
  - Provides training and guidance to CSOSA's staff on their rights and responsibilities regarding EEO laws and policies.
  - Examines employment policies, procedures, and practices to identify employment barriers to EEO.
  - Provides guidance to managers as appropriate, and when requested.
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### Office of General Counsel (OGC)

- Conducts a legal sufficiency review of the findings of an EEO and/or OPR investigation, as needed.
  - Responsible for legal responses or managing litigation resulting from the Agency's response to employee behavior.
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### Office of Human Resources (OHR)

- Ensures the performance plans of all supervisors and managers include a critical element that rates their performance on taking appropriate action against employees for harassing behavior, of a sexual or non-sexual nature.
  - Guides in reviewing or conducting inquiries into allegations of workplace conflicts raised by employees.
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## Roles and Responsibilities, Continued

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**Office of Human Resources (OHR),**  
continued

- Advises and assists managers regarding appropriate personnel and disciplinary actions related to harassment, bullying, intimidation, threats, and workplace conflict.
  - Consults with OGC, as necessary, on how to prevent or respond to an incident.
  - Maintains personnel files that include documents associated with any complaints, as appropriate, resulting in disciplinary and/or adverse actions.
  - Advises and counsels management and employees, and upon request, coordinates with the Employee Assistance Program, as well as outside providers when necessary, to provide counseling support and referral information to individuals alleging harassment and/or retaliation.
  - Maintains confidentiality regarding services provided.
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**Office of Professional Responsibility (OPR)**

- Receives all non-EEO based harassment and/or retaliation complaints.
  - Conducts administrative investigations in connection with reports of alleged non-EEO based harassment or misconduct issues against employees of CSOSA, which could lead to disciplinary actions, adverse actions, or refers for criminal prosecution.
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**Training and Career Development Center (TCDC)**

Provides training related to this policy as mandated for federal employees.

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**Alternative Dispute Resolution (ADR)**

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