



UNITED STATES GOVERNMENT
National Labor Relations Board

Date: September 29, 2023

To: All Employees

From: Lauren McFerran, Chairman
Jennifer A. Abruzzo, General Counsel

Subject: Policy Statement on the Prevention of Unlawful Harassment, Including Sexual Harassment

The NLRB is strongly committed to providing a workplace free from all forms of unlawful discrimination, including harassment. Harassment based on an individual's race, color, national origin, religion, sex (including gender identity or expression, sexual orientation, and pregnancy), age (40 or older), marital status, political affiliation, status as a parent, disability, and genetic information (including family medical history) is unlawful and will not be tolerated. Similarly, retaliatory harassment of an individual who has complained about or reported prohibited discrimination or otherwise participated in EEO activity is also unlawful and will not be tolerated.

Any form of prohibited harassment is disrespectful, harms employment relationships, and jeopardizes productivity in the workplace. It can also undermine career opportunities by rewarding or penalizing employees based on conduct unrelated to job performance.

Scope

The Agency's policy against unlawful harassment applies to all Agency employees, including political appointees, and includes harassment by supervisors/managers of subordinates, harassment by subordinates of supervisors/managers, and harassment of Agency employees by their co-workers. This policy covers employees within the workplace, while conducting Agency business outside of the workplace, and while attending Agency-sponsored training conferences or events. The policy also covers employees who are not themselves the subject of harassment, but who work in a setting where harassment of others is sufficiently severe or pervasive as to alter the conditions of their employment. In

addition, the Agency's policy against unlawful harassment provides a mechanism to address harassment by non-employees who conduct business with the Agency.

Harassment that is based on race, color, national origin, religion, sex (gender identity or expression, sexual orientation, and pregnancy) age (40 or older), marital status, political affiliation, status as a parent, prior protected EEO activity, disability or genetic information (including family medical history) constitutes unwelcome or offensive conduct. Harassment is unlawful when (a) the offensive conduct becomes a condition of continued employment, or (b) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Non-sexual unwelcome conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, negative stereotyping, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance.

Sexual harassment is also a form of sex discrimination. Sexual harassment can occur between individuals of the same gender, as well as between those of different genders. Sexual harassment is defined by the EEOC as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, including offensive remarks about a person's sex, when any of the following criteria are met:

- a) submission to the conduct is made, either explicitly or implicitly, a term or condition of an individual's employment;
- b) submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or
- c) the conduct has the purpose or effect of unreasonably interfering with the individual's work performance and/or creating an intimidating, hostile, or offensive work environment.

Harassment based on any protected bases, whether engaged in by a manager, supervisor, co-worker, or non-employee, violates both Agency policy and the law. The Agency also does not tolerate inappropriate and offensive harassing behavior even if it does not rise to the level of unlawful harassment. Such conduct violates the Agency's code of conduct and employees engaging in such behavior may be subject to disciplinary action up to and including discharge.

Procedures

There are two separate and independent processes where employees may submit complaints of harassment. The first process is the Agency's Anti-Harassment Program, which establishes an internal, investigative process to respond to allegations of harassment in a prompt, thorough and impartial

manner. Any employee who believes they are a victim of any type of unlawful harassment, including sexual harassment, should immediately report the offending behavior to a supervisor, or other appropriate management officials. Supervisors or managers who receive complaints of unlawful harassment shall promptly notify the Anti-Harassment Program Officer, generally within two (2) business days. The Office of EEO is also required to report harassment complaints to the Anti-Harassment Program. Once such a complaint is received, the Agency will initiate an inquiry and will, as appropriate, conduct a prompt, thorough, and impartial investigation that will begin within 10 calendar days of receiving a harassment allegation(s). The Agency will take immediate and appropriate corrective action when it determines that harassment has occurred, which includes interim relief and/or disciplinary action. Interim relief will occur within 60 days from receiving the complaint. Disciplinary action must be initiated within 60 days of receiving the investigative report, if any. The [Fact Sheet on Agency Anti-Harassment Procedures](#) details the Agency's policy procedures to address complaints of harassment.

The second process available to employees is the EEO complaint process. The EEO complaint process is statutorily required and must be initiated within prescribed deadlines. If an employee wishes to initiate the EEO complaint process, an allegation of harassment must be raised with an EEO Counselor or with the Office of EEO within 45 calendar days of the incident of alleged harassment. Employees have the option to initiate the EEO complaint process, submit a complaint to the Anti-Harassment Program, or pursue both processes.

Employees may also contact the Director of the Office of Equal Employment Opportunity (OEEEO) at (202) 273-3891, the Office of the Inspector General at (202) 273-1960, or the Harassment Prevention Officer directly at antiharassment@nlrb.gov. Employees covered by a collective-bargaining agreement may seek assistance from a union representative, and may also choose to file a contractual grievance.

Employees are encouraged to review the [Anti-Harassment Program page](#) on rights and responsibilities. Questions regarding harassment should be directed to antiharassment@nlrb.gov.

The Agency will strive to protect the confidentiality of the identity of employees who report or participate in a harassment investigation to the greatest extent possible. Any person found to have engaged in harassing conduct based on any protected category will be subject to disciplinary action up to and including discharge. Alternatively, if it is determined that misconduct occurs, corrective or

other appropriate action may also be initiated. The Agency will take appropriate action with respect to any supervisor or manager who condones or fails to report harassing conduct brought to their attention. Further, the Agency will not tolerate retaliation against any employee who complains of harassment or who participates in the harassment complaint process.

We expect every NLRB employee to conduct themselves in a manner consistent with this policy so that all employees are treated with dignity and can work in a respectful environment.

Lauren McFerran
Chairman

Jennifer A. Abruzzo
General Counsel