

Corporation for National and Community Service Policies and Procedures

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Subject: Anti-harassment Policy and Procedures

Purpose: To ensure that CNCS workplaces are free of harassment of any kind.

Who is Covered? All CNCS employees, interns, contract personnel are covered. OIG employees are also covered.

Policies Replaced: Policy 206, dated July 27, 2006.

Originating Office: Office of Human Capital

Summary of Revisions: This policy is revised to provide new guidance and updates.

Legal Authorities and Guidance Materials:

- U.S. Department of Labor – Occupational Safety and Health Administration (OSHA), Directive No. CPL -02-01-058, *Enforcement Procedures and Scheduling for Occupational Exposure to Workplace Violence* (Jan. 10, 2017)
- Office of Personnel Management – *Guidance for Agency-Specific Domestic Violence, Sexual Assault and Stalking Policies* (February 2013)
- National Institute for Occupational Safety and Health (NIOSH), DHH Publication Number 96-100, *Violence in the Workplace* (July 1996)
- 29 CFR Part 1904, Recording and Reporting Occupational Injuries and Illnesses.
- Recordkeeping Policies and Procedures Manual. OSHA Directive CPL 02-00-135, (December 30, 2004).

Approved By:



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Anti-Harassment Policy and Procedures

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I. OVERVIEW

A. What does this document do?

This document sets forth a policy and related procedures designed to create a work environment that is free from harassment. This policy explains protections for employees, contract staff, and/or interns who make claims of harassment and for those providing information about such claims; details how the complaints process works; and explains the expectations for supervisors and managers regarding harassment.

B. What is CNCS's anti-harassment policy?

CNCS is committed to treating all persons working at CNCS facilities with dignity and respect, regardless of their race, color, national origin, sex (including pregnancy, gender identity/stereotyping, and sexual orientation), religion, age, disability, political affiliation, marital or parental status, military service, genetic information, or reprisal. In addition, CNCS will not tolerate reprisal against any employee for making a report regarding harassment under this or any other policy or procedure, or for assisting in any inquiry about such a report. CNCS intends that its work environment be free of sexual, racial, ethnic, religious, or other harassment based on a protected class. Whether in CNCS offices, in other work-related settings (such as training sessions or service sites), or at work-related social events, harassment is unacceptable and will not be tolerated.

C. What is the definition of harassment?

Harassment is any unwelcome conduct that is based on race, color, sex (including pregnancy, gender identity/stereotyping, and sexual orientation), national origin, religion, age (40 years and older), disability (physical and/or mental), genetic information, and/or reprisal for opposing discrimination or participating in the EEO process. Harassment becomes unlawful where enduring such unwelcome or offensive conduct becomes a condition of employment, involves a tangible employment action, or where the conduct is severe or pervasive enough to create a hostile work environment.

Harassment includes, but is not limited to:

- Unwanted touching
- Explicit or implicit demands for sexual favors
- Pressure for dates
- Deliberate touching, leaning over, or cornering in an intimidating or inappropriate manner
- Offensive teasing, jokes, remarks, or questions
- Offensive emails, letters, phone calls, or distribution or display of offensive materials
- Offensive looks or gestures
- Gender, racial, ethnic, or religious baiting
- Physical assaults or other threatening behavior
- Demeaning, debasing, and abusive comments
- “Quid pro quo” requests, which is a type of harassment that occurs when a manager or other authority figure offers (or hints) that they will give the employee something (e.g. a raise, a promotion, or approve a training request) in return for that employee's satisfaction of an inappropriate demand. Submission to such demands does not negate an individual's right to report the harassment.

D. Is the policy solely focused on, or limited to, sexual harassment?

No, this policy covers harassment based on any protected class.

E. Does the policy include bullying?

Yes, the policy includes bullying.

F. What is the definition of bullying?

CNCS defines bullying as repeated, harmful mistreatment of one or more individuals by one or more perpetrators, including:

- Threatening or intimidating words or conduct that would cause an individual fear of physical violence, loss of job or benefits, or that impacts the reputation of CNCS
- Humiliating words or conduct that unreasonably interferes with an employee's work performance, the business of CNCS, or negatively impacts employee or workplace morale
- Verbal abuse that affects an employee's work performance; that casts negative light on the work and/or reputation of CNCS or any of its employees or management; or that negatively impacts employee or workplace morale.

CNCS considers the following types of behavior examples of bullying:

- **Verbal bullying.** Slandering, ridiculing, or otherwise maligning an individual or their family; persistent name-calling or monikers that are hurtful, insulting, humiliating, or offensive; abusive, racist, sexist, homophobic, transphobic, or ableist slurs, remarks, or statements; repeatedly using an individual as the target of jokes or pranks.
- **Physical bullying.** Pushing, shoving, hitting, kicking, tripping, grabbing, poking, or otherwise assaulting an individual; threatening to physically assault an individual; or damaging an individual's work area or personal property.
- **Gesture bullying.** Nonverbal gestures that are intimidating or convey threatening messages.
- **Purposeful and unreasonable exclusion.** Physically or socially excluding an individual from work-related activities without a legitimate justification for doing so.

In addition, the following may constitute evidence of bullying in the workplace:

- Persistent singling out of one person for negative attention or ridicule
- Unreasonably shouting at an individual in public or private
- Using obscene gestures
- Repeatedly and unreasonably interrupting or ignoring an individual
- Use of offensive nicknames
- Public humiliation in any form
- Repeated criticism on matters unrelated to job duties, activities, or performance

- Unreasonably and deliberately interfering with or altering an individual's mail, email, voicemail, or work product
- Spreading rumors or engaging in gossip about an individual
- Repeatedly accusing an individual of errors or negligence without legitimate cause and that cannot be documented
- Manipulating the ability of an individual to perform their work (e.g., overloading, withholding information, setting deadlines that cannot be met, excluding an individual from meetings, providing vague and ambiguous instructions, etc.)
- Refusing reasonable requests for leave in the absence of legitimate reasons not to grant leave
- Inciting or encouraging workplace dissension and discord
- Destruction or damage to personal property.

Individuals who believe they have experienced or witnessed bullying or workplace violence should report this conduct to their supervisor or the Director of Workforce Relations. Employees who, more likely than not, have been found to have engaged in a pattern of bullying behavior will be subject to disciplinary action, which may include termination.

G. What is the purpose of the complaint process described in Section III, below?

CNCS's complaint process is designed to promote accountability, confidence in the process, and provide concurrent support for those who report inappropriate behavior. The procedure provides a prompt, thorough, and impartial inquiry regarding allegations of harassment, with protections against retaliation for those making claims of harassment or providing information. The process also provides for appropriate confidentiality safeguards and endeavors to ensure timely and appropriate corrective action when management determines that harassment has occurred.

H. How is CNCS's anti-harassment policy different from the Equal Employment Opportunity (EEO) process?

Generally, harassment based on a protected class that is sufficiently severe or pervasive violates the law and is covered by the EEO process. The EEO process is designed to make individuals whole, through damage awards and equitable relief paid by the agency, for discrimination that already has occurred, and to prevent the recurrence of the unlawful discriminatory conduct.

Where harassment may not rise to the level of severe or pervasive conduct or where an employee decides not to file a complaint via the EEO process, a federal agency has an independent obligation (separate from the EEO process) to promptly determine whether misconduct has occurred, and to take immediate and appropriate corrective action. CNCS's anti-harassment policy is intended to result in corrective measures, including the use of disciplinary action, to address reports of harassment regardless of whether the conduct violates the law or because an employee opts not to use the EEO process to address conduct by another that may constitute harassment. The complaint process affords CNCS an opportunity to learn about and take corrective action to prevent and stop harassment in the workplace.

I. Does initiating a complaint with management under this anti-harassment policy preclude an individual from filing an EEO complaint?

This anti-harassment policy is in addition to the EEO process and does not preclude anyone from filing an EEO complaint.

J. If I bring harassment to the attention of management under this anti-harassment policy and I'm not satisfied with management's response, can I still file an EEO complaint?

Yes, you can file an EEO complaint even if you have reported harassment under this anti-harassment policy. However, you must make initial contact with a CNCS EEO counselor or the CNCS EEO Program within 45 days of the date of the allegedly harassing conduct.

II. RESPONSIBILITIES UNDER THE ANTI-HARASSMENT POLICY

A. What are the responsibilities of all CNCS staff?

All individuals working in CNCS are responsible for:

1. Acting professionally and refraining from engaging in harassment.
2. Becoming familiar with this policy, complying with all requirements under the policy, and cooperating with any inquiry under the policy.
3. Promptly reporting any incident of harassment in accordance with Section III of this policy.

B. What are the responsibilities of CNCS supervisors and managers?

All CNCS supervisors and managers are responsible for:

1. Taking immediate action to promptly and appropriately prevent and address harassment in the workplace, as well as promptly addressing any suspected retaliation against those who complain of harassment (or who provide information or cooperate in a harassment inquiry).
2. Immediately reporting, in accordance with Section III, any incident of harassment that they observe, or is otherwise brought to their attention, to the Director of Workforce Relations in the Office of Human Capital.
3. Receiving or otherwise handling allegations of harassment promptly and appropriately, using the procedures described in Section IV.
4. In consultation with the Director of Workforce Relations, providing interim relief to any alleged victim of harassment pending the outcome of the inquiry.
5. Supporting their staff when they make a report, including making possible accommodations, connecting them with appropriate resources, making sure they understand the complaint process, and regularly checking in with them on status of their complaint.

6. Using the procedures set forth below, in consultation with the Director of Workforce Relations, taking prompt and appropriate corrective action, which may include disciplinary action, against any employee who has engaged in harassment or who has failed to carry out their responsibilities under this policy.

C. What are the responsibilities of the Chief Human Capital Officer?

The Chief Human Capital Officer is responsible for:

1. Disseminating and updating this policy.
2. Ensuring that employees are trained on this policy and the procedures regarding reporting harassment.
3. Identifying and, if necessary, procuring impartial investigators to gather and develop factual information as necessary to resolve reports of harassment.
4. Ensuring that employees and others know where and to who to report harassment complaints.
5. Ensuring that CNCS tracks and monitors inquiries or allegations of harassment in a centralized, secure system.

D. What are the responsibilities of the Director of Workforce Relations?

The Director of Workforce Relations is responsible for:

1. Advising employees and others on this policy.
2. Receiving allegations of harassment.
3. Within 5 business days of receiving a report of harassment, initiating a fair and impartial inquiry into allegations.
4. Within 5 business days of a report of harassment, advising affected supervisors and managers regarding whether to take interim measures, such as temporarily reassigning the duties or work station of an employee alleged to have engaged in harassment, pending the outcome of the inquiry.
5. Concluding the inquiry within 30 business days of the initial receipt of the complaint where possible; the timeframe may be extended up to an additional 30 days when necessary to ensure a thorough inquiry.
6. At the end of the inquiry, if the alleged conduct violates this policy, providing advice to managers and supervisors on appropriate corrective action to take, which may include disciplinary or adverse action.
7. Advising the Chief Executive Officer of allegations of harassment and the resolution of those allegations under this policy.
8. Delegating certain functions under this policy, as necessary.
9. Supporting the person(s) making the complaint by referring them to the Employee Assistance Program (EAP), as necessary.

10. To the extent possible, in accordance with the Privacy Act and the Office of Human Capital protocol and practices, inform the person who made the report that the investigation is complete and action has been taken, as appropriate.

III. REPORTING HARASSMENT

A. When should an employee or other individual working at CNCS report harassment?

Whenever they believe they have been the subject of harassment, as set forth in this policy, or have observed another employee or individual being harassed in the workplace.

B. To whom should I make a report of harassment?

You should report this matter to one of the following:

1. Anyone in your chain of command.
2. Another CNCS manager who is not in your chain of command.
3. The Director of Workforce Relations.
4. The Equal Employment Opportunity Program.

C. Do supervisors have additional responsibilities to report harassment?

Yes. A supervisor or manager who receives an allegation or who witnesses harassment must immediately report the matter to the Director of Workforce Relations. A supervisor or manager may not refrain from reporting harassment in the workplace where the individual being harassed requests that the supervisor or manager keep the matter confidential or requests that the matter not be reported.

D. If a supervisor observes or is made aware of harassment but the person subject to the harassment does not want to file a complaint, does the supervisor still have to make a report?

Yes, unlike the EEO process which is triggered by the filing of a complaint by an aggrieved person, the anti-harassment policy requires supervisors to immediately report any incident of harassment that comes to their attention to the Director of Workforce Relations.

E. Do I have to go through my supervisor to report harassment?

No. You may contact either your supervisor or someone else in your chain of command, or one of the other individuals listed in Paragraph B above.

F. Does my report of harassment have to follow a specific format or be in writing?

No, while submitting a written report that includes specific facts and is dated is best for ensuring a comprehensive inquiry, CNCS supervisors, managers, and responsible offices will take appropriate action in accordance with this anytime they learn of an allegation of harassment. Managers or supervisors may, however, direct individuals to provide written statements or otherwise cooperate in an investigation.

G. What if I am unsure of whether something is actually harassment?

If you have any questions about whether a situation is covered by this policy, you should discuss the matter with the Director of Workforce Relations.

H. Is my report confidential?

Management will maintain information received on a confidential, need-to-know basis, and in accordance with the Privacy Act.

IV. HARASSMENT INQUIRIES

A. What steps must the Director of Workforce Relations follow in conducting an inquiry?

The Director of Workforce Relations is responsible for the following:

1. Within 5 business days of receiving a report of alleged harassment, assess and recommend appropriate interim relief, including connection with local resources, and possible accommodations, to prevent further harassment from occurring during the inquiry and providing support to the person who reported the conduct.
2. Within 5 business days of receiving a report of alleged harassment, initiate a fact-finding inquiry, and obtain a written summary by the individual conducting the fact-finding inquiry.
3. Concluding the fact-finding inquiry within 30 business days of the initial report of harassment; the timeframe may be extended when necessary to conduct a thorough investigation.
4. At the conclusion of the inquiry, make a recommendation for corrective action, if warranted within 5 business days. Corrective action may include disciplinary or adverse action against the alleged harasser, if the allegations are sustained by the fact-finding inquiry, or if otherwise warranted by the inquiry's findings. Disciplinary action will follow CNCS procedures.
5. Maintain documentation relating to the report and any action taken in a secure location.

B. Does a report of harassment automatically trigger a formal inquiry?

No, the scope and nature of the inquiry will depend on the facts of the specific allegation. In some cases, the fact-finder might be able to verify undisputed facts directly and determine appropriate management action to resolve the matter quickly. In other cases, the allegations might not rise to the level warranting an inquiry at all. In still other cases, an independent investigator may need to be retained to conduct a

more formal inquiry. The Director of Workforce Relations is responsible for managing the scope and nature of any inquiry. In all cases, the decision whether and to what extent to investigate, as well as the results of any inquiry, must be documented.

C. Are the results of the inquiry confidential?

The summary of the fact-finding inquiry, and other related documentation prepared under this policy, will be kept confidential in compliance with the Privacy Act. The maintenance of such records and any disclosures of information from the records must be in compliance with the Privacy Act.

V. ACTIONS TO BE TAKEN AFTER AN INQUIRY IS COMPLETED

A. Who is responsible for action based on the result of an inquiry?

Where appropriate, the results of the inquiry may be referred to CNCS's EEO process. For cases not referred to the EEO process, the first-line supervisor of the employee alleged to have engaged in the harassment is responsible for deciding what action to take, after consultation with the Director of Workforce Relations and in alignment with CNCS disciplinary guidance, if any, based on the results of an inquiry. If the first-line supervisor is involved in the allegation, the Director of Workforce Relations will identify an alternate supervisor or manager to provide any corrective action.

In cases of allegations of sexual harassment, egregious misconduct, or matters with complex facts or issues, the supervisor and the Director of Workforce Relations should consult with the Office of General Counsel when determining any necessary corrective action.

B. What are possible actions a supervisor could take after an inquiry is completed?

The supervisor's decision will depend on the results of the inquiry and could include but is not limited to:

- closing the matter without any action
- reminding all staff within an office or department of expectations for conduct in the workplace
- providing verbal or written counseling to the employee found to have engaged in harassment
- initiating disciplinary action up to and including removal for an employee found to have engaged in harassment.

C. May a supervisor refer a matter to Alternative Dispute Resolution (ADR)?

Yes, in consultation with the Director of Workforce Relations, the complainant may suggest ADR as an appropriate response to an inquiry. ADR is a voluntary and all parties must agree to engage in the process. [Alternative Dispute Resolution](#) provides information on the ADR process. If the parties decide not to engage in ADR, the inquiry process will proceed as outlined in Section IV: A.

D. What can happen to an employee found to have engaged in harassment under this policy?

Where the inquiry establishes that an employee engaged in harassment, he or she is subject to appropriate corrective action, up to and including removal, in accordance with CNCS's personnel policies.

E. How must the supervisor memorialize their decision?

The supervisor must provide a written report to the Director of Workforce Relations, including a report of "no action taken" if that is the outcome, or promptly provide a copy of any corrective action. The Director of Workforce Relations may discuss the matter with a member of executive management if necessary.

F. If I have made a report that a colleague has engaged in harassment, will I be informed of the result of the inquiry and action taken, including disciplinary action?

At the end of the inquiry, to the extent permitted under the Privacy Act and the Office of Human Capital protocol and practice, the Director of Workforce Relations will notify the individual who made the initial report (as well as the individual who is alleged to have engaged in harassment) regarding the results of the inquiry. In accordance with CNCS policy, the subject of the harassment inquiry may receive the evidence relied upon to take corrective action.

G. What can happen to a supervisor or manager who fails to carry out his or her responsibilities under this policy?

Where the inquiry establishes that a supervisor or manager failed to carry out their responsibilities under this policy, they are subject to appropriate corrective action in accordance with CNCS's personnel policies, up to and including removal.

VI. OFFICE OF INSPECTOR GENERAL

A. Does this policy apply to the Office of Inspector General?

Yes, this policy applies to employees of the Office of Inspector General (OIG). The Inspector General, in consultation with the Director of Workforce Relations, will receive reports, conduct inquiries, and take appropriate action concerning reports of workplace harassment that are alleged to have taken place within the OIG.

VII. HARASSMENT BY NON-CNCS EMPLOYEES

A. What recourse does an employee have if an on-site contractor engages in harassment?

The employee or individual should follow the reporting procedures set forth in Section III, above. The Director of Workforce Relations is responsible for ensuring that an inquiry is conducted and that appropriate corrective action is taken as a result of the inquiry, if warranted. This will likely involve coordination with the Procurement Office and the office overseeing the contract. The report of harassment will be kept confidential to the extent possible. However, achieving resolution may involve coordination with the Procurement Office and manager who supervises the contractor.

B. What recourse does an employee have if someone unaffiliated with the CNCS, neither an employee nor a contractor, engages in harassment in a workplace setting?

They should follow the reporting procedures in Section III, above. The Director of Workforce Relations is responsible for ensuring that an inquiry is made, and appropriate corrective taken as a result of the inquiry, if warranted. This will likely involve coordination with the Office of Facilities and Support Services at headquarters and the appropriate security official at field offices.