

Department of Homeland Security
Cybersecurity and Infrastructure Security Agency
Directive Number: 2080-02
Issue Date: 08/07/2020
ANTI-HARASSMENT PROGRAM

I. Purpose

This Directive establishes the Cybersecurity and Infrastructure Security Agency (CISA) “Anti-Harassment Program”, consisting of standards of conduct, and procedures for implementation to comply with the revised Department of Homeland Security (DHS) Anti-Discrimination Policy Statement issued April 1, 2019, and the DHS Management Directive 256-01-001 Anti-Harassment Program issued June 7, 2019, to prohibit, and promptly correct any harassment that occurs.

II. Scope of Application

This Directive applies to federal employees throughout CISA.

III. Authorities

- A. [DHS Anti-Discrimination Policy Statement, April 1, 2019](#)
- B. [DHS Management Directive 256-01-001 Rev 02 Anti-Harassment Program, June 7, 2019](#)
- C. [Title 5, United States Code \(U.S.C\), Section 2302, "Prohibited Personnel Practices"](#)
- D. [Title 42, U.S.C., Section 2000e et seq., “Civil Rights Act of 1964”](#)
- E. [Title 5, U.S.C., Chapter 75, “Adverse Actions”](#)
- F. [Title 29, U.S.C., Section 791 et seq., “Employment of Individuals with Disabilities”](#).
- G. [Title 29, U.S.C., Section 621 et seq., “Age Discrimination in Employment”](#)
- H. [Title 42, U.S.C, Section 200ff et seq., “Title VI the Civil Rights act of 1964”](#)
- I. [Equal Employment Opportunity Commission \(EEOC\) Management Directive 715,](#) “Federal responsibilities under Section 717 of Title VII and Section 501 of the Rehabilitation Act" (October 1, 2003)
- J. [EEOC "Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors" No. 915.002, June 1999](#)
- K. [Public Law 107-174,](#) “Notification and Federal Employee Antidiscrimination and Retaliation (NO FEAR) Act of 2002”

IV. Definitions

- A. **Discrimination:** The act of treating a person differently, either negatively or positively, because of that person's race, class, sexual orientation, gender, gender identity, or any other group to which that person belongs.
- B. **Harassment:** Any unwelcome verbal or physical conduct based on one of

the Equal Employment Opportunity (EEO) protected bases (race, color, religion, sex, national origin, sexual orientation, gender identify, age (over 40), disability, genetic information, and retaliation/reprisal) that is so objectively offensive as to alter the conditions of one's employment where the conduct culminates in a tangible employment action or is sufficiently severe and/or pervasive so as to create a hostile work environment. Examples of prohibited harassment include, but are not limited to:

1. Making inappropriate comments or remarks regarding an individual because of their religion or national origin.
2. Continually scrutinizing, criticizing, or requiring tasks of an individual because of a protected group while not treating a similarly situated employee in the same manner.
3. Making derogatory or intimidating references to an individual's mental or physical impairment.
4. Using racially derogatory words, phrases, or epithets or making gestures or demonstrations using pictures or drawings that would offend racial or ethnic, religious or other protected groups.

C. **Protected Group**: Under the EEOC protected groups are race, color, national origin, religion, age, sex (gender), gender identity, sexual orientation, physical or mental disability, and reprisal.

D. **Retaliation**: When an employer punishes an employee for engaging in legally protected activity. Retaliation can include any negative job action, such as demotion, discipline, firing, salary reduction, or job or shift reassignment. Retaliation can also be subtler, in which case, according to the U.S. Supreme Court, one must consider the circumstances of the situation. Retaliation includes any adverse action taken as a direct result of either opposition to discrimination (i.e., reporting allegations of discrimination) or participation in the EEO process (i.e., filed a prior EEO complaint or served as a witness in a complaint).

E. **Sexual Harassment**: A form of harassment prohibited by this policy which involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when submission to or rejection of such conduct is made explicitly or implicitly a term or condition of one's employment or is used as a basis for career or employment decisions affecting that person; or when such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive work environment. Examples of sexual harassment forbidden by this Policy include, but are not limited to:

1. Offensive sexually-oriented verbal, teasing, or joking;
2. Repeated unwanted sexual flirtations, advances, or propositions;
3. Verbal abuse of a sexual nature;
4. Graphic or degrading comments about an individual's appearance or sexual activity;
5. Offensive visual conduct, including leering, making sexual gestures, and the display of offensive sexually suggestive objects, pictures, cartoons, or posters;
6. Unwelcome pressure for sexual activity;
7. Offensively suggestive or obscene text or chat messages, notes, or emails;

8. Offensive physical contact such as patting, grabbing, pinching, or brushing against another's body; and
9. Disseminating internet links with sexually-themed content.

F. **Whistleblower**: An employee who brings wrongdoing by an employer or other employees to the attention of a government or law enforcement agency and who is commonly vested by statute with rights and remedies for retaliation.

V. Responsibilities:

A. The **Director**:

1. Designates CISA's Anti-Harassment Program Coordinator, pursuant to [DHS Management Directive 256-01-001 Anti-Harassment Program Rev 02](#), who executes the requirements for compliance with this policy and program.

B. The **Chief Human Capital Officer (CHCO)**:

1. Ensures compliance with the Anti-Harassment Program and Reporting Procedures, consistent with the requirements of the DHS Anti-Harassment Policy Statement, DHS Directive 256-01, and this Directive by ensuring:
 - a) Timely fact-finding;
 - b) Distribution of the DHS Anti-Harassment Policy Statement and Division Reporting Procedures; and
 - c) Appropriate Division anti-harassment training.
2. Advises Division Assistant Directors, supervisors and managers with respect to their responsibilities in:
 - a) Responding to reports of harassment; and
 - b) Working to prevent harassment in the workplace.
3. Oversees execution of the responsibilities of the Anti-Harassment Program Coordinator; receives initial reports of harassment and determines if an investigation is warranted or if other conduct related action(s) are necessary.
4. Determines if report warrants an investigation and sends request for investigation to the Chief Security Officer.
5. Oversees processing of cases within the Office of the Chief Human Capital Officer (OCHCO) that do not warrant an investigation.
6. Oversees coordination of actions for remediation.
7. Executing remediation or corrective actions as necessary.

C. The **Chief Security Officer (CSO)**:

1. Receives request for investigation from the CHCO.
2. Conducts fact finding and/or administrative inquiries into allegations of harassment.
3. Provides inquiry results to CHCO.

D. The **Heads of Divisions and Mission Support Offices**:

1. Ensures compliance with this Directive and the CISA Anti-Harassment Policy throughout their Division or Mission Support Office and by all employees of their Division or Mission Support Office.

E. The **Chief Counsel, Office of the Chief Counsel (OCC):**

1. Provides legal review and recommendations on the CISA Anti-Harassment Program.

VI. Requirements

CISA employees uphold a culture that fosters high professional standards and respect, where staff, peers, leaders, partners, and customers are treated with the highest level of dignity and respect. The agency does not tolerate any discrimination that creates a hostile and unpleasant working environment for employees. Creating and maintaining an environment free from discrimination and harassment is essential to the success of CISA's mission.

- A. CISA is an equal-employment opportunity employer where the right to work and advance is based on merit, ability, and potential, free from prejudice or discrimination.
- B. CISA protects employees against discrimination on the basis of race, color, religion, sex (including pregnancy and gender identity), national origin, age, disability, genetic information, marital status, political affiliation, whistleblower activity, sexual orientation, parental status, and military service (past, present, or future), and against retaliation for participation in EEO activities or opposition to discrimination in accordance with the applicable anti-discrimination statutes, executive orders, and other authorities.
- C. CISA raises awareness of anti-harassment protections through regular training, and by promptly taking disciplinary and/or corrective action whenever harassment is witnessed or occurs.
- D. Individuals promptly report any incidents of harassment they observe and any retaliation to a harassment complaint they experience. If any employee believes they have been subjected to discrimination or retaliation, leadership will make every effort to address all causal factors, as appropriate, to enhance the culture of the entire organization.
- E. CISA prohibits retaliation on the basis of discrimination of any kind, including whistleblower protections, as defined in Public Law 107-174, "Notification and Federal Employee Antidiscrimination and Retaliation (NO FEAR) Act of 2002. It is unlawful to retaliate in any way against individuals who have articulated concerns regarding unlawful harassment.
- F. Harassment Prevention and Elimination Requirements
 1. CISA maintains written procedures for filing, addressing, and conducting inquiries into reports of harassment.
 - a) The procedures identify multiple avenues through which individuals may report violations of CISA's Policy.
 - b) Appropriate measures are taken to publicize the CISA Anti-Harassment Directive and applicable Reporting Procedures.
 2. CISA takes effective interim remedial measures, where appropriate, pending fact finding inquiries.

3. Employees who believe they have been subjected to, or have witnessed, harassing or retaliatory conduct promptly reports the conduct and contact the DHS Headquarters Anti-Harassment Unit at AHU@hq.dhs.gov, or the DHS Office for Civil Rights and Civil Liberties at either CRCL.EEO@hq.dhs.gov or (866) 644-8360.
4. It is the responsibility of the agency to ensure all employees are made aware of the policy and procedures through onboarding and annual mandatory training regardless of location. The Anti-Harassment Policy and these procedures are posted in common employee gathering areas throughout the agency and on the CISA intranet.
5. CISA has published web-based training, available in the Performance and Learning Management System, focusing on preventing workplace harassment in accordance with DHS's Anti-Harassment Directive 256-01.
 - a) All CISA employees are required to complete this training on an annual basis.

G. Relationships with Other Procedures:

1. The CISA Anti-Harassment Directive, does not affect an employee's right to file an EEO complaint alleging harassment or discrimination.
2. An employee's application of this Directive does not result in the filing of an EEO complaint, nor does it take the place of such a complaint.
3. Employees wishing to file an EEO complaint should contact the DHS Office of Civil Rights and Civil Liberties within 45 calendar days of the most recent incident of alleged harassment.
4. Employees may file complaints with the Office of Special Counsel (OSC) at <https://osc.gov/> alleging discrimination.
 - a) The OSC investigates and prosecutes allegations of prohibited personnel actions.
 - b) Use of the reporting procedure described in this Directive does not affect an employee's right to file a complaint with the OSC.
 - c) Similarly, filing a complaint with the OSC does not prevent an employee from also filing a separate complaint with the EEO Office or Civil Rights and Civil Liberties Office.

VII. Compliance and Enforcement

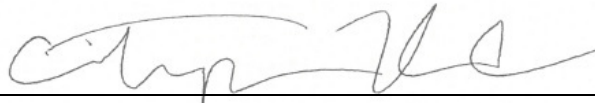
- A. Compliance: Compliance with established procedures implementing this Directive promotes is a foundation for CISA to maintain the highest standards of integrity and promote a positive work environment. CHCO communicates semi-annually with Heads of Divisions and Mission Support Offices to reinforce and remind them of the requirements of this Directive and implications of non-compliance.
- B. Enforcement: This Directive requires all employees and Heads of Divisions and Mission Support Offices to report any violation of this Directive to CHCO at the time they become aware of a violation. On a semi-annual basis CHCO will report an aggregate

number of incidents outlined in this Directive to Enterprise Performance Risk Management System (EPRMS).

- C. Penalties for Violation: CISA personnel who violate the Directive may be subject to administrative or disciplinary action.

VIII. Questions

Address any questions or concerns regarding this Directive to the Policy and Accountability Subdivision at CISA.PolicyandAccountability@hq.dhs.gov.



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08/07/2020

Date