



**U.S. Department of Justice**  
Federal Bureau of Prisons

**PROGRAM STATEMENT**

OPI: PRD/EEO

NUMBER: 3713.32

DATE: April 22, 2024

## **Bureau of Prisons Anti-Harassment Policy**

/s/

*Approved:* Colette S. Peters

Director, Federal Bureau of Prisons

### **1. PURPOSE AND SCOPE**

The Federal Bureau of Prisons (Bureau) takes all necessary steps to prevent all forms of harassment, both sexual and non-sexual. The Bureau is committed to providing a safe environment for all employees free from discrimination and harassment including sexual harassment. The Bureau will treat all incidents seriously and will promptly investigate all allegations of harassment.

The Bureau has ZERO-TOLERANCE regarding any form of sexual harassment. Any person found to have sexually harassed another will face disciplinary action, up to and including dismissal from employment and, when appropriate, may be prosecuted in accordance with Bureau policy and federal law. All complaints of sexual harassment will be taken seriously and treated with respect and in confidence. Retaliating against an employee for making such a complaint is a violation of federal law.

Not all harassment amounts to a violation of the Equal Employment Opportunity (EEO) laws. Generally, harassment must be severe or pervasive to constitute a violation of law. The Bureau, however, prohibits not only unlawful harassment but all harassing conduct in the interest of stopping harassment before it becomes a violation of the EEO laws. This Program Statement applies to all employees.

#### **a. Summary of Changes.**

*Policy Rescinded*

3713.26 Bureau of Prisons Anti-Harassment Policy (6/16/2014)

- Updated and expanded to include reporting and investigation requirements, definitions, sexual harassment examples, and procedures for anti-harassment committees.

**b. Program Objectives.**

- Bureau employees will work in an environment free from harassing conduct and intimidation from all employees (regardless of position), contract workers, and inmates.
- Employees who make claims of harassing conduct or provide information related to such claims will be protected against any further harassing conduct or retaliation.
- Employees who fail to comply with the terms of this Program Statement will be referred to the Office of Internal Affairs (OIA) pursuant to the Program Statement **Standards of Employee Conduct**.

**c. Institution Supplement.** None required. Should local facilities make any changes outside changes required in national policy or establish any additional local procedures to implement national policy, the local Union may invoke to negotiate procedures or appropriate arrangements.

## **2. DEFINITIONS**

For the purposes of this Program Statement, the following definitions apply.

**Bullying.** An unwanted action that is offensive, abusive, intimidating, malicious, insulting, or an abuse of power conducted by an individual or group of employees towards an employee (or group of employees); which is intended to make the recipient feel upset, threatened, humiliated, degraded, or vulnerable, or which undermines the employee's self-confidence or creates a risk to their health or safety. Examples of bullying include but are not limited to:

- a. Physical attack, assault, or coercive behavior.
- b. Insulting or threatening gestures.
- c. Manipulation of the victim's reputation by rumor, gossip, ridicule, or innuendo.
- d. Preventing the victim from speaking by using aggressive, obscene, or intimidating language.
- e. Aggressive behavior or shouting.
- f. Unwarranted or disproportionate criticism of an individual's work performance that is unsupported by facts.
- g. Damaging and/or destroying personal or government property.
- h. Offensive use of social media.

**Harassment.** Bullying or any unwelcome verbal, non-verbal, or physical conduct when such behavior either unreasonably interferes with an employee's work performance, and/or creates an intimidating, hostile, or offensive work environment. Any employee or non-employee in the workplace might commit this type of harassment. The victim can be any employee affected by the conduct, not just the individual to whom the offensive conduct is directed. Examples of harassing conduct include but are not limited to:

- a. A display of a racial or ethnic nature, such as using gestures, pictures, drawings, or objects that would offend a particular racial or ethnic group.
- b. Comments regarding skin color, race, or other racial/ethnic characteristics.
- c. Disparaging remarks about a person's gender, age, religious beliefs (or lack of religious beliefs).
- d. Expressing negative stereotypes regarding a person's birthplace or ancestry.
- e. Derogatory or intimidating references about a person's actual or perceived mental or physical disability.
- f. Expressing micro-aggressions.
- g. Negative or disparaging comments about or references to a person's actual or perceived sexual orientation or sexual identity.
- h. Disparaging remarks and offensive language.

**Cease and Desist Letter.** A letter or document issued to an individual to stop alleged illegal and prohibited activity.

**Corrective Action.** Action taken by management to stop the harassing conduct.

**Prompt/Promptly.** With little or no delay; immediately.

**Reprisal/Retaliation.** Taking or threatening to take unjustified employment action against a protected employee.

**Quid-Pro-Quo.** A favor or advantage granted or expected in return for something; favors in return for some type of job benefit, such as a raise, better hours, promotion, etc., or to avoid some type of detriment such as a pay cut, demotion, poor performance review, etc.

**Microaggressions.** Slight, insults, putdowns, invalidations, and offensive behaviors.

**Sexual Harassment.** As defined by federal regulation, unwelcome sexual advances, requests for sexual favors, and other communication or physical contact of a sexual nature constitutes sexual harassment when:

- a. Submission to such conduct is made a term or condition of employment, either explicitly or implicitly.
- b. Submission to or rejection of such conduct by an employee is used as the basis for employment decisions affecting such employees.
- c. Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance.
- d. Such conduct is sufficiently severe or pervasive to create an intimidating, hostile, or offensive working environment.
- e. Quid-Pro-Quo harassment.

### 3. UNDERSTANDING, IDENTIFYING SEXUAL HARASSMENT

It is important to note sexual harassment may occur between persons of the same or different genders or sexual orientations, and third parties may also be the victims of a hostile or offensive working environment because of communications or conduct not specifically directed at or involving them. Anyone, including Bureau employees, inmates, vendors, contractors, or visitors who sexually harasses another, will be reprimanded in accordance with this Program Statement and all other applicable policies. All sexual harassment is prohibited whether it takes place on Bureau premises or off-site, including social events, business trips, training sessions, or conferences. Examples of conduct or behavior which constitute sexual harassment include, but are not limited to:

#### a. **Physical conduct.**

- Unwelcome physical contact including patting, pinching, stroking, kissing, hugging, fondling, or inappropriate touching.
- Physical violence, including sexual assault.
- Sexual advances.
- Exposing oneself or performing sexual acts upon oneself.

#### b. **Verbal conduct.**

- Inappropriate comments on a worker's appearance and/or sex.
- Sexual comments, stories, fantasies, jokes, and questions about sexual preferences.
- Repeated and unwanted invitations for dates or physical intimacy.
- Sexually explicit messages.
- The use of job-related threats or rewards to solicit sexual favors and sexual advances.

c. **Non-verbal conduct.**

- Displaying or sharing of sexually explicit or suggestive material (screen savers, images of a sexual nature).
- Sexually suggestive gestures.
- Sexually explicit messages.
- Whistling.
- Leering.

4. **PROCEDURES AND RESPONSIBILITIES**

a. **Responsibilities Applicable to All Employees.** Each employee is responsible for:

- Conducting themselves in accordance with the Program Statement **Standards of Employee Conduct** and refraining from any harassing conduct.
- Becoming familiar with the provisions of this policy and complying with its requirements.

b. **Responsibilities of Supervisors and Management Officials.** Supervisors and managers are responsible for:

- Preventing harassing conduct in the workplace from all employees, contract workers, and inmates.
- Acting promptly and appropriately to prevent retaliation and harassment against those who are subjected to and/or report harassing conduct.
- Reporting to the Chief Executive Officer (CEO) or other appropriate authority (including but not limited to, their immediate supervisor, the Office of Internal Affairs (OIA), or to the Office of Inspector General (OIG), Management Officials, EEO Counselors, and/or Ombudsman) any incident of harassing conduct they witness, observe, or is otherwise brought to their attention in accordance with Section 5d of this Program Statement.
- Maintaining confidentiality of individual complaints brought to their attention consistent with the other provisions of this Program Statement (see Section 5f). Information about reported incidents should be disclosed only to those with a legitimate need to know.
- Not subjecting individuals to retaliation for bringing issues forward.
- Providing prompt, interim relief, when necessary, to alleged victims of harassing conduct to ensure further misconduct does not occur. To the greatest extent practical, the concerns of the alleged victim and any adverse impact on them will be taken into consideration. If interim relief is provided, the relief will be provided until the investigation/review is concluded, at which point a determination of final relief will be made. If the supervisor or management official does not have the authority to provide the relief, if any is necessary, they must refer the matter to the appropriate management official.

- Promptly initiating appropriate corrective and disciplinary action, up to and including removal, against employees who are found to have engaged in harassing conduct, or who have not carried out their responsibilities under this Program Statement, in accordance with all applicable laws and policies.

c. **Responsibilities of the Bureau EEO Office.** The Bureau EEO Office is responsible for:

- Providing anti-harassment training to ensure all employees are informed of this Program Statement and procedures to follow when reporting harassing conduct.
- Providing anti-harassment training to supervisors and managers. This training can include but is not limited to, civil treatment training and training in response to adverse decisions.
- Training will explain the various types of conduct that violate this Program Statement, the potential liability the Bureau faces when this Program Statement is violated, the responsibilities of supervisors and managers when they learn of alleged harassing conduct, and the prohibition against harassing conduct.
- Receiving and reporting allegations of harassing conduct, presented pursuant to this Program Statement to OIA.
- Providing technical assistance as requested.

d. **Reporting Harassing Conduct.** The Bureau cannot correct harassing conduct if the conduct is unknown. The procedures for reporting incidents of harassing conduct are as follows:

- Any person who believes they have been the subject of an incident of harassing conduct in violation of this Program Statement is required to report this matter, in writing or orally, to any supervisor, management official, and/or OIA. Bargaining unit employees may also report harassing conduct in accordance with the Master Agreement and applicable laws, rules, and regulations.
- Employees who believe they have been subjected to discrimination must abide by the timeframes in the Program Statement **Discrimination and Retaliation Complaints Processing** or the Master Agreement if they wish to pursue those avenues for redress. If there is a delay in reporting harassment per the Program Statement **Standards of Employee Conduct**, it is recommended consideration be extended to reporting parties given the traumatic nature of harassment.

e. **Responding to Allegations of Harassing Conduct.** A supervisor or management official who receives an allegation of or witnesses harassing conduct must:

- Speak with the relevant parties to conduct a limited inquiry. If the alleged harasser is a bargaining unit employee they may be asked, but are not required, to provide

information, verbally or in writing. If any bargaining unit employees elect to provide information, they are entitled to a Union representative, if requested.

- Consider the privacy concerns of the alleged victim. Discussions about the alleged harassment should be conducted in a private area, if possible.
- Take prompt corrective action to stop any harassing conduct and prevent further harassing conduct while the allegations are being investigated, including granting appropriate interim relief, when necessary, to the alleged victim. If the supervisor or management official does not have the authority to provide appropriate corrective action or interim relief, they will refer the matter to the appropriate management official. Any corrective action taken by the CEO against the alleged harasser must be consistent with the Master Agreement and applicable laws, rules, and regulations. The range of possible corrective actions and/or responses will be determined by the CEO. These corrective actions and/or responses may include, but are not limited to, issuance of cease-and-desist letters, schedule changes, the reassignment of the alleged harasser to another job within the work site or removing the alleged harasser from the work site pending resolution of the matter.
- Recognize each allegation of harassment is unique. Accordingly, the corrective actions and/or responses must be tailored to address the particular facts of the situation. The issuance of cease-and-desist letters must be used appropriately. When two employees might both be at fault or acting inappropriately, it would be reasonable to consider issuing cease-and-desist letters to both individuals. In cases where there has been a report of one-sided harassment, the alleged victim will not be issued a cease-and-desist letter.
- Considering the concerns of the alleged victim when determining corrective actions and/or responses.
- Determining if a threat assessment is needed in accordance with the Program Statement **Workplace Violence Prevention, Staff**.
- Promptly conducting a thorough and impartial investigation of harassment allegations.

f. **Confidentiality.** All information is maintained on a confidential basis to the greatest extent possible. The maintenance of records and any disclosures of information from these records must be in full compliance with the Privacy Act, 5 U.S.C. § 552a. To carry out the intent of this Program Statement, however, such information may have to be disclosed to OIA, or to those officials and employees within the Bureau with a “need to know”, to include but not limited to, members of the Anti-Harassment Committee.

## 5. ANTI-HARASSMENT COMMITTEE

a. **Commencement of committee.** The CEO makes a judgment regarding the level of harassment posed by the employee(s) in question and determine what action is necessary to protect employees and the work site. For serious or questionable incidents, or if the CEO deems it necessary, the CEO may convene an "Anti-Harassment Committee" to

assist in making this judgment. The process utilized by the CEO in determining whether to convene the Anti-Harassment Committee will be fair and equitable as much as the circumstances surrounding each case are similar, with the goal of being consistent. Anti-Harassment Committee guidelines which CEO's and committees may use is found in the Anti-Harassment Committee Guidelines (Attachment A).

If the alleged perpetrator or alleged victim is a bargaining unit employee, they may be asked, but are not required, to provide information, verbally or in writing, as part of the Anti-Harassment Committee process. If any bargaining unit employees are asked to participate in the Anti-Harassment Committee process, they are entitled to a Union representative, if requested, in accordance with Title 5 U.S.C. § 7114(a)(2)(B).

b. **Committee composition.** The Anti-Harassment Committee's composition may vary depending on the incident. At the discretion of the CEO, and in compliance with Article 10 of the Master Agreement, the following employees may be considered as potential committee members:

- Local Executive Team Members,
- Supervisory Correctional Services employees,
- The supervising department head of the employee(s) in question
- A representative designated by the Union,
- Attorney or paralegal,
- Psychologist or other mental health professional, and
- the Human Resource Manager.

If the CEO determines a conflict or potential conflict arises from the appointment of an individual Anti-Harassment Committee member, that committee member will be replaced to ensure and protect the integrity of the anti-harassment process.

c. **Employee Notification.** If a committee is convened, the individual accused of the alleged harassment is informed in writing of the specific actions the Agency requires them to take. If possible, this will be communicated in person. At a minimum, they are instructed to cease the alleged harassment and reminded such behavior is prohibited and will not be tolerated.

d. **Confidentiality.** All parties possessing copies of the reported allegation or documentation which result from or contain recommendations made from the Anti-Harassment Committee must safeguard them from loss or unauthorized disclosure.

At the conclusion of the Anti-Harassment Committee, any report or recommendation drafted by the Anti-Harassment Committee is provided to the involved employee(s) upon written request to

the CEO, in accordance with applicable laws, rules, and regulations.

e. **Other Responses.** Consistent with this Program Statement, the Master Agreement, and applicable laws, rules, and regulations, the range of possible actions is left to the judgement of the CEO. These options may include, but are not limited to, the reassignment of the employee to another job within the work site or removing the employee from the work site pending resolution of the matter. Pending further investigation in such cases, the CEO considers limited/restricted access for any individuals involved in alleged harassment before denying access to Bureau property.

## REFERENCES

### *Program Statements*

- 3420.11 Standards of Employee Conduct (12/6/2013)  
3713.31 Discrimination and Retaliation Complaints Processing (4/22/2024)  
3730.05 Workplace Violence Prevention, Staff (3/23/2004)

### *Federal Statutes*

- The Privacy Act of 1974, 5 U.S.C. § 552a  
Title 5 U.S.C. § 7114(a)(2)(B), Representation rights and duties

### *Other References*

- Master Agreement between the Federal Bureau of Prisons and Council of Prison Locals

### *ACA Standards*

None

### *Records Retention Requirements*

Requirements and retention guidance for records and information applicable to this program are available in the Records and Information Disposition Schedule (RIDS) on the Bureau's intranet site.

## ANTI-HARASSMENT COMMITTEE GUIDELINES

The following series of questions may be used as a guide in an Anti-Harassment Committee deliberation after a reported incident of harassment. They are grouped into five categories, generally arranged from most to least important in terms of judging potential harassment, using the acronym REVIEW. The first category of questions pertains to the reported incident; the remaining questions pertain to the individual(s) accused of harassment. These are guidelines only and do not necessarily constitute an exhaustive list of relevant factors to consider in every reported incident of harassment.

### 1. REPORTED INCIDENT

#### **Severity.**

- ✓ Did any employee or others suffer actual physical harm?
- ✓ How much potential danger/harm were employees exposed to?
- ✓ Did employees or others feel harassed or in danger?

#### **Motivation.**

- ✓ What precipitated or “triggered” this incident?
- ✓ Are the same or similar triggers likely to reoccur?

#### **Aftermath.**

- ✓ Has the original reported incident of harassment or the situation been resolved?
- ✓ Do all parties agree the situation is resolved?
- ✓ Does the individual(s) accused of the harassment continue to exhibit harassing, intimidating, or humiliating behavior?
- ✓ Do any employees or others continue to feel harassed or in danger?

### 2. VIOLENCE HISTORY

- ✓ Is there any evidence of previous harassing, intimidating, or humiliating behavior, either on or off the job?

### **Frequency/Recency/Severity.**

- ✓ How often has the harassing behavior occurred?
- ✓ Has the behavior occurred recently?
- ✓ Did past harassment result in actual physical harm to others?
- ✓ How much potential danger or harm were others exposed to?
- ✓ Do others continue to feel harassed or in danger?

### **Targets.**

- ✓ Who were the “target(s)” of previous harassing behavior?
- ✓ Do the same or similar target(s) exist in the work environment?
- ✓ If yes, does the individual(s) accused of the alleged harassment exhibit harassing or intimidating behavior in relation to the target(s)?

### **Motivation.**

- ✓ What caused or “triggered” past harassment?
- ✓ Are the same or similar triggers likely to (re)occur in the work environment?
- ✓ Is there any reason or evidence to suggest past triggers are no longer relevant?

### **3. INDIVIDUAL FACTORS**

- ✓ Is there any evidence of alcohol or other substance abuse?
- ✓ Has there been a noticeable, recent, abrupt change in the alleged harasser’s behavior?
- ✓ Are there any factors known to the committee members, regarding the alleged harasser, that would be of assistance in assessing the situation?

### **4. ENVIRONMENTAL FACTORS**

- ✓ Are there any known stressors or negative changes in the individuals’ lives?
- ✓ Is quality social support (friends, family) available?
- ✓ If available, does the accused tend to rely on their social support?

### **5. WORK PERFORMANCE/CONDUCT**

- ✓ Do other interpersonal difficulties, conflicts, or relationships with co-workers or supervisors exist?
- ✓ Do other performance or conduct problems exist?

- ✓ Have there been any previous investigations or adverse actions taken against the individual(s)?
- ✓ Does the accused have poor work habits or a “negative” attitude?