

ANTI-HARASSMENT PROGRAM

I. Purpose

This Directive further clarifies details of the Department of Homeland Security (DHS) Anti-Harassment Policy Statement and sets forth the details of the DHS Anti-Harassment Program.

II. Scope

A. This Directive applies throughout DHS, except as noted below. It applies to the Transportation Security Administration to the extent consistent with the Public Law 107-71, "Aviation and Transportation Security Act" (November 19, 2001).

B. This Directive is separate and apart from any collective bargaining agreement or statutory complaint process covering harassment.

C. Complaints alleging harassment on any statutory or non-statutory basis raised by military members of the United States Coast Guard are administratively processed pursuant to policies set forth by the Commandant, United States Coast Guard.

D. This Directive does not apply to the Office of Inspector General, which manages its own program.

III. Authorities

A. Title 5, United States Code (U.S.C.) Section 2302, "Prohibited Personnel Practices"

B. Title 42, U.S.C., Section 2000e et seq.

C. Title 5, U.S.C., Chapter 75

D. Title 29, U.S.C., Section 791 et seq.

E. Title 29, U.S.C., Section 621 et seq.

F. Title 42, U.S.C., Section 2000ff et seq.

G. Equal Employment Opportunity Commission Management Directive 715, "Federal responsibilities under Section 717 of Title VII and Section 501 of the Rehabilitation Act" (October 1, 2003)

H. Equal Employment Opportunity Commission, "Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors," No. 915.002 (June 18, 1999)

I. DHS Delegation 19003, "Delegation to the Officer for CRCL for Matters Involving CRCL, Including Equal Employment Opportunity (EEO) and Workplace Diversity"

J. DHS Policy Statement 256-06, "Anti-Harassment Policy Statement"

IV. Responsibilities

A. The **Officer for Civil Rights and Civil Liberties (CRCL)**:

1. Oversees the Department's Anti-Harassment Policy and Program, and implements the DHS requirements in, and ensures compliance with, this Directive through a Departmental Anti-Harassment Program Manager or Coordinator.
2. Oversees a Headquarters Anti-Harassment Unit that carries out a separate harassment allegation process from the EEO complaint process.
3. Identifies a reporting mechanism into which Components enter information about reports of harassment, inquiries into such reports, and any remedial action taken.

B. The **DHS Chief Human Capital Officer** coordinates with the Officer for Civil Rights and Civil Liberties regarding personnel matters affected by the DHS Anti-Harassment Policy Statement and this Directive.

C. **Component Human Capital Officers** advise supervisors and managers with respect to their responsibilities in: a) responding to reports of harassment, and b) preventing workplace harassment. At a Component whose Human Capital Officer is not involved in addressing employee misconduct, this responsibility lies with the designated management official who is responsible for doing so.

D. The **Component Heads**:

1. Coordinate with CRCL to develop and publish Component-specific Anti-Harassment Reporting Procedures in accordance with the Departmental Policy and Program.
2. Designate a Component Anti-Harassment Program Manager or Coordinator, who ensures compliance with the Departmental Policy and Program and this Directive.
3. Ensure reporting of all allegations or instances of harassment into the Departmental reporting mechanism(s) identified by the Officer for CRCL.
4. Identify and maintain sufficient dedicated resources, including fact-finders or investigators functioning separately from the EEO complaint process, to conduct prompt, thorough, and impartial inquiries into reports of harassment.
5. Ensure appropriate training of all Component employees, fact-finders or investigators, managers, and supervisors.

E. The **General Counsel, Office of the General Counsel**, provides legal review and recommendations on the Department's Anti-Harassment Program.

F. All **Managers and Supervisors** take all allegations and instances of potential harassment and/or retaliation seriously, report any complaints or incidents of harassment and/or retaliation consistent with the applicable Component anti-harassment reporting procedures, and take prompt remedial action to correct harassment, or to address any claims of retaliation stemming from harassment allegations. Managers and Supervisors take appropriate steps to prevent harassment in the workplace.

G. All **Employees** abide by the DHS Anti-Harassment Policy Statement, and promptly report any incidents or complaints of potential harassment or retaliation consistent with the applicable Component anti-harassment reporting procedures.

V. Policy and Requirements

A. **Policy**: As described in DHS Policy Statement 256-06 (the DHS Anti-Harassment Policy Statement), it is the policy of DHS to maintain a work environment free from all forms of harassment. Harassment includes any unwelcome conduct that interferes with an individual's work performance or creates an intimidating, offensive, or hostile environment on the basis of an individual's race, color, religion, sex (including pregnancy sexual orientation, gender expression, and gender identity), national origin, age, disability (including an individual's need for workplace reasonable accommodations), protected genetic information, marital status, parental status, political affiliation, prior protected EEO activity, or any other basis as provided by law ("protected basis"). The Department's anti-harassment procedures are further delineated in DHS Instruction 256-01-001, and in Component specific anti-harassment reporting procedures published in accordance with the Departmental Policy and Program.

B. **Harassment Prevention and Elimination Requirements**:

1. Each Component shall maintain written procedures for filing, addressing, and conducting inquiries into reports of harassment. The procedures should identify multiple avenues through which individuals may report violations of the Department's Policy. Appropriate measures shall be taken to publicize the DHS Anti-Harassment Policy Statement and applicable Component Reporting Procedures.
2. Components take effective interim remedial measures, where appropriate, pending fact-finding inquiries. Components shall complete prompt, thorough, and impartial fact-finding inquiries into reports of harassment. Upon completion of a fact-finding inquiry, Component decision-makers take prompt, effective corrective actions, as appropriate, depending on the circumstances.

C. **Relationship with Other Procedures**:

1. Neither the DHS Anti-Harassment Policy Statement, nor this Directive, nor any Component's Anti-Harassment Reporting Procedure affects an employee's right to file an EEO complaint alleging harassment or discrimination.
2. An employee's use of the reporting procedure referenced in this Directive, or in a Component's Anti-Harassment Reporting Procedure, 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 their servicing Component EEO Office or Civil Rights Office within 45 calendar days of the most recent incident of alleged harassment, irrespective of whether they use the reporting procedure referenced in this Directive. Use of the reporting procedure referenced in this Directive does not toll, or affect in any way, the deadlines or time limits associated with the EEO complaint process.

4. Employees may also file complaints with the Office of Special Counsel (www.osc.gov) alleging discrimination. The Office of Special Counsel investigates and prosecutes allegations of prohibited personnel actions. Use of the reporting procedure described in this Directive does not affect an employee's right to file a complaint with the Office of Special Counsel. Similarly, filing a complaint with the Office of Special Counsel does not prevent an employee from also filing a separate complaint with their own EEO Office or Civil Rights Office.

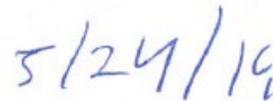
VI. Questions

Address any questions or concerns regarding this Directive to the CRCL Deputy Officer for EEO and Diversity.



R. D. Alles

Senior Official Performing Duties of the Deputy
Under Secretary for Management



Date