



April 1, 2019

## Policy Statement 256-06

MEMORANDUM FOR: All Employees

FROM: Kirstjen M. Nielsen   
Secretary of Homeland Security

SUBJECT: Anti-Harassment Policy Statement

*With honor and integrity we will safeguard the American people, our homeland, and our values.*

Implicit in our motto is the imperative that all Department of Homeland Security (DHS) employees commit to fostering a culture of trust, respect, and integrity. In that regard, we must all work together to ensure that all DHS employees can work in an atmosphere that is free from discrimination, harassment, and retaliation.

This Policy explains and prohibits harassment at DHS, and tells employees what to do if they are the victim of, suspect, or observe harassment. Additional requirements, and further instruction, can be found in a forthcoming revision to DHS Directive 256-01 and the forthcoming DHS Instruction 256-01-001, as well as Component-specific Reporting Procedures.

### **In General**

Harassment is prohibited at DHS, and the Department is committed to providing a work environment free of discrimination and harassment. Consequently, DHS prohibits harassment even if it does not rise to the level of harassment that violates the law. Although a single harassing utterance or act may not rise to a level that may be actionable under the law, it still has no place at DHS.

This Policy prohibits harassment by any DHS employee, or harassment of any DHS employee, by any employee, contractor, vendor, applicant, or other individual with whom DHS employees come into contact by virtue of their work for DHS. This Policy prohibits harassing conduct that has a direct nexus to the individual's position or responsibilities regardless of whether it occurs on-duty, off-duty, face-to-face, via electronic means (*e.g.*, telephone, email, social media, chat applications, etc.), through a third party, or through other means. Such conduct is prohibited regardless of whether it occurs during working hours or on DHS property.

Harassment includes any unwelcome conduct involving a protected basis which interferes with an individual's work performance or creates an intimidating, offensive, or hostile environment. Protected bases include: 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, or prior protected Equal Employment Opportunity activity.

Although this Policy prohibits harassment only involving a protected basis (*i.e.*, those bases identified in the paragraph above) – because unwelcome conduct on those bases is especially serious – no DHS employee, contractor, or vendor should be harassed, or should engage in harassing conduct, *for any reason*, and employees may be disciplined for such behavior.

### **Examples of Prohibited Harassment**

Examples of unwelcome conduct prohibited by this Policy include, but are not limited to, epithets, slurs, stereotyping, intimidating acts, bullying, ridicule, mockery, putdowns, acts of violence, actual or implied threats of violence, and the circulation or posting of written or graphic materials that show hostility due to protected status.

### **Sexual Harassment**

Sexual harassment is one form of harassment prohibited by this Policy. Sexual harassment involves unwelcome 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 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: (1) offensive sexually-oriented verbal kidding, 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; or (9) disseminating internet links with sexually-themed content.

## **Expectations of DHS Employees**

All DHS employees are expected to avoid any behavior or conduct that could reasonably be interpreted as harassment. No employee, regardless of title or position, is exempt from the requirements of this Policy.

Employees are encouraged to inform any person who engages in harassing conduct in the workplace that the conduct is inappropriate or unwelcome.

In all cases, employees aware of harassment, whether or not subjected to the harassment themselves, must promptly report any suspected violations of this Policy in accordance with their Component's reporting procedures.

In addition to the requirement to promptly report any suspected violations of this Policy, supervisors and managers must take prompt, appropriate action to address violations of this Policy. They must also take appropriate steps to prevent harassment in the workplace.

## **Reporting Harassment and Next Steps**

A cornerstone of effective anti-harassment is helping employees feel comfortable reporting suspected harassment. While employees are encouraged to report harassment to their supervisor or management, alternative avenues for reporting are available in each Component and Headquarters. All reports of harassment must be referred for a prompt inquiry. The confidentiality of reports of harassment or information gathered during a subsequent inquiry is protected to the maximum extent possible, subject to DHS's need to investigate and take corrective action.

If necessary, management should take interim measures to make sure that harassment does not continue while an inquiry is pending. If the inquiry reveals that harassment has occurred, management must take appropriate corrective action. Any employee found to have engaged in harassment is subject to disciplinary action, up to and including removal.

## **Retaliation is Not Tolerated**

DHS does not tolerate retaliation against any individual for:

- reporting harassment,
- assisting another individual in reporting harassment,
- providing information related to a report of harassment,
- participating in the EEO complaint process, or
- opposing conduct that they believe is unlawfully discriminatory or harassing.

Any person who believes he or she has been subject to retaliation should report the conduct using the same reporting procedures as for complaints of harassment.

### **Reports of Harassment are Different from EEO Complaints**

The purpose of this Policy is to stop harassing conduct that has occurred and deter its occurrence in the future. An employee's report of harassment under this Policy does not result in the filing of an individual complaint of discrimination or otherwise replace the employee's rights to file negotiated or administrative grievances, or engage in other avenues of redress. Nor does a report of harassment under this Policy affect the time limits for initiating those proceedings.

### **Component Specific Information**

Each Component has posted on the intranet, and in various physical locations, its procedures for reporting harassment, as have the Operational units in Headquarters. Those procedures are distributed to employees upon hire and then via email each year.