



Department of Housing and Urban Development

ANTI-HARASSMENT PROGRAM

INSTRUCTION

OCHCO Safe Workplace Programs (SWP)

SUBJECT: Anti-Harassment Program (AHP)

References: See Enclosures 1 and 2

1. PURPOSE. This instruction serves as the Anti-Harassment Program (AHP) policy, in accordance with (IAW) the authority and guidance in Enclosure 1, establishes policy, advice, and procedures for preventing, promptly correcting, and taking appropriate courses of action regarding all forms of workplace harassment and unwelcome conduct.
2. APPLICABILITY. This instruction applies to all U.S. Department of Housing and Urban Development (Department or HUD) employees, and contractors. The AHP is housed within the Office of Safe Workplace Programs (SWP).
3. OBJECTIVE. The AHP:
 - a. Provides a clear explanation of prohibited conduct.
 - b. Protects employees who make claims of harassment or provide information related to such claims from retaliation/reprisal.
 - c. Provides a clear complaint process that provides accessible avenues for Affected Persons.
 - d. Protects the confidentiality of the individuals bringing harassment claims or other individuals who assist with such inquiries to the extent possible.
 - e. Maintains a complaint process that provides a prompt, thorough, and impartial investigation.
 - f. Assures HUD will take immediate and appropriate corrective action when it is determined harassment, unwelcome conduct or retaliation/reprisal has occurred.
 - g. This policy also provides protection from retaliation/reprisal against any employee for making a good faith report of workplace harassment under this or any other policy or procedure, and for assisting with an inquiry into such allegation of harassment.
4. STATEMENT OF PROHIBITED CONDUCT.

HUD is committed to providing a work environment free of discrimination, harassment, and unwelcome conduct. All harassment is prohibited even if it does not rise to the level of unlawful harassment. While a single instance of a harassing statement or act, and instances of

unwelcome conduct may not rise to a level that may be actionable under the law, they still have no place at HUD. Harassment, unlawful harassment, unwelcome conduct, and retaliation/reprisal are prohibited.

5. DEFINITIONS.

a. **Affected Person(s).** (a) an individual subjected to discrimination, harassment, or unlawful harassment, or (b) an individual subjected to unwelcome conduct or (c) an individual who suffered retaliation/reprisal for reporting harassment or assisting another individual in reporting harassment, for providing information or serving as a witness related to such a report, or for opposing conduct they believe is harassment.

b. **Anti-Harassment Program (AHP).** A program designed to prevent and respond to all forms of harassment and unwelcome conduct. The Office of the Chief Human Capital Officer (OCHCO) has the delegated responsibility for the AHP, as such OCHCO will designate an employee as the SWP Officer who will be responsible for oversight and implementation of the departmental AHP.

c. **Anti-Harassment Program Investigators (AHPI).** Conduct prompt, independent, thorough, and impartial fact-finding, and investigations into alleged harassment/misconduct/retaliation/reprisal. They may either be contractors, third-party factfinders obtained from another federal agency, or staff of the Department.

d. **Harassment/ Harassing Conduct.** Whether in violation of federal law or regulation, harassment is defined as unwelcome conduct based on a protected class. Examples of harassing conduct covered by the AHP, include the following, whether they occur in person, on social media, on video conference meetings, or in any other manner, but are not limited to, the following:

- ❖ Threatening, implicitly or explicitly, that rejection of sexual overtures will affect assignments, appointments, promotions, transfers, or advancements.
- ❖ Belittling caricatures or objects, including those depicting persons of a race, national origin, religion, or other protected class.
- ❖ Telling derogatory jokes or stories.
- ❖ Teasing, mimicking, or commenting on an individual's disability, accent, or other protected class.
- ❖ Making offensive comments, jokes, or suggestions about an employee's gender.
- ❖ Making obscene or lewd comments, slurs, jokes, epithets, suggestions, or gestures.
- ❖ Commenting on an employee's body or sexual characteristics.
- ❖ Displaying nude or sexually suggestive objects, pictures, images, or cartoons.
- ❖ Continuing prohibited behaviors.
- ❖ Laughing at, ignoring, or retaliating against an employee who raised an allegation of discrimination.
- ❖ Engaging in bullying, intimidating, or threatening behavior with respect to an individual's protected class.

e. **Initial Inquiry.** Initial fact-finding and review of the allegation of harassment, unlawful harassment, unwelcome conduct, or retaliation/reprisal by the SWP Officer or Management Official to determine if an investigation by an AHPI is required.

f. **Management Official.** All managers and supervisors employed with the Department. Usually, the first-line supervisor unless the first-line supervisor is the alleged harasser then the appropriate management official will be the second-line supervisor.

g. **Protected Class.** An individual's membership in a group characterized by race, color, religion, sex (including pregnancy, gender identity, sexual orientation), national origin, disability (physical and/or mental), marital status, parental status, veteran status, genetic information, and age (40 years or older).

h. **Retaliation/Reprisal.** When an employer subjects an employee to adverse action for engaging in legally protected activity (e.g., reporting harassment, asserting EEO rights, assisting or participating in a factfinding inquiry). Retaliation/reprisal occurs if employer actions might deter or dissuade a reasonable person from asserting his/her EEO rights or engaging in protected activity.

i. **Safe Workplace Programs (SWP).** Office responsible for programs associated with professional conduct. The AHP is housed within the Office of Safe Workplace Programs (SWP).

j. **Unlawful harassment.** Harassment/Harassing conduct where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Unlawful harassment also includes employment discrimination because of age (age 40 or older), disability, genetic information, harassment, national origin, pregnancy, race, color, religion, retaliation/reprisal, and sex (including gender identity, and sexual orientation, and sexual harassment).

k. **Unwelcome Conduct.** Conduct that is unwanted by the Affected Person. May include bullying. Unwelcome conduct does not have to target a protected class but may disrupt the efficiency of the service and may warrant disciplinary action.

6. RESPONSIBILITIES.

a. **All HUD Employees.** It is the responsibility of every HUD employee to act professionally and refrain from engaging in harassment, unlawful harassment, unwelcome conduct, and retaliation/reprisal. All HUD employees should become familiar with the provisions of these procedures, comply with all requirements, and cooperate with any inquiry or AHP investigation under these procedures.

b. **Management Officials.** It is the responsibility of all managers and supervisors to maintain a work environment free of harassment and unwelcome conduct and to take all allegations

seriously. To this end, managers and supervisors are required to take immediate action to assess whether reported allegations occurred. They must:

1. Prevent and take prompt, effective, and appropriate action with respect to any alleged conduct covered by the AHP.
2. Contact the SWP Officer immediately to obtain guidance regarding the appropriate steps to conduct an inquiry or an AHP initiating investigation in determining how best to correct the problem and comply fully with the AHP requirements. If disciplinary or adverse action is warranted, coordinate with the appropriate manager or supervisor and consult with Employee and Labor Relations (ELR) and servicing legal office.

c. **SWP Officer.** It is the responsibility of the SWP Officer and AHPI to ensure compliance with HUD's Anti-Harassment Program and its procedures, consistent with the requirements of the Anti-Harassment Policy Objectives, and this Instruction by: 1) ensuring timely fact-finding investigations; 2) ensuring investigations into allegations and instances of harassment begin within ten (10) days of receiving notice of the allegations; 3) ensuring corrective action is implemented within 60 days of receiving notice of the allegations absent cause for extending the timeline; 4) ensuring distribution of the SWP AHP instruction and reporting procedures; 5) ensuring appropriate anti-harassment training is provided to the Department consistent with the AHP; and 6) maintaining confidentiality to the extent possible.

d. **Office of the Chief Human Capital Officer (OCHCO).** It is the responsibility of OCHCO to serve as the office with delegated authority and responsibility for the dissemination and implementation of HUD's AHP. Coordinate and collaborate with Office of Departmental Equal Employment Opportunity (ODEEO) and other appropriate departmental offices, to comply with federal guidelines. Ensure appropriate staff, training, and support for the effective and efficient operation of the AHP.

Generate and provide statistical reports to the Office of the Deputy Secretary and ODEEO to ensure effectiveness and federal compliance, upon request. Lead efforts to provide a safe and secure HUD workplace for employees by sponsoring anti-harassment initiatives. If disciplinary or adverse action is warranted, have the OCHCO Employee and Labor Relations Division (ELRD) with the appropriate manager or supervisor consult with the servicing legal office.

7. PROCEDURES.

a. **Reporting Process.** Any individual who is experiencing conduct prohibited by this AHP should tell the person who engaged in the conduct to stop. If the Affected Person is uncomfortable confronting the person who engaged in the conduct, or if the conduct continues after the person has been asked to stop, the Affected Person is encouraged to report the conduct as soon as possible and practicable to any of the following: 1) the Affected Person's immediate supervisor, 2) the supervisor of the person who allegedly engaged in the conduct, 3) any management official with supervisory authority; or 4) the SWP Officer, who can be reached at AHP@hud.gov.

1. Non-management employees who know of apparent harassment, unlawful harassment, or unwelcome conduct directed at others are encouraged to report the conduct, as soon as possible and practicable to any of the individuals listed in the above paragraph.

2. Contract workers who have been subjected to harassment, unlawful harassment, unwelcome conduct, or retaliation/reprisal by an HUD employee, or who know of apparent harassment, unlawful harassment, unwelcome conduct or retaliation/reprisal directed at others by a HUD employee, are encouraged to report the conduct, as soon as possible and practicable to an appropriate management official. Contract workers may also report the conduct to the contractor, who should notify the SWP Officer at AHP@hud.gov.

b. Notifying Appropriate Officials. Alleged harassment, unlawful harassment, and unwelcome conduct within a supervisor's or manager's chain of command: A supervisor or manager who receives a report or becomes aware of alleged harassment, unlawful harassment, unwelcome conduct, or retaliation/reprisal within their chain of command must, as soon as possible but no later than within three (3) business days, notify the SWP Officer of the allegation. Prior to conducting an initial inquiry to assess the severity of the situation, and in consultation with the SWP Officer, the manager or supervisor will determine necessary next steps. Management should also be made aware that it is important to document all efforts that are being made to address the allegations. The management official should endeavor to inform the employee or individual of their right to file an EEO complaint, under 29 C.F.R. Part 1614 or file a grievance under the collective bargaining agreement if they become aware, by any means, that a discriminatory act has occurred.

1. Alleged Harassment, Unlawful Harassment, or Unwelcome Conduct outside a supervisor's or manager's chain of command must, as soon as possible but no later than within three (3) business days, be reported to the Affected Person's immediate supervisor, the alleged harasser's immediate supervisor and the SWP Officer.

2. The alleged harasser's immediate supervisor must then follow the procedures set forth in the AHP.

3. If an Affected Person contacts the SWP Officer directly, the SWP Officer must notify the Affected Person's supervisor or manager or, if the conduct implicates the supervisor or manager, then the supervisor or manager directly above.

4. The SWP Officer or the management official will conduct an initial inquiry by contacting the relevant parties to discover and establish the facts. All written documentation produced in the initial fact-finding process must be submitted to the SWP Officer no later than three (3) business days from initiation of the initial inquiry. If the SWP Officer determines that an AHPI investigation is necessary, the investigation must begin within ten (10) days of receiving notice of the allegation. AHPI will conduct and submit the final investigation within sixty (60) business days of the assignment for

corrective action if any IAW with paragraph nine (9) INVESTIGATIONS of this instruction.

8. INTERIM MEASURES. Interim measures may be used to minimize contact between the Affected Person and the alleged harasser, or the person alleged to have committed retaliation/reprisal until the matter is concluded. Interim measures shall be applied in a manner so as not to unduly burden the Affected Person. Except in very limited circumstances, the alleged harasser, rather than the Affected Person, shall be the person who is temporarily reassigned or transferred, or placed in telework status. Investigative administrative leave will be used for the alleged harasser only for cases that meet the requirements for administrative leave for investigative purposes. The SWP Officer and management official will consult with the servicing legal office for the use of administrative leave for investigative purposes.
9. INVESTIGATIONS. Investigations will be prompt, thorough, and impartial. Once the SWP Officer determines an investigation is necessary following an initial inquiry, HUD must make all reasonable efforts to ensure the Summary of Investigation is completed as quickly as possible, but no later than sixty (60) business days from the date of receiving the allegation barring any extenuating circumstances. The Summary of Investigation and all original supporting documents must be submitted directly to the SWP Officer.
 - a. Initial Inquiries are conducted as expeditiously as possible, such that a determination for any corrective action or interim measures needed can be made, and such action effectuated as quickly as possible. The initial inquiry should begin promptly, usually within one week of the Anti-Harassment Program's receipt of the allegation but in no more than ten (10) days from receipt of a complaint.
 - b. The AHPI develops a thorough, impartial record, containing sufficient information upon which a decision-maker can reasonably determine whether corrective action is appropriate. At a minimum, the investigator should interview the individual who is alleged to have been harassed, the individual who is alleged to have engaged in the harassing conduct, and any witnesses with relevant information about the allegation. In addition, the investigator should collect any relevant documentary evidence. After gathering all relevant evidence, the investigator develops an investigative report.
 - c. The Summary of Investigation report contains sufficient information upon which a decision-maker can reasonably determine whether harassment or unwelcome conduct occurred. The Summary of Investigation shall contain all the evidence contained in the investigative report, including any witness statements and other documentary evidence, along with copies of the statements and other evidence. When possible, the AHPI will provide analysis and recommendation to management for appropriate corrective measures. Specific disciplinary or adverse action is the determination of management in conjunction with the servicing ELR specialist and legal office. Any employee who is found to have harassed anyone or to have subjected an Affected Person to unwelcome conduct while conducting business on behalf of HUD or retaliated or committed reprisal as outlined in the AHP will be subject to disciplinary or adverse action, up to and including removal from HUD employment.

ANTI-HARASSMENT PROGRAM

10. **CONFIDENTIALITY.** IAW the requirements of the Privacy Act of 1974, 5 U.S.C. § 552a, as amended, all processes, documents, and summary investigations part of the AHP will be protected. HUD will protect the confidentiality of the individuals bringing harassment claims to the extent possible. Following the implementation of preventive and/or disciplinary or adverse action, the SWP Officer shall inform the Affected Person that appropriate measures are being taken, without divulging that a particular corrective action was taken. In addition, the SWP Officer shall provide management officials having a need-to-know information concerning the preventive and/or corrective action taken.
11. **PROTECTION FROM RETALIATION/REPRISAL.** Retaliation/reprisal for reporting alleged instances of harassment, unlawful harassment, or welcome conduct, testifying, or participating in any way during an inquiry, proceeding, or investigation under the AHP; or opposing employment practices or behaviors reasonably believed to be a form of harassment or unwelcome conduct is prohibited.
12. **EEO PROCESS AND GRIEVANCE PROCEDURES.** This program is *separate and apart* from any collective bargaining agreement or statutory EEO process covering harassment procedures or responsibilities and their associated time frames. Employees are responsible for consulting and following those timeframes as appropriate. All employees are encouraged to use EEO channels when an alleged discriminatory act has occurred. Employees are also encouraged to use available grievance procedures.
13. **QUESTIONS.** Address any questions or concerns regarding this Instruction to the Safe Workplace Programs Officer at AHP@hud.gov.

Enclosures

1. References
2. Anti-Harassment Statement from the Secretary of HUD

ENCLOSURE 1

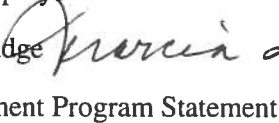
REFERENCES

- A. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000 et seq.
- B. Equal Employment Opportunity Commission <https://www.eeoc.gov/>.
- C. The Age Discrimination in Employment Act of 1967 (ADEA), as amended, 29 U.S.C. § 621 et seq.
- D. The Americans with Disabilities Act of 1990 (ADA), as amended by the ADA Amendments Act of 2008, 42 U.S.C. §12101 et seq.
- E. The Rehabilitation Act of 1973, as amended, 29 U.S.C. § 791 et seq.
- F. The Genetic Information Nondiscrimination Act, as amended, 42 U.S.C. § 2000ff et seq.
- G. The Equal Pay Act of 1963, as amended, 29 U.S.C. § 206, et seq.
- H. The U.S. Equal Employment Opportunity Commission's (EEOC) Management Directive (MD) 715; and Enforcement Guidance titled Model EEO Programs Must Have an Effective Anti-Harassment Program and Vicarious Liability for Unlawful Harassment by Supervisors.
- I. Supreme Court's decisions in Faragher v. Boca Raton, 524 U.S. 775 (1998), and Burlington Industries, Inc. v. Ellerth, 524 U.S. 742 (1998). Requiring agencies to set up Anti-Harassment procedures.
- J. Pregnancy Discrimination Act of 1978.
- K. Civil Service Reform Act of 1978.
- L. Executive Order 11478, as amended.
- M. Secretary's Statement on Anti-Harassment.
- N. HUD's Anti-Bullying Statement, hud@work, Content current as of April 3, 2013.
- O. Guidance for Agency-Specific Domestic Violence; Sexual Assault, and Stalking Policies, OPM, February 2013.
- P. Harassment Guidance, U.S. EEOC, <https://www.eeoc.gov/laws/types/harassment.cfm>.
- Q. Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors, U.S. EEOC, <https://www.eeoc.gov/policy/docs/harassment.html>.
- R. HUD Handbook 752.02 REV-3, Adverse Actions, December 1, 2000.
- S. HUD Handbook 791.1, Workplace and Domestic Violence Prevention and Response Handbook, June 2015.



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
THE SECRETARY
WASHINGTON, DC 20410-0500

August 12, 2021

MEMORANDUM FOR: All HUD Employees
FROM: Marcia L. Fudge 
SUBJECT: Anti-Harassment Program Statement

As Secretary of the US Department of Housing and Urban Development (HUD) I am committed to providing a work environment free of discrimination, harassment, and unwelcome conduct to all employees, applicants, contractors, and business partners. Treating each person with dignity, respect and valuing the diverse perspectives within the organization are HUD priorities. To this end, it is HUD's Anti-Harassment Policy to maintain a safe and harassment-free workplace.

A safe workplace free of discrimination is the right of every employee, applicant, contractor, and business partner at HUD. Civil Rights laws, Executive Orders, and EEOC directives protect our stakeholders from discrimination based on protected classes: race, color, sex (pregnancy, gender identity and sexual orientation), religion, national origin, age (40 years or older), disability (physical or mental), marital status, parental status, veteran status, genetic information, and retaliation/reprisal (for prior EEO activity).

HUD's efforts are aimed to prevent and remove any barriers to a harassment free workplace, so that all persons can participate fully and successfully in the workplace and are treated with dignity and respect.

All persons will be protected from retaliation/reprisal for making a good faith report of workplace harassment under this program or any other applicable policy or procedure, and for assisting with an inquiry into such allegation of harassment. Anti-discrimination laws prohibit workplace harassment against individuals in retaliation for filing an equal employment opportunity (EEO) complaint; testifying or participating in any way during an inquiry, proceeding, and/or a lawsuit under these laws; or opposing employment practices they reasonably believe discriminate against individuals. All HUD employees must refrain from engaging in harassing conduct in the workplace. Any employee who is found to have harassed anyone or to have subjected a person to unwelcome conduct while conducting business on behalf of HUD or retaliated or committed reprisal will be subject to disciplinary or adverse action, up to and including removal from employment.

Harassment is defined as unwelcomed conduct based on a protected class. Unwelcome conduct is conduct that is unwanted by the affected person and may include bullying. Unlawful harassment is conduct that is severe or pervasive enough to create a work environment that a reasonable person would find intimidating, hostile, or abusive and that unreasonably interferes with and is detrimental to an employee's work performance, professional advancement, and mental and physical health; causes economic harm; or creates an intimidating, hostile, and offensive work environment. Prohibited harassing conduct includes, but is not limited to, offensive jokes, slurs, epithets, or name calling, undue attention, physical assaults or threats, unwelcome touching or contact, intimidation, bullying, ridicule or mockery, insults, or put-downs, constant or unwelcome questions about an individual's identity, mistreatment on social media, and offensive objects or pictures.

We have a shared responsibility of preventing workplace harassment. Executives, managers, and supervisors must ensure that every reported incident of harassing conduct is reviewed and responded to immediately and appropriately. HUD employees who experience or witness harassing behavior or misconduct are encouraged to immediately report the incident to their first-line manager/supervisor (unless their first-line manager/supervisor is the alleged perpetrator), an appropriate management official or the Anti-Harassment Program's staff at AHP@HUD.gov.

Once the Department is aware of the claims of harassment, it will immediately conduct a prompt, thorough, and impartial inquiry into the claim(s) via the Anti-Harassment Program procedures.

HUD, to the greatest extent possible, will take every step to protect the confidentiality of individuals alleging harassment. Immediate and appropriate corrective action will be taken if it is determined that harassment has occurred. Employees who believe they have been harassed may also, and separately, file a grievance under an applicable collective bargaining agreement or initiate an EEO complaint with the Office of Departmental Equal Employment Opportunity by telephone at (202) 708-5921 or by email at EEO@HUD.gov.