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FEDERAL BUREAU OF INVESTIGATION
POLICY DIRECTIVE

Harassment Policy
1038D

General Information

Proponent	Office of Equal Employment Opportunity Affairs (OEEOA)
Publication Date	2018-10-31
Review Date	2021-10-31
Last Updated	N/A
Supersession	Policy Directive (PD) 0831D, *Harassment Policy*

1. Authorities

- Title VII of the Civil Rights Act of 1964, as amended
- Age Discrimination in Employment Act of 1967, as amended
- Rehabilitation Act of 1973, as amended
- Genetic Information Nondiscrimination Act of 2008
- Executive Order (EO) 11478, as amended

2. Purpose

The purpose of this policy directive is to outline the Federal Bureau of Investigation's (FBI) guidelines on harassment and bullying.

3. Scope

This policy applies to all current FBI employees, FBI applicants, FBI contractors, and employees of other agencies who are detailed to the FBI.

4. Exemptions

There are no exemptions to this policy.

5. Policy Statement

5.1. Harassment

5.1.1. Harassment is defined as unwelcome verbal, nonverbal, written, or physical conduct by a supervisor or a coworker that is based on race, color, religion, sex (including gender

identity, sexual orientation, pregnancy, and sexual harassment), national origin, age, disability, parental status, genetic information, or retaliation for prior equal employment opportunity (EEO) activity, and it constitutes unlawful discrimination that unreasonably interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment. All forms of harassment on any of the aforementioned bases are prohibited.

5.1.2. Harassment may include, but is not limited to:

5.1.2.1. Oral or written communications that contain degrading comments directed toward members of any aforementioned class.

5.1.2.2. Jokes or anecdotes based on stereotypes of any aforementioned protected class.

5.1.2.3. Racial or ethnic slurs and epithets directed toward members of any aforementioned protected class.

5.1.2.4. Gestures or symbols that degrade members of any aforementioned protected class.

5.1.2.5. Cartoons, graffiti, pictures, or diagrams with derogatory content directed toward members of any aforementioned protected class.

5.1.2.6. Rumors being spread about an individual based on membership in any aforementioned protected class.

5.2. Sexual Harassment

5.2.1. Sexual harassment is a form of harassment based on sex and is characterized by (1) unwelcome sexual advances; (2) requests for sexual favors; and (3) other verbal, nonverbal, or physical conduct of a sexual nature that is directed at an individual of the same or opposite sex when:

5.2.1.1. Submission to, or rejection of, this conduct by an individual is made a term or a condition of an individual's employment, either explicitly or implicitly.

5.2.1.2. This conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

5.2.2. Sexual harassment may include, but is not limited to:

5.2.2.1. Oral or written comments of a sexual nature.

5.2.2.2. Statements, jokes, or anecdotes with sexual content or innuendos.

5.2.2.3. Sexual comments or gestures regarding an individual's body.

5.2.2.4. Gestures that contain sexual innuendos or are sexually degrading in nature.

5.2.2.5. Physical touching or the threat of physical contact.

5.2.2.6. Display of posters, calendars, books, pictures, diagrams, or magazines with sexual content.

5.2.2.7. Persistent pressuring of an individual for a date or a sexual encounter.

5.3. Responding to Harassment

5.3.1. If an employee believes that he or she has been subjected to harassment based on race, color, religion, sex (including gender identity, sexual orientation, pregnancy, and

sexual harassment), national origin, age, disability, parental status, genetic information, or retaliation for prior EEO activity, he or she should first tell the alleged offending party that the conduct is unwelcome and needs to stop.

5.3.2. If the employee is afraid of, or uncomfortable with, confronting the alleged offending party, the employee is encouraged to report the incident, in writing or verbally, to a higher-level supervisor and/or directly to the Inspection Division (INSD) to protect all legal rights and to put the FBI on notice in order to address the behavior.

5.3.2.1. Higher-level supervisors include, but are not limited to, a supervisor in the employee's chain of command and a supervisor in the alleged offending party's chain of command.

5.3.2.2. If the supervisor is the alleged offending party or is unresponsive to the complaint, the employee should contact a higher-level official.

5.3.2.3. Once a complaint has been made, the supervisor should determine whether it meets any of the criteria listed in subsection 5.1.1. of this policy. If the supervisor determines that it does meet the criteria, the supervisor must take appropriate, immediate action and report the allegation, in writing, to the INSD, Internal Investigations Section (IIS). The supervisor should inform the employee that a referral has been made.

5.3.2.4. If the supervisor determines that a referral is not warranted, the supervisor should explain to the employee the reason(s) for the determination, as well as what action(s), if any, the supervisor intends to take to address the situation.

5.3.3. Whatever determination is made by the supervisor, the employee may take any of the following actions:

5.3.3.1. Report the allegation, in writing, to the INSD, IIS, which then becomes responsible for notifying the employee of the status of the complaint. INSD records must be maintained in Sentinel and in hard copy at INSD, IIS.

5.3.3.2. Report the allegation, in writing or verbally, to the OEEOA. If OEEOA determines that the allegation meets the criteria in subsection 5.1.1., OEEOA will make a referral to INSD, IIS, which then becomes responsible for notifying the employee of the status of the complaint. EEO-related matters must be maintained in an OEEOA internal recordkeeping system.

5.3.4. The identity of alleged victims, alleged offending parties, witnesses, and individuals who report harassment will be kept confidential to the extent possible, consistent with a thorough and impartial investigation.

5.3.5. Any information gathered as part of an investigation will be kept confidential to the extent possible, consistent with a thorough and impartial investigation and relevant legal requirements.

5.4. Remedies to Harassment

5.4.1. Any individual who engages in any form of harassment may be subject to disciplinary action if an investigation reveals that misconduct has occurred. Disciplinary action in relation to harassment is determined on a case-by-case basis and is based on the FBI Offense Codes and Penalty Guidelines governing the FBI's internal disciplinary process. Disciplinary penalties may range from oral reprimand to dismissal from the rolls of the FBI.

5.4.2. An employee who wishes to file a formal EEO complaint about offensive conduct must contact an EEO counselor within 45 days of the occurrence or knowledge of the offensive conduct.

5.4.3. Employees may also contact the OEEOA Harassment Hotline at 202-324-7777.

5.5. Bullying

5.5.1. Bullying actions can be similar to harassment; however, bullying is not based on a protected category and is not covered under the relevant authorities noted in Section 1 of this policy.

5.5.2. Bullying may include, but is not limited to:

5.5.2.1. Undermining an employee's value or potential.

5.5.2.2. Humiliating, belittling, or yelling at an employee.

5.5.2.3. Marginalizing, ignoring, sidelining, excluding, or isolating an employee from normal workplace activities.

5.5.2.4. Rallying others to ridicule an employee.

5.5.3. Bullying does not include:

5.5.3.1. Reasonable actions taken in a reasonable manner in compliance with federal laws or Department of Justice (DOJ) and FBI rules, policies, or procedures that adversely affect an employee.

5.5.3.2. Actions taken to transfer, reduce in force, or terminate an employee pursuant to established practices.

5.5.3.3. Disciplinary actions for substantiated misconduct.

5.5.3.4. Misunderstandings or miscommunications.

5.6. Responding to Bullying

5.6.1. If an employee believes that he or she has been subjected to bullying, he or she should, if possible, tell the alleged offending party that the conduct is unwelcome and needs to stop.

5.6.2. If the employee is afraid and uncomfortable confronting the alleged offending party, the employee is encouraged to report the incident, in writing or verbally, to a higher-level supervisor or report the incident directly to INSD/IIS.

5.6.2.1. Higher-level supervisors include, but are not limited to, a supervisor in the employee's chain of command and a supervisor in the alleged offending party's chain of command.

5.6.2.2. If the supervisor is the alleged offending party or is unresponsive to the complaint, the employee is encouraged to contact a higher-level official in the employee's chain of command to report the complaint in writing or verbally.

5.6.3. Once a written or verbal complaint has been made to the supervisor, the supervisor must address the complaint. It is recommended that the supervisor make a written report. If the bullying continues, the supervisor may report the bullying to INSD, IIS in writing.

5.6.4. At any time, an employee can report allegations of misconduct, in writing, to INSD, IIS. Employees are not required to go through their chains of command to report misconduct. INSD records must be maintained in Sentinel and in hard copy at INSD, IIS.

5.7. Remedies to Bullying

5.7.1. An individual who engages in bullying may be subject to disciplinary action if the alleged offending party does not adhere to the prescribed corrective action, as directed by a management official. Disciplinary action in relation to bullying is determined on a case-by-case basis and is based on the FBI Offense Codes and Penalty Guidelines governing the FBI's internal disciplinary process. Disciplinary penalties may range from oral reprimand to dismissal from the rolls of the FBI.

6. Roles and Responsibilities

6.1. The EEO officer must:

6.1.1. Maintain institutional oversight for the harassment policy.

6.1.2. Ensure that records of EEO matters are maintained in accordance with federal regulation requirements.

6.2. An employee is encouraged to:

6.2.1. Tell the alleged offending party that the behavior is offensive and that the employee wants it to stop. Alternatively, the employee may report the incident to a higher-level supervisor if he or she is afraid of or uncomfortable confronting the alleged offending party.

6.2.2. Document where and when the incident(s) occurred, what happened, and who witnessed it.

6.2.3. Notify a higher-level supervisor, such as a supervisor in the employee's chain of command or a supervisor in the alleged offending party's chain of command concerning the incidents.

6.2.3.1. If the employee is afraid of, or uncomfortable with, confronting the alleged offending party, the employee is encouraged to report the incident, in writing or verbally, to a higher-level supervisor and/or directly to the Inspection Division (INSD) to protect all legal rights and to put the FBI on notice in order to address the behavior.

6.2.4. Notify a higher-level supervisor if the supervisor does not respond to the employee's complaint or if the supervisor is the alleged offending party.

6.2.5. Notify OEEOA if the harassment complaint is not addressed.

6.3. Supervisors must:

6.3.1. Set examples with their own conduct.

6.3.2. Take affirmative steps to ensure that their employees are not involved in harassment or bullying.

6.3.3. Communicate this policy to all employees under their supervision.

6.3.4. Make clear to employees that claims of harassment or bullying will be addressed promptly and thoroughly and that appropriate action will follow.

6.3.5. Take immediate and appropriate action when harassing or bullying conduct is reported to them or when they become aware of such conduct.

6.3.6. Assure employees that their supervisors will treat harassment and bullying complaints seriously and fairly and that employees will not suffer any form of reprisal or retaliation for reporting harassment or bullying or both.

6.3.7. Report all allegations of harassment, in writing, to INSD, IIS.

6.3.8. Address all allegations of bullying and, if necessary, refer alleged misconduct to INSD, IIS.

6.3.9. Advise employees that the Employee Assistance Program (EAP) is available to provide resources if needed.

6.4. A supervisor who is aware of an alleged incident and who fails to take immediate and appropriate action may be subject to disciplinary action, even if the supervisor is not in the employee's chain of command.

7. References

- OEEOA BuNet site
- Office of the Ombudsman BuNet site
- INSD BuNet site
- Office of Professional Responsibility (OPR) BuNet site

8. Definitions and Acronyms

8.1. Definitions

8.1.1. Appropriate action: when a complaint of alleged harassment or alleged bullying is made to a supervisor, appropriate action may include, but is not limited to, (1) taking steps to promptly investigate the incident(s) and ensuring that the conduct does not recur; (2) informing the assistant director in charge (ADIC)/special agent in charge (SAC), assistant director (AD), or other appropriate management officials of the conduct; and (3) reporting the allegation to INSD, IIS if the allegation of offensive conduct refers directly to a protected category.

8.1.2. Protected category: a group of people with a common characteristic who are legally protected from employment discrimination on the basis of that characteristic. Federal agency protected classes are created by federal laws and regulations. Protected classes at the FBI include race, color, religion, national origin, sex (including sexual orientation, gender identity, and pregnancy), age, disability (physical or mental), genetic information, parental status, and participation in prior EEO activity.

8.1.3. Hostile work environment: unwelcome conduct based on race, color, religion, national origin, sex (including gender identity, sexual orientation, pregnancy, and sexual harassment), age, disability (physical or mental), genetic information, parental status, or retaliation for prior EEO activity, 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. Petty slights, annoyances, and isolated incidents (unless extremely serious) do not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to a reasonable person.

8.2. Acronyms

AD	assistant director
ADIC	assistant director in charge

DOJ	Department of Justice
EAP	employee assistance program
EEO	equal employment opportunity
EO	executive order
FBI	Federal Bureau of Investigation
IIS	Internal Investigations Section
INSD	Inspection Division
OEEOA	Office of Equal Employment Opportunity Affairs
OPR	Office of Professional Responsibility
PD	policy directive
SAC	special agent in charge

Approvals	
Sponsoring Executive Approval	
Name	**Title**
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