



U.S. Chemical Safety and Hazard Investigation Board

SUBJECT: ANTI-HARASSMENT POLICY

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PURPOSE.

Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA). The CSB recognizes that employees perform optimally in a respectful environment, free from unlawful harassment. Accordingly, this Order establishes the CSB's approach to preventing unlawful harassment in the workplace. It also articulates the procedures for reporting incidents of harassment and the roles and responsibilities of CSB officials in addressing alleged harassment.

1. **EFFECTIVE DATE.** This Order is effective upon passage by the Board.
2. **APPLICABILITY AND SCOPE.** This Order applies to all CSB Board Members, permanent, temporary, and part-time employees, interns, and contractors. This Order does not supersede Board Order 004, the CSB's Equal Employment Opportunity (EEO) policy, and other pertinent Board Orders, applicable procedures, statutes, regulations, or case law.
3. **REFERENCES.**
 - a. Title 5, United States Code (U.S.C.), Section 2302 (prohibited personnel practices);
 - b. Title VII of the Civil Rights Act of 1964, as amended;
 - c. Age Discrimination in Employment Act of 1967 (ADEA) (29 U.S.C. § § 621 *et seq.*);
 - d. Americans with Disabilities Act of 1990, as amended (42 U.S.C. §12102);
 - e. 29 Code of Federal Regulations, Parts 1600 – 1691;
 - f. 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);
 - g. Equal Employment Opportunity Commission, "Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors," No. 915.002 (June 18, 1999).
4. **DEFINITIONS.**
 - a. **Harassment** is unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful 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.

- (3) Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

Petty slights, annoyances, and isolated incidents (unless extremely serious) will 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 reasonable people.

- b. **Offensive conduct** may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance. Harassment can occur in a variety of circumstances, including, but not limited to, the following:
 - (1) The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.
 - (2) The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct.
 - (3) Unlawful harassment may occur without economic injury to, or discharge of, the victim.
- c. **Harasser** means a Board Member, supervisor, co-worker, or non-employee (e.g. contractor) who has engaged in harassment.

5. **POLICY.**

Every CSB employee deserves the opportunity to work to his or her own potential in an environment that values human dignity and is free from harassment. It is CSB policy to promote and maintain a work environment free from harassment.

An appropriate CSB management official will promptly make an initial inquiry into any allegation of harassment to determine whether a detailed fact-finding investigation is necessary. For example, if the alleged harasser does not deny the accusation, there would be no need to interview witnesses, and appropriate action could be determined.

In all instances where an official determines that harassment has occurred, the offending employee's supervisor will take timely and appropriate corrective actions against the offending employee, including disciplinary actions. If a supervisor becomes aware of any harassment or other unlawful discrimination by any

subordinate(s), but fails to take timely and appropriate corrective action, the supervisor may be disciplined as well.

Anti-harassment training will be provided to all agency personnel, including Board Members, supervisors, staff, and federal contractors. Supervisors, Board Members, and CSB staff will receive anti-harassment refresher training at least once annually.

The CSB's existing EEO policy, as articulated in Board Order 004, continues in full force and effect. The CSB will continue to provide equal opportunity in employment for all persons, and to prohibit discrimination on the basis of race, sex, national origin, religion, age, disability, genetic information, sexual orientation, gender, identity, or retaliation.

6. **RESPONSIBILITIES.**

A. As it pertains to this Order, the **Equal Employment Opportunity Director** is responsible for:

1. Developing and providing training for all employees on this policy, procedures, and related requirements, in consultation with the Director of Human Resources and General Counsel as needed.
2. Distributing this Board Order to all employees on a periodic basis, posting the anti-harassment policy in common areas within the offices, and reminding employees of their responsibilities.
3. Providing oversight, technical assistance, and support to assure compliance with this Order. This includes providing guidance to Office Directors on how to provide relief to individuals alleging harassing conduct pending the outcome of a management inquiry.
4. Administering the EEO Program, including processing EEO complaints, as detailed in Board Order 004.

B. As it pertains to this Order, the **Director of Human Resources (HR)** is responsible for:

1. Assisting CSB supervisors in complying with this anti-harassment policy and procedures;
2. Assisting CSB supervisors with identifying the most appropriate performance measures in employee performance standards to evaluate compliance with this policy and procedures;
3. Ensuring that all supervisors' performance standards have a performance measure relating to compliance with this policy and procedures;
4. Ensuring that all new employees receive a copy of this policy and procedures;
5. Coordinating, as needed, with the EEO Director to execute staff training on harassment, and
6. Maintaining all harassment inquiry-related records and files in a secure location.

C. As it pertains to this Order, the **Office of the General Counsel** is responsible for:

1. Providing legal advice on harassment prevention to all CSB staff;
2. Advising supervisors on appropriate actions to address harassment-related misconduct;
3. Collaborating with the EEO Director to guide supervisors on options for relief for individuals alleging harassment pending the outcome of a management inquiry; and
4. Collaborating with the EEO Director on periodic anti-harassment education and training for all employees.

D. As it pertains to this Order, **CSB Supervisors** must:

1. Be proactive. Monitor subordinates, and to the extent possible, the rest of the agency workforce. Supervisors should also attempt to monitor any third parties, whether or not employed by the CSB, who might reasonably be able to affect their subordinates' work environment, including CSB contractors or other tenants in the building. Prevention of harassment is an agency-wide priority and every supervisor's responsibility.
2. Ensure that all subordinates have read this Order and Board Order 004 on equal employment opportunity, available on the CSB Intranet. Supervisors must be available to answer any questions that their subordinates may have about these policies, or refer them to appropriate points of contact.
3. Remain vigilant to circumstances requiring enforcement of this policy. Consult with appropriate agency officials if questions about the policies arise.
4. Take all complaints of harassment seriously. Treat any employee bringing a harassment complaint respectfully. Assure employees that their concerns will be addressed as quickly and as confidentially as possible.
5. Seek detailed information from the employee about the substance of the complaint. Take detailed notes about the nature of the harassment, as well as any relevant times, dates, places, or witnesses to the harassment. Gather any available documentary evidence the employee has or wishes to provide.
6. As soon as possible after receiving a complaint, consult with your own supervisor, the CSB's Human Resources Director, the General Counsel, and the EEO Director for advice regarding how to proceed. Consider the need or propriety of either a "no contact" order, the use of administrative leave, or other good management practices in order to provide immediate relief to the complaining employee from the alleged harasser. Then, as necessary, the Human Resources Director, the appropriate supervisor, or both, will conduct an investigation into the allegations.
7. Monitor the work environment following a report alleging a violation of this policy to ensure that no further violations or incidents of retaliation against any individual who has reported harassment, or participated in the inquiry, occur.
8. Take appropriate corrective action, if warranted. Follow up with the employee and the alleged offender(s), as needed. Monitor the results.

Continue to take appropriate action to halt any future harassment or retaliation as quickly as possible. Keep appropriate agency officials apprised of any problems or concerns.

E. As it pertains to this Order, **all CSB Employees** are expected to:

1. Understand their rights and responsibilities under this policy;
2. Participate in periodic anti-harassment training;
3. Refrain from engaging in harassing conduct;
4. Fully cooperate in any harassment-related inquiry or investigation.

8. PROCEDURES FOR REPORTING HARASSMENT.

If you believe you are being, or have been, harassed, there are several things you can do. You are encouraged to attempt to resolve the harassment issue at the lowest possible level, but this is not required. You may respond to perceived harassment by telling the offending person that his or her conduct is offensive and unwelcome. Do your best to make it clear that the offender's behavior is unacceptable to you.

Note: If you cannot directly address the offending person for any reason, or if your attempts to halt the person's inappropriate behavior have not stopped the harassment, or your efforts have resulted in reprisal, then you should:

- (1) report the conduct to the offender's supervisor (If, however, you believe the offender's supervisor is in any way involved in the situation giving rise to your concerns, or, if you believe that person will be unable to address your concerns, then, either work through your established chain of command, or speak to that person's next level supervisor);

Or

- (2) Report the conduct to your own supervisor, or to the CSB's Human Resources Director.

(If, however, you believe that either your supervisor or the CSB's Human Resources Director are in any way involved in the situation giving rise to your concerns, or, if you believe that they will be unable to address your concerns, then, either work through your established chain of command, or speak to their next level supervisor.)

- A. Report the harassing conduct before it becomes severe or pervasive.

B. Note that at any time you are entitled and encouraged to:

- (1) Obtain general information about harassment or discrimination from the CSB's Equal Employment Opportunity Director, or from the EEOC's website, <http://www.eeoc.gov> ; and
- (2) Speak with a counselor at the agency's Employee Assistance Program (EAP). EAP counselors can be reached by calling 1-800-222-0364.

9. **CONFIDENTIALITY.**

The CSB will, as much as possible, protect the confidentiality of individuals who bring harassment claims, and will exercise discretion in handling of such matters.

10. **WHAT TO EXPECT AFTER REPORTING HARASSMENT.**

Supervisors who have received a complaint of harassment will promptly inquire into any such complaint to determine if a detailed investigation is warranted. If a detailed investigation is warranted, it will commence within three (3) days of the report of harassment to a supervisor or the Human Resources Director.

If a supervisor or HR Director concludes from the evidence that harassment has occurred, then the offending employee's supervisor will take immediate and appropriate corrective action, to include changing employees' offices (victim's and offender's), and admonishing, or taking other action against, the offending employee.

11. **REPRISAL.**

Every CSB employee must understand that s/he is free to bring any complaints of harassment or discrimination without fear of reprisal or any complaints of harassment or discrimination without fear of reprisal or retaliation, and that the CSB will protect such an employee against reprisal. The CSB will not tolerate any form of reprisal. Any CSB employee or contractor who engages in any form of reprisal may be appropriately disciplined.

12. **BOARD OVERSIGHT.**

The CSB Chairperson will oversee the implementation of this Order.

13. REVIEW AND UPDATE.

The EEO Director and Office of General Counsel will review and propose any necessary updates to this Order annually.

U.S. CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

April 21, 2003; amended, April 25, 2016.