



## CIVIL RIGHTS DIVISION

### Equal Employment Opportunity, Anti-Harassment, & Whistleblower Protection Policy

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#### **I. Equal Employment Opportunity**

Consistent with its mission of enforcing the nation's civil rights laws, the Civil Rights Division is an equal opportunity employer and is fully committed to providing a workplace free from discrimination, harassment and retaliation. All Division employees are expected to treat others with respect, fairness and professionalism at all times. The Division prohibits discrimination against or harassment based on:

- Race
- Color
- Religion
- National origin
- Age
- Genetic information
- Political affiliation
- Membership or non-membership in an employee organization
- Sex (including pregnancy)
- Gender identity
- Sexual orientation
- Disability (physical or mental)
- Status as a parent
- Marital status
- Military service
- Personal favoritism or other non-merit factors

Such factors may not be considered, except as permitted by law, in taking, recommending or approving personnel actions, including hiring, staffing, assignments, reassignments, training, details, promotions, awards, adverse actions, and determining who will be on hiring committees or working groups. The Division's policy is consistent with federal statutes, including Title VII of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and the Age Discrimination in Employment Act, Executive Orders and Department of Justice policies.

In addition to federal anti-discrimination laws, Division employees must adhere to the requirements of the Civil Service Reform Act, 5 U.S.C. §§ 2301-2302, which includes among the prohibited personnel practices discrimination on a number of bases related to personnel actions. Division employees authorized to take, direct others to take, recommend or approve any personnel action shall not:

- discriminate *for or against* an employee or applicant based on race, color, religion, sex, national origin, age, disability, marital status, or political affiliation;
- solicit or consider oral or written employment recommendations unless such recommendations are based on personal knowledge or records of job-related abilities or characteristics;
- coerce the political activity of any person or take any action against any employee or applicant as a reprisal for his or her refusal to engage in such political activity;

- deceive or willfully obstruct anyone's right to compete for employment;
- influence anyone to withdraw from competition for any position for the purpose of improving or injuring the employment prospects of any other person;
- grant an unauthorized preference or advantage not authorized by law, rule or regulation to any employee or applicant for employment for the purpose of improving or injuring the employment prospects of any particular employee or applicant;
- engage in nepotism by hiring, promoting, or advocating for the hiring or promotion of relatives for any position within the Department of Justice;
- engage in reprisal for whistleblowing by taking, failing to take, or threatening to take or fail to take a personnel action with respect to any employee or applicant because of:
  - any disclosure of information by the employee or applicant that he or she reasonably believes evidences a violation of a law, rule or regulation, or gross mismanagement, gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety if such disclosure is not specifically prohibited barred by law and if such information is not specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs; or
  - any disclosure to the Special Counsel, the Inspector General of an agency or another employee designated by the head of the agency to receive such disclosures of information, or Congress which the employee or applicant reasonably believes evidences any violation of any law, rule, or regulation; or gross mismanagement, a gross waste of funds, an abuse of authority, a substantial and specific danger to public health or safety, and/or censorship related to research, analysis or technical information;
- take, fail to take, or threaten to take or fail to take a personnel action against an employee or applicant for exercising an appeal, complaint, or grievance right; testifying for or assisting another in exercising such a right; cooperating with or disclosing information to the Office of Special Counsel, the Inspector General, or Congress; or refusing to obey an order that would require the individual to violate a law;
- discriminate for or against any employee or applicant based on conduct (other than criminal convictions) which does not adversely affect the performance of the employee, applicant, or others;
- knowingly take or fail to take, recommend, or approve a personnel action if taking or failing to take such an action would violate a veterans' preference requirement;

- take or fail to take any other personnel action, if taking or failing to take action violates any law, rule or regulation implementing or directly concerning merit system principles contained in 5 U.S.C. § 2301; and
- access the medical records of another employee or an applicant for employment as part of, or otherwise in furtherance of, any conduct listed in the bullets above.

5 U.S.C. § 2302; *see also* the Department’s Equal Employment Opportunity (EEO) Office’s web page at <https://www.justice.gov/jmd/eeos> and the [No Fear Act Notice](#).

## **II. Harassment & Related Misconduct**

Federal antidiscrimination laws and Division and Department policies prohibit harassment and misconduct in the workplace. Harassment and misconduct on the basis of race, color, religion, national origin, age, sex, gender identity, sexual orientation, disability, marital status, genetic information, actual or perceived political affiliation, and any other protected status are strictly prohibited. Unlawful harassment includes unwelcome conduct toward an individual because of his or her sex or other protected status, where the conduct results in concrete job harm (e.g., demotion or failure to hire) or is sufficiently severe or pervasive to create an intimidating, hostile or offensive work environment. **The Division’s prohibition against harassment is broader than federal anti-discrimination laws; such conduct constitutes misconduct and violates Division policy even where it does not rise to the level of a violation of law.**

Harassment or misconduct may include conduct by anyone with whom staff interact as part of their job, including supervisors, co-workers, contractors, individuals who work in other DOJ components or other agencies, and non-employees such as vendors, experts, stakeholders and grantees. CRT staff may not engage in harassment or misconduct toward contractors or other non-employees with whom they interact as part of their job.

Examples of prohibited harassment and misconduct include, *but are not limited to*:

- Verbal or written communications, including in e-mails, phone calls, texts, blog comments, social media posts and communications on other internet venues, that contain inappropriate or offensive name-calling, jokes, slurs, profanity, insults, negative stereotyping, threats, teasing, comments about an individual’s body or appearance or how their clothing fits, or bullying, including but not limited to communications that are sexual in nature or targeted toward individuals or groups based on their protected status. Such communications include those made via personal and Department-issued devices and equipment.
- Unwelcome sexual advances, pressure for sexual favors or dates, making or threatening to make employment decisions based on an individual’s submission to or rejection of sexual advances or pressure for sexual favors or dates, stalking, or giving inappropriate gifts of a sexual nature, even where the individuals involved once had a consensual relationship.
- Nonverbal conduct, such as staring, sexual gesturing or leering.

- Unwanted physical contact of a sexual nature, such as sexual assault, groping, rubbing up against or other unwelcome touching.
- Sending, forwarding or displaying derogatory or offensive pictures, images or cartoons in hard copy or electronic form.
- Soliciting, procuring or accepting commercial sex even when off-duty and where it is legal or tolerated.

These examples are not an exhaustive list of all conduct that may constitute prohibited harassment or misconduct.

Off-duty and off-premises conduct, such as on work travel, at conferences, retreats, office happy hours or parties, or using personal devices, may constitute harassment or misconduct where there is a nexus between the conduct and an individual's job and/or the Department's mission. See <https://www.justice.gov/policies-and-directives-effect-relating-and-duty-conduct-including-sexual-misconduct> and <https://www.justice.gov/jmd/eeos/sexual-harassment>.

The Division takes complaints of harassment, misconduct and retaliation seriously and, where appropriate, will conduct a prompt and thorough investigation. The Division may take interim measures during the pendency of an investigation to ensure that further misconduct does not occur. The complaint and information learned during an investigation will be kept as confidential as possible except as necessary to conduct a thorough and fair investigation. Where the Division determines that harassment, misconduct or retaliation occurred, it will take prompt corrective action to stop the misconduct and hold the individual who engaged in the misconduct accountable.

### **III. Retaliation**

Division staff are prohibited from retaliating against others, including employees, contractors and applicants, for making a complaint about, assisting someone else in making a complaint or otherwise opposing any conduct made unlawful by such laws or that violates Division or Department EEO, harassment or whistleblower policies; or participating in any stage of administrative or judicial proceedings related to such claims as a complainant, witness or in some other capacity. Prohibited retaliation includes but is not limited to denying or interfering with assignments, awards or promotions; transferring someone to a less desirable position or assigning them less desirable work; unreasonably increasing scrutiny of someone's work; providing negative performance reviews; declining to recommend someone for another job; or taking other actions that would discourage a reasonable person from initiating a complaint or participating in the complaint process.

### **IV. Reporting Processes**

Staff are encouraged to raise complaints about discrimination, harassment, prohibited personnel practices and/or retaliation with their supervisor and/or another manager within or outside of their section, or with the supervisor of the individual engaged in the misconduct, including where that individual works in another section, component or agency (while also alerting their own supervisor). Although not required, if staff feel comfortable and safe doing so, they may opt to

tell the offending individual to stop. Staff or applicants may also raise complaints internally within the Division by contacting the Division's Human Resources Officer (Darlene Rittgers at 202-514-4033 or Darlene.Rittgers@usdoj.gov). Staff covered by the collective bargaining agreement may raise complaints through a union representative and/or the negotiated grievance procedure. *See* 29 C.F.R. § 1614.301. The Division supports informal mediation and alternative dispute resolution and will work with staff or applicants, where appropriate, to resolve complaints informally. Raising a complaint internally within the Division does not constitute filing an EEO complaint and does not toll or otherwise impact the time frames and deadlines for initiating the formal complaint and/or grievance processes. Staff may raise concerns internally while also filing a complaint through the EEO or other processes discussed below.

Complainants may request to remain anonymous, however, anonymity cannot be guaranteed because the Division must address potential harassment and misconduct brought to its attention even where the complainant requests anonymity or that no action be taken.

Staff and applicants may raise complaints outside of the Division by contacting the Department's EEO Office (202-616-4800), the Office of Special Counsel (OSC) (202-653-7188), the Merit Systems Protection Board (MSPB) (202-653-7200), or one of the other federal offices charged with receiving and/or investigating complaints. More information about some of these offices is set forth below.

The Department's EEO Office is a neutral office with EEO counselors available to assist with the complaint process. The EEO Office receives complaints, oversees the administrative investigation of such complaints, and works with complainants and management in facilitating resolution of complaints through mediation. For most types of EEO complaints, employees and applicants must initiate the Department's EEO complaint process **within 45 calendar days** of the alleged discriminatory action. Additional information about the Department's EEO complaint process, which may vary for different types of complaints, is available at <https://www.justice.gov/jmd/complaint-processing> and 29 C.F.R. § 1614.

The OSC, an independent investigative and prosecutorial agency within the Executive Branch, has authority to investigate complaints alleging prohibited personnel practices, including whistleblower retaliation complaints and complaints alleging discrimination based on membership in various protected categories such as marital status and political affiliation. *See* 5 C.F.R. § 1810.1. Additional information about the OSC and the types of actions within the OSC's jurisdiction is available at <https://osc.gov/Pages/PPP.aspx>. Staff may also report suspected improper conduct under the Whistleblower Protection Act to their supervisor or another manager, CRT or DOJ leadership, DOJ OIG or Congress. Note that disclosures of information that are prohibited by law or reveal secrets implicating national security or foreign intelligence information should be reported to the OSC or DOJ's OIG. Reporting such information to others may not be a protected disclosure under the WPA. Staff who are unsure whether a disclosure would be protected may contact OSC for guidance.

Alternatively, employees and applicants may challenge certain types of personnel actions (such as removals, demotions, and suspensions for more than 14 days) they believe were taken based on discrimination or in violation of merit system principles by filing an appeal with the MSPB.

Additional information about the MSPB process and the types of actions within the MSPB's jurisdiction is available at <https://www.mspb.gov/>.

Complaints about waste, fraud, abuse or potentially criminal or serious administrative misconduct, or retaliation for reporting waste, fraud, abuse or misconduct, may also be raised with the Department's Office of Inspector General (OIG). Additional information about the OIG and the types of claims with the OIG's jurisdiction is available at <http://www.justice.gov/oig/hotline/whistleblower-protection.htm>, or by calling the OIG's whistleblower hotline at (800) 869-4499, or contacting the OIG's ombudsperson at [OIG.Whistleblower.Ombudsperson.Program@usdoj.gov](mailto:OIG.Whistleblower.Ombudsperson.Program@usdoj.gov).

For complaints related to discrimination or retaliation based on military service, or failure to re-employ following military service, employees and applicants may contact the Department of Labor, Veterans' Employment and Training Service (VETS), which is authorized to investigate and resolve complaints against federal executive agencies such as the Department of Justice. For additional information about the Uniformed Service Employment and Reemployment Rights Act (USERRA), contact VETS at 1-866-4-USA-DOL or <https://www.dol.gov/vets>. If VETS is unable to resolve a complaint, the employee or applicant may request that the case be referred to the OSC for possible representation. If the OSC is reasonably satisfied that USERRA has been violated, the OSC may initiate an action before the Merit Systems Protection Board. The employee or applicant may also bypass the VETS / OSC process and submit a complaint directly to the MSPB. See <https://www.mspb.gov/>.

The complaint procedures and deadlines may vary for different types of complaints and through different complaint procedures, and where several complaint options are available, employees and applicants may have to choose one option to the exclusion of others. See, e.g., 29 C.F.R. § 1614.301-302. Employees and applicants are encouraged to review the information identified herein or contact the Department's EEO Office for further guidance.

Contractors are encouraged to report harassment or misconduct to their employer, the component's contract officer or program manager, CRT's Human Resources Officer or to their CRT supervisor or Section Chief. Contractors may also contact the Department's EEO Office for guidance regarding the EEO complaint process. This policy does not create any legal rights or remedies for contractors.

## V. **Complainant Support**

In addition to the reporting options discussed above, the Division strives to ensure that complainants are treated with dignity and respect, and provide effective support, including:

- Trained professionals in the Department's Employee Assistance Program (EAP) can provide support and assistance, including free counseling services and referrals to therapists or other services for staff, and support in navigating the complaint process. The EAP may be reached at (202) 514-1846 or [www.FOH4You.com](http://www.FOH4You.com); staff may also call the WorkLife4You program's 24 hours a day hotline at 1-800-222-0364 or find additional information at [www.WorkLife4You.com](http://www.WorkLife4You.com). EAP staff are required to keep confidential any

information divulged, with certain limited exceptions such as a threat of imminent harm. Contacting EAP does not constitute a complaint to CRT or DOJ. Staff who choose to take advantage of this program may do so on official time after receiving approval in advance from a supervisor or Section Chief.

- EEO counselors in JMD's EEO Office are neutrals who can explain the complaint process and work with complainants and component management to attempt to resolve complaints informally.
- CRT's Human Resources Officer (Darlene Rittgers at 202-514-4033 or [Darlene.Rittgers@usdoj.gov](mailto:Darlene.Rittgers@usdoj.gov)) can explain the complaint process.
- CRT management can take interim corrective measures, where appropriate, during the pendency of an investigation. Interim measures may include steps to physically separate the individuals at issue (such as working from other offices or buildings, or working from home), changes in supervision or reporting structures, temporary reassignment of duties, instructions to the subject employee to not have any contact or communications with the complainant and approval of leave. In determining appropriate interim corrective measures, CRT will give weight to the preferences of the complainant but may need to take corrective measures even where the complainant does not request them.
- Support resources for staff dealing with domestic violence, sexual assault or stalking are available at <https://dojnet.doj.gov/jmd/hr/topics/domestic-violence.php>, which includes information for local service providers (<https://www.justice.gov/ovw/local-resources>).

## **VI. Reporting Requirement for Supervisors, Managers and Others Working in a Quasi-Supervisory Role**

Division supervisors and managers, as well as employees working in a quasi-supervisory capacity (e.g., employees with the authority to direct others on a case or project,<sup>1</sup> or serving on hiring committees), who observe discriminatory, harassing, retaliatory or otherwise unlawful or improper conduct, hear about such conduct from others, or receive any kind of complaint about such conduct, must report it immediately to the Division's Chief Counsel (Diana Embrey at 202-353-2510 or [Diana.Embrey@usdoj.gov](mailto:Diana.Embrey@usdoj.gov)). This reporting requirement must be met even where the complainant asked that their complaint be kept confidential or that no action be taken. Failure to adhere to this reporting requirement may result in disciplinary action.

## **VII. Discipline for Substantiated Allegations of Discrimination, Harassment, Retaliation, Prohibited Personnel Practices or other Misconduct**

Where the Division or another factfinder determines that discrimination, harassment, retaliation, prohibited personnel practices or sexual or other misconduct has occurred, CRT will take appropriate corrective action, which may include termination, demotion, suspension or other disciplinary action. To ensure consistency of penalty, proposing and deciding officials must

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<sup>1</sup> This applies, for example, to any knowledge attorneys have about possible employment discrimination against paralegals because attorneys have authority to direct the work of paralegals. The reporting requirement also applies to any such knowledge an attorney has about another attorney they are directing on a team as a lead, during the time that authority to direct exists.

consult with CRT's Chief Counsel. The Division will also consider such misconduct in determining awards, promotions and other forms of public recognition, performance ratings, and other favorable personnel actions. See April 30, 2018 Memorandum from the Assistant Attorney General regarding Sexual Harassment and Sexual Misconduct (<https://www.justice.gov/policies-and-directives-effect-relating-and-duty-conduct-including-sexual-misconduct>).

#### **VIII. Referral to Office of Inspector General, CRT Security Staff or Law Enforcement**

As required by Department policy and regulations, CRT will refer non-frivolous allegations of criminal wrongdoing or serious administrative misconduct, including sexual misconduct, to the OIG and CRT security personnel. 28 C.F.R. §0.29c. The Division may also report conduct that is potentially criminal or poses a safety risk to the Department's Federal Protective Services (FPS) and/or local law enforcement.

#### **IX. Training**

All Division employees are required to take annual EEO/anti-harassment training; and all Division employees involved in the hiring process are required to attend training addressing hiring processes, merit system principles and prohibited personnel practices offered by the Division's Professional Development Office (PDO) prior to working on the hiring committee and must take refresher courses every three years.

#### **X. Reasonable Accommodations**

Consistent with the Rehabilitation Act of 1973, 29 U.S.C. §§ 791, 794, the Division provides equal employment opportunities to individuals with disabilities, including providing reasonable accommodations to employees and applicants with disabilities and equal access to technology and information. The Division has separate policies posted on its website addressing reasonable accommodations and section 508 compliance. See [http://mycrt/policies/hr/ra\\_manual.pdf](http://mycrt/policies/hr/ra_manual.pdf); Division's 508 portal for Division employees on the intranet; and <https://www.justice.gov/crt/section-508-home-page-1.php>; see also [DOJ Reasonable Accommodation Policy and Instruction \(justice.gov\)](#). For additional information about section 508 matters, see [www.Section508.gov](http://www.Section508.gov). Employees or applicants with disabilities who need reasonable accommodations should contact the Division's Reasonable Accommodation Coordinator: Sandra Brown at (202) 616-2688 or [Sandra.Brown@usdoj.gov](mailto:Sandra.Brown@usdoj.gov).

Complaints about accommodations may be raised outside the Division with the Department's EEO Office, as described above, or internally within the Division with the employee's supervisor, the Division's Reasonable Accommodation Coordinator (Sandra Brown at (202) 616-2688 or [Sandra.Brown@usdoj.gov](mailto:Sandra.Brown@usdoj.gov)) or Human Resources Officer (Darlene Rittgers at 202-514-4033 or [Darlene.Rittgers@usdoj.gov](mailto:Darlene.Rittgers@usdoj.gov)).

#### **XI. Religious Accommodations**

Consistent with Title VII, 42 U.S.C. §§2000e-2, 2000e(j), the Division provides reasonable accommodations for employees' or applicants' sincerely held religious beliefs or practices where



such beliefs or practices conflict with employment requirements, unless doing so would cause an undue hardship. The Division determines reasonable accommodations on an individualized basis. The Division considers several factors in the individualized assessment, including: the nature of the accommodation requested; the duration of the request; alternative accommodations; financial impact; impact on the operation of the Office or Section; ability of the individual to perform the essential functions of the position if the accommodation is granted; and any other related factors.

Employees who wish to request a religious accommodation, other than leave for a religious holiday, should fill out the religious accommodation request form located on the Division's intranet. The form should be submitted to the employee's Section Chief, within a reasonable time period before the need for the accommodation. Employees do not need to submit the religious accommodation form for requests for religious holiday observances; employees should submit such requests by completing a Request for Leave or Approved Absence within WebTA. The Division treats requests for religious time off in accordance with Chapter 13, DOJ 1630.1B, Leave Administration Policy, which allows employees time off for religious observance, and to work compensatory overtime to offset the requested time off. Premium pay provisions are not triggered in this situation. See [Leave options \(sharepoint.us\)](https://portal.doj.gov/sites/dm/dm/Directives/1630.1B.PDF#search=1630); <https://portal.doj.gov/sites/dm/dm/Directives/1630.1B.PDF#search=1630>.

Employees may raise complaints about religious accommodations outside the Division with the Department's EEO Office, as described above, or within the Division with the employee's supervisor and/or manager or the Human Resources Officer (Darlene Rittgers at 202-514-4033 or [Darlene.Rittgers@usdoj.gov](mailto:Darlene.Rittgers@usdoj.gov)).

## **XII. Additional Resources**

- DOJ EEO Policy: <https://www.justice.gov/jmd/eeos/policy.htm>
- DOJ EEO Order: <http://www.justice.gov/jmd/ps/chpt4-1.html><https://www.justice.gov/jmd/hr-order-doj12001-part-4-equal-employment-opportunity>
- DOJ Memoranda from Assistant Attorney General for Administration, April 30, 2018, re: Sexual Harassment and Sexual Misconduct: <https://www.justice.gov/policies-and-directives-effect-relating-and-duty-conduct-including-sexual-misconduct>
- Memorandum from Assistant Attorney General for Administration and Designated Agency Ethics Official, January 29, 2016, regarding Off-Duty Conduct: <https://www.justice.gov/policies-and-directives-effect-relating-and-duty-conduct-including-sexual-misconduct>

Memorandum from Attorney General, October 9, 2015, regarding Prevention of Harassment in the Workplace: <https://www.justice.gov/jmd/eeos/sexual-harassment>

- [DOJ Reasonable Accommodation Policy and Instruction \(justice.gov\)](https://www.justice.gov/jmd/eeos/sexual-harassment)

- Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq.
- Civil Service Reform Act, 5 U.S.C. §§ 2301, 2302(b)
- Rehabilitation Act of 1973, 29 U.S.C. § 791 et seq.
- Whistleblower Protection Act of 1989, 5 U.S.C. § 2302(b)(8)-(9), Pub.L. 101-12, as amended, Whistleblower Protection Enhancement Act of 2012, Pub.L. No. 112-199, § 101(b)(2)(C), 126 Stat. 1465, 1465-66, All Circuit Review Extension Act, H.R.4197, Pub.L. 113-170
- Memorandum from Assistant Attorney General for Administration, June 7, 2016, re: Whistleblower Protection/Prohibited Personnel practices at <https://dojnet.doj.gov/usao/eousa/ole/usabook/memo/whistle.pdf>
- DOJ Regulations, 28 C.F.R. § 42.1(a)
- DOJ HR Order 1200.1
- Executive Order 13087 (1998), reaffirming the Executive Branch policy prohibiting discrimination based upon sexual orientation within federal civilian employment
- Age Discrimination in Employment Act (ADEA), 29 U.S.C. § 621 et seq.
- Genetic Information Non-discrimination Act of 2008 (GINA), 42 U.S.C. § 2000ff et seq., and Executive Order 13145, 65 FR 6877 (February 10, 2000)
- Equal Pay Act, 29 U.S.C. 206(d)
- Uniformed Service Employment and Reemployment Rights Act (USERRA), 38 U.S.C. § 4301 et seq.
- Federal Sector EEO Regulations, 29 C.F.R. § 1614
- EEOC Information for Federal Employees and Applicants, [https://www.eeoc.gov/federal/fed\\_employees/index.cfm](https://www.eeoc.gov/federal/fed_employees/index.cfm)
- Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (“No Fear Act”), Public Law 107-174, May 15, 2002, as amended by the Elijah E. Cummings Federal Employee Anti-Discrimination Act of 2020
- OPM “Guidance Regarding the Employment of Transgender Individuals in the Federal Workplace,” <https://www.opm.gov/policy-data-oversight/diversity-and-inclusion/reference-materials/gender-identity-guidance>

- Equal Employment Opportunity Commission: “Facts About Discrimination Based on Sexual Orientation, Status as a Parent, Marital Status and Political Affiliation,”  
<https://www.eeoc.gov/federal/otherprotections.cfm>

**This document is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or its employees.**

Updated September 12, 2022.