

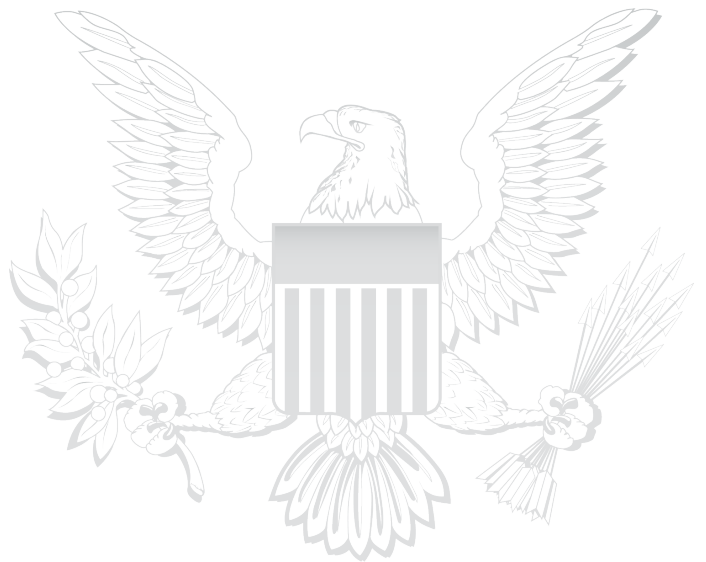
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Office of the Director of National Intelligence

Fiscal Year 2025 Annual Report to Congress on the Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act of 2002

April 2026



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Executive Summary

To support the Federal Government’s longstanding obligation to provide a work environment free of discrimination and retaliation, Congress enacted the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107–174, as amended),¹ to require reporting and accountability measures to ensure greater transparency of the number and severity of discrimination and whistleblower cases brought against the agency and the implementation of corrective actions against Federal employees who are found to have intentionally committed discriminatory (including retaliatory) acts.²

The Office of the Director of National Intelligence (ODNI or “the Agency”) submits this annual report covering Fiscal Year (FY) 2025 (1 October 2024, through 30 September 2025), in compliance with Section 203 of the No FEAR Act and its implementing regulations, found at Part 724 of Title 5 of the Code of Federal Regulations (C.F.R.).

Introduction

The Director of National Intelligence (DNI), serving as the head of the Intelligence Community (IC), acts as the principal advisor to the President and the National Security Council on intelligence matters related to national security, and oversees and directs the implementation of the National Intelligence Program.

In accordance with the Cummings Act, § 403, and 29 C.F.R. § 1614.102(b)(4), the Chief of the Office of Equal Employment Opportunity (OEEO) reports directly to the DNI and serves as the principal advisor on issues related to ODNI’s EEO compliance. To promote a workplace based on individual merit, OEEO carries out functions required by Title VII of the Civil Rights Act of 1964 and other EEO laws, and the federal-sector regulations of the Equal Employment Opportunity Commission (EEOC) at 29 C.F.R. Part 1614 and related administrative guidance.

ODNI’s FY 2025 No FEAR Act Report provides information on the number and severity of discrimination and whistleblower cases brought against the Agency.³ As required by

¹ On 1 January 2021, Congress enacted the *Elijah E. Cummings Federal Employee Antidiscrimination Act of 2020* (Cummings Act) an amendment of the No FEAR Act, as part of the *National Defense Authorization Act for Fiscal Year 2021*, Public Law 116-283. The Cummings Act established additional accountability and public reporting measures to ensure implementation of corrective actions as necessary and greater transparency. To ensure a model EEO program, the Cummings Act requires that each Federal agency ensure that the EEO program is free of conflicts of interest; section 403 requires that the EEO program report directly to the head of the agency.

²The No FEAR Act requires each agency, no later than 180 days after the end of each fiscal year, to submit a report to the Speaker of the U.S. House of Representatives, the President pro tempore of the U.S. Senate, Senate and House of Representatives committees, each committee of Congress with jurisdiction relating to the agency, the Chair of the Equal Employment Opportunity Commission (EEOC), and the Attorney General of the United States. Regulations from the Office of Personnel Management (OPM) implementing the No FEAR Act also require the submission of this annual report to the Director of OPM. 5 C.F.R. § 724.302(c)(8).

³ By statute, ODNI does not fall under the whistleblower framework described in the No FEAR Act. The No FEAR Act provides for Judgment Fund reimbursement of, and annual reporting related to, proceedings brought under (1) any provision

Section 203 of the No FEAR Act, ODNI's No FEAR Act Annual Report contains information relating to:

- The number of federal court cases, pending or resolved, arising under the covered laws and the status and disposition of the cases;
- Judgment Fund reimbursements and adjustments to the Agency budget to meet reimbursement requirements;
- The number of and type of disciplinary actions related to discrimination, retaliation, or harassment, and the Agency's policy relating to appropriate disciplinary action;
- Year-end summary data related to federal-sector EEO complaint activity for the fiscal year;⁴
- An analysis of trends, causation, and practical knowledge gained through experience, and actions planned or taken to improve the Agency's discrimination complaint program; and
- The Agency's plan for No FEAR Act-related training.⁵

As directed by Section 203 and 5 C.F.R. § 724.302(c), ODNI provides this report to the following:

- (1) Speaker of the U.S. House of Representatives;
- (2) President Pro Tempore of the U.S. Senate;
- (3) Committee on Homeland Security and Governmental Affairs of the U.S. Senate;
- (4) Committee on Oversight and Accountability of the U.S. House of Representatives;
- (5) each Committee of Congress with jurisdiction relating to ODNI;
- (6) Chair, EEOC;
- (7) Attorney General; and
- (8) Director, U.S. Office of Personnel Management.

of law prohibiting any form of discrimination under the laws interpreted by the EEOC, and (2) the whistleblower provisions of 5 U.S.C. § 2302(b)(8) and (9). See Section 201(a) and (c) of the No FEAR Act. Congress expressly exempted ODNI and other IC agencies from the coverage of 5 U.S.C. § 2302. Instead, ODNI employees are subject to other whistleblower protections consistent with the need to protect classified information. See 50 U.S.C. §§ 3234 and 3341(j); Intelligence Community Directive (ICD) 120, *Intelligence Community Whistleblower Protection* (20 March 2014).

⁴ The Agency's reporting obligations have been incorporated into ODNI's No FEAR Act FY 2025 Year-End Data report (Appendix A).

⁵ See Public Law 107-174, § 203(a)(1); see also 5 C.F.R. § 724.302(a).

Reporting Obligations

EEO Activity in Federal Courts

During FY 2025, ODNI had two cases in Federal Court under antidiscrimination laws. One case in the United States District Court for the Eastern District of Virginia involved claims filed pursuant to the Age Discrimination in Employment Act (ADEA). The parties filed a joint stipulation of voluntary dismissal in FY 2025.

The second case was pending in the United States Court of Appeals for the Fourth Circuit. The case alleged claims of age discrimination and retaliation for prior protected activity under the ADEA. Appellant appealed the United States District Court for the Eastern District of Virginia's 10 July 2024 order granting ODNI's motion to dismiss or, in the alternative, for summary judgment. On 23 December 2024, the Court of Appeals affirmed the district court's order to dismiss and for summary judgment. In February 2025, the Court denied a petition for rehearing.

Judgment Fund Reimbursements

ODNI made no reimbursements to the Judgment Fund for payments, as defined in 5 C.F.R. § 724.103.

Disciplinary Action and EEO-Related Policy

During FY 2025, one employee was disciplined, as defined in 5 C.F.R. § 724.302(a)(5), by receiving a Letter of Reprimand. No disciplinary actions, as defined in 5 C.F.R. § 724.302(a)(3), were taken against ODNI employees.⁶

ODNI Instruction 120.01, Harassment Prevention Policy (31 July 2025), prohibits all forms of harassment in the workplace (Appendix B). Incidents of bullying can qualify as legally-defined discriminatory harassment when directly related to protected status. IC Directive (ICD) 127, Preventing and Responding to Workplace Harassment (28 February 2025), encourages reporting and prompt remediation of concerns involving harassment (Appendix C).

ODNI Instruction 120.02, Equal Employment Opportunity Discrimination Complaint System (21 July 2025), promotes immediate and appropriate corrective action, including discipline when it is determined that discrimination, including discriminatory harassment, or retaliation has occurred in violation of federal statute or Executive Order, or when otherwise warranted (Appendix F). In addition, upon becoming aware of harassment allegations or any inappropriate workplace behavior, ODNI is required to take prompt and appropriate

⁶ ODNI Instruction 30.01, *Review of Employee Performance, Conduct, and Suitability* (March 5, 2014), sets forth disciplinary procedures, including for conduct inconsistent with Federal antidiscrimination laws and IC-specific whistleblower protections (Appendix F).

corrective action to stop it, so as to avoid the creation of a hostile work environment and to resolve issues before behavior or actions rise to the level of illegal discrimination.

No FEAR FY 2021–FY 2025, Year-End Data Report

Appendix A contains ODNI’s year-end FY 2025 EEO complaint data and the data from preceding fiscal years, in accordance with 5 C.F.R. § 724.302(a)(4) and 29 C.F.R. § 1614.705.

Analysis of EEO Complaint Trends and Causality

EEO Complaint Activity and Causality; Bases and Issues of Discrimination in EEO Complaints

Between FY 2021 and FY 2025, ODNI’s EEO landscape was characterized by a sharp rise in formal complaint activity in FY 2023 followed by a period of stabilization through FY 2025.

The Equal Employment Opportunity Commission (EEOC) defines a “basis” of discrimination as the underlying legally protected characteristic motivating the alleged discriminatory action. The EEOC defines the “issue” as the alleged discriminatory action taken against an employee on one or more bases. The most recent EEOC report on Federal government complaint trends identified retaliation as the most commonly alleged basis for discrimination (53 percent of complaints), followed by age (29 percent), and then physical disability (45.5 percent). The most commonly alleged issues were non-sexual harassment (55 percent of complaints), followed by disciplinary actions (25 percent), non-promotion/non-selection (13 percent), assignment of duties (12.6 percent), and reasonable accommodation (12.4 percent).⁷

For ODNI, the bases of retaliation and sex continued to be the most frequently alleged bases of complaints of discrimination, with a notable decline in complaints based upon disability. For issues, while non-sexual harassment remained a top concern, disciplinary action, including removal, and termination have emerged as prominent issues during the FY 2025 reporting period.

Comparatively, retaliation remains the primary driver of complaints both government-wide and at ODNI. However, the Agency’s data confirms a distinct increase in sex-based concerns, which now double the amount of its race-based claims. There has also been a notable increase in adverse employment actions, such as removals and terminations. While the broader federal sector faces a high volume of requests for reasonable accommodations and disputes over assignments of duties, ODNI’s complaint profile was increasingly defined by final employment actions.

⁷ EEOC Annual Report on the Federal Workforce, Part I, EEO Complaint Processing Activity (FY 2021), U.S. EEOC Office of Federal Operations, December 2024. Percentages do not add up to 100 percent because complaints often allege multiple bases and multiple issues.

Practical Knowledge Gained Through Experience

To address these evolving trends, ODNI transformed its complaint system by focusing resources on early intervention through Alternative Dispute Resolution (ADR) and training.⁸ Coinciding with the Agency's ODNI 2.0 restructuring, OEEO adapted to staffing changes by leveraging its staff's deep expertise in EEO law, focusing on pre-complaint resolution of workplace conflict, revising on-line and in-person training and materials to comply with new Executive Orders and learned experience, and the efficient use of complaint management and contract investigators. As a result, workload was efficiently distributed, EEO officers gained greater availability to focus on high-impact workforce training, and OEEO continued collaborations with other IC EEO offices. These partnerships increased the exchange of best practices and the neutral processing of sensitive investigations, advancing neutrality and professional skill. This structural shift continues to move the Agency to a more efficient model, where EEO experts not only address complaints, but also provide proactive support and serve as strategic partners across the IC.

Improvements in the Complaint Program and Efforts at Proactive Prevention

The maturity of a prevention first model is most evident in the success of the Agency's ADR program and its improved operational efficiency. Indeed, in FY 2025, ODNI achieved a historic 82 percent settlement rate at the pre-complaint stage, resolving four out of five disputes before they advanced into a formal investigation. This success was bolstered by the implementation of a dual-focused compliance system that includes an automated tracking system and a quality-control dashboard—aligning with Cummings Act requirements—ensuring that 100 percent of formal complaints were processed within regulatory timeframes. By leveraging these data efficiency tools, ODNI's OEEO identifies training needs based on case trends. Ultimately, this advances the goal of an EEO complaint system that can be leveraged to prioritize proactive prevention of employment disputes.

⁸ When EEO matters are settled via an ADR or a pre-complaint resolution, training of managers and supervisors is often a mandated remedy, designed to improve management competencies.

EEO Training

ODNI's educational framework is designed as a continuous "compliance lifecycle," beginning at Entry on Duty orientation and extending through biannual mandatory No FEAR Act trainings. In FY 2025, ODNI's OEEO revised its online No FEAR Act biannual mandatory training to comply with the President's Executive Orders, and Office of Personnel Management (OPM) guidance, to include that regarding Executive Order 14168, Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government (20 January 2025), and ODNI's implementing rules. In the process, OEEO refreshed its "Manager and Supervisor Training" in-person training materials using a specialized instructional contractor—replacing traditional lectures and presentations with interactive models. By prioritizing dialogue-based learning for leadership, the Agency ensures that those responsible for the front-line prevention of harassment are not merely compliant, but are practically equipped to handle complex real world scenarios.

The Agency is further modernizing its delivery of Manager and Supervisor training through a transition to OPM modules, alongside the launch of EEO "mini-modules" to maximize desk-side learning, in FY 2026. By diversifying training formats—ranging from modules and website refreshers to mandatory IC whistleblowing modules under PPD-19—ODNI ensures that EEO rights and remedies are ingrained into the workforce culture rather than treated as a biennial administrative hurdle.

Ultimately, ODNI's training strategy demonstrates educational efforts to lower the barrier to redress. By pairing mandatory No FEAR Act principles with specialized whistleblowing protections under ICD 120, the Agency creates a dual-layer defense: empowering the individual to report misconduct while simultaneously educating management to proactively prevent it. This holistic approach ensures that the entire workforce, from new contractors to senior executives, is aligned with the Agency's mission of maintaining a professional and equitable environment.

Appendix A: ODNI Employment Opportunity Data Posture Pursuant to Title III of the Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act of 2002 PUB. L. 107-174

Table 1. Number of Complaints (see 29 C.F.R. § 1614.704[a]-[c])

	Fiscal Year				
	2021	2022	2023	2024	2025
Number of Complaints Filed during the FY	9	7	13	14	13
Number of Complainants Who filed a complaint during the FY	9	6	13	13	13
Who filed two or more complaints during the FY	0	1	0	1	0

Table 2. Number of Complaints by Basis (see 29 C.F.R. § 1614.704[d])⁹

	Fiscal Year				
	2021	2022	2023	2024	2025
Race	1	4	3	7	5
Color	0	5	1	2	3
Religion	1	1	0	3	2
Retaliation	2	4	6	6	11
Sex	3	4	8	7	10
Pregnancy	0	0	0	0	0
National Origin	0	1	1	2	1
Equal Pay	0	0	0	0	0
Age	1	5	2	6	5
Disability	4	3	2	6	3
Genetic Information Non-Disclosure	0	0	1	1	1
Non-EEO	0	1	1	1	1

⁹ Note that total numbers of complaints by basis will not equal the total number of complaints, as complainants may identify a number of bases (protected characteristics) as alleged discriminatory motivations for the challenged actions.

Table 3. Number of Complaints by Issue (see 29 C.F.R. § 1614.704[e])

	Fiscal Year				
	2021	2022	2023	2024	2025
Appointment/Hire	2	0	0	2	0
Assignment of Duties	1	0	0	0	0
Awards	0	0	0	0	1
Conversion to Full-Time	0	0	0	0	0
Disciplinary Action					
1. Demotion	0	1	0	0	0
2. Reprimand	0	0	0	0	1
3. Suspension	0	0	1	0	1
4. Removal	0	0	0	0	6
5. Other	0	2	1	2	7
Duty Hours	0	0	0	0	0
Evaluation/Appraisal	1	2	0	2	0
Examination/Test	0	0	0	0	0
Harassment					
1. Non-Sexual	2	6	9	11	9
2. Sexual	0	0	3	1	0
Medical Examination	0	0	0	0	0
Pay/Overtime	1	0	2	0	0
Promotion/Non-Selection	0	0	2	4	2
Reassignment					
1. Denied	0	0	0	0	0
2. Directed	0	1	0	0	0
Reasonable Accommodation	1	0	0	0	0
Reinstatement	0	0	0	0	0
Religious Accommodation	1	0	0	0	0
Retirement	0	0	0	0	0
Sex-Stereotyping	0	0	0	0	0

	Fiscal Year				
	2021	2022	2023	2024	2025
Telework	2	2	0	0	0
Termination	2	2	1	1	6
Terms/Conditions of Employment	0	0	0	0	0
Time and Attendance	0	1	4	2	1
Training	0	0	0	7	1
Other	0	2	0	0	3

Table 4. Average Processing Time (see 29 C.F.R. § 1614.704[f])

	Fiscal Year				
	2021	2022	2023	2024	2025
1614.704(f)(1) All Pending	357	541	232	308	249
1614.704(f)(2) – No Hearing Requested	55	213	265	181	281
1614.704(f)(3) – Hearing Requested	842	1001	173	329	195

Table 5. Number of Complaints Dismissed Pursuant to 29 C.F.R. § 1614.107(a) and Average Length of Time Pending Prior to Dismissal (see 29 C.F.R. § 1614.704[g])

	Fiscal Year				
	2021	2022	2023	2024	2025
Number of Complaints Dismissed	2	4	1	1	2
Average Number of Days Pending Prior to Dismissal	57	74	3	33	11

Table 6. Number of Complaints Withdrawn (see 29 C.F.R. § 1614.704[h])

	Fiscal Year				
	2021	2022	2023	2024	2025
Number of Complaints Withdrawn	0	2	2	2	2

Table 7. Number of Final Agency Actions (see 29 C.F.R. § 1614.704[i])

	Fiscal Year									
	2021		2022		2023		2024		2025	
	#	%	#	%	#	%	#	%	#	%
1614.704 (i)(1): Total Number of Findings of Discrimination	0		0		0		0		0	
1614.704 (i)(2): - Without a Hearing	0		0		0		0		0	
1614.704 (i)(2) - After a Hearing	0		0		0		0		0	

Table 8. Number of Final Actions Involving a Finding of Discrimination by Basis (see 29 C.F.R. § 1614.704[j])

	Fiscal Year									
	2021		2022		2023		2024		2025	
	#	%	#	%	#	%	#	%	#	%
*Rendered without a Hearing **Rendered after a hearing										
Total Number of Findings of Discrimination	0		0		0		0		0	
Race	0		0		0		0		0	
1. American Indian/Alaskan Native	0		0		0		0		0	
2. Asian/Pacific Islander	0		0		0		0		0	
3. Black	0		0		0		0		0	

	Fiscal Year				
	2021	2022	2023	2024	2025
4. White	0	0	0	0	0
5. Two or More Races	0	0	0	0	0
Color	0	0	0	0	0
Religion	0	0	0	0	0
Retaliation	0	0	0	0	0
Sex	0	0	0	0	0
Female	0	0	0	0	0
Male	0	0	0	0	0
National Origin	0	0	0	0	0
Hispanic	0	0	0	0	0
Other	0	0	0	0	0
Equal Pay Act	0	0	0	0	0
Age	0	0	0	0	0
Disability	0	0	0	0	0
Genetic Information	0	0	0	0	0
Non-EEO	0	0	0	0	0

Table 9. Number of Final Actions Involving a Finding of Discrimination by Issue (see 29 C.F.R. § 1614.704(k))

	Fiscal Year				
	2021	2022	2023	2024	2025
Total Number of Findings of Discrimination	0	0	0	0	0
Appointment/Hire	0	0	0	0	0
Assignment of Duties	0	0	0	0	0
Awards	0	0	0	0	0
Conversion to Full-Time	0	0	0	0	0
Disciplinary Action	0	0	0	0	0
1. Demotion	0	0	0	0	0
2. Reprimand	0	0	0	0	0
3. Suspension	0	0	0	0	0
4. Removal	0	0	0	0	0
5. Other	0	0	0	0	0
Duty Hours	0	0	0	0	0

	Fiscal Year				
	2021	2022	2023	2024	2025
Evaluation/Appraisal	0	0	0	0	0
Examination/Test	0	0	0	0	0
Harassment	0	0	0	0	0
1. Non-Sexual	0	0	0	0	0
2. Sexual	0	0	0	0	0
Medical Examination	0	0	0	0	0
Pay/Overtime	0	0	0	0	0
Promotion/Non-Selection	0	0	0	0	0
Reassignment	0	0	0	0	0
1. Denied	0	0	0	0	0
2. Directed	0	0	0	0	0
Reasonable Accommodation	0	0	0	0	0
Reinstatement	0	0	0	0	0
Retirement	0	0	0	0	0
Termination	0	0	0	0	0
Terms/Conditions of Employment	0	0	0	0	0
Time and Attendance	0	0	0	0	0
Training	0	0	0	0	0
Other	0	0	0	0	0

Table 10. Number of Complaints Pending at Any Time during the Fiscal Year (see 29 C.F.R. § 1614.704(l))

	Fiscal Year				
	2021	2022	2023	2024	2025
Total Number of Complaints Pending for any length of time during the FY	15	20	4	7	6
29 C.F.R. § 1614.704(l)(1) – Number Filed before 10/1	5	7	4	7	6
29 C.F.R. § 1614.704(l)(2)(i) – Number of Complainants	5	7	2	7	6
29 C.F.R. § 1614.704(l)(2)(ii) – Number Pending Investigation	0	2	0	0	0
– Number Pending Hearing	5	2	3	6	5
– Number Pending Final Agency Action	0	0	0	1	1
– Number Pending Appeal	1	3	1	1	3

Table 11. Number of Complaints Pending at Any Time during the Fiscal Year the Exceeded the Authorized Investigation Timeframe (see 29 C.F.R. § 1614.704[m])

	Fiscal Year				
	2021	2022	2023	2024	2025
Number of Pending Complaints that Exceeded the Investigation Time Authorized by 29 C.F.R. §1614.106(e)(2) including extensions	0	1	1	0	0
Number of Pending Complaints that Exceeded the Investigation Time Authorized by 29 C.F.R. §1614.108(e)	0	1	1	0	0

Appendix B: ODNI Instruction 120.01, Harassment Prevention Policy, 31 July 2025

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**Office of the Director of National Intelligence
Instruction 120.01**

Category 120—Equal Employment Opportunity

**Office of Primary Responsibility: Chief Operating Officer/Human Resource
Management**

Revision 1

SUBJECT: HARASSMENT PREVENTION POLICY

1. AUTHORITIES: The National Security Act of 1947, as amended; Title VII of the Civil Rights Act of 1964, as amended; and other applicable provisions of law.

2. REFERENCES: Office of the Director of National Intelligence (ODNI) Instruction 10.34, *Office of the Inspector General of the Intelligence Community*; ODNI Instruction 22.01, *Grievance Resolution*; ODNI Instruction 30.01, *Review of Employee Performance, Conduct, and Suitability*; ODNI Instruction 30.06, *Domestic Violence, Sexual Assault, and Stalking*; ODNI Instruction 80.10, *Records Management Program*; ODNI Instruction 120.02, *Equal Employment Opportunity Discrimination Complaint System*; and Internal Process Document (IPD) 120.02a, *Process for Filing Discrimination Complaints*.

3. PURPOSE: This Instruction establishes ODNI policy for ensuring a healthy workplace free from harassment, to include bullying, discriminatory harassment, and sexual harassment. This Instruction sets forth responsibilities for preventing, reporting, and responding to such incidents, and replaces ODNI Instruction 120.01, *Anti-Harassment and Anti-Bullying Policy*, dated 6 February 2017. In addition to this Instruction, the policy on reporting and responding to allegations of Equal Employment Opportunity (EEO) discrimination, including legally defined discriminatory harassment, is covered in ODNI Instruction 120.02. For the policy on domestic violence, sexual assault, and stalking, refer to ODNI Instruction 30.06. For the policy on reporting fraud, waste, and abuse of authority involving Intelligence Community (IC) or ODNI activities, programs, or personnel to the Office of the Inspector General of the Intelligence Community (IC IG), refer to ODNI Instruction 10.34.

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4. APPLICABILITY: This Instruction applies to ODNI permanent cadre employees, ODNI staff reserve (i.e., time-limited) cadre employees, Highly Qualified Experts, federal civilian detailees and assignees, military detailees, Intergovernmental Personnel Act detailees, Presidential appointees, Special Government Employees, and contractors (collectively “ODNI personnel”), ODNI tenants and visitors; and, to the maximum extent practicable, applicants for ODNI employment. In accordance with any relevant agreement by ODNI and other government agencies (OGA), this Instruction also applies to OGA employees providing support to ODNI.

5. DEFINITIONS: For the purposes of this Instruction, the terms used hereinafter are defined in the Appendix.

6. POLICY:

A. ODNI will foster a healthy workplace where individuals are treated respectfully, fairly, and with dignity. ODNI does not tolerate harassment in the workplace and is committed to fostering an environment free from harassment, to include bullying, discriminatory harassment, and sexual harassment. All those who work within ODNI must take appropriate measures to prevent all forms of harassment and address such harassment as soon as it is identified. ODNI does not tolerate retaliation or reprisal against any ODNI personnel for alleging or reporting harassment under this Instruction or any other IC or ODNI policy, or for participating in any related inquiry or proceeding.

B. Federal EEO laws, Executive Orders, IC policy, and ODNI policy protect ODNI personnel from discrimination based on race; color; religion; sex; national origin; age (40 and over); parental status; disability; genetic information; and pregnancy, childbirth, or related medical conditions. In addition, other behaviors or misconduct that fall short of, or outside of, the legal definition of discrimination may still create a toxic, intimidating, and/or abusive work environment and are prohibited by this policy. Behaviors that meet the definition of “bullying” under this Instruction (see Appendix), while not classified as discriminatory harassment, can cause harm to the recipient, create an environment of intimidation, damage morale and organizational cohesion, and detract from the mission.

C. Any form of harassment is unacceptable, violates this policy, and may be unlawful, regardless of whether the harassment occurred in an ODNI facility or another location (such as at another United States Government agency, a conference, on temporary duty, and/or at a work-related social event). All ODNI personnel are responsible for fostering a healthy workplace and are obligated to address harassment promptly. ODNI personnel shall not harass other personnel. ODNI personnel who become aware of, or witness, harassment as described in this policy are obligated to report it to a supervisor or manager, ODNI’s Human Resource Management (HRM), or other oversight and compliance offices,

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and/or the ODNI Office of Equal Employment Opportunity (OEEO) as appropriate, in accordance with this Instruction.

D. To ensure and maintain a healthy work environment free from harassment, to include bullying and discriminatory harassment, this Instruction promotes the following:

- (1) Encourage appropriate conduct among employees and foster respect for individual values;
- (2) Identify, address, and prevent harassment in the workplace;
- (3) Empower ODNI personnel to stop harassing behavior;
- (4) Provide guidance to report harassment; and
- (5) Facilitate resolution at the lowest appropriate level.

E. ODNI established the Sexual Harassment and Assault Response and Education (SHARE) Program to serve as a dedicated resource for ODNI personnel to report sexual harassment and assault incidents and to provide support and guidance regarding the response to, and the prevention of, sexual harassment and assault. The SHARE program resides within OEEO and is designed to:

- (1) Serve as the dedicated reporting office for individuals who have experienced or witnessed sexual harassment or sexual assault (see ODNI Instruction 30.06 for information on sexual assault);
- (2) Identify, address, and prevent sexual harassment in the workplace;
- (3) Empower ODNI personnel to stop sexually harassing behavior;
- (4) Provide support to individuals who have experienced or witnessed sexual harassment or sexual assault; and
- (5) Provide guidance on how to report sexual harassment.

F. Reporting Harassment, Sexual Harassment, and Discriminatory Harassment: All harassment allegations reported to HRM, OEEO, SHARE, and/or IC IG must make clear the nature of the allegations to include, but not limited to, the type of harassment (see Appendix), the date when the individual experienced the incident(s) that led to the allegation; the individual(s) who engaged in the allegedly harassing conduct; any witness(es) of the incident(s), and, if applicable, specific actions taken to resolve the matter informally.

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(1) **Reporting Harassment, Including Bullying, to HRM:** Claimants are strongly encouraged to report harassment (including bullying) allegations directly to HRM. Witnesses to harassment and those aware of allegations of harassment are obligated to report such harassment to HRM.

(2) **Reporting Sexual Harassment to SHARE:** ODNI personnel who experience sexual harassment are encouraged to contact ODNI SHARE for support. ODNI personnel who witness or become aware of instances or allegations of sexual harassment are obligated to report such harassment to SHARE. SHARE will conduct an initial intake of the allegation and provide support and resources to claimants, witnesses, supervisors, and managers. Refer to ODNI Instruction 30.06 for further details on the reporting of sexual assault.

(3) **Reporting Discriminatory Harassment to OEEO:** ODNI personnel have the right to bring allegations of discriminatory harassment directly to OEEO, in accordance with ODNI Instruction 120.02 and IPD 120.02a.

(a) To preserve all rights and protections under the EEO discrimination complaint process, absent extenuating circumstances, the individual must contact an EEO counselor within 45 calendar days of the alleged discriminatory act or, in the case of an alleged discriminatory personnel action, within 45 calendar days of the effective date of action. If an individual does not do so, remedies available under federal law may be limited (ODNI Instruction 120.02).

(b) The informal EEO process, like HRM's informal process (see 6.K.(4), Preliminary Review), involves early engagement and resolution. Individuals may use OEEO and HRM processes simultaneously at ODNI. The formal EEO process is designed to determine whether unlawful discrimination has occurred and if so, to make the aggrieved individual whole.

(c) OEEO will report alleged harassment to HRM. OEEO counselors will advise individuals who report harassment that they may also contact HRM and utilize its resolution processes. OEEO also refers to proper channels any individual who by law, contract, or agreement must report to a parent organization or employer other than ODNI.

G. Reporting Alleged Harassment Involving Contractors: Contractors who experience harassment are strongly encouraged to report harassment to their contract Program Manager (PM) and through their company's internal process. The PM will notify the Contracting Officer's Technical Representative (COTR). The COTR will contact HRM and provide information about the contractor's concerns, with a written statement from the contractor. HRM will follow up to ensure action, if necessary and applicable, is taken by ODNI (see section 6.F. above). Contractors experiencing harassment may also contact HRM. HRM will then contact the appropriate COTR and PM to pursue resolution.

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Contractors and contract PMs who become aware of or witness harassment as described in this policy are obligated to report such harassment to HRM in accordance with their contract requirements and this Instruction. ODNI personnel must report harassment involving contractors as the alleged offender to HRM or other oversight and compliance offices, as appropriate.

H. Reporting Alleged Harassment to the IC IG: HRM will refer to the IC IG all allegations concerning violations of laws, rules, or regulations; or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to public health and safety; or other serious problems, abuses, and deficiencies relating to the programs and activities within the responsibility and authority of the DNI, in accordance with ODNI Instruction 10.34. Additionally, HRM will handle allegations of harassment referred to the Chief Operating Officer (COO) by the IC IG.

I. Making False Reports of Harassment: Knowingly submitting frivolous, capricious, harassing, or false allegations of harassment is prohibited, may constitute harassment as defined by this policy, and may be subject to administrative and/or disciplinary action through appropriate ODNI processes.

J. Confidentiality and Anonymity: Allegations of harassment are not anonymous. Reports of harassment are kept confidential by HRM, OEEO, SHARE, and other responsible offices to the greatest extent practicable, consistent with the need to conduct inquiries and address harassment allegations. Details regarding allegations of harassment will be shared only with individuals who have a need-to-know in the conduct of their official duties.

K. Harassment Response, Inquiry, and Resolution Process

(1) **Early Action at the Lowest Level.** When HRM becomes aware of harassment allegations, it will take action to respond, address, and resolve harassment allegations, in coordination with the COO, Deputy COO, and Directorate, Center, and Office (DCO) leadership, at the earliest possible stage, and at the lowest appropriate level. Not all negative interactions rise to the level of reportable harassment. (See Appendix: definitions for Bullying, Harassment, and Sexual Harassment for more information.)

(2) **Initial Actions.** After HRM receives a report regarding harassment allegations, it reviews the allegations, determines appropriate steps to stop the alleged harassment from continuing, ascertains details regarding the allegations, and scopes potential recommendations for administrative action. When appropriate, HRM, in coordination with its leadership, determines what further steps, potentially including an administrative inquiry, may be needed to appropriately resolve the matter.

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(3) **Interim Measures.** ODNI managers and supervisors will take interim measures, in coordination with HRM, to stop any harassing conduct from occurring or prevent it from continuing. Interim measures can vary depending on a variety of factors, to include the severity of the alleged offenses.

(a) **Moving Alleged Offenders:** HRM, in collaboration with DCO leadership, for the protection of both parties, may recommend moving the alleged offender to another position or location within the DCO until the inquiry is complete. The claimant will not be moved unless requested in writing by the claimant to HRM and approved by the COO.

(b) **Workplace Safety Plans.** HRM, in collaboration with the claimant(s), the relevant DCOs, and Counterintelligence and Security (ODNI/CIS), will develop a Workplace Safety Plan (WSP) when safety issues are of concern. This includes the physical safety of the claimant, alleged offender, and others as appropriate; as well as operational security, communication and contact protocols, and protection of cover, when relevant.

(4) **Preliminary Review.** When HRM receives a report of alleged harassment, Chief, HRM designates an ODNI officer to conduct a preliminary review. This is an informal tool used to determine whether the alleged harassment incident warrants an administrative inquiry based on the egregious and/or pervasive nature of the harassment allegations, can be resolved through other means, or should be recommended for referral to another oversight office for formal investigation.

(5) **Administrative Inquiry.** The Chief, HRM, with concurrence from the COO, determines whether an administrative inquiry is warranted. This determination is generally made within 10 business days of HRM receiving the report of harassment. The Chief, HRM shall designate one or more ODNI officers to conduct the inquiry to determine if harassment has occurred.

(6) **COO Determination.** After review of the administrative inquiry, the COO, or designee, reviews and approves the inquiry findings and recommendations.

(7) **Resolution.** HRM will share the COO-approved findings and recommendations with the designated POC among the DCO leadership. The POC will report to HRM on actions taken within the timeline specified in the COO transmittal of the inquiry report. DCO leadership who decline to implement the inquiry report recommendations will provide justification in writing to the COO via HRM.

(8) **Notification and Follow-Up.** When the inquiry has concluded, HRM will notify the claimant and alleged offender. HRM will not provide a written report of findings and recommendations to the claimant and alleged offender. In consultation with the Office of

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the General Counsel (OGC), the COO may approve release of the inquiry report, findings, and/or recommendations on a case-by-case basis.

(9) **IC IG Employees.** In matters involving an employee of the IC IG, the above process will be modified and conducted in a manner consistent with 50 U.S.C. Section 3033.

(10) **Appeal.** Neither the claimant nor the alleged offender can appeal the COO's findings or recommendations. Any individual who is the subject of administrative or disciplinary action resulting from a recommendation in an administrative inquiry would follow the appeal process, if any, of the respective ODNI Instruction pertaining to the administrative or disciplinary action.

L. DCO Leadership, Manager, and Supervisor Obligations

(1) DCO leadership, including all managers and supervisors, will notify HRM and OEEO when it learns of harassing behaviors within its DCO. In coordination with HRM, DCO leadership will ensure that immediate and appropriate corrective action, including discipline, is taken whenever it is determined that behaviors described in this policy have taken place or are taking place within the DCO. DCO Leadership will work with HRM prior to enforcing any administrative or disciplinary action; refer to ODNI Instruction 30.01 for further guidance.

(2) If an employee communicates to leadership that they are feeling threatened or unsafe due to the actions of another employee, DCO leadership must contact ODNI/CIS then HRM.

(3) The DCO will consult with appropriate offices, to include HRM, OEEO, OGC, HRM, and, as needed, ODNI/CIS to ensure proposed solutions are legally sufficient, appropriately address concerns, and ensure the safety and wellbeing of the claimant(s).

(4) For recordkeeping and reporting purposes, corrective actions taken will be documented with HRM in accordance with ODNI Instruction 30.01 and, as appropriate, with OEEO in accordance with ODNI Instruction 120.02.

M. Penalties for Retaliation: Retaliation is strictly prohibited. Any individual who retaliates against any ODNI personnel for pursuing resolution of harassment under this Instruction or for seeking advice, discussing, planning to file, filing a report, or serving as a witness in an inquiry may be subject to administrative and/or disciplinary actions up to and including reassignment or termination of employment. Federal EEO laws and ODNI policy also protect individuals from retaliation for opposing employment discrimination, participating in the EEO process (including previous EEO activities), reporting discrimination, or providing information related to reports of wrongdoing.

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N. Training Requirements: All government personnel are required to take No FEAR Act training upon entrance on duty (EOD) to ODNI, and then every two years thereafter. Contractors are not required to take No FEAR Act training.

7. RESPONSIBILITIES

A. The COO, or designee, will:

- (1) Provide policy oversight;
- (2) Review HRM recommendation to conduct an administrative inquiry and concur or non-concur; and
- (3) Make a final determination regarding an administrative inquiry's findings and recommendations.

B. The Chief, HRM, or designee, will:

- (1) Implement this Instruction;
- (2) Provide and facilitate education and training on harassment prevention in the workplace and advise ODNI personnel about rights and responsibilities;
- (3) As appropriate, assess organizational harassment trends and adjust harassment prevention guidance accordingly;
- (4) Take action to respond, address, and resolve harassment allegations, in coordination with DCO leadership, at the earliest possible stage, and at the lowest appropriate level;
- (5) To the greatest extent practicable, preserve confidentiality of those who participate in the inquiry process;
- (6) Maintain records of all ODNI harassment allegations, misconduct complaints, referrals, inquiries, and, as appropriate, disciplinary actions taken and the completeness, accuracy, and sufficiency of inquiry files;
- (7) Work with the DCO, the claimant, and ODNI/CIS to develop a WSP when safety issues, operational security, and/or protection of cover are of concern;
- (8) Conduct preliminary reviews and administrative inquiries on reported allegations of harassment and other acts of misconduct, as appropriate;

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(9) Ensure administrative inquiries are unbiased and the resulting reports are evidence-based;

(10) Provide administrative inquiry results to OGC for review and then to the COO for final determination, then share COO-approved findings and recommendations with the DCO for action;

(11) Recommend referral of the case to other oversight offices, when appropriate, to preserve evidence and prevent contamination of evidence; and

(12) Report alleged harassment to OEEO.

C. Chief of OEEO, or designee, will:

(1) Provide education and training on harassment prevention and response;

(2) Conduct informal pre-complaint counseling and process formal complaints of discrimination, as outlined in ODNI Instruction 120.02 and IPD 120.02a;

(3) As appropriate, assess organizational sexual harassment trends and adjust the SHARE program accordingly;

(4) Conduct initial intake of information from claimants and witnesses;

(5) Provide support and resources to claimants, witnesses, supervisors, and managers when allegations of sexual harassment are reported;

(6) Ensure confidentiality of the claimant, and of those who participate in the process, to the extent practicable; and

(7) Report alleged harassment to HRM.

D. OGC will:

(1) In coordination with ODNI/CIS, review allegations of harassment for potential referrals to law enforcement;

(2) Provide legal advice related to harassment allegations; and

(3) Review HRM administrative inquiry findings and recommendations.

E. The Chief, ODNI/CIS, will:

(1) Review allegations of harassment, as appropriate, and provide the necessary security support;

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- (2) Refer harassment allegations to HRM; and
- (3) Assist HRM, DCOs, and the claimant in developing a WSP.

F. DCO Leadership will:

- (1) Establish and maintain work environments free from harassment;
- (2) Ensure their personnel understand and comply with requirements and responsibilities under this Instruction;
- (3) Ensure their personnel complete required No FEAR Act training in accordance with section 6.N. above;
- (4) Upon learning of any harassment allegation, refer all harassment allegations to HRM and refer the claimant to HRM, OEEO, and SHARE as appropriate.
- (5) Protect all parties involved in harassment complaints or inquiries from retaliation;
- (6) In compliance with ODNI Instructions and any relevant preservation orders, ensure the preservation of any DCO records (as defined in ODNI Instruction 80.10) that are relevant to inquiries under this policy;
- (7) Ensure confidentiality of the claimant, and of others who participate in the process, to the greatest extent practicable; and
- (8) Promptly implement interim measures, in coordination with HRM, to stop any harassing conduct from occurring and/or prevent it from continuing;
- (9) Work with HRM, ODNI/CIS, and the claimant to develop a WSP when safety issues, operational security, and/or protection of cover are of concern;
- (10) Identify an individual from the DCO Leadership to serve as the main point of contact for HRM during an administrative inquiry;
- (11) In consultation with HRM, implement fair disciplinary actions pursuant to ODNI Instruction 30.01; and
- (12) Receive, review, and determine implementation of recommendations from any administrative inquiry report. Report to HRM on actions taken within the timeline specified

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in the inquiry report and/or provide justification in writing to the COO about any inquiry report recommendations it declines to implement.

G. Managers and Supervisors will:

- (1) Establish and maintain work environments free from harassment;
- (2) Ensure their personnel understand and comply with requirements and responsibilities under this Instruction;
- (3) Complete anti-harassment training designed for Managers and Supervisors, and ensure their personnel complete required No FEAR Act training in accordance with section 6.N. above;
- (4) Upon learning of any harassment allegation, refer all harassment allegations to HRM and refer the claimant to HRM, OEEEO, and SHARE as appropriate.
- (5) Inform the HRM and the OEEEO of any corrective action taken in response to an allegation of either discrimination or unlawful harassment.
- (6) Protect all parties involved in harassment complaints or inquiries from retaliation;
- (7) In compliance with ODNI Instructions and any relevant preservation orders, ensure the preservation of any DCO records (as defined in ODNI Instruction 80.10) that are relevant to inquiries under this policy;
- (8) Ensure confidentiality of the claimant, and of others who participate in the process, to the greatest extent practicable;
- (9) Promptly implement interim measures, in coordination with HRM, to stop any harassing conduct from occurring and/or prevent it from continuing;
- (10) Work with HRM, ODNI/CIS, and the claimant to develop a WSP when safety issues, operational security, and/or protection of cover are of concern; and
- (11) In consultation with HRM, implement fair disciplinary actions pursuant to ODNI Instruction 30.01.

H. Claimants will:

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(1) Inform their supervisor or manager of harassing behavior in the workplace. If management is the alleged offender(s), claimants are strongly encouraged to contact HRM and, as appropriate, the ODNI SHARE program, with any allegations of harassment;

(2) Should they choose to do so, notify OEEEO of allegations of discriminatory harassment;

(3) Preserve any documents or other evidence relevant to matters of concern;

(4) Cooperate with HRM and OEEEO processes; and

(5) Maintain the confidentiality of the inquiry.

I. Witnesses will:

(1) Contact SHARE if they become aware of sexual harassment. For the policy on reporting sexual assault, see ODNI Instruction 30.06;

(2) Cooperate with HRM and OEEEO processes; and

(3) Maintain confidentiality of the inquiry.

J. Alleged offenders will:

(1) Cooperate with HRM and OEEEO processes;

(2) Maintain the confidentiality of the inquiry;

(3) Respond to the allegations fully and accurately; and

(4) Preserve any documents or other evidence relevant to matters of concern.

K. All ODNI personnel will:

(1) Report allegations or witnessing of harassment to their supervisor or manager, HRM, OEEEO, and/or SHARE for allegations of sexual harassment so that the harassing conduct can be stopped before it becomes severe or pervasive and rises to a possible violation of law. For the policy on sexual assault, see ODNI Instruction 30.06;

(2) Complete periodic No FEAR Act training in accordance with section 6.N. above;

(3) Conduct themselves in a manner that contributes to a work environment that is free from harassment;

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(4) Cooperate with and maintain the confidentiality of harassment inquiry processes;

(5) Provide truthful and complete information relevant to an administrative inquiry; and

(6) Preserve any documents or other evidence relevant to allegations under inquiry.

8. EFFECTIVE DATE: This Instruction is effective upon signature.

Lora A. Shiao
Lora A. Shiao
Chief Operating Officer

7/31/2025
Date

Appendix: Definitions

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APPENDIX**Definitions**

A. Administrative Inquiry: For the purpose of this instruction, an inquiry conducted by HRM to fully understand an allegation of harassment, gather data through unbiased interviews, make findings based on a preponderance of the evidence, and provide recommendations. Most inquiries typically require several interviews, extensive document review, and result in a formal report to the COO and the DCO leadership.

B. Alleged Offender: For the purposes of this instruction, an individual who is alleged to have engaged in conduct that violates ODNI policy with respect to harassment as defined in this instruction.

C. Bullying: Harassment characterized by mistreatment and interpersonally abusive behaviors that negatively affect both the aggrieved individual as well as the work organization. These behaviors often occur when there are actual or perceived power imbalances between the alleged offender and the target of harassment. Bullying can be verbal, physical, psychological, or a combination; and can be direct or indirect, by one or more alleged offenders towards another individual or group of individuals that intimidates, degrades, excludes, sabotages, or humiliates the individual(s) in such a manner that it causes tangible physical (including stress-related), emotional, psychological, social (including social isolation), and/or economic harm. Bullying can occur in person, through the use of electronic devices, and/or via other communication methods. Bullying is a form of harassment. Bullying includes, but is not limited to, the following:

(1) Remarks, slurs, epithets, insults, derogatory comments, jokes, negative stereotypes, threats, or offensive language;

(2) Slandering, ridiculing, demeaning, or maligning a person or their family, including to others;

(3) Persistent name calling, including nicknaming, that is hurtful, insulting or humiliating, especially in front of others, pranking or unwanted teasing;

(4) Yelling, screaming, or verbal outbursts;

(5) Mocking, mimicking, or repeatedly commenting on an individual's physical or mental ability, accent, or personal characteristics;

(6) Making repeated abusive or offensive remarks, including personal attacks and profanity, directed towards a specific person;

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- (7) Threatening or committing inappropriate physical contact, including pushing, poking, deliberate kicking or tripping, stalking, making intimidating gestures, and communicating verbal threats of harm;
- (8) Physical intimidation, physical aggression, throwing objects, banging/slamming doors, or blocking movements and/or invading personal space and impeding movements;
- (9) Offensive gestures, displays, photos, posters or other visual materials;
- (10) Damaging a person's work area, including taking, defacing, or destroying a person's work assets or personal property;
- (11) Sabotaging work, including taking credit for a person's work or ideas, denying critical assets, excluding a person from meetings, emails, or other necessary communications without good reason, and/or repeatedly ignoring or interrupting the person during meetings;
- (12) Setting unrealistic or arbitrary standards or goals for a person especially when they differ greatly from those of peers in the work group;
- (13) Deliberately assigning tasks not in keeping with normal responsibilities of the job, including tasks that are significantly below or above the person's grade or expected performance level;
- (14) Intimidation, or abuse of power or authority by those in positions of seniority;
- (15) Spreading derogatory gossip and rumors about a person, especially regarding the person's work performance, and/or encouraging others to turn against the person;
- (16) Socially excluding or isolating a person from routine office-wide activities such as group lunches, office celebrations, and happy hours; and
- (17) Off-duty harassing conduct that adversely affects the claimant's work environment.

D. Claimant: For the purpose of this instruction, an individual who believes they have been discriminated against or have been the object of harassment, as defined by this Instruction; or who has been subjected to what they believe to be a hostile or offensive work environment because of harassment, whether or not the offensive conduct is specifically directed toward that individual. Such personnel may be considered a complainant under ODNI Instruction 10.34, victim under ODNI Instruction 30.06, or an aggrieved person under ODNI Instruction 120.02.

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E. Directorate, Center, or Office (DCO) Leadership: ODNI personnel who are any of the following: Deputy Directors of National Intelligence, Associate Deputy Directors of National Intelligence, Center Directors, Deputy Center Directors, Heads of Independent Offices, or Deputy Heads of Independent Offices.

F. Discriminatory Harassment: Discriminatory harassment violates federal law if it is based on a characteristic prohibited by federal EEO laws, regulations, and Executive Orders (see paragraph 6.B. of this Instruction). The federal anti-discrimination statutes are not a “general civility code” that prohibit offhand comments or isolated incidents, but are designed to prohibit conduct that is objectively offensive and that alters the conditions of an individual’s employment. Discriminatory harassment includes sexual harassment, and includes (but is not limited to) unwelcome verbal, written, or physical conduct based on:

(1) Race (including race-related characteristics, which may include an individual’s grooming and hair), color, ancestry (including ancestry-related characteristics, which may include an individual’s attire);

(2) National origin (including ethnicity, accent, use of a language other than English, and immigration experience);

(3) Religion or religious creed (including reasonable accommodation of religious beliefs, observances, or practices);

(4) Physical or mental disability (including reasonable accommodation of physical or mental impairments);

(5) Medical condition;

(6) Genetic information;

(7) Sex;

(8) The reasonable accommodation of limitations related to, affected by, or arising out of pregnancy, childbirth, or related medical conditions;

(9) Age (40 and over);

(10) Parental status;

(11) Any other prohibited factor; and

(12) Retaliation for engaging in protected EEO activity (e.g., filing or participating in a complaint or otherwise opposing discrimination, including harassment, and requesting a reasonable accommodation).

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G. EEO Counselor: Any ODNI employee or contractor who, serving as a neutral party, provides an aggrieved person with their rights and obligations under EEO laws, gathers limited data, and may attempt to facilitate resolution of an informal complaint.

H. Findings: Determinations of fact and responsibility resulting from a review or inquiry into a report of alleged harassment.

I. Harassment: Any unwelcome, offensive, demeaning, or hostile conduct that is physical, verbal, visual, written, or electronic when the conduct can reasonably be considered to adversely affect the claimant's work environment, to include substantially interfering with the claimant's work performance or creating a work environment that a reasonable person would consider abusive, hostile, intimidating, or toxic; or an employment decision affecting the claimant is based upon the claimant's acceptance or rejection of such conduct.

(1) Harassment as a category includes bullying and discriminatory harassment. (See Definitions for Bullying and Discriminatory Harassment.)

(2) Examples of conduct not considered harassment include but are not limited to:

(a) Behavior that is rude or unkind, but cannot reasonably be considered to adversely affect the Claimant's work environment;

(b) Petty slights, annoyances, and isolated incidents (unless sufficiently serious);

(c) Management's legitimate efforts to supervise Agency personnel;

(d) Performance counseling, negative feedback, or action from management regarding performance feedback;

(e) Management decisions regarding workload, assignment of duties, mission execution, staffing, resources, work location, and operational decisions; and

(f) Appropriate, non-harassing supervisory interactions and actions to include, but not limited to:

(i) Supervisor/manager requests for status updates on duties, or day-to-day work and/or project/program assignments of an individual(s);

(ii) Discussions/inquiries with an individual(s) concerning a failure to respond to management requests and/or a lack of responsiveness during working hours; and/or

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(iii) Performance feedback concerning missed deadlines or deficient quality.

J. Harassment Allegation: Any complaint, report, or statement of potentially harassing behavior.

K. Inquiry Officer: A designated ODNI officer who handles official inquiries regarding ODNI employee misconduct pursuant to this Instruction and ODNI Instructions 22.01, 30.01, and 30.06.

L. Interim Measures: Temporary action that ODNI managers and supervisors take, in coordination with HRM, to stop any harassing conduct from occurring or prevent it from continuing. Interim measures can vary depending on a variety of factors, to include the severity of the offenses alleged.

M. Preliminary Review (PR): An informal process used to determine whether an alleged incident warrants an administrative inquiry. Information is gathered to develop options for addressing key issues. PRs may require multiple meetings with multiple individuals and some document review.

N. Retaliation or Reprisal: An action, adverse employment decision or the threat of an adverse action that is likely to deter a reasonable person from pursuing protected activity if the action or threat is taken against an individual for making a good-faith report of harassment under this Instruction or any other IC or ODNI policy, or for participating or assisting in any related inquiry or proceeding.

O. Sexual Harassment: A form of sex discrimination that violates Title VII of the Civil Rights Act of 1964. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment. Sexual harassment can occur in a variety of circumstances between any individuals.

(1) Sexually harassing behaviors can include, but are not limited to:

(a) Inappropriate or offensive comments about an individual's body or sexual characteristics;

(b) Making or posting sexually demeaning or offensive pictures, cartoons, or other materials in the workplace;

(c) Derogatory or unprofessional terms related to sex;

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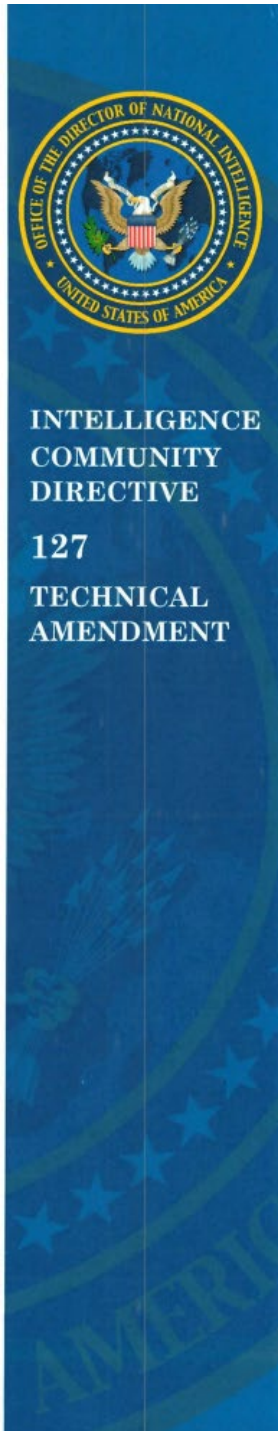
- (d) Positioning oneself too close to or brushing up against an individual; and/or using blocking movements and/or invading personal space and impeding movements;
- (e) Sexually suggestive looks or gestures;
- (f) Communications of a sexual nature;
- (g) Unwelcome sexual pranks, or repeated sexual teasing, jokes, comments, questions, or innuendo, whether in-person, in writing, orally, or through other forms of electronic, online, or social media;
- (h) Pressure for dates and/or sexual favors;
- (i) Repeatedly asking an individual to socialize during off-duty hours when an individual has indicated they are not interested in such invitations;
- (j) Giving sexually suggestive gifts or leaving sexually suggestive objects;
- (k) Offer of preferential treatment for sexual favors; and/or
- (l) Off-duty sexually harassing conduct that adversely affects the claimant's work environment.

P. Toxic Work Environment: A work environment so pervaded by (non-discriminatory) harassing behaviors that enduring the conduct becomes a condition of continued employment, and/or a reasonable person would consider it intimidating, antagonistic, or abusive.

Q. Workplace Safety Plan (WSP): A strategy developed in collaboration with a claimant to implement workplace safety options, including but not limited to, handling of court protection orders, alerting security personnel, adjusting work schedules and locations, and changing official contact information.

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Appendix C: Intelligence Community Directive 127, Preventing and Responding to Workplace Harassment, June 5, 2021, with a Technical Amendment, 28 February 2025



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Preventing and Responding to Workplace Harassment

A. PURPOSE:

1. Pursuant to Intelligence Community Directive (ICD) 101, Section G.1.b.(3), technical amendments are hereby made to Intelligence Community Directive 127, *Preventing and Responding to Workplace Harassment*, signed 2 January 2025.

2. This Directive, as amended, reflects the signature of Executive Orders 14148, *Initial Recissions of Harmful Executive Orders and Actions* and EO 14151, *Ending Radical and Wasteful Government DEI Programs and Preferencing*, both issued 20 January 2025, which repeal EO 14035, *Diversity, Equity, Inclusion and Accessibility in the Federal Workforce*; and the adoption of sex-based definitions in accordance with the Executive Order 14168, *Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government*, issued 20 January 2025. It also reflects the enactment of the Pregnant Workers Fairness Act.

B. EFFECTIVE DATE: This technical amendment becomes effective on the date of signature.


 Assistant Director for
 Policy and Strategy

February 28, 2025
 Date

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ICD 127

Preventing and Responding to Workplace Harassment

A. PURPOSE:

1. Pursuant to Intelligence Community Directive (ICD) 101, Section G.1.b.(3), technical amendments are hereby made to Intelligence Community Policy Guidance (ICPG) 110.2, *Preventing and Responding to Workplace Harassment*, signed 5 June, 2021.

2. This Directive, as amended, renumbers and reissues ICPG 110.2, *Preventing and Responding to Workplace Harassment* as ICD 127, *Preventing and Responding to Workplace Harassment*. These amendments reflect the signing of ICD 110, *Diversity, Equity, Inclusion, and Accessibility*, on 24 October 2024, and the current structure of the Office of the Director of National Intelligence.

B. EFFECTIVE DATE: This technical amendment becomes effective on the date of signature.



 Assistant Director for
 Policy and Strategy

January 2, 2025

 Date

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Preventing and Responding to Workplace Harassment

A. AUTHORITY: The National Security Act of 1947, as amended; Executive Order 12333, as amended; and other applicable provisions of law.

B. PURPOSE: This Intelligence Community Directive (ICD) provides guidance to the Intelligence Community (IC) elements, to ensure effective programs and policies exist to detect and prevent workplace harassment, to encourage reporting and prompt remediation of concerns involving harassment, and to emphasize the existence of protections against retaliation for individuals who participate in equal employment opportunity matters regarding harassment or otherwise oppose discriminatory harassing conduct.

C. APPLICABILITY

1. This ICD applies to the IC, as defined by the National Security Act of 1947, as amended, and to such other elements of any department or agency as may be designated by the President, or designated jointly by the Director of National Intelligence (DNI) and the head of the department or agency concerned, as an element of the IC.

2. In instances where departmental policy conflicts with this Directive, such departmental policies shall prevail.

3. Military personnel are subject to policy requirements of the Department of Defense and their Service.

D. POLICY

1. IC elements shall be model employers and offer a work environment that is free from workplace harassment, including harassment on the basis of race, color, religion, sex, pregnancy, national origin, age, physical or mental disability, genetic information, or any other bases protected by applicable law or Executive Order, such as parental status and sexual orientation.

2. Harassment encompasses unwelcome conduct based on a protected category under the law, including sexual harassment. The Equal Employment Opportunity Commission (EEOC), defines harassment as unlawful when

a. Enduring the offensive conduct becomes a condition of continued employment; or:

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b. 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 protected Equal Employment Opportunity (EEO) activity. The EEOC defines retaliation broadly, and includes under such definition, any action by an employer that might deter a reasonable employee or job applicant from engaging in protected EEO activity. Protected EEO activity includes opposing employment practices that an individual reasonably believes constitutes discrimination in violation of the law or anti-discrimination policies, reporting alleged harassment, participating in an investigation regarding alleged harassment, opposing harassment, or taking actions to remediate or deter discrimination.

4. IC elements are expected to maintain processes to ensure individuals can present concerns about unwelcome or offensive conduct, particularly when such conduct creates conditions that interfere with work performance and/or creates an intimidating, hostile, or offensive environment. IC elements should include avenues for addressing potential harassment concerns before they rise to the level of being severe and/or pervasive.

5. In the absence of a departmental policy, IC elements should establish an anti-harassment policy that provides a mechanism for prompt reporting of any incidents of alleged harassment while respecting confidentiality to the greatest extent feasible. Such a policy should include, at a minimum:

- a. Examples of harassing conduct;
- b. Assurance that employees who engage in protected EEO activity, including complaining of harassment or providing information related to such complaints, will be protected against retaliation;
- c. Clearly defined processes for raising allegations of harassment that provide alternative avenues for raising concerns;
- d. Commitment that the IC element will protect, to the extent possible, the confidentiality of the individuals raising harassment concerns;
- e. A complaint process that provides a prompt, thorough, and impartial investigation; and
- f. A provision that the IC element's supervisors and leaders shall take prompt and appropriate corrective action following a determination by the agency that harassment or unprofessional conduct has occurred, even when not within their area of responsibility or supervisory chain.

6. Consistent with EEOC guidance, IC elements should either establish anti-harassment programs that are distinct from their EEO compliance programs, or should have methods for dealing with concerns of harassing behavior that do not rise to the level of being actionable under the law.

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7. IC elements shall provide information to the workforce about harassment prevention, reporting, and response (i.e., website, policy, posters, phone numbers, etc.).

8. IC elements should provide anti-harassment training annually.

9. Managers and supervisors shall comply with their element’s regulations, policies, and applicable reporting requirements, and are encouraged to contact their element’s EEO office for advice and assistance upon learning of a possible issue related to unlawful harassment, or before initiating any corrective action in response to an allegation or concern of unlawful harassment. Employees also are encouraged to contact their element’s EEO office for advice and assistance regarding possible issues related to unlawful harassment.

E. ROLES AND RESPONSIBILITIES

1. The Office of the Director of National Intelligence (ODNI) shall:

a. Provide information and assistance to IC elements, as requested; and

b. Collect and analyze EEO and harassment complaint data from elements of the IC, upon request.

2. ODNI’s Office of Equal Employment Opportunity (OEEO) shall lead IC element discussions of best practices and issues with regard to the implementation of this Directive.

3. Heads of IC elements:

a. Shall comply with EEO laws, regulations, and guidance, as applicable (see Appendix);

b. Consistent with 29 CFR Sec. 1614.102, shall maintain a continuing affirmative program to promote equal opportunity and to identify and eliminate discriminatory practices and policies;

c. Shall be committed to providing a workplace free from harassment, consistent with this ICD;

d. Are expected to comply with the provisions of EEOC Management Directive 715 relating to harassment prevention, which includes issuing an anti-harassment policy statement soon after beginning their tenure and thereafter on an annual basis; and

e. Should be responsive to ODNI requests for copies of annual Federal Equal Employment Opportunity Statistical Reports of Discrimination Complaints (EEOC 462 Reports), and quarterly Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act reports.

F. EFFECTIVE DATE: This ICD becomes effective on the date of signature.

//SIGNED//Avril D. Haines
Director of National Intelligence

June 5, 2021
Date

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Appendix – References

1. Title VII of the Civil Rights Act, 42 U.S.C. Section 2000e *et seq.*
2. The Age Discrimination in Employment Act, 29 U.S.C. Section 621 *et seq.*
3. The Equal Pay Act, 29 U.S.C. Section 206(d)
4. The Genetic Information Nondiscrimination Act, 42 U.S.C. Section 2000ff note
5. The Rehabilitation Act, 29 U.S.C. Section 791 *et seq.*
6. The Pregnant Workers Fairness Act, 42 U.S.C. Section 2000gg *et seq.*
7. Federal Sector Equal Employment Opportunity, 29 C.F.R. Part 1614
8. U.S. Equal Employment Opportunity Commission, Management Directive 110
9. U.S. Equal Employment Opportunity Commission, Management Directive 715

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Appendix D: ODNI Director's Statement on Equal Employment Opportunity, 12 June 2025

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Director of National Intelligence

Director's Statement on Equal Employment Opportunity

The Office of the Director of National Intelligence (ODNI) is committed to ensuring equal employment opportunity (EEO) consistent with the principle that asserts all people should have the right to work and advance on the basis of merit, qualifications, and job-related criteria. Federal laws require EEO for all employees and applicants for employment, regardless of their race, color, religion, sex, national origin, age, mental or physical disability, pregnancy, childbirth, or related medical condition, and genetic information. Additionally, in accordance with Executive Order 13152, ODNI policy safeguards against discrimination and harassment based on sexual orientation and parental status. Prohibited discrimination includes any employment-related action motivated, even in part, by these protected characteristics.

Federal laws and ODNI policies also prohibit retaliation for participating in the EEO process, reporting/opposing discrimination and harassment, providing information related to such complaints, and any other protected activities. EEO principles are designed to promote employment opportunity in all employment actions, such as actions that affect the terms and conditions of employment, hiring, merit promotion, transfer, work assignments, training and career development, benefits, and separation.

ODNI also does not tolerate workplace harassment. Personnel who experience or witness discrimination, harassment, or other adverse personal treatment—during or after work hours—should report such behavior to a manager or supervisor, and/or the ODNI Office of Equal Employment Opportunity (OEEO). Managers and supervisors who become aware of such behavior should inform the OEEO of any corrective action taken in response to an allegation of either discrimination or unlawful harassment. To seek redress for discrimination, aggrieved individuals are required to report potential violations of the laws and policies described above and below to the OEEO within 45 calendar days of experiencing conduct believed to be discriminatory.

To further ODNI equal opportunity safeguards, ODNI's Sexual Harassment and Assault Response and Education Program is a dedicated resource for all ODNI officers who need support and guidance regarding response to and prevention of sexual harassment and assault.

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SUBJECT: Director's Statement on Equal Employment Opportunity

In summation, ODNI is required to operate in compliance with the civil rights laws of the United States to promote a model workplace for the Intelligence Community free from statutorily prohibited discrimination and harassment ensuring the right to work and advance on the basis of merit and ability.


Tulsi Gabbard

June 12, 2025
Date

Appendix E: ODNI Instruction 30.01, Review of Employee Performance, Conduct, and Suitability, 9 January 2023

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OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE
 CHIEF OPERATING OFFICER
 WASHINGTON, DC 20511

MEMORANDUM FOR THE RECORD

SUBJECT: (U//FOUO) Updates to ODNI Instruction 30.01, *Review of Employee Performance, Conduct, and Suitability*

REFERENCE: (U) ODNI Instruction 30.01, *Review of Employee Performance, Conduct, and Suitability*

(U//FOUO) In accordance with ODNI Instruction 30.01, *Review of Employee Performance, Conduct, and Suitability*, the Chief Operating Officer may convene the Employee Management Review Board (EMRB) to consider issues of ODNI officers' performance, conduct, and suitability. Effectively immediately, this memo updates procedures outlined in Instruction 30.01 to more closely align the EMRB process with that of the Personnel Evaluation Board (PEB), the primary forum for considering ODNI employee clearance suitability issues, to ensure consistency and compatibility of processes, particularly when an EMRB and PEB simultaneously consider a Subject. These updates also resolve several procedural and substantive inconsistencies within Instruction 30.01 regarding the EMRB process.

(U) Rename Executive Review Board (ERB) to Employee Management Review Board (EMRB); Redesignation of Employee Relations Officer (ERO) to Employee Management Relations Officer (EMRO)

(U) To better reflect the intended purpose of the board and to avoid confusion with other ODNI board processes, the Executive Review Board (ERB) will now be referred to as the Employee Management Review Board (EMRB). All references in Instruction 30.01 to the ERB are replaced with EMRB. Consistent with ODNI organizational changes and to ensure clarity, the Employee Relations Officer (ERO) will now be referred to as the Employee Management Relations Officer (EMRO). All references in Instruction 30.01 to the ERO are replaced with EMRO.

(U) Composition of the EMRB

(U) To clarify roles and responsibilities regarding EMRB participation, the composition of the EMRB will be updated to identify voting and non-voting members. Section 5.C of Instruction 30.01 is updated as follows:

5.C. The Chief Operating Officer (COO), or their designee, will chair the EMRB when it convenes to consider issues of employee performance, conduct, and suitability.

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(1) The following individuals or their designees will serve as voting members on the EMRB: the Chief, Human Resource Management (C/HRM); the Chief, Office of Counterintelligence and Security (C/CIS); and a representative from the employee's directorate, center, or office (DCO). The DCO representative must be a senior official, and will speak to the employee's duties, performance, and other relevant information.

(2) In matters involving an individual's security clearance, voting members from the Central Intelligence Agency will also attend in accordance with AR 4-6, *Personnel Evaluation Board*.

(3) In matters involving an employee of the Office of the Inspector General of the Intelligence Community (IC IG), the EMRB will be conducted pursuant to procedures outlined by the IC IG in accordance with 50 U.S.C. § 3033(j).

(4) The following individuals or their designees will serve as advisors to the EMRB: the Chief/Employee Management Solutions Group; the Chief, Office of Equal Employment Opportunity (C/OEEO), and a representative from the ODNI Office of General Counsel (OGC). The chair also may invite other officials to serve as advisors on medical, counterintelligence, civil liberties and privacy, IG investigations, or other issues as appropriate. The EMRO will serve as the Executive Secretary for the EMRB.

(U) Requests to Convene the EMRB:

(U) To ensure alignment with notification requirements outlined in Appendix B of Instruction 30.01, Section 5.D.(4) is updated to adjust notification and response timelines. Section 5.D.(4) of Instruction 30.01 is amended as follows:

5.D.(4) If the COO determines that the matter requires an EMRB, the EMRO will prepare a statement of the issues to be discussed based on the information contained in the request to convene the EMRB. Unless security, counterintelligence, or other concerns preclude notification to the employee, the statement of issues will be presented to the employee at least 15 business days prior to the scheduled meeting of the EMRB. The statement also will include notification to the employee of the appeal process. The employee may respond in writing to the statement of the issues; the response must be submitted within 10 business days of receiving the issue statement. The employee's opportunity to respond to the statement of the issues is deemed to satisfy requirements regarding the minimum type of notice before final decision to impose sanction outlined in Appendix B.

(U) Decisions on Disciplinary Actions

(U) Section 5.E.(2) is updated to clarify when an employee may make a personal appearance before the EMRB to present an oral statement and answer questions. Section 5.E.(2) of Instruction 30.01 is amended as follows:

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5.E.(2). At the discretion of the EMRB chair, the employee may make a personal appearance before the EMRB to present an oral statement and answer questions. The DCO representative will also make a presentation before the board. The EMRB will analyze and evaluate the statement of issues, the employee's response, if any, and any other relevant information, and make recommendations to the COO. The EMRB may consider other issues that arise during the discussions that may not have been included in the statement of issues presented to the employee. The EMRB can recommend the full range of disciplinary actions described in Appendix A, as well as other corrective measures such as reassigning the employee to another position.

(U) Section 5.E.(5) and 5.E.(6) are also amended to ensure consistency with minimum decision authorities listed in Appendix B of Instruction 30.01. Sections 5.E.(5) and 5.E.(6) are amended as follows:

5.E.(5) The COO will review the EMRB's recommendation, obtain legal advice from OGC as necessary, and issue a decision approving, modifying, or denying the EMRB recommendation. Recommendations on imposing any disciplinary measures outlined in Appendix A will be referred to the minimum authority listed in Appendix B, or higher authority, if appropriate.

5.E.(6) Following the COO's decision on the EMRB recommendation and/or the minimum authority's decision on any disciplinary measures, the EMRO will prepare a memorandum that summarizes the decision for the employee, including any applicable appeal guidance. This memorandum will include a summary of the deadlines for the appeals process.

(U) Appeals

(U) Section 5.F of Instruction 30.01 is amended to ensure consistency with minimum decision authorities and appellate authorities listed in Appendix B of the Instruction. Section 5.F is amended as follows:

5.F.(1) The EMRO will provide the decision memorandum to the employee within five business days of the decision.

(2) Following notification of the decision, if the employee has a right to appeal in accordance with Appendix B, the employee will have 10 business days to forward a written appeal through the EMRO to the applicable appellate authority listed in Appendix B. Employees who do not wish to appeal should inform the EMRO of that decision in writing by a letter, facsimile, or electronic mail within 10 business days of notification.

(3) If the employee appeals the decision, implementation of the decision will be stayed during the appeal. The employee's status during the appeal will remain

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unchanged from his or her status pending the decision. If the 10 business days expire without a response from the employee, or if the employee elects not to appeal, the decision will take effect.

(4) The appellate authority will review the appeal documentation, including the underlying documentation considered by the EMRB, the COO's or minimum authority's underlying decision, and the employee's written appeal, and make a final determination as soon as practicable. The EMRO will notify the employee in writing of the decision made by the appellate authority on the appeal.

(5) Decisions made on appeal are final and not subject to further appeal.

(U) Responsibilities

(U) To ensure alignment with the updates above, the responsibilities section of Instruction 30.01 is amended as follows:

6.A. The Chief Operating Officer will:

- (1) Provide policy oversight.
- (2) Determine whether the EMRB should be convened. In selected cases, the COO may render an independent decision regarding the imposition of appropriate disciplinary measures outlined in Appendix B.
- (3) Approve, modify, or deny recommendations from the EMRB, and refer recommendations on imposing any disciplinary measures outlined in Appendix A to the minimum authority listed in Appendix B, or higher authority if appropriate.

6.B. Chief, Employee Management Solutions Group will:

- (1) Be responsible for implementation of this Instruction.
- (2) Maintain records of all personnel disciplinary actions, with the exception of oral admonitions and letters of warning from DCO managers and supervisors. Records of oral admonitions and letters of warning will be maintained by DCO managers and supervisors.

6.C. The Chief/Human Resource Management (HRM) or designee will:

- (1) Ensure that records of personnel disciplinary actions are maintained in official personnel files, as appropriate.

6.D. HRM Human Resource Officers and DCO managers will ensure that original documents of disciplinary actions (excluding oral admonitions and letters of warning) are promptly forwarded to the C/HRM, with copy to the Employee Management Solutions Group.

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6.E. The Employee Management Relations Officer will:

- (1) Serve as the Executive Secretary for the EMRB.
- (2) Provide information to the EMRB, as appropriate, regarding relevant precedent cases in order to inform EMRB deliberations.
- (3) Prepare a statement of the issues to be discussed based on the information contained in the request to convene the EMRB.
- (4) Following the COO's decision on the EMRB recommendation and/or the minimum authority's decision on any disciplinary measures, prepare a memorandum that summarizes the decision for the employee, including any applicable appeal guidance.

6.F. Minimum Decision Authorities listed in Appendix B, or higher authority as appropriate, will promptly review EMRB recommendations on disciplinary measures and make a determination whether to impose discipline.

6.G. The Principal Deputy Director of National Intelligence or the Director of National Intelligence:

- (1) In selected cases, may render independent decisions regarding the imposition of appropriate disciplinary actions. If the DNI deems it necessary or advisable in the interest of the United States, the DNI may terminate the employment of any employee without regard to the procedures set forth in this Instruction.
- (2) Will decide appeals of any disciplinary measures for which employees have a right to appeal, if assigned as appellate authority in Appendix B.

(U//FOUO) These updates will remain in effect until ODNI Instruction 30.01 is revised or superseded.


Lora A. Shiao
ODNI Chief Operating Officer


Date 9 JAN 23

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**OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE
INSTRUCTION 30.01
Category 30 – Conduct, Accountability, and Discipline
Office of Primary Responsibility: Mission Support Division/Human Resources
Revision 2**

**SUBJECT: REVIEW OF EMPLOYEE PERFORMANCE, CONDUCT, AND
SUITABILITY**

1. AUTHORITIES: The National Security Act of 1947, as amended; and other applicable provisions of law. Specifically, pursuant to 50 U.S.C. § 3024(m), the Director of National Intelligence (DNI) may exercise with respect to the personnel of the Office of the Director of National Intelligence (ODNI) any authority of the Director of the Central Intelligence Agency (CIA) with respect to the personnel of the CIA under the CIA Act of 1949.

2. REFERENCES: CIA Special Issues Handbook and CIA Regulation (AR) 4-16, *Termination of Employment*.

3. PURPOSE: This Instruction designates the Executive Review Board (ERB) as the primary mechanism for reviewing and advising upon employee performance, conduct, and suitability cases that may result in serious disciplinary actions. This Instruction does not create any property or other interest or privilege in ODNI employment, nor does this Instruction entitle any ODNI employee to any due process rights or in any way limit or detract from the authority of the DNI to discipline an employee or terminate an individual's ODNI employment, with or without the procedures set forth in this Instruction. This Instruction replaces ODNI Instruction 30.01, dated March 21, 2013.

4. APPLICABILITY:

A. This Instruction applies to permanent and staff reserve (i.e., time-limited) cadre employees. The ERB will have purview over trial-period employees and employees who have been certified out of trial period.

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B. The ERB will not consider disciplinary actions against civilian detailees, military detailees, Intergovernmental Personnel Act (IPA) detailees, assignees, and contractors; however, these individuals may be returned to their parent organizations prior to expiration of the period of detail or assignment.

C. This policy does not apply to cases involving fitness-for-duty evaluations or reasonable accommodations.

5. POLICY:

A. The national security missions, functions, and activities of the ODNI are of such importance and sensitivity that any concerns pertaining to an employee's performance, conduct, and/or suitability for continued ODNI employment must be considered carefully and resolved fully whenever they arise. The ODNI seeks to resolve such issues in a manner that is both helpful and supportive to employees, while at the same time protective of the ODNI's equities, which are paramount. As the advisory board, the ERB serves as the central point of review of pertinent information to achieve these ends. The ERB also ensures that security, human resources, medical, legal, counterintelligence, and management considerations are taken into account.

B. The ERB will review cases in which information that surfaced in security, Intelligence Community Inspector General (IC IG), or other investigations; or that otherwise came to the attention of ODNI management, causes concern regarding an employee's performance, conduct, or suitability. The ERB will provide recommendations to management for disciplinary actions, and, upon request, assist management in determining an employee's certification out of trial period. The ERB will also serve on request as an advisory council in the areas of employee discipline, suitability, performance, standards of conduct, and the handling and administration of problem or difficult employees.

C. The Chief Management Officer (CMO) will chair the ERB when it convenes to consider issues of employee performance, conduct, and suitability. If the ERB has a member from the employee's component, that member will be present solely to provide a statement and to answer questions relative to the subject of the inquiry and will not be permitted to vote. The following individuals or their designees will serve as advisors to the ERB: the General Counsel (GC), the IC IG, the Director/Human Resources (D/HR), the Director/Security, the Director/IC Equal Employment Opportunity and Diversity, and the Employee Relations Officer (ERO). The chair also may invite other officials to serve as advisory members on medical, counterintelligence, civil liberties and privacy, or other issues as appropriate.

D. Requests to Convene the ERB:

(1) Any manager who discovers information that raises doubts about any ODNI employee's suitability for continued employment because of significant security concerns, suitability issues, or serious performance or conduct deficiencies should submit

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a written request to convene the ERB through the appropriate Component Director to the D/HR. The referring official must provide a detailed statement supporting the basis for the request. The referring official also must indicate whether he or she believes that the employee should be removed from the workplace pending the CMO's decision and provide a justification for that recommendation.

(2) Any employee who has reason to question the performance or conduct of another employee should consult with the component manager or supervisor, the ERO, or other appropriate ODNI officials for advice or assistance in addressing the issue.

(3) The D/HR, in coordination with the employee's Component Director and other relevant ODNI offices, will secure a decision from the CMO on whether to convene an ERB or to take other less serious action.

(4) If the CMO determines that the matter requires an ERB, the ERO will prepare a statement of the issues to be discussed based on the information contained in the request to convene the ERB. Unless security, counterintelligence, or other concerns preclude notification to the employee, the statement of issues will be presented to the employee at least **ten business days** prior to the scheduled meeting of the ERB. The statement also will include notification to the employee of the appeal process. The employee may respond in writing to the ERO's statement of the issues; the response must be submitted within **five business days** of receiving the ERO's statement.

(5) The CMO also may convene an ERB to consider cases referred by the Director/Security, ODNI managers, the IC IG, or other relevant senior officials, following investigations that raise suitability issues or other matters.

(6) In selected cases (e.g., workplace violence, employee arrests), the CMO may determine whether to convene an ERB or to render independent decisions regarding the imposition of appropriate disciplinary actions as outlined below. The DNI, Principal Deputy DNI (PDDNI), and the CMO may make independent decisions in consultation with the D/HR, the ERO, the GC, and/or any other entities deemed appropriate.

E. Decisions on Disciplinary Actions:

(1) The CMO will convene the ERB within 15 business days of receipt of the statement of issues.

(2) The employee may make a personal appearance before the ERB to present an oral statement and answer questions. The Component Director will also make a presentation before the board. The ERB will analyze and evaluate the statement of issues, the employee's response, if any, and any other relevant information, and make recommendations to the CMO. The ERB may consider other issues that arise during the discussions that may not have been included in the statement of issues presented to the employee. The ERB can recommend the full range of disciplinary actions described in Appendix A, as well as other corrective measures such as reassigning the employee to another position.

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(3) In each case, the ERB must assess any disciplinary actions it proposes in terms of both the possible risk to national security and the employee's past contributions and potential future value to the ODNI. As appropriate, the ERB will recommend risk management plans to minimize the risk to classified information and to ODNI personnel and programs that may arise from any disciplinary action.

(4) The ERB will render a recommendation to the CMO as soon as practicable.

(5) The CMO will review the ERB's recommendation, obtain legal advice from OGC as necessary, and render a decision.

(6) Following the CMO's decision, the ERO will prepare a memorandum, for the D/HR's signature, that summarizes the CMO's decision for the employee, including appeal guidance. This memorandum will include a summary of the deadlines for the appeals process.

F. Appeals:

(1) The D/HR will provide the CMO's decision memorandum to the employee within five business days of the decision.

(2) Following notification of the CMO's decision, if the employee has a right to appeal in accordance with Appendix B, the employee will have ten business days to forward a written appeal through the ERO to the PDDNI. Employees who do not wish to appeal should inform the CMO, through the ERO, of that decision in writing by a letter, facsimile, or electronic mail within ten business days of notification.

(3) If the employee appeals the CMO's decision, implementation of the decision will be stayed during the appeal. The employee's status during the appeal will remain unchanged from his or her status pending the CMO's decision. If the employee does not appeal, the CMO's decision will take effect immediately.

(4) The PDDNI will review the appeal documentation, including the underlying documentation considered by the ERB, the CMO's decision, and the employee's written appeal, and make a final determination as soon as practicable. The D/HR will notify the employee in writing of the decision made by the PDDNI on the appeal.

(5) Decisions made on appeal are final and not subject to further appeal.

6. RESPONSIBILITIES:

A. The Chief Management Officer will:

(1) Provide policy oversight.

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(2) Determine whether the ERB should be convened.

(3) Decide cases discussed by the ERB pursuant to this Instruction after receiving the recommendations of the ERB.

B. Mission Support Division/Human Resources will be responsible for implementation of this Instruction.

C. The Director/Human Resources or designee will:

(1) Maintain records of all personnel disciplinary actions, with the exception of oral admonitions and letters of warning from component managers and supervisors. Records of oral admonitions and letters of warning will be maintained by component managers and supervisors.

(2) On behalf of the ERB, prepare a written record of the ERB's recommendations on cases to the CMO.

D. Component Human Resources Officers and component managers will ensure that original documents of disciplinary actions (excluding oral admonitions and letters of warning) are promptly forwarded to the D/HR.

E. The Employee Relations Officer will:

(1) Provide information to the ERB, as appropriate, regarding relevant precedent-setting cases in order to inform the ERB deliberations.

(2) Prepare a statement of the issues to be discussed based on the information contained in the request to convene the ERB.

F. The Principal Deputy Director of National Intelligence will decide any appeals of the CMO's decisions.

7. **EFFECTIVE DATE:** This Instruction is effective upon signature.


Mark W. Ewing
Chief Management Officer

5 March 2014
Date

Appendix A: Types of Disciplinary Measures and Related Actions
Appendix B: Imposing Disciplinary Measures and Related Actions: Requirements Regarding Notice to Employees

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APPENDIX A**TYPES OF DISCIPLINARY MEASURES AND RELATED ACTIONS**

This Appendix should be read in conjunction with Appendix B and the Central Intelligence Agency Special Issues Handbook, or any subsequent superseding issuances adopted by the Office of the Director of National Intelligence (ODNI).

I. LESSER DISCIPLINARY MEASURES

Oral Admonition. An oral admonition is an oral warning given to employees to point out deficiencies in conduct, performance, or security practices. An oral admonition may be issued by an employee's first-line supervisor or higher management. No advance written notice to the employee or coordination with Mission Support Division/Human Resources (MSD/HR) or the Employee Relations Officer (ERO) is required before the decision to issue an oral admonition. Written record of an Oral Admonition should be made and kept by the component supervisor.

Letter of Warning. A letter of warning is a written memorandum that documents concerns regarding the employee's performance, conduct, or security practices and that sets forth corrective measures to be taken. A letter of warning is more serious than an oral admonition and may be issued by the employee's first-line supervisor or higher management. The letter of warning will include a statement that it will be placed in the employee's component file for a specified period of time allowed to correct the problem and should be acknowledged by the employee's signature. No advance notice to the employee or coordination with MSD/HR or the ERO is required before the decision to issue a letter of warning.

Letter of Reprimand. A letter of reprimand is a formal written reprimand by a manager to a subordinate. A letter of reprimand may be issued by the Component Director or designee or higher authority in response to concerns regarding conduct, performance, or security practices. Each letter of reprimand will describe the specific reason for which the reprimand is being issued and state any corrective measures to be taken, and should be acknowledged by the employee's signature. The letter will also state the duration of the period of reprimand and the time designated to correct any deficiencies. The letter will state whether it is being issued with or without caveats, for example, whether the employee will be precluded from receiving monetary performance awards, non-monetary performance awards, and retirement mementos during the active period of reprimand. Monetary performance awards include promotions, bonuses, within-grade step increases, and exceptional performance awards. Prior to the decision to issue a letter of reprimand, managers will consult with the ERO and give the employee advance notice of the relevant issues and an opportunity to respond, as defined in Appendix B.

Suspension for Not More than Five Days. Suspension is a temporary enforced absence from duty in a nonpay status. It is a disciplinary action imposed by the Chief Management Officer (CMO) or higher authority in response to suitability concerns, conduct or performance, or for security reasons. Prior to the decision to suspend an

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employee, managers will consult with the ERO and give the employee advance notice of the relevant issues and an opportunity to respond, as defined in Appendix B.

Disciplinary Probation. Disciplinary probation is a fixed period of time, normally three to six months, during which time an employee's performance, conduct, or security practices will be monitored and evaluated in order to decide whether continued employment is advisable. The appropriate Component Director or higher authority may impose disciplinary probation. The manager imposing disciplinary probation will document in writing the decision to impose disciplinary probation. The memorandum will specify the duration of the period of probation and describe the specific deficiencies in performance to be corrected, and must be acknowledged in writing by the employee. Prior to the decision to place an employee on disciplinary probation, managers will consult with the ERO and give the employee advance notice of the relevant issues and an opportunity to respond, as defined in Appendix B.

II. SERIOUS DISCIPLINARY MEASURES

Suspension for More than Five Days. Suspension is a temporary enforced absence from duty in a nonpay status. It is a disciplinary action imposed by the CMO, in coordination with the Director/HR (D/HR) and upon the recommendation of the Executive Review Board (ERB), for serious misconduct, repeated infractions, or for security reasons. Suspension for more than five days may only be imposed by the CMO upon recommendation of the ERB after consultation with the ERO and with advance notice as outlined in Appendix B.

Reduction in Grade. Reduction in grade of GS-15 and below employees may be imposed by the CMO, in coordination with the D/HR and upon the recommendation of the ERB, as a disciplinary action for prolonged or more serious misconduct or unsatisfactory job performance. Reduction in grade of GS-15 and below employees may only be imposed by the CMO upon recommendation of the ERB after consultation with the ERO and with advance notice as outlined in Appendix B.

Reduction in grade of Senior National Intelligence Service (SNIS) Tier 1 through Tier 3 employees may be imposed only by the Principal Deputy Director of National Intelligence (PDDNI), upon recommendation of the ERB, as a disciplinary action for misconduct or unsatisfactory job performance.

Termination of Employment. Upon recommendation from the ERB, the DNI or designee (CMO or PDDNI, depending on grade of the employee) may terminate any employee for violation of ODNI regulations, continued poor performance, serious misconduct, or any of the other circumstances set forth in CIA regulation AR 4-16, upon recommendation of the ERB and in consultation with the ERO. The CMO is delegated authority to terminate GS-15 and below employees. The PDDNI is delegated authority to terminate SNIS Tier 1 through Tier 3 employees. If the DNI deems it necessary or advisable in the interest of the United States, the DNI may terminate the employment of any employee without regard to the procedures set forth in this Instruction.

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III. OTHER DISCIPLINE-RELATED ADMINISTRATIVE ACTIONS

Enforced Administrative Leave. Enforced administrative leave is a temporary absence from duty in a pay status. Upon written request from the Component Director or on his own authority, the CMO may place an employee on enforced administrative leave when it is necessary to remove an employee immediately from ODNI premises to protect classified information or for other compelling security reasons, during misconduct investigations, or where such action may otherwise be desirable. Such action may be taken prior to the imposition of formal disciplinary measures.

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APPENDIX B

IMPOSING DISCIPLINARY MEASURES AND RELATED ACTIONS:
REQUIREMENTS REGARDING NOTICE TO EMPLOYEES

Type of Discipline (in ascending order of severity)	Minimum Authority	Reason for Discipline	Minimum Type of Notice to Employee Before Final Decision to Impose Sanction	Prior Consultation with Employee Relations Officer	Final Notice to Employee Regarding Discipline	Appeal Procedures
Lesser Disciplinary Actions						
Oral Admonition	First-line Supervisor	Concerns with security or suitability, for example, deficiency in conduct or performance	None, contemporaneous with admonition	No	Oral	None
Letter of Warning (LOW)	First-line Supervisor	Concerns with security or suitability, for example, deficiency in conduct or performance	None, contemporaneous with LOW	No	Written, LOW itself serves as written notification	None
Letter of Reprimand (LOR) (with or without caveats)	Component Director or designee or higher authority	Concerns with security or suitability, for example, deficiency in conduct or performance	Oral, employee response can be contemporaneous with the notice	Yes	Written, LOR itself serves as written notification	None
Suspension For Not More Than Five Days	Chief Management Officer (CMO) or higher authority	Concerns with security or suitability, for example, deficiency in conduct or performance	Written, employee has five business days to respond	Yes	Written	None

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Type of Discipline (in ascending order of severity)	Minimum Authority	Reason for Discipline	Minimum Type of Notice to Employee Before Final Decision to Impose Sanction	Prior Consultation with Employee Relations Officer	Final Notice to Employee Regarding Discipline	Appeal Procedures
Disciplinary Probation	Component Director or higher authority	Concerns with security or suitability, e.g., deficiency in conduct or performance	Written, employee has five business days to respond	Yes	Written	None
Serious Disciplinary Actions						
Suspension For More Than Five Days	CMO	Serious misconduct, repeated infractions, or security issues	Written, employee has ten business days to respond	Yes	Written	May appeal to the Principal Deputy Director of National Intelligence (PDDNI)
<u>Reduction in Grade</u>						
GS-15 and below	CMO	Misconduct or unsatisfactory performance	Written, employee has ten business days to respond	Yes	Written	May appeal to PDDNI
SNIS Tier 1-3	PDDNI	Misconduct or unsatisfactory performance	Written, employee has ten business days to respond	Yes	Written	May appeal to DNI

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Type of Discipline (in ascending order of severity)	Minimum Authority	Reason for Discipline	Minimum Type of Notice to Employee Before Final Decision to Impose Sanction	Prior Consultation with Employee Relations Officer	Final Notice to Employee Regarding Discipline	Appeal Procedures
<u>Termination of Employment</u>						
GS-15 and below	CMO	Violation of Agency regulations, continued poor performance, serious misconduct, or any other circumstances set forth in CIA regulation AR 4-16	Written, employee has ten business days to respond	Yes	Written	May appeal to PDDNI
SNIS Tier 1-3	PDDNI	Same as above	Written, employee has ten business days to respond	Yes	Written	May appeal to DNI
Termination of employment without regard to procedures outlined in Instruction 30.01.	If the DNI deems it necessary or advisable in the interest of the United States, the DNI may terminate the employment of any employee without regard to the procedures set forth in this Instruction.					

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Type of Discipline (in ascending order of severity)	Minimum Authority	Reason for Discipline	Minimum Type of Notice to Employee Before Final Decision to Impose Sanction	Prior Consultation with Employee Relations Officer	Final Notice to Employee Regarding Discipline	Appeal Procedures
Suspension for Security Reasons	CMO, in consultation with Director/ Security	For compelling security reasons, pending outcome of alleged misconduct investigations, or where such action may otherwise be desirable	None, when the decision is based on security concerns	Yes	Written	None
Enforced Administrative Leave	CMO	For compelling security reasons, pending outcome of alleged misconduct investigations, or where such action is otherwise desirable	None	Yes	Written	None

Appendix F: ODNI Instruction 120.02, Equal Employment Opportunity Discrimination Complaint System, 21 July 2025

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**OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE
INSTRUCTION 120.02
Category 120 – Equal Employment Opportunity and Diversity
Office of Primary Responsibility: Office of Intelligence Community Equal Employment
Opportunity and Diversity**

**SUBJECT: EQUAL EMPLOYMENT OPPORTUNITY DISCRIMINATION COMPLAINT
SYSTEM**

- 1. AUTHORITIES:** The National Security Act of 1947, as amended; and other applicable provisions of law.

- 2. REFERENCES:** The Civil Rights Act of 1964 (Title VII), as amended; the Equal Pay Act of 1963 (EPA), as amended; the Age Discrimination in Employment Act of 1967 (ADEA), as amended; the Rehabilitation Act of 1973, as amended; the Americans with Disabilities Act (ADA), as amended; the Genetic Information Non-Discrimination Act of 2008 (GINA); the Architectural Barriers Act of 1968, as amended; the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act); Executive Order (EO) 11478, as amended by EO 13087, EO 13152, and EO 13672; 29 CFR Parts 1614, 1630, and 1635; Equal Employment Opportunity Commission (EEOC) Management Directive 110 (MD-110) (Aug. 5, 2015); Office of the Director of National Intelligence (ODNI) Instruction 120.01, *Anti-Harassment and Anti-Bullying Policy*; and ODNI Internal Process Document (IPD) 120.02a, *Process for Filing Discrimination Complaints*.

- 3. PURPOSE:** This Instruction establishes ODNI policy for handling complaints of unlawful EEO discrimination and sets forth responsibilities for preventing, reporting, and responding to allegations of employment discrimination. This Instruction supersedes Central Intelligence Agency Regulation (AR) 4-9, *Employment Discrimination Complaint System*, as applied to the ODNI. This guidance does not create any right or benefit, substantive or procedural, or a right of review involving compliance or noncompliance with its provisions by any component, organization, group, or individual. For guidance on addressing forms of harassment, refer to Instruction 120.01.

- 4. APPLICABILITY:** This Instruction applies to ODNI permanent cadre employees; ODNI staff reserve (i.e., time-limited) cadre employees, including Highly Qualified Experts; federal civilian detailees; Intergovernmental Personnel Act detailees; and Presidential appointees (collectively, "ODNI personnel"), as well as applicants for ODNI employment. Former ODNI personnel,

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certain circumstances prescribed by applicable law and EEOC guidance. Military detailees should consult their service to file EEO complaints.

5. DEFINITIONS: For the purposes of this Instruction, the terms used hereinafter are defined in the Appendix.

6. POLICY

A. The ODNI EEO discrimination complaint system is administered by the Office of Equal Employment Opportunity (OEEEO).

B. The ODNI prohibits unlawful discrimination and harassment in the workplace. Federal EEO laws and ODNI policy protect ODNI personnel and applicants for ODNI employment from discrimination based on a protected characteristic (see Appendix). Federal EEO laws and ODNI policy also protect applicants for ODNI employment from retaliation for opposing employment discrimination, participating in the EEO process (including previous EEO activities), reporting discrimination, or providing information related to such complaints. Claims based on parental status are not covered by EEOC laws but will be processed internally by ODNI pursuant to this Instruction and IPD 120.02a.

C. Immediate and appropriate corrective action, including discipline, will be taken whenever it is determined that discrimination, including discriminatory harassment, or retaliation has occurred in violation of federal statute, or when otherwise warranted. Additionally, the ODNI will not tolerate bullying, threats or acts of violence, or other acts of harassment that are based on the protected status categories above but are not pervasive enough to rise to the level of legally-defined discriminatory harassment. While this policy focuses on discrimination and the complaint system related to it, all ODNI personnel must take appropriate measures to prevent all forms of harassment, bullying, or adverse treatment of any kind, in its earliest form and as soon as it is identified, in compliance with guidance and procedures set forth in ODNI Instruction 120.01.

D. Discrimination in employment based on an individual's legally protected characteristic is an unlawful federal employment practice. Employment discrimination occurs when an ODNI supervisor, manager, or other individual with authority over terms and conditions of employment does any of the following based on an individual's legally protected status:

(1) Fails or refuses to hire; discharges; or otherwise discriminates against any individual with respect to his or her compensation (e.g., sex-based wage discrimination), terms, conditions, or privileges of employment.

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(2) Limits, segregates, or classifies ODNI personnel or applicants for employment in any way that would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his or her status as an employee;

(3) Engages in harassing behavior based on a protected characteristic that results in a tangible employment action or that is sufficiently severe or pervasive to create a hostile work environment; or

(4) Fails to promptly and appropriately address harassment directed at an individual by a coworker.

E. Individuals who believe that they may qualify as aggrieved persons under this policy are strongly encouraged to seek remedy as soon as possible. However, to preserve all rights and protections under the EEO discrimination complaint process, absent extenuating circumstances, the individual must contact an EEO counselor in the OEEO within 45 calendar days of the alleged discriminatory act or in the case of an alleged discriminatory personnel action, within 45 calendar days of the effective date of the action. If the individual does not do so, remedies available under Federal law will be limited. For more information on the process for filing a discrimination complaint, refer to IPD 120.02a.

F. When the act or personnel action meets the legal threshold for investigation as discrimination by law, the aggrieved person may seek remedy through the OEEO formal discrimination complaint system. Alternatively, the aggrieved person may seek remedy through the Alternative Dispute Resolution (ADR) process (see ODNI Instruction 22.02) before or after filing a formal EEO complaint, as described in IPD 120.02a. When a formal complaint is filed and accepted, an OEEO investigator will conduct an impartial and thorough investigation to establish all relevant facts of the matter, as described in IPD 120.02a. The OEEO will issue a Notice to Preserve Documents and Electronically Stored Information (Notice to Preserve), as appropriate, and maintain records in accordance with applicable law. All parties involved in the conduct and processing of discrimination complaint investigations must limit the knowledge of allegations and other investigative details to essential personnel.

G. The Chief, OEEO will make determinations concerning the acceptance or dismissal of formal complaints in accordance with 29 CFR Part 1614 and EEOC MD-110, including dismissal of complaints for failure to contact an EEO counselor in a timely manner, pursuant to paragraph 6.E. above.

H. Individuals are required to cooperate with the informal and formal complaint process, maintain the confidentiality of the investigative process, and preserve any documentary evidence or other information relevant to allegations of discrimination.

I. Final actions will be taken in a timely manner in accordance with EEOC regulations

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and guidance, as well as compliance with final EEOC decisions.

J. Training Requirements: EEO counselors, upon appointment, must receive, at a minimum, 32 hours of training before providing EEO counseling to an aggrieved person. Thereafter, all EEO Counselors are required to receive the equivalent of at least eight hours of continuing counselor training every year in the areas of EEO law, regulations, guidance, and practice, and to enhance and develop counseling and ADR skills. All government personnel (i.e., cadre, detailees, and assignees) are required to take No FEAR Act training upon entrance on duty (EOD), and then every two years thereafter. Contractors are not required to take this course.

7. RESPONSIBILITIES

A. The Chief Operating Officer will provide policy oversight.

B. The Chief, OEEEO, or designee, will:

(1) Implement this Instruction.

(2) Educate, advise, and counsel ODNI personnel about their rights and responsibilities under EEO discrimination statutes, building a work environment free of discrimination.

(3) Provide trained, competent, impartial counselors and investigators to support the counseling and investigative processes.

(4) Provide informal pre-complaint counseling of individual and protected characteristic discrimination claims raised by individuals covered by this Instruction.

(5) Receive and process formal complaints of discrimination in accordance with IPD 120.02a.

(6) Issue a Notice to Preserve to potential witnesses and to those individuals who may be in possession of personal knowledge and/or documentary evidence relevant to complaints.

(7) Ensure that individual complaints are fairly and thoroughly investigated, that all final actions are taken in a timely manner in accordance with EEOC regulations and guidance, and in compliance with final EEOC decisions.

(8) Ensure the completeness, accuracy, and sufficiency of the investigative file, and ensure that findings related to allegations raised by the complainant are appropriately

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addressed.

(9) Ensure that the investigation of complaints is without conflict of interest or the appearance of a conflict of interest.

(10) Review corrective actions taken by management in response to allegations of employment discrimination.

(11) Oversee ODNI compliance with the No FEAR Act and other EEOC reporting requirements.

C. Directorate, Center, or Office (DCO) leadership will:

(1) Ensure that any DCO supervisor, manager, or other individual who has authority to affect the terms, conditions, or privileges of ODNI employment carries out those responsibilities in a lawful, nondiscriminatory manner.

(2) Make recommendations and decisions concerning compensation, terms, conditions, and privileges of employment based on an individual's qualifications; and as required by statute, not allow an individual's protected characteristic to be a factor in decision making.

(3) Comply with the legal requirement to limit the knowledge of allegations of discrimination to essential personnel.

(4) Work with OEEEO to facilitate the cooperation of subordinate personnel during the informal and formal complaint process.

(5) Take whatever disciplinary and remedial actions are warranted by the facts, and protect all parties from retaliation for opposition to discrimination or participation in the EEO process.

(6) Permit recourse by others to the OEEEO as outlined in this Instruction without any interference or reprisal, and provide official time for individuals to participate in the EEO process.

(7) Upon becoming aware of harassment allegations or any inappropriate workplace behavior, take prompt and appropriate corrective action to stop it, so as to avoid the creation of a hostile work environment and to resolve issues before behavior or actions rise to the level of legal discrimination, and notify OEEEO of the corrective action taken.

(8) Upon receiving any allegation of discrimination or harassment based on a

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federally protected characteristic as outlined in paragraph 6.B. above, refer the employee to OEE0. Additionally, if harassment is alleged, DCO leadership must ensure that managers, supervisors, and others with authority immediately notify OEE0.

(9) Preserve any documents or other information relevant to allegations of discrimination based on a federally protected characteristic.

(10) Ensure their personnel complete the mandatory No FEAR Act training in accordance with paragraph 6.J. above.

D. Aggrieved persons will:

(1) Notify OEE0 of any perceived act of discrimination.

(2) Absent extenuating circumstances, initiate contact with a designated EEO counselor from OEE0 within the timelines set forth in this policy to preserve their right to obtain relief.

(3) Preserve any documents or other evidence relevant to allegations of discrimination based on a federally protected characteristic as outlined in paragraph 6.B. above.

(4) Cooperate in the investigation of the complaint and keep OEE0 informed of his or her current address. Where OEE0 has provided the aggrieved person with a written request to provide relevant information or otherwise proceed with the complaint, coupled with a 15-day notice of proposed dismissal, a failure to respond could result in dismissal of the complaint.

E. Human Resource Management will:

(1) Accept and conduct inquiries concerning allegations of harassment that do not qualify as discriminatory harassment, as described in ODNI Instruction 120.01.

(2) Support OEE0 in arranging mediation through an ADR program as an alternative to the informal EEO process if the aggrieved person consents to ADR, as outlined in IPD 120.02a.

F. All government personnel will complete periodic No FEAR Act training in accordance with paragraph 6.J. above.

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G. All ODNI personnel will:

(1) Conduct themselves in a manner that contributes to a work environment that is free from unlawful discrimination and harassment.

(2) Cooperate with the EEO Counselor/Investigator and maintain the confidentiality of the investigative process.

(3) Following receipt of a Notice to Preserve, preserve any documents or other evidence relevant to allegations of discrimination based on a federally protected characteristic as outlined in paragraph 6.B. above

8. EFFECTIVE DATE: This Instruction is effective upon signature.

Lora A. Shiao
Lora A. Shiao
Chief Operating Officer

7/21/2025
Date

Appendix: Definitions

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APPENDIX**Definitions**

A. Aggrieved Person: An individual who believes that he or she has been discriminated against or has been the object of harassment prohibited by a federally protected characteristic as outlined in paragraph 6.B. of this Instruction, or who has been subjected to what he or she believes to be a hostile or offensive work environment because of prohibited harassment, whether or not the offensive conduct is specifically directed toward that individual.

B. Protected Characteristic: A characteristic such as race; color; religion; sex; national origin; age; physical or mental disability; genetic information; pregnancy, childbirth, or related medical condition; sexual orientation; parental status; or any other bases protected by applicable law or Executive Order.

C. Discriminatory Harassment: Harassment that culminates in a tangible employment action, and/or harassment that creates a hostile work environment. Harassment violates Federal law if it is based on a factor prohibited by Federal EEO laws, regulations, and Executive Orders (see paragraph 6.B. in the Instruction).

D. Extenuating Circumstances: With regard to the time for contacting an EEO Counselor, extenuating circumstances may be established when: an aggrieved person shows that he or she was not notified of the time limits and was not otherwise aware of them; that he or she did not know and reasonably should not have known that the discriminatory matter or personnel action occurred; that despite due diligence he or she was prevented by circumstances beyond his or her control from contacting the Counselor within the time limits; or for other reasons considered sufficient by the ODNI or the EEOC.

E. Hostile Work Environment: A work environment so pervaded by discrimination that enduring the conduct becomes a condition of continued employment, and/or a reasonable person would consider it intimidating, hostile, or abusive. The conduct must be unwelcomed and so severe or pervasive that it: (1) creates a hostile, abusive or offensive work environment; or (2) unreasonably interferes with the aggrieved person's work performance. A hostile work environment can be created by individuals other than the supervisor, such as co-workers.

F. Parental Status: Parental status refers to the status of an individual who, with respect to an individual who is under the age of 18 or who is 18 or older but is incapable of self-care because of a physical or mental disability, is: a biological parent; an adoptive parent; a foster parent; a stepparent; a custodian of a legal ward; in loco parentis to such other individual; or actively seeking legal custody or adoption of such an individual. A person stands "in loco parentis" when he or she has day-to-day responsibility to care for

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and financially support a child. A biological or legal relationship is not necessary. A person who simply provides daily childcare to a family is not covered.

G. Personnel Action: A personnel action includes an appointment to a position, a promotion, a disciplinary or corrective action; a detail, transfer, or reassignment; a reinstatement; a decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation, and any other significant change in duties, responsibilities, or working conditions.

H. Retaliation or Reprisal: An adverse employment decision or the threat of an adverse action reasonably likely to deter a reasonable person from pursuing protected EEO activity if the action (including harassment) or threat is taken because of the individual's opposition to prohibited employment discrimination or participation in the EEO process (i.e., raising an EEO concern, visiting the EEO office, filing an EEO complaint, or being a witness in an EEO complaint).

I. Tangible Employment Decisions: Actions that significantly change employment status, such as hiring, firing, promotion and the failure to promote, formal discipline such as suspension and demotion, reassignment with significantly different responsibilities, compensation decisions, and decisions causing a significant change in benefits. Such actions are official acts, documented in ODNI records, subject to review by higher level supervisors, and often require formal approval through internal processes.

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