INTELLIGENCE COMMUNITY POLICY GUIDANCE

110.2

Preventing and Responding to Workplace Harassment

A. AUTHORITY: The National Security Act of 1947, as amended; Intelligence Community Directive (ICD) 110, *Intelligence Community Equal Employment Opportunity and Diversity*; and other applicable provisions of law.

B. PURPOSE: This Intelligence Community Policy Guidance (ICPG) 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 ICPG 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 Policy Guidance, 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 (including pregnancy, sexual orientation, and gender identity), national origin, age (40 and over), physical or mental disability, genetic information, or any other bases protected by applicable law or Executive Order, such as parental status.

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

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.

7. IC elements shall provide information to the workforce about harassment prevention 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. The IC Equal Employment Opportunity and Diversity Council shall be used as an IC forum to discuss best practices and issues with regard to the implementation of this ICPG.

3. Heads of IC elements:

a. Shall comply with EEO laws and regulations, as applicable;

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 ICPG;

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 ICPG becomes effective on the date of signature.

Director of National Intelligence

June 5, 2021
Date