



DCSA INSTRUCTION 08-14

WORKPLACE HARASSMENT PREVENTION AND RESPONSE

Originating Component: Diversity and Equal Opportunity Office

Effective: April 26, 2023

Releasability: Cleared for public release. Available on the DCSA policy library.

Reissues and Cancels: DCSA Instruction 08-14, April 22, 2022

Incorporates and Cancels: Policy Memorandum 22-004, “Workplace Harassment,”
March 24, 2022

Approved by: D. J. Lecce, Deputy Director

Purpose: In accordance with DoD Instruction (DoDI) 1020.04, this instruction:

- Establishes policy, assigns responsibilities, and prescribes procedures for preventing and responding to harassment in the DCSA civilian employee population (hereafter referred to as the “Anti-Harassment Program”).
- Prescribes procedures for processing, resolving, and tracking reports of harassment.
- Establishes training and education requirements and standards.

TABLE OF CONTENTS

SECTION 1: GENERAL ISSUANCE INFORMATION	3
1.1. Applicability.	3
1.2. Policy.	3
1.3. Information Collections.	4
SECTION 2: RESPONSIBILITIES	5
2.1. Director, DCSA.....	5
2.2. Chief, Diversity and Equal Opportunity (DEO).	5
2.3. Managers and Supervisors.	5
2.4. CHCO.	6
2.5. GC.....	6
2.6. IG.	6
2.7. Assistant Director for Security Training	7
SECTION 3: PROHIBITED HARASSMENT	8
3.1. Harassment adversely affecting the work environment.....	8
3.2. Prohibited Harassment Behaviors.....	8
3.3. Means of Harassment.....	9
3.4. Behavior That is Not Harassment.	9
SECTION 4: HARASSMENT PREVENTION AND RESPONSE PROCEDURES	10
4.1. Harassment Prevention and Response.	10
a. DCSA Employees.	10
b. Managers and Supervisors.	11
c. Responding to and Reporting Harassment.	11
d. Responding to Allegations of Harassment.....	11
e. Fact-Finding Inquiries.....	12
f. Responding to Confirmed Harassment.....	14
g. Taking Action After the Inquiry is Complete.....	14
h. Remedies.....	15
i. Anonymous Allegations.	15
SECTION 5: PREVENTION AND RESPONSE TRAINING AND EDUCATION	17
5.1. Prevention and Response Training and Education Programs.....	17
5.2. Training Requirement for Anti-Harassment Coordinators.	17
5.3. Harassment Prevention and Response Training and Education Programs.	17
a. Training and Education Schedule.	17
b. Training and Education Elements.....	17
5.4. Training and Education Tracking.	18
SECTION 6: DATA COLLECTION AND REPORTING REQUIREMENTS	19
6.1. Data Collection.	19
6.2. Reporting Requirements.	20
6.3. Information Collection and Record-Keeping.....	20
GLOSSARY	21
G.1. Acronyms.....	21
G.2. Definitions.....	21
REFERENCES	24

SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY. This instruction applies to all organizational entities within DCSA.

1.2. POLICY.

a. DCSA is committed to a harassment-free work environment where all personnel have a fair and equal opportunity to succeed and are treated with dignity, decency, and respect. The workplace will consist of mutual trust and the absence of harassment, intimidation, oppression, and exploitation. DCSA leaders must model behavior that fosters a harassment-free work environment.

b. The Anti-Harassment Program requires officials to take immediate, appropriate, and reasonable corrective actions to mitigate harassing conduct, regardless of whether the conduct violated the law. DCSA leaders must address unwelcome conduct before it becomes severe or pervasive or rises to the level of unlawful harassment. As such, DCSA leaders must:

(1) Not tolerate or condone harassment. Harassment is antithetical to DCSA's values and will not be tolerated.

(2) Prevent and address behavior that is unwelcome or offensive to a reasonable person; creates conditions that interfere with work performance; or creates an intimidating, hostile, or offensive environment.

(a) DCSA processes for reporting harassment will provide a timely, thorough, and impartial inquiry into reports of harassment, as appropriate. DCSA will protect confidentiality of those reporting harassment.

(b) If harassment involves sexual assault, the report must be referred to the appropriate law enforcement agency, unless the report was to an individual authorized to accept restricted reports, in accordance with DoDI 5505.18 and DoDI 6495.02, Volume 1.

(3) Hold leaders at all levels accountable for fostering a climate of inclusion that promotes diversity, dignity, respect, and is free from harassment; supports those who report harassment; and prohibits retaliation and reprisal against those who report harassment or assist in any inquiry about such reports. DCSA will not tolerate retaliation against any applicant, employee or former employee for opposing harassing conduct, for reporting harassing conduct, or for assisting in any inquiry, investigation, lawsuit, or other proceeding about a report of harassing conduct.

(4) Identify and promote available resources to aid those reporting harassment during and after the reporting process.

c. The processes in this instruction do not replace or modify the rights of DCSA personnel to submit and pursue complaints of discrimination (to include harassment) or retaliation for violations of equal employment opportunity (EEO) laws.

1.3. INFORMATION COLLECTIONS. Data and reports sent to the Office for Diversity, Equity, and Inclusion (ODEI), Office of the Under Secretary of Defense for Personnel and Readiness, as required under DoDI [1020.04](#), do not require licensing with a report control symbol, in accordance with paragraphs 1.b (8) and (13) of DoD Manual [8910.01](#), Volume 1.

SECTION 2: RESPONSIBILITIES

2.1. DIRECTOR, DCSA. The Director, DCSA exercises oversight and responsibility for implementation of the Anti-Harassment Program.

2.2. CHIEF, DIVERSITY AND EQUAL OPPORTUNITY (DEO). The Chief, DEO will:

a. In coordination with the Chief Human Capital Officer (CHCO), Inspector General (IG), and General Counsel (GC), establish and update policies, procedures, and guidelines to administer the Anti-Harassment Program.

b. Provide oversight, technical assistance, and support as requested to managers, supervisors, and employees to ensure compliance with this instruction.

c. In collaboration with the CHCO, develop agency harassment prevention and response informational materials (e.g., fact sheets, brochures) for agency-wide dissemination.

d. Process harassment complaints based on EEO protected status in accordance with the Equal Employment Opportunity Commission (EEOC) Management Directive (MD)110, when the individual chooses to file an EEO complaint.

2.3. MANAGERS AND SUPERVISORS. Managers and supervisors must:

a. Inform employees of the harassment prevention and response policy and procedures.

b. Prevent and eliminate harassment.

c. Enforce the harassment prevention and response policy and procedures established in this instruction.

d. Disseminate relevant harassment prevention and response policies and procedures in their workspace and among their subordinates.

e. Maintain a work environment that is free from harassment.

f. Inform employees of the specific procedures detailed in this instruction for addressing harassment.

g. Act promptly and appropriately to prevent harassment, respond to reports of harassment, and prevent retaliation against those who report harassment.

2.4. CHCO. The CHCO will:

- a. Assist managers and supervisors to ensure prompt, appropriate, and proportionate corrective action is taken if it is determined that harassing conduct has occurred.
- b. Provide oversight, technical assistance, and support to managers, supervisors, and employees to ensure an effective and efficient response to harassment allegations raised to their attention are in compliance with this instruction.
- c. In coordination with the DEO Chief, receive reports of alleged violations of the Anti-Harassment Program and take appropriate action as described in this instruction and applicable human capital management policies and procedures.
- d. Review complaints to determine the appropriate office and assign the office to conduct the fact-finding inquiry. If there is a conflict of interest, the CHCO will refer the complaint to the DCSA Deputy Director and Chief of Staff.
- e. When requested, and in coordination with the DEO Chief, report to the DCSA Director, Deputy Director, and Chief of Staff the number of allegations of harassment, findings, and corrective actions taken.
- f. In coordination with the DEO Chief, develop harassment prevention and response informational materials (e.g., fact sheets or brochures) for agency-wide dissemination.

2.5. GC. The GC will:

- a. Provide legal advice relevant to the allegations or issues of concern regarding harassment.
- b. Conduct legal sufficiency reviews for all fact-finding reports.

2.6. IG. The IG will:

- a. Provide oversight, technical assistance, and assistance as requested by managers, supervisors, and employees to ensure compliance with this instruction. Consult with the CHCO and DEO Chief, as required, on questions pertaining to a particular situation or allegation of harassment.
- b. Assist managers and supervisors with the fact-finding process, as required or requested.
- c. Provide training and guides for fact-finders and assist fact-finders throughout the inquiry, as needed.
- d. Review fact-finding inquiry reports, when appropriate, to ensure they are completed in accordance with accepted IG standards and this instruction.
- e. Conduct fact-finding into allegations of harassment when directed to do so by the DCSA Director or any other official with delegated authority to direct such fact-finding.

2.7. ASSISTANT DIRECTOR FOR SECURITY TRAINING. The Assistant Director for Security Training will assist the DEO Chief in developing and administering training based on workplace harassment prevention and response principles, and consistent with this instruction.

SECTION 3: PROHIBITED HARASSMENT

3.1. HARASSMENT ADVERSELY AFFECTING THE WORK ENVIRONMENT.

Conduct prohibited by this instruction includes, but is broader than, the legal definitions of harassment and sexual harassment described in DoDI 1020.04. Behavior that is unwelcome or offensive to a reasonable person and that interferes with work performance or creates an intimidating, hostile, or offensive work environment is prohibited. All allegations of harassment must be evaluated under the totality of the circumstances, to include an assessment of the nature of the conduct and the context in which the conduct occurred. In some circumstances, a single incident of harassing behavior is prohibited harassment whereas, in other circumstances, repeated or recurring harassing behavior may be required to constitute prohibited harassment.

3.2. PROHIBITED HARASSMENT BEHAVIORS.

a. Unlawful discriminatory harassment is unwelcome behavior based on race, color, sex (including sexual orientation, gender identity, and pregnancy), national origin, religion, age (40 years and older), disability (mental & physical), genetic information (including family medical history), and protected EEO activity, that unreasonably interferes with an individual's work performance or environment; results in a tangible employment action; or is severe or pervasive enough to create a hostile, offensive, or intimidating work environment. In accordance with DoDI 1020.04, harassing behavior includes, but is not limited to:

- (1) Unwanted physical conduct.
- (2) Offensive jokes.
- (3) Epithets or name-calling.
- (4) Ridicule or mockery.
- (5) Insults or put-downs.
- (6) Displays of offensive objects or imagery.
- (7) Offensive non-verbal gestures.
- (8) Stereotyping.
- (9) Intimidating acts.
- (10) Veiled threats of violence.
- (11) Threatening or provoking remarks.
- (12) Racial or other slurs.

- (13) Derogatory remarks about a person's accent or disability.
 - (14) Displays of racially offensive symbols.
 - (15) Hazing.
 - (16) Bullying.
- b. Unlawful harassing conduct includes, but is not limited to:
- (1) Unlawful discriminatory harassment.
 - (2) Sexual harassment.
 - (3) Stalking.

3.3. MEANS OF HARASSMENT. Harassment can be oral, visual, written, physical, or electronic. Harassment can occur through electronic communications, including social media, other forms of communication, and in person.

3.4. BEHAVIOR THAT IS NOT HARASSMENT. In accordance with DoDI 1020.04, activities or actions undertaken for a proper military or governmental purpose, such as combat survival training, assignment of work related to the duties and responsibilities of the employee, and performance counseling, are not harassing behaviors. This instruction is not a "general civility code." Behavior that is rude, ignorant, abrasive, or unkind, although it may distract from the mission, may not constitute harassment as described in this section.

SECTION 4: HARASSMENT PREVENTION AND RESPONSE PROCEDURES

4.1. HARASSMENT PREVENTION AND RESPONSE.

a. DCSA Employees.

(1) DCSA employees should immediately report harassment, or any allegations of harassment to their immediate supervisor, another manager or supervisor in their office, or to the Human Capital Management Office (HCMO). Employees reporting unlawful discriminatory harassing conduct have the right to seek EEO counseling from DEO for incidents or conduct that they believe constitute unlawful discriminatory harassment. Employees should report harassment that constitutes a criminal violation to the appropriate law enforcement activity. Examples of such harassment may include stalking, threats, and physical harm in violation of Federal, state, or local criminal law, or the Uniform Code of Military Justice, where applicable. The DCSA Security Programs Office can assist with identifying the appropriate law enforcement entity for the report.

(2) DCSA employees should be knowledgeable of their rights and responsibilities regarding workplace harassment prevention and response, and understand that:

(a) Employees are responsible for reporting harassment. With regard to discriminatory harassment, the EEOC has noted that petty slights, annoyances, and isolated incidents (unless extremely serious) do not constitute harassment. To be harassment, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

(b) Employees reporting discriminatory harassment as described in Section 3 retain the right to seek EEO counseling from the DEO Office within the established time frames of 45 calendar days from the date of the incident for unlawful or discriminatory harassment.

(c) Harassment that is not discriminatory but otherwise detracts from an efficient workplace should be reported as required under paragraph 4.1(a)(1) of this section. DEO is not the appropriate office to investigate and resolve non-discriminatory harassment. This type of harassment should be reported to HCMO.

(3) DCSA employees have specific rights during the inquiry into reports of harassment, including the rights described below.

(a) Employees who report harassment are protected from retaliation.

(b) The identity of those persons who make reports of harassment will remain confidential to the greatest extent possible. For the Agency to conduct a comprehensive inquiry into the allegations of harassment and take appropriate action, there may be times when complete confidentiality cannot be maintained.

(c) Internal inquiries into the complaint of harassment will be prompt, thorough, and impartial.

b. Managers and Supervisors. Managers and supervisors must maintain a harassment-free work environment. If an incident of harassment is reported or there is reason to believe harassment is occurring, managers and supervisors must take immediate action to rectify the situation and take appropriate corrective action when harassment is found to have occurred. Managers must protect the confidentiality of individuals reporting harassment to the greatest extent possible.

c. Responding to and Reporting Harassment.

(1) When possible, individuals should promptly inform the alleged offender that their behavior is unwelcome and must stop.

(2) Employees who have been harassed or witnessed conduct that is in violation of this instruction should immediately report the behavior, either verbally or in writing, to a supervisor or management official. Employees should also report the behavior, as applicable, to:

- (a) An employee in HCMO for non-discriminatory harassment;
- (b) An employee in DEO for discriminatory harassment; or
- (c) Law enforcement authorities for harassment that constitutes a criminal offense.

(3) Non-employees, such as volunteers and visitors, should immediately notify an individual with authority over the event or visit, function, or work site if they experience or witness harassment prohibited by this instruction.

(4) Contractor personnel should notify their employer immediately if they experience or witness harassment prohibited by this instruction.

d. Responding to Allegations of Harassment.

(1) Managers and supervisors who receive an allegation of harassment directly from an individual, witness an incident of harassment, or are informed about an allegation of harassment must:

(a) Promptly, effectively, and thoroughly address the alleged harassment in accordance with this instruction and the guidance of HCMO, IG, DEO, and GC.

(b) Supervisors who receive an allegation of harassment must initiate a prompt, thorough, and impartial supervisory inquiry within 10 calendar days of DCSA's receipt of the allegation. If necessary, managers and supervisors will consult HCMO and IG when responding to allegations of non-discriminatory harassment, and DEO for allegations of discriminatory harassment (e.g., on the basis of race, sex, age, and other protected factors). Managers and supervisors should assure employees reporting alleged harassment that there will be:

1. A prompt, thorough, and impartial inquiry.
2. Appropriate effort to protect their confidentiality to the fullest extent possible.
3. Immediate and appropriate corrective action if it is determined there has been harassment.

(c) Cooperate with law enforcement when an employee alleges criminal harassment.

(2) When an allegation of harassment occurs in a manager's or supervisor's area of responsibility, they should take immediate measures to stop any inappropriate conduct and prevent further harassment or retaliation while an inquiry is conducted. An example of such a measure would be to change work assignments to avoid contact between the parties or temporarily transfer the alleged harasser. The alleged victim should not be involuntarily transferred or otherwise burdened, as such measures may be considered unlawful retaliation.

(3) The manager or supervisor to whom the incident is reported must inform the individual of their right to:

(a) Seek EEO counseling from DEO within 45 calendar days from the date of the incident or the date the individual became aware of unlawful discriminatory harassment;

(b) Pursue an administrative grievance in accordance with DCSA Regulation 11-1400.25, Volume 1014, or seek relief through any other statutory process (e.g., the U.S. Office of Special Counsel); and

(c) Contact law enforcement if an employee alleges criminal harassment.

e. Fact-Finding Inquiries.

(1) When an employee reports discriminatory or non-discriminatory harassment, a fact-finding inquiry must be initiated by the appropriate office within a reasonable period of time. The fact-finding inquiry will include an examination that involves collecting testimony and, if relevant, supporting documents.

(2) When an employee reports criminal harassment to law enforcement officials, the Agency will cooperate fully with law enforcement officials conducting any criminal investigation to the maximum extent required by law. The Agency will not conduct a fact-finding inquiry to determine criminal liability.

(3) The fact-finding inquiry must produce a report that identifies all witnesses interviewed and evidence gathered, and determines by a preponderance of the evidence and through a reasoned explanation whether the allegations of harassment are true. If a report finds sufficient evidence of harassment, the report must be forwarded to HCMO and the appropriate manager or supervisor to determine corrective action.

(4) The alleged offender's supervisory chain is responsible for ensuring a fair, efficient, and confidential inquiry is conducted. Incidents should be addressed at the lowest level possible

that ensures an unbiased and impartial process. Where an investigation conducted by an official within the supervisory chain is not feasible because of an actual or apparent conflict of interest, or for other appropriate reasons, the fact-finding inquiry will be conducted by an appropriate official outside of the supervisory chain after consulting with HCMO.

(5) Management officials may appoint a fact-finder, depending on the circumstances surrounding the incident. A fact-finder may be a:

- (a) Supervisor or manager from within the program area or region,
- (b) Supervisor or manager from outside the program area or region, or a
- (c) Contractor from an investigative firm, if deemed warranted, subject to consultation with GC.

(6) The management official must ensure that the fact-finder conducting the inquiry:

(a) Does not have a conflict of interest with either the alleged victim or the alleged offender.

(b) Has the necessary skills required for interviewing witnesses, evaluating credibility, and gathering facts.

(c) Provides the deciding official a written summary of the findings within 21 calendar days of gathering all necessary facts, unless extenuating circumstances exist. The summary may be brief, depending on the complexity and seriousness of the incident.

(d) Coordinates with the manager or supervisor responsible for the inquiry and ensures all obligations are met for the inquiry.

(e) Confirms the name, position, and supervisory chain of the alleged victim and the alleged offender, and identifies potential witnesses.

(f) Submits the fact-finding report to the GC for legal sufficiency review.

(7) The manager, supervisor, or person conducting the inquiry should, at a minimum:

(a) Ask questions of the alleged victim, alleged offender, witnesses, and obtain signed statements if possible. (Note: If the alleged offender is a contractor employee, coordinate through the appropriate contracting officer's representative.)

(b) Identify the alleged harassment, to include:

1. A detailed account of the specific actions, comments, or both.

2. The date(s), time(s), and location(s) of alleged harassment.

3. The names of witnesses or others with knowledge of this alleged harassment.

(c) Obtain a detailed response to each allegation from the alleged offender, as well as witnesses who can corroborate the alleged offender's account of events. (If the alleged offender is a contractor employee, coordinate through the appropriate contracting officer's representative.)

(d) Do not offer their personal opinion.

(e) Inform all interviewees that the individual who reported the harassment, the alleged victim, and all witnesses are protected against retaliation.

(8) If the alleged offender admits the truth of the allegations with reference to specific facts sufficient to substantiate the allegations, there is normally no need to interview witnesses. Management officials then can immediately determine appropriate corrective action.

f. Responding to Confirmed Harassment.

(1) If the fact-finding inquiry leads to a determination that, based on a preponderance of the evidence, harassment or other misconduct occurred, the appropriate management official will:

a. Take immediate and appropriate corrective action, including administrative and disciplinary action. The individual subjected to the harassment will be notified of the measures taken to resolve the matter, subject to applicable privacy laws, regulations, and policies, including the Privacy Act of 1974, DoDI 5400.11, and DoD 5400.11-R.

b. Implement remedial measures designed to stop ongoing harassment and ensure that the harassment does not reoccur. These remedial measures need not be those that the employee who made the report requests or prefers, as long as they are effective. Remedial measures must not adversely affect the individual reporting the harassment or the individual subjected to the harassment, if different than the measures requested.

g. Taking Action After the Inquiry is Complete.

(1) When the inquiry is complete, the fact finder will summarize findings in writing and include any statements or other evidence obtained from the alleged victim, alleged offender, witnesses, and other record sources. The summary will be provided to the alleged offender's supervisor or manager, who will consult with the HCMO Employee Relations Office, OGC and any others, as deemed necessary, to take appropriate corrective action. Once OGC determines the report is legally sufficient, the fact-finder will provide a copy of the report to the supervisor or manager that appointed them and the supervisor or manager of the alleged offender. If the inquiry substantiates harassment or any other inappropriate conduct, the supervisor or manager of the offender will consult with HCMO Employee Relations, OGC, or a designee to determine appropriate corrective action.

(2) Responsibility for determining whether inappropriate conduct occurred that may warrant disciplinary action rests with the first-line supervisor of the alleged offender. Appropriate corrective action may include a supervisor's recommendation for disciplinary action, up to and including removal from Federal service. The appropriate management official makes this decision in consultation with the servicing Employee Relations officials.

(3) If a summary report includes information that a manager or supervisor may not have properly carried out their responsibilities under this instruction, they may be subject to appropriate disciplinary action, up to and including removal from Federal service, as determined by the appropriate management official in consultation with Employee Relations officials.

(4) All efforts to address allegations must be documented.

(5) Managers or supervisors involved in the process must continually assess the need for training. Training is recommended regardless of the outcome of an inquiry.

(6) Alternative dispute resolution may be used in an effort to resolve any allegation of discriminatory or non-discriminatory harassment, if appropriate and consistent with DCSAI 08-13, "Alternative Dispute Resolution (ADR)." DEO will facilitate all requests for ADR.

(7) An employee who raises allegation of harassment will be notified of the status of his/her inquiry, including, but not limited to, when the management official, Employee Relations or DEO response is anticipated to be complete.

h. Remedies.

(1) For an employee to raise allegations of discriminatory harassment through the EEO complaint process, an employee must contact an EEO counselor within 45 calendar days from the date of the most recent incident of discriminatory harassment or the date the employee became aware of alleged harassment in accordance with Title 29, Code of Federal Regulations (CFR) Part 1614.105(a)(1).

(2) For an appeal to the Merit Systems Protection Board pursuant to 5 CFR Part 1201.22, an employee must file a written appeal with the board within 30 days of the effective date of an appealable adverse action as defined in 5 CFR Part 1201.3(a).

(3) The DEO Office will publish this Instruction on DCSA's intranet as a way to communicate the Agency's commitment to a workplace free from all forms of harassment. For questions regarding this instruction or a specific situation related to this instruction, please contact the DEO Office at (571) 305-6737 or DCSA.eeo@mail.mil. An employee may file an anonymous allegation of discrimination, including allegations of discriminatory harassment, at the pre-complaint stage, in accordance with MD-110, by contacting the DEO office at (571) 305-6737.

i. Anonymous Allegations.

(1) Anonymous allegations of harassment, in which the identity of the reporter is unknown but there is sufficient information to warrant further inquiry will be referred to an appropriate response process in accordance with this instruction, and for allegations of discriminatory harassment, in accordance with MD-110, EEO Complaints Procedures.

(2) Allegations of harassment in which the identity of the reporter is known, but the reporter desires anonymity, may be treated as anonymous allegations for purposes of keeping the identity of the person making the report confidential. However, information concerning the

reporter as a victim of, or a witness to, alleged harassment may be revealed as part of the response process. Therefore, complete anonymity cannot be guaranteed. An effective inquiry or investigation may require revealing certain information to the alleged offender and potential witnesses. Moreover, certain means of resolving a harassment allegation, such as in the event of a formal EEO complaint of unlawful discriminatory harassment, will likely require revealing the identity of the person making the harassment allegation.

(3) Information about the report of harassment may be shared only with those who have an official need to know. Privacy and confidentiality will be maintained in accordance with law and DoD policy, including the Privacy Act of 1974, DoDI 5400.11, and DoD 5400.11-R, as applicable.

(4) If an anonymous report of harassment does not contain sufficient information to merit a response, the information must be documented. The following information, if available, should be retained:

- (a) Date the information was received.
- (b) A detailed description of the facts and circumstances included in the report of harassment.
- (c) The disposition of the allegation.
- (d) Any other pertinent information.

SECTION 5: PREVENTION AND RESPONSE TRAINING AND EDUCATION

5.1. PREVENTION AND RESPONSE TRAINING AND EDUCATION PROGRAMS.

The DEO Office, in coordination with HCMO and the Security Training Directorate, will establish harassment prevention and response training and education programs appropriate for all levels of professional development. At a minimum, the DEO Chief will ensure that:

- a. Harassment prevention and response guidance is posted on intranet pages.
- b. Appropriate funding and personnel are allocated to meet the requirements in this section.

5.2. TRAINING REQUIREMENT FOR ANTI-HARASSMENT COORDINATORS.

HCMO will determine which individuals need to receive specific training as anti-harassment coordinators. The training will consist of either the EEOC Anti-Harassment Program Management Course, or an equivalent training course approved by the Department.

5.3. HARASSMENT PREVENTION AND RESPONSE TRAINING AND EDUCATION PROGRAMS.

a. Training and Education Schedule.

(1) DCSA civilian employees will receive training by the end of the fiscal year following publication of this instruction.

(2) This instruction, and any supplemental harassment prevention and response guidance, as applicable, will be provided to all new employees and Service members during the onboarding process.

(3) New employees will be trained on harassment prevention and response policies and procedures within 90 calendar days from onboarding.

(4) Supervisors and managers will be trained on their harassment prevention and response responsibilities within 90 calendar days of assuming a supervisory or managerial position or role. This includes military personnel in both direct supervisory and indirect managerial positions over civilian employees.

(5) While annual training is recommended for all civilian employees, recurring training for employees, supervisors, and managers must occur at least once every 3 years.

(6) Training identified in this issuance may be combined with other training (e.g., EEO, sexual harassment, No FEAR Act), provided it covers all of the required elements identified in paragraph 5.3.b.

b. Training and Education Elements. DCSA harassment prevention training and response programs will include information describing the specific topics below.

(1) The different forms of harassment, sexual assault and other criminal violations of the Uniform Code of Military Justice or civilian equivalent (for example, physical assault, damage to property, stalking), reporting options, and available services for eligible individuals.

(2) Roles and responsibilities of civilian employees, supervisors, and managers, including Service members who supervise or manage civilian employees, to include fostering a culture free from harassment.

(3) Reporting options, procedures, and applicable timelines to submit reports of harassment, including anonymous reports and reports involving a DoD civilian employee's commander or supervisor, to the DEO Office, higher-level supervisor or manager, HCMO, or other staff designated by DCSA to receive reports of harassment. This includes the assurance that employees have the right to make reports of harassment outside their chain of command.

(4) When a report may be made anonymously and when anonymity cannot be guaranteed (e.g., when formal complaints are filed via the EEO process).

(5) How to identify criminal activity and the procedures for reporting such activity.

(6) Procedures for managers and supervisors to receive, respond to, and resolve reports of harassment.

(7) Examples of the types of conduct that would constitute harassment, including disability-based harassment.

(8) How to identify and report retaliation and reprisal.

(9) Guidance on bystander intervention to ensure that employees understand third-party reporting, have the skills to recognize when to intervene, and possess the tools necessary to implement the intervention.

(10) Administrative or disciplinary actions that may be taken when harassment allegations are substantiated.

(11) Prevention strategies and risk and protective factors.

5.4. TRAINING AND EDUCATION TRACKING. The HCMO Training and Development Programs Office will develop and implement a system to track training compliance.

SECTION 6: DATA COLLECTION AND REPORTING REQUIREMENTS

6.1. DATA COLLECTION. Harassment reports, including anonymous reports, for the purposes of identifying trends will be maintained by the DEO office for 5 years. These reports will be submitted annually to the Director, ODEI, for the DoD annual report to the Under Secretary of Defense for Personnel and Readiness. At a minimum, this data will include:

- a. An aggregation of the number of reports of harassment, which reporting venue responded to the report, and the types of harassment alleged (e.g., sexual harassment, hazing).
- b. An aggregation of the number of reports of harassment resolved, pending, unresolved, requiring additional action and what that action is (e.g., an inquiry is escalated to an investigation), or referred at the end of the fiscal year. If reports were referred, an aggregation of the organizations to which they were referred (e.g., EEO, HCMO, local law enforcement).
- c. For reports of harassment where harassing behavior was substantiated, an aggregation of the race, ethnicity, gender, religion or any combination thereof, of the individuals who reported harassment, if one or more of these attributes was determined to be the reason for the harassing behavior.
- d. For reports of harassment where harassing behavior was substantiated, an aggregation of:
 - (1) The grade of the individuals reporting harassment.
 - (2) The relationship between offenders and the individuals reporting harassment (e.g., manager, supervisor, co-worker, subordinate).
 - (3) Whether the offender was a Service member, DoD civilian employee, DoD contractor employee, or other individual assigned or detailed to DCSA.
- e. An aggregate of repeat offenders.
- f. The average length of time between the report of harassment and the conclusion of DCSA's response to the report.
- g. Data on retaliation reports associated with reports of sexual harassment, in accordance with the Retaliation Prevention and Response Strategy Implementation Plan.
- h. Training compliance data, specifically:
 - (1) The number and percentage of new DCSA employees that were trained within their first 90 calendar days on the job, those that were not trained during their first 90 calendar days, and those trained within the fiscal year.
 - (2) The number and percentage of supervisors and managers who were trained within their first 90 calendar days of assuming a supervisory or managerial position or role, those that were not trained during their first 90 calendar days, and those trained within the fiscal year.

(3) The percentage of DCSA employees who received the recurring training, with a statement confirming that the percentage of employees who received the recurring training did so in compliance with the timelines in paragraph 5.3.

6.2. REPORTING REQUIREMENTS. The DEO Chief will provide a consolidated annual report to the EEOC that incorporates non-personally identifiable information and data collected by the HCMO related to reports of harassment identified in paragraph 6.1. The first report will be submitted to the EEOC within 180 calendar days after the end of the fiscal year following the publication of this issuance, then annually thereafter. The report will include:

- a. An aggregation and assessment of the information and data provided by HCMO.
- b. Information regarding DCSA efforts to improve harassment prevention and response policies and procedures.
- c. Recommendations to strengthen harassment prevention and response efforts, if appropriate.

6.3. INFORMATION COLLECTION AND RECORD-KEEPING.

a. Supervisors and managers must report all allegations of harassment and provide copies of associated inquiry reports and documentation to the employee relations manager in HCMO via encrypted e-mail. This requirement does not pertain to reports and documentation resulting from complaints filed with the DEO Office using the EEO complaints process or complaints filed with the DCSA IG.

b. HCMO will maintain case files and a tracking system on all reports of non-discriminatory harassment allegations that are not otherwise maintained by the DEO or IG Office.

c. In accordance with DoD Directive (DoDD) 5505.06, allegations of misconduct against Defense Intelligence Senior Executive Service and Defense Intelligence Senior Level members require a written report by the DCSA IG to the DoD IG within 5 business days of receipt of the allegations. The report will include: name, grade, duty position of the senior official involved, a synopsis of the allegations, the date allegations were received, a copy of the complaint, and the name and position of the Agency point of contact. A copy of the investigation report is to be provided within 5 business days of completion of the investigation. These reports will be made through the DCSA IG in accordance with DoDD 5505.06.

d. All information collected in support of this instruction will be properly protected in accordance with DoDI 5400.11 and DoD 5400.11-R using all appropriate administrative, technical, and physical safeguards based on the media (e.g., paper, electronic) involved.

GLOSSARY

G.1. ACRONYMS.

CFR	Code of Federal Regulations
CHCO	Chief Human Capital Officer
DEO	diversity and equal opportunity
DoDD	Department of Defense directive
DoDI	Department of Defense instruction
EEO	equal employment opportunity
EEOC	Equal Employment Opportunity Commission
GC	General Counsel
HCMO	Human Capital Management Office
IG	Inspector General
ODEI	Office for Diversity, Equity, and Inclusion

G.2. DEFINITIONS.

TERM	DEFINITION
bullying	As defined in DoDI 1020.04.
DoD civilian employee	As defined in DoDI 1020.04.
employment action	Decisions that significantly change an employee’s employment status. Such actions include, but are not limited to, hiring, firing, promoting, demoting, and reassigning an employee.
fact-finder	A person designated to investigate allegations of harassment, make findings of fact, and write a fact-finding report. The fact finder will not be subordinate to any official involved in the matter being investigated.
fact-finding inquiry	Information gathered regarding allegations of harassment. The extent of the fact-finding inquiry will vary based on the circumstances of the alleged conduct.

TERM	DEFINITION
fact-finding report	A written report prepared by the fact finder. The information contained in the fact-finding report will include a summary of all investigative steps taken and evidence gathered. The report will be provided to the GC for review before it is submitted to the deciding official.
harassment	As defined in DoDI 1020.04.
harassment not based on protected category	Any form of unwelcome, pervasive, persistent, and unsolicited verbal, non-verbal, written, or physical conduct that is so objectively offensive that it alters the victim’s terms and conditions of employment.
sexual assault	<p>Sexual assault refers to a range of behaviors, including but not limited to, a completed nonconsensual sex act (e.g., rape, sodomy, child molestation), an attempted nonconsensual sex act, and/or abusive sexual contact. Sexual assault includes any sexual act or behavior that is perpetrated when someone does not or cannot consent. A victim of sexual assault may know the perpetrator, such as a co-worker or a supervisor, and/or may be involved in a dating or marital relationship with the perpetrator, or the perpetrator may be unknown to the victim. Lack of consent should be inferred when a perpetrator uses force, harassment, threat of force, threat of adverse personnel or disciplinary action, or other coercion, or when the victim is asleep, incapacitated, unconscious, or physically or legally incapable of consent. As defined in the OPM Guide for Agency-Specific Domestic Violence, Sexual Assault, and Stalking Policies, February 2013.</p> <p>In addition, DoDI 6495.02 specifically defines “sexual assault” as intentional sexual contact characterized by the use of force, threats, intimidation, or abuse of authority or when the victim does not or cannot consent. The term includes a broad category of sexual offenses consisting of the following specific offenses under the Uniform Code of Military Justice: rape, sexual assault, aggravated sexual contact, abusive sexual contact, forcible sodomy (forced oral or anal sex), or attempts to commit these offenses.</p>
hazing	As defined in DoDI 1020.04.
manager	As defined in DoDI 1020.04.
offender	As defined in DoDI 1020.04.

TERM	DEFINITION
reprisal	As defined in DoDI 1020.04.
referred report of harassment retaliation	As defined in DoDI 1020.04.
Anonymous allegations	As defined in DoDI 1020.04.
sexual harassment	As defined in DoDI 1020.04.
stalking	As defined in DoDI 1020.04.
supervisor	A Service member or DoD civilian employee who directly supervises one or more DoD civilian employees.
unlawful discriminatory harassment	As defined in DoDI 1020.04.

REFERENCES

- Code of Federal Regulations, Title 5, Part 1201
- Code of Federal Regulations, Title 29, Part 1604
- Code of Federal Regulations, Title 29, Part 1614
- DoD [5400.11-R](#), “Department of Defense Privacy Program,” May 14, 2007
- DoD Directive [5505.06](#), “Investigations of Allegations Against Senior DoD Officials,” June 6, 2013, as amended
- DoD Directive [6495.01](#), “Sexual Assault Prevention and Response (SAPR) Program,” January 23, 2012, as amended
- DoD Instruction [1020.04](#), “Harassment Prevention and Responses for DoD Civilian Employees,” June 30, 2020
- DoD Instruction [5400.11](#), “DoD Privacy and Civil Liberties Programs,” January 29, 2019, as amended
- DoD Instruction [5505.18](#), “Investigation of Adult Sexual Assault in the Department of Defense,” March 22, 2017, as amended
- DoD Instruction [6495.02](#), Volume 1, “Sexual Assault Prevention and Response: Program Procedures,” March 28, 2013, as amended
- DoD Manual [8910.01](#), Volume 1, “DoD Information Collections Manual: Procedures for DoD Internal Information Collections,” June 30, 2014, as amended
- EEOC Management Directive [110](#), August 5, 2015, as amended
- Public Law 88-38, “Equal Pay Act of 1963,” June 10, 1963
- Public Law 88-352, Title 7, “Civil Rights Act of 1964,” July 2, 1964
- Public Law 90-202, “The Age Discrimination in Employment Act of 1967,” December 15, 1967
- Public Law 110-233, “The Genetic Information Nondiscrimination Act,” May 21, 2008