

<b>FEDERAL ELECTION COMMISSION</b>		
<b>MANUAL OF DIRECTIVES</b>	<b>COMMISSION DIRECTIVE</b>	
	<b>RESCINDS:</b>	<b>NO. 32</b>
	Directive 32 12/13/2006	<b>EFFECTIVE DATE:</b> September 11, 2015
<b>SUBJECT: ANTI-HARASSMENT POLICY</b>		

The Federal Election Commission (FEC or Commission) strives to create an environment in which all of its employees are valued and treated with dignity and respect. To that end, unlawful discrimination (which includes harassment) based on sex, race, color, religion, national origin, age, disability, sexual orientation, political affiliation, marital or parental status, as well as retaliation is prohibited by the FEC.<sup>1</sup> The FEC has the following procedures in place that should be utilized by an employee who believes that he/she is the victim of any type of unlawful harassment.<sup>2</sup>

For the purpose of this Policy, harassment is defined as any unwelcome verbal or physical conduct based on any of the above protected characteristics when:

- A. The behavior can reasonably be considered to adversely affect the work environment; or,
- B. An employment decision affecting the employee is based upon the employee's acceptance or rejection of such conduct.

Sexual harassment for the purpose of this Policy is defined as unwelcome sexual advances, unwelcome requests for sexual favors, and other unwelcome verbal or physical conduct of a sexual nature when:

- A. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;

<sup>1</sup> Parental status, marital status and political affiliation are not covered by Title VII of the Civil Rights Act, as amended, or other federal anti-discrimination laws. Complaints alleging harassment on these bases will be handled according to the Anti-Harassment Policy but complainants have no statutory appeal rights to the Equal Employment Opportunity Commission. Allegations of discrimination based on political affiliation and marital status may be brought to the Office of Special Counsel and the Merit System Protection Board under limited circumstances.

<sup>2</sup> Employees wishing to raise a harassment complaint in the Equal Employment Opportunity (EEO) process must contact an EEO counselor or the EEO Director within 45 calendar days of the alleged discrimination. The anti-harassment procedures under this policy are separate and distinct from the EEO complaint process and may take place simultaneously. Therefore, employees should not wait until an internal harassment inquiry is completed to begin the EEO complaint process if waiting will allow the 45-day time limit to expire.

- B. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions, or other decisions affecting an individual's participation in Commission activities; or,
- C. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or participation in a Commission-sponsored activity or creating an intimidating, hostile, or offensive work environment.

### **Policy Against Harassing Conduct**

The FEC will strive to limit and address **any** harassing conduct by treating it as misconduct, even if it does not rise to the level of harassment actionable under Title VII of the Civil Rights Act of 1964, as amended. A hostile environment claim under Title VII usually requires showing a pattern of offensive conduct. The FEC will not wait for such a pattern to emerge. Rather the Commission will act before the harassing conduct is so pervasive and offensive as to constitute a hostile environment. In the usual case, a single utterance of a sexual, sex-based, ethnic or racial epithet that offends an employee would not be severe enough to constitute unlawful harassment in violation of Title VII; however, it is the Commission's view that such conduct is inappropriate and must be stopped.

The Commission also will not tolerate retaliation against any employee for making a good-faith report of harassing conduct under this or any other policy or procedure, or for assisting in any inquiry about such a report. Complaints of such retaliation shall be handled pursuant to the procedure in this policy.

### **Procedures and Responsibilities**

#### **Responsibilities of the Chairman**

1. The Chairman through the Staff Director shall be responsible for:
  - a. Disseminating this Policy statement annually to all employees;
  - b. Ensuring that employees are informed of this Policy and the procedures to follow in connection with reporting harassing conduct;
  - c. Taking appropriate action to enforce this Policy; and,
  - d. Working closely with the EEO Director to ensure that this Policy is properly implemented.

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#### **Responsibilities of Commission Employees**

1. Each Commission employee shall be responsible for:
  - a. Acting professionally and refraining from harassing conduct;
  - b. Becoming familiar with the provisions of this Policy, complying with all requirements of the Policy, and cooperating with any inquiry under this Policy; and
  - c. Promptly reporting any incident of harassing conduct that he or she experiences or observes before it becomes a pattern of misconduct as pervasive and offensive as to constitute a hostile environment. (The

Commission cannot correct harassing conduct if the conduct is not known. When an employee unreasonably fails to take advantage of this procedure and does not promptly report an incident of harassing conduct as set forth herein, the Commission reserves the right to raise this failure as a defense against a suit for harassment.)

### **Responsibilities of Supervisors and Managers**

1. All supervisors and managers shall be responsible for:
  - a. Acting promptly and appropriately to prevent harassment in the workplace, and retaliation against those who complain of harassment;
  - b. Reporting to the EEO Director any incident of harassing conduct that they witness or is otherwise brought to their attention;
  - c. Receiving and handling allegations of harassing conduct promptly and appropriately utilizing the procedures set forth in this Policy;
  - d. In consultation with the EEO Director, take action to stop any harassing conduct and prevent further harassment to ensure that further misconduct does not occur; and,
  - e. In consultation with the EEO Director, using the procedures set forth below to take prompt and appropriate corrective and disciplinary action, up to and including removal, against personnel who have engaged in harassing conduct or who have not carried out their responsibilities under this Policy.

### **Responsibilities of the EEO Director**

1. The EEO Director shall be responsible for:
  - a. Receiving allegations of harassing conduct;
  - b. Conducting or overseeing fair and impartial inquiries into allegations of harassing conduct. (The EEO Director will have the authority to decide who will conduct an inquiry into an allegation of harassment, provided that the person conducting the inquiry has had appropriate training in investigating allegations of workplace misconduct);
  - c. Advising supervisors and managers on actions to take to stop any harassing conduct and prevent further harassment to ensure further misconduct does not occur; and,
  - d. Advising the Staff Director or other persons who need to know of allegations of harassment and the resolution of those allegations under this Policy.
  - e. Advising the Chairman or Vice Chairman of allegations of harassment which name the Staff Director, General Counsel or any Senior Level employee as the alleged harasser.

### **Reporting Harassment**

Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment. Therefore, while no fixed reporting period has been established, the FEC strongly urges the prompt reporting of complaints or concerns so that rapid and constructive action can be taken. The FEC will make every

effort to stop alleged harassment before it becomes severe or pervasive, but can do so only with the cooperation of its employees.

The procedures for reporting incidents of harassing conduct are as follows:

- A. Any person who believes that he or she has been the subject of an incident of harassing conduct, including sexual harassment, in violation of this Policy should report this matter: (1) to anyone in their supervisory chain; (2) an EEO Counselor; (3) to the Inspector General (IG) or via the IG Hotline: or, (4) the EEO Director. All information will be maintained in a confidential manner to the greatest extent possible. The maintenance of records and any disclosure of information from these records shall be in complete compliance with the Privacy Act, 5 U.S.C. 552a. Such information, for example, may have to be disclosed to defend the Commission in any litigation to which the information may be relevant and necessary. Further, information may need to be disclosed to those officials and employees within the Commission with a need to know in order to carry out the purpose and intent of this Policy.
- B. While all employees are encouraged to report harassing conduct as defined by this policy, a supervisor or manager who receives an allegation or witnesses harassing conduct shall immediately:
  1. Inform the EEO Director and seek guidance as to further actions;
  2. In consultation with the EEO Director, take action to stop any harassing conduct and prevent further harassment while the allegations are being investigated, including granting of appropriate interim relief to the alleged victim of harassing conduct; and,
  3. In consultation with the EEO Director, document the allegation received and his or her efforts to address it.

#### **Inquiries into Allegations of Harassing Conduct**

- A. When the EEO Director receives an allegation of harassing conduct, either directly by the complainant or through a supervisor, manager or other sources, **within 60 days** he or she shall ensure that a prompt, thorough, impartial and appropriate investigation is conducted to include a written Summary of Findings, and shall recommend appropriate action both to stop any harassing conduct and prevent further harassment, while the allegations are being investigated.
- B. Where an investigation is necessary, a written summary of the investigation shall be prepared by the individual conducting the investigation. (The summary may be brief, depending on the complexity and seriousness of the case.) The summary shall be prepared promptly after completion of the inquiry and shall be submitted to the EEO Director (if the EEO Director did not conduct the inquiry) and the supervisor who would be responsible for taking disciplinary action against the alleged harasser, if the allegations are determined to be true.
- C. The summary of the investigation or other documentation prepared under this procedure shall be kept confidential, to the extent possible. The maintenance of records and any disclosures of information from these records shall be in complete compliance with the Privacy Act, 5 U.S.C. 552a. Such information may, for example, have to be disclosed to defend the Commission in any litigation

to which the information may be relevant and necessary. Further, information may need to be disclosed to those officials and employees within the Commission with a need to know in order to carry out the purpose and intent of this Policy.

Action to be taken upon Completion of the Inquiry

- A. Upon completion of the inquiry, and in consultation with the EEO Director, Commission management shall promptly evaluate and determine the appropriate action to take. The EEO Director shall be informed of this decision, including a decision not to act. In cases of complex or egregious alleged harassing conduct, the supervisor and EEO Director should seek counsel of the Office of General Counsel.
- B. Where the inquiry establishes that a manager or supervisor did not properly carry out the responsibilities provided for under this Policy, he or she shall be subject to appropriate disciplinary action up to and including removal.

This Directive was revised and adopted on September 11, 2015.



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Alec Palmer  
Staff Director

