

U.S. DEPARTMENT OF AGRICULTURE
WASHINGTON, D.C. 20250

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<u>Section</u>	<u>Page</u>
1. Purpose	1
2. Special Instructions/Cancellations	2
3. Scope	3
4. Policy	3
5. Procedures	3
6. Contract Employees	11
7. Anonymous Allegations	11
8. Investigations and Corrective Action	12
9. Record Keeping	12
10. Training	12
11. Roles and Responsibilities	13
12. Inquiries	16
Appendix A – Acronyms and Abbreviations	A-1
Appendix B – Definitions	B-1
Appendix C – Authorities and References	C-1
Appendix D – Examples of Harassing and Non-Harassing Behaviors	D-1

1. PURPOSE

- a. This Departmental Manual (DM) establishes the processes and procedures for administering the Anti-Harassment Program for the United States Department of Agriculture (USDA).
- b. The goal of the Anti-Harassment Program is to prevent and promptly review allegations of workplace harassment, defined as any form of unwelcome, persistent, and unsolicited verbal, non-verbal, written, or physical conduct that is offensive and could alter the affected individual's terms and conditions of employment.

- c. The goal of this program is also to mitigate harm to any employee who has been subjected to conduct that is or could develop into harassment. The USDA is committed to fostering a model workplace free of conduct that negatively affects employees, morale, engagement, and productivity.

2. SPECIAL INSTRUCTIONS/CANCELLATIONS

- a. This DM addresses processes and procedures in accordance with the policy outlined in [Departmental Regulation \(DR\) 4200-003](#), *Anti-Harassment Program*, dated April 18, 2023.
- b. This DM is effective immediately and remains in effect until it is either superseded or expires.
- c. Mission Areas, agencies, and staff offices may not issue policies or directives that conflict with or limit this DM.
- d. Mission Areas, agencies, and staff offices have up to 1 year from the date of issuance to update their procedures to align with this DM.
- e. This DM will not be interpreted to conflict with the rights of an employee under the law, including:
 - (1) *Labor-Management Relations Statute* ([5 United States Code \(U.S.C.\) §§ 7101-7135](#));
 - (2) Applicable collective bargaining agreements;
 - (3) Those provisions of [5 U.S.C. Chapter 75](#), *Adverse Actions*, relating to disciplinary action of employees;
 - (4) The *Whistleblower Protection Act of 1989* (WPA), [Public Law \(P.L.\) 101-12](#); and
 - (5) The *Whistleblower Protection Enhancement Act of 2012* (WPEA), [P.L. 112-199](#).
- f. This DM will not be interpreted to conflict with any rights accorded a union representative under the *Labor-Management Relations Statute* when communicating as a union representative. Further, it is recognized that the implementation of this DM may be subject to collective bargaining, the results of which may modify the policy and procedures stated or implied herein, as appropriate.

3. SCOPE

- a. This DM applies to all USDA Mission Areas, agencies, and staff offices as well as all employees, contractors, volunteers, and those under formal partnership agreements performing work for or on behalf of USDA.
- b. This DM does not apply to allegations against recipients, sub-recipients, or beneficiaries of USDA Federal financial assistance programs.

4. POLICY

- a. All USDA Mission Areas, agencies, and staff offices will establish an Anti-Harassment Program consistent with DR 4200-003, with each program administered by an Anti-Harassment Coordinator (AHC) or equivalent designee.
- b. The AHC or designee will receive, assess, and address reports or allegations of harassing conduct in collaboration with the appropriate level of management and respective servicing Mission Area, agency, and staff office Human Resources (HR) Offices consistent with the terms and requirements outlined in DR 4200-003.

5. PROCEDURES

a. Intake Process

Mission Area, agency, and staff office AHCs or designees will review, assess, and evaluate reports of alleged harassment per DR 4200-003 and the guidance identified in this DM. The AHC or designee will utilize the following process and procedures.

(1) Receipt of Complaint

- (a) Each USDA Mission Area, agency, and staff office must adopt a comprehensive protocol for receiving complaints from employees who witness or are subjected to intimidating, threatening, or harassing behavior within the workplace.
- (b) All allegations against a member of the Senior Executive Service (SES) or political appointee must be immediately referred to the Inspector General (IG) Representative, and no further action taken except for mitigating steps outlined below in Section 5c, *Mitigating Steps*, until and unless the IG Representative refers the matter back to the Mission Area, agency, or staff office.
- (c) Mission Areas, agencies, and staff offices should use one or more of the following methods to ensure receipt of the reports of harassment:

- 1 A standardized intake form, containing information outlined in Section 5a(2)(f)2 below, to obtain necessary information for the AHC or designee to begin the process;
- 2 A mechanism to receive complaints (e.g., mail, telephonic hotline, email address, online reporting system) for forwarding to the AHC or designee;
- 3 A reporting protocol for managers and supervisors to receive complaints of harassment; or
- 4 An electronic reporting system to monitor and track complaints.

(2) Tracking of Complaint Allegations

Mission Areas, agencies, and staff offices will ensure a designated tracking system is maintained to collect and analyze data on allegations of harassment. Specifically:

- (a) Data collected is allowed by applicable law and per DR 4200-003.
- (b) Mission Areas, agencies, and staff offices have a legal obligation to protect the privacy and due process rights of all participants in the process, e.g., the reporting party, the affected employee, those employees who are accused of harassment.
- (c) Reports of harassment will be disseminated only to those who have a need-to-know, including officials designated or authorized to investigate allegations, to determine whether harassment occurred, to develop recommendations, or to implement corrective measures.
- (d) Personnel who have oversight, supervisory, or case management responsibility over the Anti-Harassment Program (e.g., AHC or designee, Mission Area, agency, or staff office HR Representative) will have access to the designated tracking system which will track harassment allegations as they move through the complaint process.
- (e) The Office of the Assistant Secretary for Civil Rights (OASCR) Anti-harassment Representative will have access to reports extracted from the designated tracking system which will track harassment allegations as they move through the complaint process.
- (f) The Mission Area, agency, and staff office HR Representative will track all allegations in collaboration with the AHCs or designees, and the OASCR Representative. The tracking systems must meet the following requirements:
 - 1 Within 1 business day of receiving the allegation, a tracking number will be assigned by the AHCs, designees, or designated tracking system (such

as Labor and Employee Relations Information System (LERIS)) for all allegations received.

- 2 The data tracked (if available) will include:
 - a Affected individual and reporting individual's name, phone number, email, work unit, work address;
 - b Alleged offender names;
 - c Witness names;
 - d Elements of the alleged offense (e.g., sexual, physical (sexual or non-sexual), verbal, non-verbal, electronic);
 - e Where the alleged offense was committed (e.g., exact location, address, room number);
 - f When the alleged offense was committed (times and dates);
 - g The allegation(s) referred, if any, for further investigation (e.g., Personnel Misconduct Investigation (PMI), Management Inquiry (MI), or to the IG for investigation consideration);
 - h The date and time the AHC or designee referred the allegation(s) for further investigation, if applicable; and
 - i The date the affected individual and reporting individual are notified of the tracking number and the mode of examination. (The affected individual and the reporting individual (if a different person) will be notified of the tracking number and the mode of examination (e.g., MI, PMI, referral to the IG) of their allegation per DR 4200-003).

(3) Gathering Required Information

- (a) A complete allegation must contain the following preliminary information, no matter the reporting source:
 - 1 A detailed description of the workplace incidents that led the affected or reporting individual to bring forth the complaint, to include the dates, times, and locations where the alleged incidents occurred, individuals involved, and the nature of their involvement;
 - 2 The names and contact information for the alleged offending individual(s) or subjects;

- 3 The names and contact information for any witnesses who may have potential information regarding the claim;
- 4 Whether the affected individual feels threatened or afraid; and
- 5 Should the affected individual express they feel threatened and afraid, the AHC or designee will collect the following information:

- a The exact nature and context of the threat or threatening behavior; and

- b The target of the threat or threatening behavior (general or specific).

- (b) In the absence of information regarding allegations of harassment, the AHC or designee must conduct an initial inquiry to make a preliminary determination if the alleged conduct comes within the definition of harassment as defined in the DR 4200-003, and the Secretary's [*USDA Anti-Harassment Policy Statement*](#).
- (c) If the allegation does not meet the definition of harassment, the AHC or designee will close out the report and notify all appropriate parties of the disposition of the allegations raised after all required actions have been completed per this DM and DR 4200-003.
- (d) If the allegation meets the definition of harassment as defined in DR 4200-003 and the *USDA Anti-Harassment Policy Statement*, the allegation will move to the reviewing, assessing, and possibly the triage stage of the process.

(4) Reviewing Harassment Allegations

Utilizing the information obtained from the intake form and from information gathered in Section 5a(3)(a), *Gathering Required Information*, the AHC or designee, in collaboration with the Employee Relations (ER) Representative, the management official, or any other applicable officials, will:

- (a) Assess the harassing behavior to decide if immediate remedial action is warranted and feasible;
- (b) Determine whether the facts and evidence discovered in the initial inquiry indicate a need for a MI or PMI in conjunction with the Mission Area, agency, or staff office HR and ER Representatives;
- (c) Determine if the matter must be referred to the IG per [*DR 1700-002, Office of Inspector General Organization and Procedures*](#) and [*Departmental Personnel Manual \(DPM\) Chapter 751, Subchapter 3, Agency Investigations of Employee Misconduct*](#); and

(d) At a minimum, take into account the following when reviewing information to determine if the allegation rises to the definition of harassment:

- 1 The origin of the case (e.g., Office of Inspector General (OIG), management official);
- 2 The date the allegation occurred;
- 3 Name of the affected individual;
- 4 Name of individual who reported the allegation;
- 5 Whether the allegation identifies who committed the alleged violation or who has knowledge of the alleged violation;
- 6 The employment status of the alleged offender (e.g., Presidential appointee, SES, General Schedule (GS) -16 and above or equivalent employees under pay systems, Schedule C, or GS-15 and below);
- 7 Witnesses identified;
- 8 Contact information for the witnesses, if available; and
- 9 An assessment of the harassing behavior as identified in Section 5a(5).

(5) Assessing the harassing behaviors

(a) Table 1, *Examples of Harassing and Non-Harassing Behaviors*, in DR 4200-003, and the *USDA Anti-Harassment Policy Statement* must be used as a guide to assess whether the behavior should be categorized as harassment, with the understanding that harassing conduct in violation of *USDA's Anti-Harassment Policy* need not be based on an Equal Employment Opportunity (EEO) protected classification. (See also Appendix D, *Examples of Harassing and Non-Harassing Behaviors*).

(b) Mission Areas, agencies, staff offices, and AHCs or designees will identify:

- 1 The type of harassment identified by the reporting individual; and
- 2 The level of specificity in the allegation (behaviors identified rather than perceptions).

(6) Triaging the Allegation

(a) The following steps must be taken by the AHC or designee per timeframes established in DR 4200-003:

- 1 Notify the appropriate offices, such as a Mission Area, agency, or staff office HR or ER Offices for triage of reported conduct for potential immediate remedial action.
- 2 Meet with the Mission Area, agency, or staff office HR or ER Representative to collaborate and jointly assess the allegation for the appropriate course of action.
- 3 Conduct an initial inquiry of all harassment allegations reported, and in consultation with the Mission Area, agency, or staff office HR or ER Representative, determine if an initial inquiry is sufficient to determine whether the allegations are substantiated and, if appropriate, issue a recommended course of corrective action to management.
- 4 Ensure the appropriate management is informed of the allegation, the initial determination, and whether existing facts and circumstances require immediate remedial action.
- 5 Based on the severity of the allegation, collaborate with the Mission Area, agency, or staff office HR or ER Representative if they initiate an MI or PMI. All investigations will be conducted in accordance with the DPM.
- 6 Once the Mission Area, agency, or staff office HR or ER Representative reviews the results of any MI or PMI and have determined corrective action is supported, the AHC or designee will advise the applicable managers and supervisors on initiating appropriate action in a timely manner.

(b) Mission Areas, agencies, and staff offices should take appropriate administrative or disciplinary action for violations of the *USDA Anti-Harassment Policy Statement*, even if the harassment is not severe, pervasive, or otherwise does not meet a legal definition of harassment.

b. Specific Procedures for Certain Type of Allegations

After triage has been performed, preliminary complaint information collected, and a determination made that there is enough evidence to proceed with an assessment, the AHC or designee will determine if the allegations fall into one of the following categories: sexual assault; sexual harassment; unlawful non-sexual harassment based on a protected EEO classification (EEO harassment); non-sexual harassment that is not based on a protected EEO classification, including bullying (non-EEO harassment).

AHCs or designees will determine the next steps based on the following categories and associated criteria:

(1) Assault

- (a) If sexual or non-sexual assault is alleged, the allegation must be referred to local law enforcement by Mission Areas, agencies, and staff offices immediately in conjunction with notifying ER Representative and the Office of the General Counsel. When sexual assault is alluded to, but not actually stated, a review will be held by the Mission Area's, agency's, or staff office's AHC, the ER Representative and the OGC to decide the appropriate course of action. Management will also need to be notified to protect the affected individual. The AHC or designee will work with the Mission Area, agency, and staff office Head to ensure action has been taken by the Mission Area, agency, or staff office.
- (b) Alleged assault complaints may need to be reclassified as workplace violence if the allegation is not pursued by local law enforcement.
- (c) If the alleged assault was preceded by sexual harassment, Mission Areas, agencies, and staff offices will await a decision from local law enforcement before determining the next course of action, other than immediate remedial action to protect the affected individual(s).
- (d) The AHC or designee must take immediate steps to assess the need for remedial action to remove the alleged victim from the alleged offender in consultation with the Mission Area, agency, or staff office HR or ER office, and contact the Violence in the Workplace Coordinator for the alleged offender's assigned Mission Area, agency, or staff office who in turn will determine the next steps for the safety of the work environment and employees involved.
- (e) The AHC or designee must report assault allegations to the Mission Area, agency, and staff office HR or ER Representative and to the IG Representative.

(2) Sexual Harassment

Sexual harassment cases will be routed to the appropriate management official, who will consult with the servicing HR or ER office to determine the appropriate next steps to initiate a request for a formal MI, PMI, or harassment assessment and to review the inquiry when appropriate based on the following:

- (a) The harassment was conducted through sexual advances or favors; or
- (b) The incident or behavior was sexual in nature.

(3) EEO Harassment

- (a) Employees have the right to file complaints of discrimination or harassment in other forums, including the EEO Office. There is no prohibition against filing an EEO complaint of harassment concurrently with a report through the Anti-Harassment Program. Reporting harassment in accordance with the procedures in this DM does not replace or satisfy the requirements for filing an EEO complaint.
- (b) If an affected individual alleges they have experienced harassment based on their membership in a protected EEO class, the employee may file an EEO complaint through their servicing EEO Office. The AHC or designee will provide them with the contact information for the EEO Office and inform the affected individual an EEO complaint must be filed within 45 calendar days of the alleged incident or when the employee knew or should have known of the discriminatory or harassing conduct. (See [DR 4300-007](#), *Processing Equal Employment Opportunity (EEO) Complaints of Discrimination*.)

c. Mitigating Steps

- (1) Management officials have an obligation to take immediate remedial action, if appropriate, in consultation with the AHC or designee and the HR or ER Representative to prevent or mitigate harassing conduct during an inquiry or investigation into the allegations.
- (2) Depending on the situation, remedial action may include instructing employees to stop the behavior, temporarily separating employees, temporarily changing supervisor, details, etc. The remedial actions taken will depend on the severity and the circumstances of the alleged conduct.

d. Notification of Appropriate Level of Management

- (1) Notification to the appropriate level of management (i.e., the supervisory chain) regarding harassment allegations and recommended remedial actions is dependent upon the employment status of the affected individual and the alleged offender.
- (2) Based on the information assessed, the AHC or designee will determine if the alleged conduct meets the definition of harassment as defined in DR 4200-003 and the *USDA Anti-Harassment Policy Statement*. If the AHC or designee determines immediate remedial action is warranted and feasible, they will take the steps below in accordance with timeframes established by the DR:
 - (a) Provide the remedial action recommendations to the Mission Area, agency, and staff office HR or ER Representative where the alleged offender is assigned and collaborate on the next appropriate remedial steps.

- (b) Once the appropriate remedial steps are identified, the AHC or designee will notify the alleged offender's Mission Area, agency, or staff office management official on any recommended remedial steps.
- (c) If the reporting party alleges sexual assault, the AHC or designee will contact the appropriate management official within the alleged offender's Mission Area, agency, or staff office.

6. CONTRACT EMPLOYEES

The AHC or designee, in consultation with the HR or ER Representative, will refer all allegations of harassment that involve contract workers to the appropriate Contracting Officer (CO).

7. ANONYMOUS ALLEGATIONS

- a. Actions taken in response to anonymous allegations submitted into the anti-harassment processes will depend upon the extent of information provided. If an anonymous allegation contains sufficient information, as identified in Section 5a(3), *Gathering Required Information* above, to permit the initiation of an investigation, the appropriate level of investigation will be initiated in accordance with this DM. If an anonymous allegation does not contain sufficient information to permit the initiation of an investigation, the information should be documented in the Mission Area, agency, or staff office designated tracking system by the person receiving the report and maintained on file by the AHC or designee in accordance with the Mission Area's, agency's, or staff office's disposition instructions.
- b. The AHC or designee will prepare a Memorandum for Record for all anonymous allegations which will document for the record the following information, if available:
 - (1) The date and time the information was received and by whom;
 - (2) A detailed description of the facts and circumstances surrounding the allegation;
 - (3) The date and time the allegation was closed and by whom, if applicable; and
 - (4) Any other pertinent information received. Information collected and retained by the AHC or designee will be protected in accordance with the *Privacy Act of 1974*, [5 U.S.C. § 552a](#).

8. INVESTIGATIONS AND CORRECTIVE ACTION

- a. If further investigation beyond the AHC's or designee's initial inquiry is deemed necessary, the AHC or designee will refer the complaint to the appropriate investigator. All investigations will be conducted in accordance with the DPM.
- b. Within 10 business days of completion of the inquiry or investigation, the Mission Area, agency, or staff office HR or ER Representatives will review the results and, if corrective action is supported, advise managers and supervisors involved on initiating appropriate action in a timely manner. Mission Areas, agencies, and staff offices should take appropriate administrative or disciplinary action for violations of the *USDA Anti-Harassment Policy Statement*, even if the harassment does not rise to the level of severe or pervasive harassment, to ensure a workplace free from harassing conduct.

9. RECORD KEEPING

- a. The AHC or designee will track all harassment and bullying allegations and submit quarterly reports to Civil Rights Directors, and the Assistant Secretary for Civil Rights (ASCR) on the number of complaints and type of harassment alleged, whether MIs or PMIs were warranted, corrective or disciplinary actions recommended and taken, the source of complaints, and other identified metrics.
- b. The AHC or designee will track recommendations for corrective and disciplinary action and notify senior management if management fails to implement recommendations for corrective or disciplinary action.
- c. The AHC or designee will, after the disposition of a case is provided, close out all complaints of harassment or bullying, per the requirements within the *Privacy Act of 1974* guidelines. The AHC or designee will provide notification to the appropriate parties of the disposition of the allegations of harassment or bullying raised after all required actions have been completed.

10. TRAINING

- a. The AHC or designee, HR or ER Representative, and Mission Area, agency, and staff office management officials will ensure harassment prevention and response training and education is provided to all employees and management per the requirements established in DR 4200-003.
- b. Harassment prevention and response training will include, at a minimum:
 - (1) Accurate and consistent training that ensures appropriate skills and competencies across the USDA workforce;

- (2) Education that focuses on prevention with examples of inappropriate conduct in the workplace and how to report perceived or observed harassment;
- (3) Information on how to identify harassment, definitions, and types of harassment as outlined in this DM;
- (4) Options and procedures for submitting allegations, and anonymous harassment allegations;
- (5) Information regarding how to identify and report retaliation and reprisal in accordance with applicable regulations and directives; and
- (6) Information regarding any administrative or disciplinary action that could be taken as a result of a finding of harassment.

11. ROLES AND RESPONSIBILITIES

The roles and responsibilities identified below are in accordance with DR 4200-003.

a. The Secretary or their designee will:

- (1) Provide leadership, direction, and establish policy for USDA enforcement of civil rights laws and compliance with the requirements for the USDA Anti-Harassment Program; and
- (2) Ensure the availability of adequate resources to support and carry out a broad range of civil rights compliance and enforcement activities throughout USDA.

b. The ASCR or their designee will:

- (1) Direct, coordinate, and provide oversight over USDA's enforcement of civil rights laws and compliance with the Anti-Harassment Program through rules, regulations, policy, allegation processing, compliance reviews, and other actions;
- (2) Ensure USDA Mission Areas, agencies, and staff offices inform employees of their civil rights compliance responsibilities through training, dissemination of information, and technical assistance;
- (3) Review, supplement, or modify quarterly reports provided by the Mission Area, agency, and staff office management officials for submission to the Office of the Secretary; and
- (4) Collaborate with Mission Area, agency, and staff office HR Directors on anti-harassment allegations, investigations, and corrective actions when needed, to ensure compliance with Federal civil rights requirements.

- c. The Assistant Secretary for Administration or their designee will assist in implementing the requirements established for the Anti-Harassment Program.
- d. Under and Assistant Secretaries will:
 - (1) Ensure adequate funding is available to implement and carry out the policies, processes, and procedures of the Anti-Harassment Program;
 - (2) Enforce compliance with anti-harassment laws and guidance;
 - (3) Issue Mission Area, agency, and staff office directives and policy consistent with DR 4200-003 and the *USDA Anti-Harassment Policy Statement*;
 - (4) Ensure disciplinary actions recommended by the Mission Area, agency, or staff office HR Office against employees or management are enforced and in accordance with USDA rules, regulations, and procedures; and
 - (5) Develop annual compliance review schedules and conduct reviews of their Mission Area, agency, and staff office Anti-Harassment Programs.
- e. Mission Area, Agency, and Staff Office Heads will:
 - (1) Assist and cooperate with the ASCR, Assistant Secretary for Administration, and AHCs or designees in implementing the requirements established for the Anti-Harassment Program; and
 - (2) Collect and analyze data and information to evaluate success in ensuring compliance with civil rights laws.
- f. Mission Area, Agency, and Staff Office HR and ER Representatives will:
 - (1) Collaborate with the AHC or designee on harassment cases to determine appropriate next steps;
 - (2) Provide recommendations for corrective actions upon completion of factfinding, if warranted;
 - (3) Collaborate with management to address inappropriate behavior; and
 - (4) Communicate with the AHC or designee to ensure all actions pertaining to misconduct recommendations are documented in the designated tracking system.
- g. The General Counsel will provide legal advice and guidance to support USDA's programs and ensure compliance with civil rights laws.

- h. The IG Representative will:
 - (1) Investigate criminal violations; and
 - (2) Conduct their own or joint investigations with other law enforcement agencies and report criminal violations to the U.S. Department of Justice.

- i. Management Officials will:
 - (1) Report known harassment complaint(s) to the AHC or designee;
 - (2) Take immediate remedial action(s);
 - (3) Separate the affected individual from the alleged offender, if determined that immediate action is needed;
 - (4) Contact law enforcement, if needed;
 - (5) Provide the AHC or designee with details of the incident(s), if known;
 - (6) Disqualify themselves if there is a conflict of interest;
 - (7) Consult with the employee's servicing HR or ER Representative;
 - (8) Conduct a MI, when appropriate; and
 - (9) Take prompt corrective action(s) as appropriate.

- j. Violence in the Workplace Coordinators will ensure actions are taken per [DR 4200-001](#), *Workplace Violence Prevention and Response Program*.

- k. Reporting Individuals will provide information pertaining the incident to the best of their knowledge to the AHC or designee.

- l. COs will:
 - (1) Notify contractors working on behalf of the Mission Area, agency, or staff office that they are expected to avoid behaviors prohibited by the *Anti-Harassment Policy*;
 - (2) Ensure the business owner of the contract and their employees comply with USDA's *Anti-Harassment Policy*; and
 - (3) Contact the business owner under contract, upon notification of a contractor violating the *Anti-Harassment Policy*, to determine the appropriate immediate action.

12. INQUIRIES

All USDA Mission Areas, agencies, and staff offices should direct questions and inquiries regarding this DM to the Center for Civil Rights Operations (CCRO), Compliance Division via email at CCROCompliance@usda.gov or via telephone at 1-800-845-6136.

-END-

APPENDIX A

ACRONYMS AND ABBREVIATIONS

ADR	Alternative Dispute Resolution
AHC	Anti-Harassment Coordinator
ASCR	Assistant Secretary for Civil Rights
CCRO	Center for Civil Rights Operations
CFR	Code of Federal Regulations
CO	Contracting Officer
DG	Departmental Guidebook
DM	Department Manual
DPM	Departmental Personnel Manual
DR	Departmental Regulation
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
E.O.	Executive Order
ER	Employee Relations
GS	General Schedule
HR	Human Resources
IG	Inspector General
LERIS	Labor and Employee Relations Information System
MI	Management Inquiry
MD	Management Directive
OASCR	Office of the Assistant Secretary for Civil Rights
OHRM	Office of Human Resources Management
OIG	Office of Inspector General
PMI	Personnel Misconduct Investigation
P.L.	Public Law
SES	Senior Executive Service
U.S.C.	United States Code
USDA	United States Department of Agriculture
WPA	Whistleblower Protection Act of 1989
WPEA	Whistleblower Protection Enhancement Act of 2012

APPENDIX B

DEFINITIONS

Accountability. The obligation of holding agency officials, managers, supervisors, and other employees responsible for complying with the requirements contained in this DR. (Source: USDA, [Departmental Guidebook \(DG\) 0100-002](#), *USDA Departmental Directives Definitions Glossary*)

Administrative Misconduct. Non-criminal misconduct, behavior, or actions of an employee, including those that violate policies, procedures, and standards on employee responsibilities and conduct per [DR 4070-735-001](#), *Employee Responsibilities and Conduct*.

Adverse Action. Adverse actions are defined by law at 5 U.S.C. Chapter 75, *Adverse Actions*, and include suspensions without pay, reductions in grade or pay, furloughs of 30 calendar days or less, and removal.

Agency. Organizational units of the Department, other than staff offices, whose heads report to officials within the Office of the Secretary, Deputy Secretary, Under Secretaries, Assistant Secretaries, and Assistant to the Secretary. (Source: USDA, [DR 0100-001](#), *Departmental Directives System*)

Agency Head. The administrator, chief, or director of an agency who is the official named or designated to have primary responsibility for the management of the agency as delegated under [7 Code of Federal Regulations \(CFR\) Part 2](#), *Delegations of Authority by the Secretary of Agriculture and General Officers of the Department*.

Allegation. An assertion, declaration or statement made in a complaint that sets out or identifies what the alleging party expects to be proved. (Source: USDA, DG 0100-002)

Alternative Dispute Resolution (ADR). ADR includes an array of techniques used to achieve consensual resolution of disputes, generally with the assistance of a neutral third party. (Source: USDA, DG 0100-002)

Anti-Harassment Coordinator (AHC). Responsible for serving as the point of contact for the AHC process. Their role includes, but is not limited to, receiving harassment allegations on behalf of the Mission Area, agency, or staff office, assessing allegations of harassment, assisting managers and supervisors in addressing allegations of harassment, conducting training, and compiling records of harassment incidents with the objective of eliminating harassment within the Mission Area, agency, or staff office.

Assault. Any willful attempt or threat to inflict injury upon the person of another, when coupled with an apparent ability to do so, and any intentional display of force, such as would give the victim reason to fear or expect immediate bodily harm. (Source: USDA [DR 4200-001](#), *Workplace Violence Prevention and Response Program*)

Compliance. Systematically evaluating whether and the extent to which USDA conducts its programs and activities in a manner consistent with applicable Federal and USDA civil rights requirements.

Conflict of Interest. Circumstances creating sufficient doubt about a management official's impartiality (including a perception of impartiality) that should disqualify them from participating in or influencing any material aspect of the handling of a claim of harassment other than reporting harassment and providing information in response to an official inquiry or investigation.

Corrective Actions. Measures taken toward enhancing civil rights goals of USDA, which may be disciplinary or adverse actions and may include training or other similar actions. (Source: USDA, [DR 4300-010](#), *Civil Rights Accountability Policy and Procedures*)

Decision. A determination issued by an entity with authority to issue legal or administrative opinions, arrived at after consideration of the facts and applicable law. (Source: USDA, DR 4300-010)

Disciplinary Action. An action taken with the intent to correct the conduct of an employee, which includes, among other actions, a letter of reprimand, suspension, reduction in grade or pay, or removal from the Federal Service. (Source: USDA, DR 4300-010)

Employee. For the purpose of this directive, an individual employed in or under a USDA agency consistent with [5 U.S.C. § 2105](#), *Employee*, or a non-employee over whom an agency has control, which may include independent contractors or contract employees under a USDA agency.

Firewall. A procedure preventing the EEO Director from involvement in the day-to-day functions of the Anti-Harassment Program or to avoid a perceived or actual conflict of interest in specific cases or in general; clear separation between the Mission Areas and agency's EEO complaint program and the Mission Area's and agency's defensive function which is essential to fair and impartial investigations; maintaining the appropriate separation between the two or more processes to ensure the integrity of both processes, including providing clarity for employees on the distinction between the two.

Harassment (including Bullying). Any form of unwelcome, persistent, and unsolicited verbal, non-verbal, written, or physical conduct that is offensive and could alter the affected individual's terms and conditions of employment. It includes conduct intended to torment or cause fear for one's personal safety. This includes but is not limited to any unwelcome or unwanted conduct that denigrates or shows hostility or an aversion toward another person on the basis of any characteristic protected by law, which includes an individual's race, color, sex, ethnic or national origin, age, religion, disability, marital status, sexual orientation, gender identity, pregnancy, retaliation for previous EEO activity, genetic information or other personal characteristic protected by law.

Impartial. Fair and equitable manner; unbiased, neutral, and non-discriminatory; no vested interest.

Inquiry. An initial or basic informal review of an issue, inquiry, or allegation of harassment (whether illegal harassment or lower-level harassment) to identify the need for further assessment such as an investigation, EEO investigation, safety investigation, referral to OIG, etc.

Management Inquiry (MI). The allegation is verified by management as to the validity of the information reported.

Management Official. A management official as defined as an employee having authority to hire, transfer, suspend, furlough, recall, promote, discharge, assign, reward, or discipline other employees; or having responsibility to direct them, adjust their grievances, or effectively recommend such action if, in connection with the foregoing, the exercise of authority is not of a merely routine or clerical nature but requires the use of independent judgment. (Source: USDA, DR 4300-010).

Misconduct. Inappropriate conduct-based action(s) that include prohibited activities, even if the conduct does not rise to the level of unlawful harassment, prohibited harassment, or bullying. When an inquiry or investigative findings result in a determination that employee misconduct has occurred, management is responsible for taking prompt corrective action(s), as appropriate. (5 U.S.C. Chapter 75)

Mission Area. A group of agencies with related functions that report to the same Under or Assistant Secretary. Research, Education, and Economics is an example of a Mission Area. (Source: USDA, DR 0100-001)

Personnel Misconduct Investigation (PMI). The employing Mission Area, agency and staff office conducts investigations of certain employee misconduct in accordance with the standards set forth in the Department's Personnel Investigation Manual. Mission Area, agency, and staff office investigators may take written statements under oath or affirmation from Federal employees and non-federal employees for use in administrative or other proceedings. Agency investigators may require employees of USDA to provide such statements. (USDA, Chapter 751, *Discipline*, Subchapter 3, *Agency Investigations of Employee Misconduct*)

Retaliation. Retaliation is imposing any administrative action, failing to take action, or engaging in any form of harassment or bullying, against any employee for reporting matters covered under this policy, for involvement in an inquiry related to such a report, or for exercising any other rights granted them by statute or policy.

Sexual Harassment. Unwelcome sexual advances, requests for sexual favors, and other 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;

- b. Submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or
- c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Staff Office. Departmental administrative offices whose heads report to officials within the Office of the Secretary. (Source: USDA, DR 0100-001)

APPENDIX C

AUTHORITIES AND REFERENCES

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APPENDIX D

EXAMPLES OF HARASSING AND NON-HARASSING BEHAVIORS

Harassing Behaviors	Non-Harassing Behaviors
Threatening that rejection of sexual overtures will affect appointments, promotions, transfers, or evaluations or affect any other employment-related actions	Minor slights or annoyances
Making sexually suggestive comments or gestures, including offensive comments, jokes, or suggestions about an employee's gender or displaying nude or sexually suggestive objects, pictures, images, or cartoons	Normal stress associated with work
Belittling persons based on protected characteristics, including repeated jokes, teasing, mimicking, or commenting on an individual's protected characteristic	Minor disagreements with coworkers
Retaliating against an employee who raises a harassment allegation	Disagreement with a supervisor's instruction or policy
Bullying, intimidating, or threatening behavior	Objective and constructive feedback about work performance
	Changes in work assignments or work schedules made for a legitimate, non-discriminatory reason
	Discipline for misconduct, performance-based actions, or other administrative action taken for a legitimate, non-discriminatory reason
	Being required to cooperate in an official inquiry or investigation
	Being accused of harassment or misconduct by another employee