



DoD INSTRUCTION 1020.04

HARASSMENT PREVENTION AND RESPONSES FOR DoD CIVILIAN EMPLOYEES

Originating Component: Office of the Under Secretary of Defense for Personnel and Readiness

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Approved by: Matthew P. Donovan, Under Secretary of Defense for Personnel and Readiness

Purpose: In accordance with the authority in DoD Directive (DoDD) 5124.02, this issuance:

- Establishes policy, assigns responsibilities, and prescribes procedures for preventing and responding to harassment in the DoD civilian employee population.
- Provides guidance for processing, resolving, and tracking allegations of harassment.
- Distinguishes between harassment that detracts from an efficient workplace, equal employment opportunity (EEO) complaints of unlawful discriminatory harassment, and harassment of a criminal nature.
- Outlines training and education requirements and standards.

TABLE OF CONTENTS

SECTION 1: GENERAL ISSUANCE INFORMATION	3
1.1. Applicability.	3
1.2. Policy.	3
SECTION 2: RESPONSIBILITIES	4
2.1. Under Secretary of Defense for Personnel and Readiness (USD(P&R)).	4
2.2. Executive Director, Force Resiliency (EDFR).	4
2.3. Director, Office for Diversity, Equity, and Inclusion (ODEI).	4
2.4. DoD Component Heads.	5
SECTION 3: PROHIBITED HARASSMENT	7
3.1. Harassment Adversely Affecting the Work Environment.	7
3.2. Prohibited Harassment Behaviors.	7
3.3. Means of Harassment.	8
3.4. Behavior That is Not Harassment.	8
SECTION 4: HARASSMENT PREVENTION AND RESPONSE POLICIES AND PROCEDURES	9
4.1. Harassment Prevention and Response Policies and Procedures.	9
4.2. Harassment That Detracts from an Efficient Workplace.	10
4.3. EEO Complaints of Unlawful Discriminatory Harassment.	10
4.4. Harassment Allegations of a Criminal Nature.	10
4.5. Sexual Harassment Allegations Made to a Commanding Officer or Officer in Charge.	10
4.6. Anonymous Allegations.	11
4.7. Responding to Confirmed Harassment.	11
4.8. Release of Information Concerning Reports of Harassment.	12
SECTION 5: PREVENTION AND RESPONSE TRAINING AND EDUCATION	13
5.1. Prevention and Response Training and Education.	13
5.2. Requirements for Organizational Prevention and Response Training and Education Programs.	13
a. Training and Education Schedule.	13
b. Training and Education Elements.	13
5.3. Training and Education Tracking.	14
SECTION 6: DATA COLLECTION AND REPORTING REQUIREMENTS	15
6.1. Data Collection.	15
6.2. Reporting Requirements.	15
GLOSSARY	16
G.1. Acronyms.	16
G.2. Definitions.	17
REFERENCES	23

SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY.

This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the “DoD Components”).

1.2. POLICY.

The DoD will:

a. Not tolerate or condone harassment, to include harassment that is not unlawful but adversely affects the work environment. Harassment jeopardizes combat readiness and mission accomplishment, weakens trust, and erodes organizational cohesion. Harassment is fundamentally at odds with the obligations of Service members and DoD civilian employees to treat others with dignity and respect.

b. Prevent and respond quickly to harassment behavior.

(1) DoD processes established for addressing harassment will provide a timely, thorough, and impartial inquiry into allegations of harassment, as appropriate. DoD will protect the confidentiality of those reporting harassment, to the greatest extent possible.

(2) DoD will maintain separate processes for responding to harassment that detracts from an efficient workplace, EEO complaints of unlawful discriminatory harassment, and harassment of a criminal nature.

c. Hold leaders at all levels accountable for fostering a climate of inclusion that supports diversity, is free from harassment, supports those who allege harassment, and prohibits retaliation and reprisal against those who allege harassment or assist in any inquiry about such allegations.

d. Identify and promote available resources, to include the DoD Alternative Dispute Resolution Program, to aid in resolving alleged harassment.

SECTION 2: RESPONSIBILITIES

2.1. UNDER SECRETARY OF DEFENSE FOR PERSONNEL AND READINESS (USD(P&R)).

The USD(P&R):

- a. Establishes and oversees DoD-wide harassment prevention and response policies and procedures for DoD civilian employees.
- b. Establishes standardized DoD Component data reporting requirements for allegations of harassment and information collection and tracking, including approval of automated data collection interface systems.

2.2. EXECUTIVE DIRECTOR, FORCE RESILIENCY (EDFR).

Under the authority, direction, and control of the USD(P&R), the EDFR:

- a. Oversees DoD Component implementation and compliance with this instruction.
- b. Oversees and develops strategies and plans to prevent and respond to harassment.
- c. Provides to the USD(P&R) an annual assessment of policy effectiveness and compliance with strategies and plans, along with recommendations for improvements.
- d. Monitors and directs strategic planning based on annual data analysis and assessment provided across Force Resiliency portfolios.
- e. Oversees the collection of data and information related to allegations of harassment.
- f. Reviews and refers to the appropriate DoD Component any allegations of harassment sent to the Secretary of Defense or the USD(P&R).

2.3. DIRECTOR, OFFICE FOR DIVERSITY, EQUITY, AND INCLUSION (ODEI).

Under the authority, direction, and control of the EDFR, the Director, ODEI:

- a. Serves as the DoD principal responsible for developing DoD policy to prevent and respond to harassment.
- b. Directs and manages implementation of the DoD policy to prevent and respond to harassment.
- c. Instructs the DoD Components to maintain separate processes for responding to allegations of unlawful discriminatory harassment, harassment of a criminal nature, and harassment that detracts from an efficient workplace.

d. Conducts compliance reviews of DoD Component policies and procedures to prevent and respond to harassment in accordance with this instruction, to assess the following:

- (1) Timeliness and sufficiency of response to reports of harassment.
- (2) Timeliness and sufficiency of feedback provided to individuals subjected to harassment.
- (3) Effectiveness of policies and procedures in reducing incidents of harassment and providing appropriate services and support care.
- (4) Training compliance.

e. Ensures DoD Component policies and procedures to prevent and respond to harassment incorporate, at a minimum:

- (1) Long-term goals, objectives, and milestones.
- (2) Results-oriented performance measures to assess effectiveness.
- (3) Compliance standards for promoting, supporting, and enforcing policies, plans, and programs.

f. Collects, assesses, and analyzes information and data regarding the allegations of harassment received by the DoD Components and prepares an annual report with recommendations in accordance with Paragraph 6.2.

2.4. DOD COMPONENT HEADS.

The DoD Component heads establish policies and procedures to prevent and respond to harassment, consistent with their respective obligations, that require:

- a. All personnel within DoD workspaces be treated with dignity and respect, and that information pertaining to allegations of harassment be treated in a private and confidential manner.
- b. All leaders be held accountable for fostering a climate of inclusion within their organizations that supports diversity, is free from harassment, supports those who report harassment, and prohibits retaliation and reprisal against a DoD civilian employee because he or she has reported harassment, assisted in any inquiry about such allegations, or expressed opposition to harassment.
- c. Venues to receive and respond to allegations of harassment that detract from an efficient workplace but do not involve an EEO complaint of unlawful discrimination or a criminal allegation (e.g., sexual assault, assault, stalking).

d. Response to harassment allegations be conducted in an impartial and timely manner and, where harassing behavior exists, it is promptly stopped. For harassment that involves criminal activity, refer to Paragraph 4.4.

e. Individuals alleging they have been harassed receive information about available support services and are afforded appropriate privacy and confidentiality.

f. Individuals alleging harassment receive ongoing timely information regarding the status of the response to allegations and notice of disposition.

g. Mechanisms to collect, track, assess, and analyze data and information related to harassment are implemented and that all allegations of and reports related to harassment be afforded the proper degree of privacy and confidentiality in accordance with applicable laws, regulations, and policies.

h. Prominently posting and publicizing information regarding DoD Component policies and procedures to prevent and respond to harassment.

i. Workforce training concerning policies and procedures to prevent and respond to harassment.

j. Collection and provision of data to ODEI in accordance with Section 6 and as necessary to meet DoD reporting obligations.

k. Appropriate administrative or disciplinary action be taken against offenders in cases involving substantiated harassment.

l. In cases of substantiated harassment, the findings concerning an offender are annotated within the Component's appropriate personnel records system.

m. Commanders or directors conduct organizational climate assessments that include an assessment of noted harassing behaviors and corrective actions.

n. The performance evaluations of managers and supervisors include input regarding whether the manager or supervisor fostered a workplace free from harassment and retaliation, and supported policies and procedures to prevent and respond to harassment by correcting harassing conduct.

SECTION 3: PROHIBITED HARASSMENT

3.1. HARASSMENT ADVERSELY AFFECTING THE WORK ENVIRONMENT.

The conduct prohibited by this policy includes, but is broader than, the legal definitions of harassment and sexual harassment. 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. Harassing behavior may include, but is not limited to:
 - (1) Unwanted physical contact.
 - (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 may include, 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.

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. Moreover, this policy prohibiting harassment is not a “general civility code.” Behavior that is rude, ignorant, abrasive, or unkind, but does not adversely affect the work environment as described in Paragraph 3.1, is not harassment.

SECTION 4: HARASSMENT PREVENTION AND RESPONSE POLICIES AND PROCEDURES

4.1. HARASSMENT PREVENTION AND RESPONSE POLICIES AND PROCEDURES.

DoD Components will establish policies and procedures that prevent and respond to harassment of DoD civilian employees. Such policies and procedures should:

- a. Distinguish between response procedures for allegations of harassment that is not unlawful but detracts from an efficient workplace, unlawful discriminatory harassment, and harassment of a criminal nature.
- b. Encourage DoD civilian employees to report and DoD Components to respond to allegations of harassment.
- c. Identify venues where DoD civilian employees can report harassment of any kind and provide for referral of harassment allegations to an appropriate venue for response.
- d. Outline the process the DoD Component will use to resolve an allegation of harassment, to include an opportunity for alternative dispute resolution where appropriate.
- e. Require a timely response.
- f. Identify methods to correct harassing behavior.
- g. Provide appropriate notification to individuals who allege they have been harassed on the status of the response to the harassment allegation, including, but not limited to, when the Component determines its response to be completed.
- h. Identify available resources and support services to restore workplace efficiency.
- i. Permit a third-party, such as a bystander or witness, to report the harassment of a DoD civilian employee, unless the report is made via the process identified in Paragraph 4.3.
- j. Instruct that training and education be established in accordance with the requirements stated in Section 5.
- k. Implement a process or system to collect, track, and report harassment allegations in accordance with the requirements stated in Section 6, consistent with law and DoD policy pertaining to privacy, including Section 552a of Title 5, United States Code (U.S.C.), also known and referred to in this issuance as the "Privacy Act of 1974," as amended; DoD Instruction (DoDI) 5400.11; and DoD 5400.11-R, as applicable.

4.2. HARASSMENT THAT DETRACTS FROM AN EFFICIENT WORKPLACE.

DoD Components will identify venues to process allegations of harassment that do not involve an EEO complaint or criminal allegations but do detract from an efficient workplace. These processes may include both formal and informal procedures.

4.3. EEO COMPLAINTS OF UNLAWFUL DISCRIMINATORY HARASSMENT.

Allegations of unlawful discriminatory harassment may be reported to a DoD EEO office, in accordance with DoDD 1440.1 and Part 1614 of Title 29, Code of Federal Regulations. Individuals reporting unlawful discriminatory harassment must be informed that, in order to pursue this avenue of redress, they must make a report within the statutory 45-day time limit. This process does not permit third-party harassment allegations, and limits the stage at which anonymous allegations may be made. This process does not address behaviors that are not unlawful discriminatory harassment.

4.4. HARASSMENT ALLEGATIONS OF A CRIMINAL NATURE.

a. Criminal activity, either reported in conjunction with a harassment allegation or identified during the process of responding to the harassment allegation, must be immediately reported to the appropriate law enforcement agency. The DoD Component's process to respond to harassment allegations may occur collaterally only if it does not hinder the criminal investigation.

b. The appropriate Military Criminal Investigative Organization or the Pentagon Force Protection Agency will immediately notify the Department of Justice, in accordance with DoDI 5525.07, of criminal allegations involving perpetrators who are not subject to Chapter 47, Title 10, U.S.C. (also known and referred to in this issuance as "the Uniform Code of Military Justice") when the alleged crime occurred on a military installation or the Pentagon Reservation.

c. Reports and disclosures of sexual assault by DoD civilian employees who are adult military dependents, members of the Reserve Component, or stationed outside the continental United States are covered by DoDD 6495.02, which contains the policy for eligibility for Restricted (confidential) and Unrestricted reporting and Sexual Assault Prevention and Response services. For other civilian employees, please refer to DoDI 1438.06.

4.5. SEXUAL HARASSMENT ALLEGATIONS MADE TO A COMMANDING OFFICER OR OFFICER IN CHARGE.

A sexual harassment complaint made by a subordinate DoD civilian employee to a commanding officer or officer in charge of a unit, vessel, facility, or area of the Army, Navy, Air Force, Marine Corps, or Space Force will be processed in accordance with the timelines and requirements identified in Section 1561 of Title 10, U.S.C. This process does not supplant the process identified in Paragraph 4.3.

4.6. ANONYMOUS ALLEGATIONS.

a. 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 any DoD Component-specific guidance.

(1) 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 will not 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 a formal EEO complaint of unlawful discriminatory harassment, require revealing the identity of the person making the harassment allegation.

(2) 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.

b. 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 in accordance with applicable disposition instructions:

(1) Date the information was received.

(2) A detailed description of the facts and circumstances included in the report of harassment.

(3) The disposition of the allegation.

(4) Any other pertinent information.

4.7. RESPONDING TO CONFIRMED HARASSMENT.

When a DoD Component's response process confirms that harassment occurred, the DoD Component 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 the harassment and ensure that the harassment does not reoccur. These remedial measures need not be those that the DoD civilian employee requests or prefers, as long as they are effective. Remedial measures should not

adversely affect the individual reporting the harassment or the individual subjected to the harassment, if different.

c. Provide the individual subjected to the harassment with adequate protection, care, and information about available support resources, including:

(1) Military and civilian emergency medical and support services.

(2) Public and private programs that are available to provide counseling, treatment, and other support.

(3) Organizations and entities on-base and off-base that provide services and support.

d. Document an offender's substantiated harassment, by type (e.g., conduct that detracts from an efficient workplace, EEO unlawful discriminatory harassment, and criminal harassment), in the DoD Component's appropriate personnel records system.

e. Determine whether an organizational climate assessment is warranted or additional training is required.

4.8. RELEASE OF INFORMATION CONCERNING REPORTS OF HARASSMENT.

a. DoD Components will inform the individual or individuals who experienced harassment of the availability of an executive summary of the response to the allegation of harassment.

b. Freedom of Information Act requests will be processed in accordance with DoD Manual 5400.07.

SECTION 5: PREVENTION AND RESPONSE TRAINING AND EDUCATION

5.1. PREVENTION AND RESPONSE TRAINING AND EDUCATION.

DoD Component heads will ensure harassment prevention and response training and education are incorporated into professional development programs. DoD Components must:

- a. Post component harassment prevention and response guidance on internal websites.
- b. Allocate funding and personnel to meet the requirements in this section.

5.2. REQUIREMENTS FOR ORGANIZATIONAL PREVENTION AND RESPONSE TRAINING AND EDUCATION PROGRAMS.

a. Training and Education Schedule.

(1) DoD Components will disseminate harassment prevention and response guidance to all new DoD civilian employees and Service members during the onboarding process.

(2) DoD Components will provide training concerning this issuance to new and current DoD civilian employees.

(3) DoD Components will train supervisors and managers on harassment prevention and response policies and procedures within one year of the supervisor or manager assuming a supervisory or managerial position or role for the first time. This includes military personnel in both direct supervisory and indirect managerial positions over DoD civilian employees.

(4) DoD Components will provide refresher training for DoD civilian employees, supervisors, and managers at least once every 3 years.

(5) Harassment prevention and response training may be combined with other training (e.g., EEO, sexual harassment, Public Law 107-174), provided it covers all of the required elements identified in Paragraph 5.2.b.

b. Training and Education Elements.

DoD Component training will cover the information in Section 4 of this issuance, to include:

(1) Venues to report harassment that detracts from an efficient workplace, EEO unlawful discriminatory harassment, harassment involving sexual assault, and other harassment of a criminal nature.

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

(3) Information regarding reporting options, procedures, and applicable timelines to submit allegations of harassment, including anonymous allegations and allegations involving a

DoD civilian employee's commander or supervisor. This includes the assurance that DoD civilian employees have the right to make allegations of harassment outside their chain of command.

(4) Notification of when a report may be made anonymously and specify that formal complaints, such as those filed via the EEO process or allegations of sexual harassment made to a commanding officer, cannot be anonymous.

(5) Procedures for commanders, managers, and supervisors to receive, respond to, and resolve allegations of harassment.

(6) Examples of the types of conduct that would constitute harassment, including unlawful discriminatory harassment based on disability.

(7) Information regarding how to identify and report retaliation and reprisal.

(8) Information regarding bystander intervention to ensure DoD civilian employees understand third-party reporting, have the skills to recognize when to intervene, possess the tools necessary to implement the intervention, and emphasize that third-party allegations of harassment may not be made via the EEO process identified in Paragraph 4.3.

(9) Information regarding administrative or disciplinary actions that could be taken.

(10) Prevention strategies and risk and protective factors.

5.3. TRAINING AND EDUCATION TRACKING.

DoD Components will track training compliance.

SECTION 6: DATA COLLECTION AND REPORTING REQUIREMENTS

6.1. DATA COLLECTION.

DoD Components will collect data on harassment allegations, including anonymous allegations, for the purposes of identifying trends and analyzing program effectiveness. DoD Components will annually submit data to the Director, ODEI, for the DoD annual report to the USD(P&R). In addition, DoD Components will collect and report data on unlawful discriminatory harassment allegations covered by Paragraph 4.3.

6.2. REPORTING REQUIREMENTS.

The Director, ODEI, will provide a consolidated annual report to the USD(P&R), through EDFR, that incorporates non-personally identifiable information and data collected by the DoD Components pursuant to Paragraph 6.1. The first report will be submitted to the USD(P&R) within 180 calendar days after the end of the fiscal year following the publication of this issuance, then annually thereafter.

GLOSSARY

G.1. ACRONYMS.

ACRONYM	MEANING
DoDD	DoD directive
DoDI	DoD instruction
EDFR	Executive Director, Force Resiliency
EEO	equal employment opportunity
ODEI	Office for Diversity, Equity, and Inclusion
U.S.C.	United States Code
USD(P&R)	Under Secretary of Defense for Personnel and Readiness

G.2. DEFINITIONS.

These terms and their definitions are for the purpose of this issuance.

TERM	DEFINITION
bullying	<p>A form of harassment that involves aggressive acts intended to harm, either physically or psychologically, another person without a proper governmental purpose but with a nexus to employment. Bullying includes singling out an individual from his or her coworkers for ridicule because he or she is considered different or weak. It often involves an imbalance of power between the aggressor and the individual. Bullying does not include a properly directed command or organizational activities that serve a proper military or other governmental purpose. Bullying can be conducted through the use of electronic devices or communications, and by other means including social media, as well as in person. Bullying is evaluated by a reasonable person standard and includes, but is not limited to, the following conduct when performed without a proper governmental purpose:</p> <ul style="list-style-type: none">Physically striking another person in any manner, or threatening to do the same.Intimidating, teasing, or taunting another person.Oral or written berating (including electronic medium) of another person with the purpose of belittling or humiliating.Encouraging another person to engage in illegal, harmful, demeaning, or dangerous acts.Playing abusive or malicious tricks.Piercing, branding, handcuffing, duct taping, tattooing, shaving, greasing, or painting another person.Subjecting another person to excessive or abusive use of water.Forcing another person to consume food, alcohol, drugs, or any other substance.Degrading or damaging another's property or reputation.Soliciting, coercing, or knowingly permitting another person to solicit or coerce acts of bullying.

TERM	DEFINITION
DoD civilian employee	Individuals appointed in the civil service by a DoD Component. Generally, contractors are not considered DoD civilian employees.
harassment	Behavior that is unwelcome or offensive to a reasonable person and that creates conditions that interfere with work performance or creates an intimidating, hostile, or offensive work environment.
hazing	<p>A form of harassment that involves conduct, without a proper governmental purpose but with a nexus to employment, intended to physically or psychologically injure or create a risk of physical or psychological injury to a person for the purpose of: initiation into, admission into, affiliation with, change in status or position within, or a condition for continued membership in any military or DoD organization. Hazing does not include a properly directed command or organizational activities that serve a proper military or other governmental purpose. Hazing can be conducted through the use of electronic devices or communications, and by other means including social media, as well as in person. Hazing is evaluated by a reasonable person standard and includes, but is not limited to, the following when performed without a proper military or other governmental purpose:</p> <ul style="list-style-type: none">Any form of initiation or congratulatory act that involves physically striking another person in any manner, or threatening to do the same.Oral or written berating (including electronic medium) of another person with the purpose of belittling or humiliating.Encouraging or coercing another person to engage in demeaning, illegal, harmful, or dangerous acts.Playing abusive or malicious tricks.Piercing, branding, handcuffing, duct taping, tattooing, shaving, greasing, or painting another person.Subjecting another person to excessive or abusive use of water.Forcing another person to consume food, alcohol, drugs, or any other substance.Soliciting, coercing, or knowingly permitting another person to solicit or coerce acts of hazing.

TERM	DEFINITION
manager	A Service member or a DoD civilian employee who falls within the chain of command directly between any supervisor and the agency head.
offender	An individual who engages in harassment prohibited by this issuance. The individual may be a Service member or DoD civilian employee, other federal employee, a contractor, or a vendor who does business with the DoD.
pending report of harassment	A harassment report that has not been resolved by the DoD Component's process to respond to allegations of harassment by the close of the fiscal year of the data reporting period.
reprisal	A form of retaliation that involves taking, threatening, or recommending taking an unfavorable personnel action (demote, separate, treat unfairly, etc.); or withholding, threatening, or recommending withholding a favorable personnel action, for making, preparing to make, or being perceived as engaged in the anti-harassment process.
referred report of harassment	A harassment report that was received via one response process but was referred to another response process (e.g., EEO, Military Criminal Investigative Organization) during the data reporting period.
retaliation	Conduct that punishes a DoD civilian employee for asserting the right to be free from harassment in the workplace. Retaliatory behaviors include, but are not limited to, reprisal, ostracism, maltreatment, and criminal acts for a retaliatory purpose. Retaliation includes illegal, impermissible, or hostile actions taken with the knowledge of management against DoD civilian employees for: <ul style="list-style-type: none">Filing or being a witness in a charge, report, inquiry, or lawsuit;Communicating with a supervisor or manager about discrimination, including harassment;Answering questions during a DoD Component inquiry of alleged harassment;Refusing to follow orders that would result in harassment; orResisting sexual advances or intervening to protect others.

TERM

DEFINITION

sexual harassment

Unlawful discriminatory harassment that is based on conduct of a sexual nature. It involves unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature when:

It explicitly or implicitly becomes a term or condition of a person's job, pay, or career. For example:

Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or

Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance; or

It is so severe or pervasive that a reasonable person would perceive, and the DoD civilian employee does perceive, the environment as hostile or offensive.

TERM

DEFINITION

stalking

A form of harassment that includes repeated harassing, unwanted, or threatening conduct that would cause a reasonable person to fear for his or her safety or the safety of others. Stalking may occur through use of technology including, but not limited to, email, telephone, voicemail, text messaging, drones, cameras, microphones, and use of electronic tracking and monitoring and social networking sites. Stalking conduct may include, but it is not limited to:

Following, spying on, or waiting for an individual in places such as home, school, work, or recreational places.

Leaving unwanted items.

Making direct or indirect threats to harm an individual, an individual's children, relatives, friends, pets, or property.

Posting information or spreading rumors about an individual on the internet, in a public place, or by word of mouth.

Obtaining or using personal information about an individual accessed through public records, using internet search services, hiring private investigators, going through an individual's garbage, following an individual, or contacting an individual's friends, family, work, or neighbors.

In most state and federal jurisdictions, to include that of the Military Departments under the Uniform Code of Military Justice, stalking is a crime.

supervisor

A Service member or DoD civilian employee who directly supervises one or more DoD civilian employees.

TERM

DEFINITION

**unlawful
discriminatory
harassment**

Harassment constituting employment discrimination prohibited by:

Title 7 of Public Law 88-352 (discrimination on the basis of race, color, religion, sex, and national origin);

Public Law 90-202 (discrimination on the basis of age when the aggrieved individual is at least 40 years of age);

Section 701 of Title 29, U.S.C. (discrimination on the basis of disability);

Public Law 88-38 (sex-based wage discrimination); or

Public Law 110-233 (discrimination on the basis of genetic information).

REFERENCES

- Code of Federal Regulations, Title 29, Part 1614
- DoD 5400.11-R, “Department of Defense Privacy Program,” May 14, 2007
- DoD Directive 1440.1, “DoD Civilian Equal Employment Opportunity (EEO) Program,” May 21, 1987, as amended
- DoD Directive 5124.02, “Under Secretary of Defense for Personnel and Readiness (USD(P&R)),” June 23, 2008
- DoD Directive 6495.01, “Sexual Assault Prevention and Response (SAPR) Program,” January 23, 2012, as amended
- DoD Instruction 1438.06, “DoD Workplace Violence Prevention and Response Policy,” January 16, 2014, as amended
- DoD Instruction 5400.11, “DoD Privacy and Civil Liberties Programs,” January 29, 2019
- DoD Instruction 5525.07, “Implementation of the Memorandum of Understanding Between the Departments of Justice and Defense Relating to the Investigation and Prosecution of Certain Crimes,” March 5, 2020
- DoD Instruction 6495.02, “Sexual Assault Prevention and Response (SAPR) Program Procedures,” March 28, 2013, as amended
- DoD Manual 5400.07, “DoD Freedom of Information Act (FOIA) Program,” January 25, 2017
- 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, as amended
- Public Law 90-202, “Age Discrimination in Employment Act of 1967,” June 12, 1968, as amended
- Public Law 107-174, “Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002,” May 15, 2002
- Public Law 110-233, “Genetic Information Nondiscrimination Act of 2008,” May 21, 2008
- United States Code, Title 5, Section 552a (also known as the “Privacy Act of 1974,” as amended)
- United States Code, Title 10, Sections 930 and 1561
- United States Code, Title 29, Section 701