



**OFFICE OF THE DIRECTOR OF NATIONAL INTELLIGENCE**  
**INSTRUCTION 120.01**  
**Category 120 – Equal Employment Opportunity and Diversity**  
**Office of Primary Responsibility: Employee-Management Relations Officer**

**SUBJECT: ANTI-HARASSMENT AND ANTI-BULLYING POLICY**

**1. AUTHORITIES:** The National Security Act of 1947, as amended; and other applicable provisions of law.

**2. REFERENCES:** The Civil Rights Act of 1964 (Title VII), as amended; Equal Employment Opportunity Commission (EEOC) Management Directive 110 (MD-110) (rev. 8/5/2015); Office of the Director of National Intelligence (ODNI) Instruction 120.02, *Equal Employment Opportunity Discrimination Complaint System*; Internal Process Document (IPD) 120.02a, *Process for Filing Discrimination Complaints*; and ODNI Instruction 30.06, *Domestic Violence, Sexual Assault, and Stalking*.

**3. PURPOSE:** This Instruction establishes ODNI policy for ensuring a healthy workplace free from harassment, bullying, threats and acts of violence, and other deliberate acts of adverse personal treatment. This Instruction sets forth responsibilities for preventing, reporting, and responding to such incidents. In addition to this Instruction, policy on reporting and responding to allegations of EEO discrimination, including legally defined discriminatory harassment, is covered in Instruction 120.02. For policy on workplace violence issues that fall into the specific categories of domestic violence, sexual assault, or stalking, refer to Instruction 30.06.

**4. APPLICABILITY:** This Instruction applies to ODNI permanent cadre employees; ODNI staff reserve (i.e., time-limited) cadre employees, including Highly Qualified Experts; federal civilian detailees; Intergovernmental Personnel Act detailees; Presidential appointees; and applicants for ODNI employment (collectively “individuals”). In accordance with any relevant agreement by the ODNI and other government agencies (OGA), this Instruction also applies to OGA employees providing service support to the ODNI. ODNI does not condone bullying or harassment against or by any individuals, including contractors, military detailees, and assignees. Allegations made by or against

contractors, military detailees, and assignees that occur in an ODNI facility will be addressed under this Instruction to the extent permissible by law and the individual's employer.

**5. DEFINITIONS:** The terms used in this Instruction are defined in Appendix A.

**6. POLICY:**

A. The ODNI does not permit harassing conduct by anyone in the workplace. The ODNI is committed to a professional workplace free from bullying, threats or acts of violence, unlawful discrimination and harassment, and other adverse personal treatment of individuals that if left unaddressed may rise to the level of discriminatory harassment, violence, or other form of documentable harm. A healthy workplace is one where individuals are accorded respect, fairness, and dignity, regardless of their differences. All individuals must take appropriate measures to prevent all forms of harassment, bullying, or adverse treatment of any kind, in its earliest form and as soon as it is identified, in compliance with guidance and procedures set forth in this Instruction.

B. While Federal EEO laws, Executive Orders, and ODNI policy protect individuals from discrimination based on race, color, religion, sex (including pregnancy, gender identity or expression, sexual orientation, and transgender status), national origin, age (40 and over), parental status, disability, and genetic information, many adverse workplace behaviors that fall short of, or outside of, the legal definition of discrimination, may still create a toxic work environment and are prohibited by this policy. Behaviors that qualify as bullying, while not illegal discrimination, cause documentable harm to the recipient, create an environment of intimidation, damage morale and organizational cohesion, and detract from the mission. Further, left unaddressed, these behaviors may develop into illegal discrimination or violence. For these reasons, any individual who encounters, or witnesses, adverse workplace behavior as described in this policy has an obligation to report it to appropriate authorities so that appropriate action can be taken by ODNI management. Appendix A contains examples of behavior that constitute bullying.

C. Individuals who are recipients of the behaviors described in this policy must bring the situation to ODNI management's attention as soon as possible. If the matter occurs between peers, reporting the incident(s) to a supervisor is the ideal option for resolving issues promptly. Component Directors must ensure that all component managers and supervisors are aware of their responsibility to create a healthy workplace, eliminate adverse behaviors, and resolve issues as soon as they are identified. If for any reason the individual is uncomfortable with reporting the situation to a supervisor or manager in his or her supervisory chain, or if the individual perceives that someone in management is the perpetrator, the individual may make an official report of record with the Employee-Management Relations Officer (EMRO), with the intent of formal reporting and resolution on a documented basis.

D. Reports of harassment will be taken seriously and, where appropriate, investigated promptly to determine if harassing or inappropriate conduct is occurring and, if so, to take or recommend prompt remedial steps to stop it. Reports and investigations of harassment will be kept confidential to the extent possible. Where harassing or inappropriate conduct has occurred, Component Directors will ensure that appropriate corrective action is taken, which may include disciplinary action against the harasser(s) depending on the severity of the conduct.

**E. Making an Official Report to the EMRO:**

(1) Aggrieved individuals may bring matters regarding perceived harassment, bullying, violence, and other forms of adverse personal treatment directly to the EMRO. The EMRO will conduct an initial inquiry with the aggrieved individual and determine what further steps, including formal inquiry, may be needed to resolve the matter.

(2) When a formal inquiry is needed to resolve the matter, the EMRO will conduct one with all relevant parties in the work unit and management chain. The aggrieved individual and other relevant parties are required to cooperate with the inquiry process, and preserve any documentary evidence or other information relevant to allegations. Depending on the circumstances, the EMRO, in collaboration with component leadership, may decide to move either the individual alleged of bad behavior or the aggrieved individual (with his or her consent) to another position within the component until the inquiry is complete. The EMRO will bring the case to the attention of the Chief Management Officer (CMO) as soon as an inquiry has begun.

(a) When applicable, the EMRO will ensure promptly that all required offices of report for the particular matter are engaged on it.

(b) If the aggrieved individual, by law or policy, must report the matter to an office other than the EMRO, or to a parent organization or employer other than the ODNI (in the case of contractors, assignees, or detailees, the EMRO will refer the individual there immediately to ensure reporting deadlines are not missed and legal reporting channels established by law, contract, or agreement, are used.

(c) As needed, the EMRO generally will begin an initial inquiry concerning the report within 10 business days after receiving the report, and complete the inquiry within 30 business days after receiving the report.

(3) Upon conclusion of the inquiry, the EMRO will determine findings and discuss them with the CMO, and component leadership, when appropriate, for determination of measures that will resolve the matter, which may include administrative action as necessary. Regardless of the outcome, the EMRO will work with the component to ensure that component individuals receive focused anti-bullying training as appropriate.

**F. Reporting Alleged Discrimination to the Office of Intelligence Community Equal Employment Opportunity and Diversity (IC EEOD):** An individual always has

the right to bring allegations of perceived discriminatory acts or actions directly to IC EEOD, in accordance with Instruction 120.02. The EEO process and the anti-harassment program have different purposes. The EEO process is designed to make individuals whole for discrimination that already has occurred and to prevent the recurrence of the unlawful discriminatory conduct. The intent of the anti-harassment program, on the other hand, is to take immediate and appropriate corrective action, including the use of disciplinary actions, to eliminate harassing conduct regardless of whether the conduct violates the law. Ultimately, the goal of the anti-harassment program is to prevent harassing conduct before it can become "severe or pervasive."

(1) It is imperative, for the benefit of the aggrieved individual and the workplace environment, that matters be addressed as soon as they arise, ideally prior to rising to the level of legally defined discrimination. This is important both to resolve the matter promptly, and to ensure that when an issue of bona fide discrimination is substantiated, reporting deadlines are met, as described in Instruction 120.02.

(2) IC EEOD counselors will advise aggrieved individuals who report harassment to also contact the EMRO, or other appropriate office of report, for early engagement and resolution of the matter as thoroughly and promptly as possible. IC EEOD will promptly refer to proper channels any aggrieved individual who by law, contract, or agreement must report to a parent organization or employer other than the ODNI.

G. Component Directors must ensure that immediate and appropriate corrective action, including discipline, is taken whenever it is determined that behaviors described in this policy have taken place, or are taking place within the component. For incidents that are resolved in the component without outside inquiry or investigation, the component should consult with appropriate offices of report, and as needed, Mission Support Division (MSD)/Human Resources and MSD/Security to ensure implemented solutions are legally sufficient, fully address all concerns, and ensure the long-term safety and wellbeing of any individuals who are recipients of harassment. For recordkeeping and reporting purposes, corrective actions taken must be documented with the EMRO and IC EEOD.

**H. Penalties for Retaliation:** Retaliation against any individual for reporting harassment is strictly prohibited. An individual who inflicts any form of reprisal on another individual for pursuing resolution of bullying or other adverse workplace behaviors under this Instruction, or for seeking advice, discussing, planning to file, or filing a report of harassment may be subject to administrative action up to and including reassignment or termination. Federal EEO laws and ODNI policy also protect individuals from retaliation for opposing employment discrimination, participating in the EEO process (including previous EEO activities), reporting discrimination, or providing information related to reports of wrongdoing.

**I. Training Requirements:** All government personnel (i.e., cadre, detailees, and assignees) are required to take No FEAR Act training upon entrance on duty (EOD), and then every two years thereafter. Contractors are not required to take this course.

## 7. RESPONSIBILITIES:

A. **The Chief Management Officer** will provide policy oversight.

B. **The Employee-Management Relations Officer, or designee, will:**

(1) Implement this Instruction.

(2) Educate, advise, and counsel ODNI personnel about their rights and responsibilities in building a healthy work environment free from harassment, bullying, violence, and other deliberate acts of adverse personal treatment.

(3) Accept and conduct inquiries concerning allegations of bullying, violence, and other deliberate acts of adverse personal treatment.

(4) Accept and conduct inquiries concerning allegations of harassment that do not qualify as discriminatory harassment.

(5) Ensure that individual complaints are fairly and thoroughly investigated, and that all final actions are taken in a timely manner.

(6) Ensure the completeness, accuracy, and sufficiency of investigative files, and ensure they are appropriately addressed.

(7) Establish a tracking system to monitor inquiries and allegations of harassment.

(8) Ensure that the investigation is without conflict of interest or the appearance of a conflict of interest.

(9) Review, in discussion with the CMO, as appropriate, corrective actions taken by management in response to investigative results.

(10) Provide workforce training on healthy workplace considerations, including guidance in this policy.

(11) Ensure confidentiality of the aggrieved individual, to the extent possible throughout the process.

C. **The Chief, Office of the Intelligence Community Equal Employment Opportunity and Diversity, or designee, will:**

(1) Educate, advise, and counsel individuals in the ODNI about their rights and responsibilities under EEO discrimination statutes, building a work environment free of discrimination, and creating a diverse and inclusive work environment.

(2) Conduct informal pre-complaint counseling and process formal complaints of discrimination, as outlined in Instruction 120.02 and IPD 120.02a, and according to standards in law and those policies.

(3) Oversee ODNI compliance with the No FEAR Act.

(4) Ensure confidentiality of the aggrieved individual, to the extent possible, throughout the process.

**D. Component Directors will:**

(1) Ensure that individuals in their components comport themselves in a manner that ensures all individuals a healthy work environment that is free from harassment, bullying, violence, and other deliberate acts of adverse personal treatment.

(2) Ensure component government personnel complete required No FEAR Act training in accordance with paragraph 6.I. above.

(3) Ensure component individuals understand and comply with reporting requirements under this policy.

(4) Upon becoming aware of allegations of harassment falling short of discriminatory harassment; bullying; threats of violence; and other deliberate acts of adverse personal treatment, take immediate actions to stop them, so as to avoid the creation of a hostile work environment and to resolve issues before behavior or actions rise to the level of legal discrimination or acts of violence.

(6) Take whatever disciplinary and remedial actions are warranted by the facts, and by findings of offices of report, and protect all parties from reprisal.

(7) Upon receiving any allegation of harassment, refer the individual to the EMRO and IC EEOD. Additionally, if discriminatory harassment is alleged to managers, supervisors, or others with authority, ensure that they immediately notify IC EEOD.

(8) In compliance with preservation orders, ensure the preservation of any component records (as defined in Appendix A) that are relevant to inquiries or investigations under this policy.

(9) Ensure confidentiality of the aggrieved individual, to the extent possible, throughout the process.

**E. Aggrieved individuals will:**

(1) Promptly notify management or the EMRO of allegations of harassment falling short of discriminatory harassment, bullying, threats of violence, and other deliberate acts of adverse personal treatment.

(2) Notify IC EEOD of allegations of discriminatory harassment within timelines established in Instruction 120.02.

(3) Preserve any documents or other evidence relevant to matters of concern.

(4) Cooperate in the investigation of the complaint.

**F. All government personnel** will complete periodic No FEAR Act training in accordance with paragraph 6.I. above.

**G. All individuals in the ODNI** will:

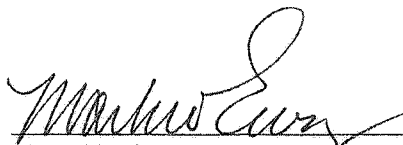
(1) Conduct themselves in a manner that contributes to a work environment that is free from bullying, threats or acts of violence, unlawful discrimination and harassment, and other adverse personal treatment of individuals.

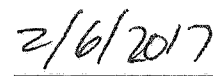
(2) Cooperate with the EMRO, and EEO counselors/investigators when applicable, during inquiries and investigations, and maintain the confidentiality of the inquiry or investigation.

(3) Preserve any documents or other evidence relevant to allegations under investigation or inquiry.

(4) Respect the confidentiality of the process.

**7. EFFECTIVE DATE:** This Instruction is effective upon signature.

  
\_\_\_\_\_  
Mark W. Ewing  
Chief Management Officer

  
\_\_\_\_\_  
Date

Appendix A: Definitions

## Appendix A

### Definitions

A. **Aggrieved Individual:** For the purposes of this policy, an individual who believes that he or she has been the target of harassment, bullying, threats and acts of violence, and other deliberate acts of adverse personal treatment, as described in this policy.

B. **Bullying:** Persistent, malicious, unwelcome, severe, and pervasive mistreatment, whether verbal, physical, psychological, or otherwise, that can be direct or indirect, by one or more perpetrators towards another individual or group of individuals that intimidates, degrades, excludes, sabotages, or humiliates the individual(s) in such a manner that it causes tangible physical (including stress-related), emotional or psychological, social (including social isolation), and/or economic harm. Some incidents of bullying also qualify as legally-defined discriminatory harassment, but anyone can be a potential victim of bullying, regardless of membership in a protected class, or lack thereof. Examples of bullying behavior include but are not limited to:

- (1) Slandering, ridiculing, demeaning, or maligning a person or his/her family, including to others.
- (2) Persistent name calling, including nicknaming, that is hurtful, insulting or humiliating, especially in front of others.
- (3) Making repeated abusive or offensive remarks, including personal attacks and profanity, directed towards a specific person.
- (4) Threatening or committing physical assault, including pushing, poking, deliberate kicking or tripping, stalking, making intimidating gestures, and communicating verbal threats of harm.
- (5) Damaging a person's work area, including taking, defacing, or destroying a person's work assets or personal property.
- (6) Sabotaging work, including taking credit for a person's work or ideas, denying critical assets, excluding a person from meetings, emails, or other necessary communications without good reason, and/or repeatedly ignoring or interrupting the person during meetings.
- (7) Setting unrealistic or arbitrary standards or goals for a person especially when they differ greatly from those of peers in the work group.
- (8) Deliberately assigning tasks not in keeping with normal responsibilities of the job, including tasks that are significantly below or above the person's grade or expected performance level.



(9) Intimidation, or abuse of power or authority by those in positions of seniority.

(10) Spreading derogatory gossip and rumors about a person, especially regarding the person's work performance, and/or encouraging others to turn against the person.

(11) Socially excluding or isolating a person from routine office-wide activities such as group lunches, office celebrations, and happy hours.

**C. EEO Counselor:** Any ODNI employee or contractor who, serving as a neutral, provides an aggrieved person with his or her rights and obligations under EEO laws, gathers limited data, and may attempt to facilitate resolution of an informal complaint.

**D. Discriminatory Harassment:** There are two types of discriminatory harassment: Harassment that culminates in a tangible employment action and harassment that creates a hostile work environment. Harassment violates Federal law if it is based on a factor prohibited by Federal EEO laws, regulations, and Executive Orders, also known as a prohibited basis (see paragraph 6.B). The federal anti-discrimination statutes are not a "general civility code" that prohibit offhand comments or isolated incidents, but are designed to prohibit conduct that is objectively offensive and that alters the conditions of the victim's employment. Discriminatory harassment includes sexual harassment.

**E. Harassment Allegation:** Any complaint, report, statement, or personal observation of behavior that is or might constitute prohibited harassment.

**F. Hostile Work Environment:** A work environment so pervaded by discrimination that enduring the conduct becomes a condition of continued employment, and/or a reasonable person would consider it intimidating, hostile, or abusive. The conduct must be unwelcome and must be so severe or pervasive that it: (1) creates a hostile, abusive or offensive work environment; or (2) unreasonably interferes with the aggrieved person's work performance. A hostile work environment can be created by individuals other than the supervisor, such as co-workers.

**G. Records:** For preservation purposes in inquiries and investigations: information, records or other material, including but not limited to cables, reports, finished intelligence, assessments, legal guidance, policy guidance, authorizations or approval, arrangements or agreements, research, briefings or notifications, legal letters, opinions and memoranda, standard operating procedures, formal or informal Memorandums for the Record, memorialized formal or information communications, Lotus Notes, e-mails, saved copies of instant messages, training manuals, handwritten notes, telephone records of any kind (including but not limited to any records that memorialize telephone calls having been made), voicemails, diary and calendar entries, and any computer, electronic, storage device or soft file documents or records of any kind.

**H. Retaliation:** An adverse employment decision or the threat of an adverse action reasonably likely to deter a reasonable person from pursuing protected EEO activity if the action (including harassment) or threat is taken because of the individual's opposition to

prohibited employment discrimination or participation in the EEO process, (i.e., raising an EEO concern, visiting the EEO office, filing an EEO complaint, or being a witness in an EEO complaint).

**I. Tangible Employment Decisions:** Actions that significantly change in employment status, such as hiring, firing, promotion and the failure to promote, formal discipline such as suspension and demotion, reassignment with significantly different responsibilities, compensation decisions, and decisions causing a significant change in benefits. Such actions are official acts, documented in agency records, subject to review by higher level supervisors, and often require formal approval through internal processes.

**J. Workplace Violence:** Any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the workplace, ranging from threats and verbal abuse to physical assaults (including sexual assault) and even homicide. Depending on circumstances, workplace violence may include acts of bullying or discriminatory harassment.