
United States Department of Agriculture
Marketing and Regulatory Programs
Animal and Plant Health Inspection Service

Agency Directive

APHIS 4340.1

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**WORKPLACE VIOLENCE AND
HARASSMENT PREVENTION AND RESPONSE PROGRAM**

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1. PURPOSE

Promoting and maintaining a safe, harassment-free work environment is essential to the welfare of all employees and to their ability to carry out the Animal and Plant Health Inspection Service (APHIS) mission. This Directive provides a consistent and effective procedure for responding to incidents of workplace violence, or its potential occurrence, as well as to allegations of harassment (as defined herein).

2. SPECIAL INSTRUCTIONS AND REPLACEMENT HIGHLIGHTS

- a. This is a new Directive.
- b. This Directive is in force until cancelled or superseded.

3. BACKGROUND

APHIS is committed to creating and maintaining a safe work environment in which all people are treated with dignity, fairness and respect, and where everyone can work and interact free from harassment. All APHIS employees have a responsibility to be alert to any potential for workplace violence and to report such behavior, as well as incidents involving any sort of harassment. In addition, supervisors and managers must take prompt action to address workplace violence and harassment. They must respond to related complaints, and they must ensure that no retaliation takes place against any employee or individual who reports or provides information about workplace violence or harassment. Failure to report any workplace violence or incident of harassment is a violation of this policy. All staff and supervisors are to take such reports seriously and to investigate them fully.

4. AUTHORITIES AND REFERENCES

This Directive must be applied in conjunction with:

- a. [5 U.S.C. 2302, Prohibited Personnel Practices;](#)
- b. [29 U.S.C. 701, The Rehabilitation Act of 1973;](#)
- c. [Title VII of the Civil Rights Act of 1964;](#)
- d. [29 CFR § 1625, Age Discrimination Employment Act;](#)
- e. [29 CFR § 1604, Guidelines on Discrimination Because of Sex](#) and [§1614, Federal Sectoral Equal Employment Opportunity;](#)
- f. [7 CFR § 15, Nondiscrimination;](#)
- g. [EEOC Management Directive 110, Agency Authority and Responsibility;](#)
- h. [EEOC Management Directive 715, Equal Employment Opportunity;](#)
- i. [USDA DR 4200-001, Workplace Violence Prevention and Response Program;](#)
[and,](#)
- j. APHIS Anti- Harassment Policy Statement, May 10, 2017.

5. DEFINITIONS

- a. Harassment. A form of discrimination against anyone of a protected basis (race, color, national origin, religion, sex (with sex including variously gender, sex-stereotyping, pregnancy, gender-identity, gender expression, and sexual orientation), age 40 or older, disability, genetic information, or retaliation under the anti-discrimination statutes) that culminates in a tangible employment action, as provided by the Equal Employment Opportunity Commission's guidelines and other policy documents.

Harassment of an individual based on that person's race, color, national origin, religion, sex (with sex including gender, sex-stereotyping, pregnancy, gender-identity, gender expression, and sexual orientation), age 40 or older, disability, or genetic information, or in retaliation, is unlawful if: (a) submission to or rejection of such conduct by an individual is made the basis for an employment decision affecting the individual; or (b) such conduct is sufficiently severe or pervasive to create a hostile work environment.

Harassment based on the perception that an individual has a particular protected characteristic, such as the belief that a person is a particular race, national origin, or religion; has a particular sexual orientation, or gender, based on gender stereotypes or gender expression, is prohibited by federal Equal Employment Opportunity (EEO) law, even if the perception is incorrect.

Whatever the basis for harassment against a complainant, the harassment is acknowledged to extend to anyone with whom the complainant associates outside of their protected class. This is evidenced in "associational discrimination," for which protections against harassment extend beyond the relevant protected group to any harassed associates.

Harassment that is based on the complainant's protected characteristic is also prohibited even if the harasser is a member of the same protected class.

In determining whether behavior deemed harassment has created a hostile work environment, APHIS employees and staff must examine all the circumstances related to the charge, including:

- (1) Whether the conduct was physically threatening or intimidating;
- (2) How frequently the conduct was repeated;
- (3) Whether the conduct was hostile and/or patently offensive;
- (4) The context in which the harassment occurred; and
- (5) Whether managerial staff responded appropriately when they learned of

the harassment charges.

- b. Workplace violence. Defined as any act of physical violence, threat of physical violence, harassment, intimidation, and other threatening, disruptive behavior occurring at the work site.

Workplace violence is manifested in four types of situations:

- (1) Those involving criminal intent;
- (2) Those involving an agency customer or client; including, members of the public; and, contractors;
- (3) Those involving a personal relationship;
- (4) Those involving co-worker violence on a co-worker.

Although co-worker-on-co-worker violence occurs far less frequently than the other types of situations, it is also likely the most preventable if employees can detect the warning signs and appropriately manage the situation.

Some early warning signs include a lack of cooperation or abusive language. This can escalate into verbalizing a desire to harm oneself or others, damaging property, or displaying rage or aggression. Being aware of the warning signs is the first step employees can take to prevent workplace violence.

6. SCOPE

This Directive is not intended to replace or impede application of the:

- a. Equal Employment Opportunity Commission discrimination complaint process found in Title 29 of the CFR, Part 1614;
- b. Agency discrimination complaint processes (also found in 29 CFR Part 1614);
- c. Any of the APHIS administrative grievance processes; and/or
- d. Negotiated grievance processes for employees in collective bargaining units.

This Directive also does not alter the filing deadlines for invoking those processes. This policy sets forth a procedure separate from those processes. Complaints of workplace violence and/or harassment may be made under this Directive, irrespective of whether any other applicable process is invoked. Such complaints may be made in addition to other applicable processes.

7. POLICY

- a. APHIS is committed to creating and maintaining a safe work environment in which all people are treated with dignity, fairness, and respect – free from harassment. This includes both EEO-related and non-EEO-related harassment. This policy applies to all APHIS employees in their working relationships with Federal employees, non-Federal employees, and the public. The policy also applies to persons employed under contract or other formal agreements with APHIS.
- b. Employees who witness incidents of intimidating or threatening behavior should immediately report these incidents to their supervisor and the Workplace Violence & Harassment Prevention & Response Program Coordinator using the contact information below. They should also submit the [APHIS Form 259-R](#), Workplace Incident Report
- c. While it is not possible to list all circumstances that may constitute unlawful harassment, the following are some examples of conduct, which, may constitute unlawful harassment, depending upon the totality of the circumstances:
 - (1) Use of electronic media to harass employees based on a protected status;
 - (2) Oral or written abuse and/or threats that may include teasing, jokes, bullying, insults, gestures, epithets, or remarks based on sex (including sex-stereotyping, sexual orientation, gender identity, or gender expression), race, age of 40 or older, disability, religion, national origin, color, or retaliation;
 - (3) Gossip regarding an individual's sex life; comments on an individual's body; comments about an individual's sexual activity, deficiencies, or prowess; or other lewd or obscene comments;
 - (4) Visual displays, including electronic media (e.g., screen savers) or printed media materials (e.g., posters, cartoons) in the workplace that are sexually explicit, derogatory, or demeaning of a particular color, national origin, race, religion, sex (including sexual orientation, gender identity, or gender expression), age, or disability;
 - (5) Demands to provide sexual favors; and
 - (6) Unwelcome or unsolicited physical contact, including touching, patting, pinching, hugging, grabbing, cornering, or brushing against another person's body.
- d. APHIS requires all responsible parties to take appropriate steps to investigate any

known incidents or reports of harassment and to remedy such situations. This includes implementing appropriate corrective and disciplinary action when a record of inquiry supports a finding that harassment has occurred, or when an employee, manager, or supervisor fails to follow the procedures in this policy.

- (1) Confidentiality as regards harassment complaints will be protected to the extent allowed by law. Only individuals who have a need to know in order to determine whether harassment occurred and to develop recommendations and implement corrective measures shall be made aware of harassment reports. As appropriate, APHIS staff will take measures to ensure that retaliation will not occur before, during, or after the inquiry or investigation. All employees are obligated to provide supportive information they possess to investigators or supervisors if the inquiry relates to official matters. This shall include promptly providing a signed, sworn statement, or providing other evidence related to the complaint.
 - (2) The Agency will appoint investigators who have received appropriate training to investigate allegations of harassment.
 - (3) Employees who believe they have experienced or have witnessed any type of harassment are encouraged to voice their objections concerning this behavior to the offending person and to report such incidents to a management official or report the harassment through wpv@usda.gov.
 - (4) Incidents of workplace violence should be immediately reported to management. Incidents of workplace violence in which the employee is subject to harassment by management, will be elevated to the next higher level.
- e. APHIS prohibits any retaliation against an employee who reports a concern about workplace violence and harassment or assists in any inquiry about such a report. This policy applies to all employees in their working relationships. Any suspected retaliatory response should be reported immediately and both promptly investigated and remedied in accordance with this Directive.

8. ROLES AND RESPONSIBILITIES

The implementation of the policy and procedures as established by this Directive requires the responsibilities of the following individuals and/or groups:

- a. Employees will:
 - (1) Support the Agency's policy against workplace violence and harassment;
 - (2) Monitor your own behavior to determine whether it could be interpreted as

harmful, harassing, or contributing to or creating a hostile work environment;

- (3) Know your personal rights and the complaint procedure;
- (4) Identify and take individual action to stop inappropriate behavior; and
- (5) Bring the matter to the attention of management, the Workplace Violence & Harassment Prevention & Response Program Coordinator, or the Civil Rights staff.

b. Managers and Supervisors will:

- (1) Inform all employees of this policy;
- (2) Immediately take appropriate action when informed of any incident of workplace violence or harassment by informing the Workplace Violence & Harassment Prevention & Response Program Coordinator and seeking consultation regarding any investigative or remedial action;
- (3) Managers and supervisors should report to the Workplace Violence & Harassment Prevention & Response Program Coordinator, any instances of workplace violence and/or clearly unwelcomed harassment of which they become aware in the normal course and scope of their management responsibility, even in the absence of a complaint under this Directive;
- (4) Management officials must take immediate action to mitigate any incident of workplace violence and/or to responsibly manage all allegations of harassment in a prompt and objective manner in accordance with timelines and procedures outlined in this Directive. Management should encourage any person to come forward and report violations of this policy; and
- (5) Where investigations establish that workplace violence and/or harassment have/has occurred, the responsible official shall take swift and appropriate management actions to include possible disciplinary action.

c. HR, Labor Management and Employee Relations (LMER) Branch will:

- (1) When allegations of workplace violence and/or harassment are reported by supervisory/managerial staff or directly by complainants to the LMER Staff, the LMER staff member will follow the complaint and investigative procedures as outlined in this Directive; and
- (2) Necessary coordination with Civil Rights staff and/or other investigative units will be accomplished as a part of the appropriate processing of the alleged violation of this Directive.

- d. Deputy Administrators will review the Report of Investigation and consult with LMER on the appropriate corrective action.
- e. HR, Administrative Investigations and Compliance Branch (AICB) will be responsible for all investigations of workplace violence and non-EEO related harassment.
- f. The Office of Civil Rights Diversity and Inclusion (OCRDI) will be responsible for allegations of harassment in violation of this Directive when reported to the EEO Counselor. The EEO Counselor will have the employee fill out the [APHIS Form 259-R](#) for handling allegations pursuant to the complaint procedures outlined in this Directive.

9. PROCEDURES

If there is imminent danger, employees should immediately call 911 or the appropriate emergency services agency in their area.

This Directive establishes the following procedures:

a. Reporting an Incident

An employee who believes they have been subjected to conduct that is in violation of this Directive is to immediately report the conduct to any of the following:

- (1) Immediate Supervisor;
- (2) Any Management Official in the employee's chain of command; or the
- (3) Workplace Violence & Harassment Prevention & Response Program Coordinator.

Although an oral report may be accepted, the employee may be required to follow-up the oral complaint in writing with all known details.

Supervisors and management officials must take immediate action upon receiving any report of workplace violence. They must also, within **48** hours of being made aware of any allegations of harassing conduct, report such conduct to the Workplace Violence & Harassment Prevention & Response Program Coordinator. Failure to report an incident of harassment may result in administrative action, including disciplinary action.

b. Investigative Procedures

- (1) When an employee reports allegations of workplace violence and/or harassment, the Workplace Violence & Harassment Prevention & Response Program Coordinator will review the allegations and refer the allegations to the appropriate investigative authority.
- (2) The APHIS, HR, AICB is responsible for all investigations of workplace violence and non-EEO related harassment.
- (3) When the AICB substantiates workplace violence and/or harassment allegations, a Report of Investigation will be forwarded to the Deputy Administrator of the program area related to the allegations and to the LMER Branch for appropriate corrective action.

Employees may submit incidents to the Workplace Violence & Harassment Prevention & Response Program Coordinator by calling the Workplace Violence & Harassment Prevention & Response Program Hotline at 1-866-234-3174; or the Workplace Violence & Harassment Prevention & Response Program Coordinator at 301-807-5076 (cell); or sending an email to wpv@usda.gov.

c. Statutory and Collective Bargaining Claims

This policy is **in addition** to statutory and collective bargaining prohibitions against harassment and the procedures and remedies they provide for addressing unlawful harassment. Filing a report under this Directive **does not** satisfy the requirements to initiate those procedures and obtain remedies pursuant to them, **nor does it delay the time limits for initiating those procedures**. An employee who chooses to pursue statutory or collective bargaining remedies for unlawful harassment must:

- (1) For an EEO complaint pursuant to 29 CFR § 1614, contact an EEO counselor within 45 days from the date of the alleged harassment (or effective date of the personnel action if one is involved); or
- (2) For a collective bargaining claim, file a grievance in accordance with the provisions of the Collective Bargaining Agreement; or
- (3) Initiate an appeal to the Merit Systems Protection Board within 30 days of an appealable adverse action as defined in 5 CFR § 1201.3.

10. TRAINING

- a. All managers, supervisors and employees are required to take mandatory Anti-Harassment Training every two years through AgLearn. An APHIS Official Notice will announce the mandatory training.

- b. Additional training on recognizing the warning signs of workplace violence and responding appropriately is available and encouraged. Requests for such training should be submitted to wpv@usda.gov.

11. FORMS

The form referenced and required for use as established by this Directive is the [APHIS Form 259-R](#), Workplace Incident Report.

12. RECORDS MANAGEMENT

Federal records created by this Directive must be maintained in accordance with the established [General Records Schedule \(GRS\)](#) and/or the [APHIS](#) Records Management Handbook when applicable. If employees are named in an active litigation hold, Freedom of Information Act (FOIA) request, and/or other action, those records, regardless of media, must be preserved and maintained in their native format until otherwise notified by your Agency Records Officer and/or the Office of General Counsel.

- a. [MRP Information Technology, Information Management Branch \(MRP-IT, IMB\)](#) is the official recordkeeper of this Directive which is to be preserved permanently, per [Paperwork and Data Management \(PDM\) 4-1](#).
- b. APHIS, HR, AICB is the official recordkeeper of APHIS Form 259-R and Reports of Investigations, which will be destroyed 5 years after receipt of the initial incident report, in accordance with [GRS 2.2, Employee Management Records](#).

13. INQUIRIES AND ADDITIONAL INFORMATION

- a. General inquiries concerning this Directive may be directed to the WPVPR Hotline at 1-866-234-3174 or via email to wpv@usda.gov.
- b. Inquiries for Civil Rights can be directed to the Counseling and Resolution Staff at (301) 851-4200 or 1-800-342-7231 or ocrdi.counseling.resolution@usda.gov.
- c. Records management related inquiries should be directed to the correct [APHIS Program Records Management Liaison](#).
- d. Persons with disabilities who require alternative means for communication of this policy (Braille, large print, audiotape, etc.), should contact the United States Department of Agriculture's TARGET Center at (202) 720-2600 (voice and TDD) for assistance.

- e. This Directive can be accessed online via the [APHIS Directives Web page](#).

/s/

Doug Nash

Deputy Administrator

MRPBS Business Services