

COMMISSION OF FINE ARTS

ANTI-HARASSMENT POLICY

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The Commission of Fine Arts (CFA or Commission) strives to create an environment in which its employees are valued and treated with dignity and respect. To that end, harassment/harassing behavior which is based on age (40 and older), disability, equal pay/compensation, genetic information, national origin, pregnancy, race/color, religion, retaliation, sex (including gender identity and sexual orientation), sexual harassment—as well as political affiliation and marital/parental status—is strictly prohibited by the CFA.¹ The CFA has established the following procedures to be used by any employee who believes that he/she/they is or are the victim of unlawful harassment.²

For the purpose of this Policy: Harassment is defined as any unwelcome and/or humiliating verbal or physical conduct that demonstrates hostility or aversion towards a person based on any of the above protected characteristics when:

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

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

Offensive conduct may include, but is not limited to, offensive jokes, ridicule or mockery, slurs, epithets, insults or put-downs, name calling, physical assaults or threats, intimidation, the display or presentation of offensive objects, images, or pictures, and interference with work performance. Harassment can occur in a variety of circumstances, including, but not limited to, the following:

- The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.
- The victim does not have to be the person harassed but can be anyone affected by the offensive conduct.
- Unlawful harassment may occur without economic injury to, or discharge of, the victim.

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

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

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

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

Policy against Harassing Conduct

The CFA will strive to limit and address any harassing conduct by treating it as misconduct, even if it does not rise to the level of harassment actionable under EEO laws. A hostile environment claim under Title VII usually requires showing a pattern of offensive conduct. The CFA will not wait for such a pattern to emerge. Rather, the Commission will act before the harassing conduct can become so pervasive and offensive that it would constitute a hostile environment. In the usual case, a single utterance of a sexual, sex-based, ethnic or racial epithet that offends an employee would not be severe enough to constitute unlawful harassment in violation of Title VII; however, it is the Commission's view that such conduct is inappropriate and must be stopped. The Commission also will not tolerate retaliation against any employee for making a good-faith report of harassing conduct under this or any other policy or procedure, or for assisting in any inquiry about such a report, or for participating in the discrimination-complaint process. Complaints of such retaliation shall be handled pursuant to the procedure in this policy.

Procedures and Responsibilities

Responsibilities of the Secretary

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

Responsibilities of Commission Employees

1. Each Commission employee shall be responsible for:
 - a. Acting professionally and refraining from harassing conduct;
 - b. Becoming familiar with the provisions of this Policy via anti-harassment awareness campaigns, required training and individual initiative;
 - c. Complying with all requirements of the Policy and cooperating with any inquiry arising from this Policy; and,
 - d. Reporting unsettling experiences or observations before a pattern of misconduct as pervasive and offensive as to constitute a hostile environment is established.³

Responsibilities of Supervisors and Managers

1. All supervisors and managers shall be responsible to:
 - a. Act immediately and appropriately to prevent harassment in the workplace and retaliation against those who complain of harassment;
 - b. Report to the Secretary any incident of harassing conduct that they witness or is otherwise brought to their attention;
 - c. Receive and handle allegations of harassing conduct promptly and appropriately utilizing the procedures set forth in this Policy;
 - d. Coordinate with the Secretary regarding initial actions employed to stop any harassing conduct and prevent further harassment to ensure that further misconduct does not occur; and,
 - e. Consult with the Administrative Officer and/or the U.S. Department of the Interior Office of General Counsel or EEOC Office (with which the CFA has Inter-Agency Agreements for legal and EEO services) regarding the use of procedures set forth below to take immediate and appropriate corrective and disciplinary action, up to and including removal, against personnel who have engaged in harassing conduct or who have not carried out their responsibilities under this Policy.

Reporting Harassment

Early reporting and intervention have proven to be the most effective method of resolving actual or perceived incidents of harassment. Therefore, while no fixed reporting period has been established, the CFA strongly urges the immediate reporting of complaints or concerns so that rapid and constructive action can be taken. The CFA will make every effort to stop alleged harassment before it becomes severe or pervasive but can do so only with the cooperation of its employees.

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

- A. Any person who believes that he/she/they has or have been the subject of an incident of harassing conduct, including sexual harassment, in violation of this Policy should report this matter to any of the following (in no hierarchical order): (1) the employee's immediate supervisor or anyone in the person's supervisory chain; (2) the Secretary, (3) Assistant Secretary, (4) Administrative Officer, and/or (5) the U.S. Department of the Interior Inspector General (IG) via the IG's Hotline or other means. All information will be maintained in a confidential manner to the greatest extent possible. The maintenance of records and any disclosure of information from these records shall be in complete compliance with the Privacy Act, 5 U.S.C. 552a. Such information, for example, may have to be disclosed to defend the Commission in any litigation to which the information may be relevant and necessary. Further, information may need to be disclosed to those officials and employees within the Commission with a need to know to carry out the purpose and intent of this Policy.

³ Employees are encouraged to inform the harasser directly that the conduct is unwelcome and must stop. Employees should also report harassment to management at an early stage to prevent its escalation. The Commission cannot correct harassing conduct if the conduct is not known. When an employee unreasonably fails to take advantage of this procedure and does not immediately report an incident of harassing conduct as set forth herein, the Commission reserves the right to raise this failure as a defense against a suit for harassment.

- B. While all employees are encouraged to report harassing conduct as defined by this Policy, a supervisor or manager who receives an allegation or witnesses harassing conduct shall immediately:
 - 1. Inform the Secretary or a member of the agency management and seek guidance as to further actions;
 - 2. Take action to stop any harassing conduct (as defined previously) and prevent further harassment while the allegations are being investigated, including granting of appropriate interim relief to the alleged victim of harassing conduct; and,
 - 3. Document the allegation received and the efforts to address it.

The Administrative Officer will track claims of harassment and assess the need for targeted training.

Reminder: Please note that allegations of harassment may also be addressed (additionally, or simultaneously) by employees through the agency's EEO Complaint process.

Inquiries into Allegations of Harassing Conduct

- A. When the a member of the agency management receives an allegation of harassing conduct, either directly by the complainant or through a supervisor, manager or other sources, within 10 calendar days he/she/they shall ensure that an immediate, thorough, impartial, and appropriate investigation is initiated (to include a written Summary of Findings and recommendations for appropriate action), both to stop any harassing conduct and prevent further harassment, while the allegations are being investigated. Such inquiries will be conducted thoroughly, impartially, and promptly.
- B. In all instances where an official determines that harassment as occurred, the offending employee's supervisor will take timely and appropriate corrective actions against the offending employee, including disciplinary actions. If a supervisor becomes aware of any harassment or other unlawful discrimination by any subordinate(s), but fails to take timely and appropriate corrective action, the supervisor may be disciplined as well.
- C. Where an investigation is necessary, a written summary of the investigation shall be prepared by the individual conducting the investigation. (The summary may be brief, depending on the complexity and seriousness of the case.) The summary shall be prepared promptly after completion of the inquiry and shall be submitted to the Secretary, Administrative Officer, and/or other appropriate management official who would be responsible for taking disciplinary action against the alleged harasser, if the allegations are determined to be true. If allegations are raised against the Secretary, an appropriate senior level official will be designated to fill this role.
- D. The summary of the investigation or other documentation prepared under this procedure shall be kept confidential, to the extent possible. The maintenance of records and any disclosures of information from these records shall be in complete compliance with the Privacy Act, 5 U.S.C. 552a. Such information may, for example, have to be disclosed to defend the Commission in any litigation to which the information may be relevant and necessary.

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

Action to be taken upon Completion of the Inquiry

- A. Upon completion of the inquiry, Commission management in consultation with the U.S. Department of the Interior, Office of General Counsel or EEOC office (with which the CFA has Inter-Agency Agreements for legal and EEO services), will take immediate and appropriate corrective action within 60 days of receiving harassment allegations. In cases of complex or egregious alleged harassing conduct, the manager/supervisor should seek immediate guidance from the U.S. Department of the Interior, Office of General Counsel and/or EEOC office.

- B. Where the inquiry establishes that a manager or supervisor did not properly carry out the responsibilities provided for under this Policy, he/she/they shall be subject to appropriate disciplinary action up to and including removal.

This Policy was adopted on March 21, 2022.



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