

NEA Anti-Harassment Policy and Procedures

- I. **PURPOSE.** The purpose of this Anti-Harassment Policy is to prevent harassment in National Endowment for the Arts (“Arts Endowment”) facilities and services; encourage the reporting of harassing conduct; correct harassing behavior at the outset, and before it becomes severe or pervasive; and ensure that all Arts Endowment employees, contractors, interns, visitors, and stakeholders are aware that the Arts Endowment does not tolerate harassment or discrimination.

It is the policy of the Arts Endowment to provide a safe and pleasant work environment where everyone is treated with fairness and respect. It is imperative that all Arts Endowment employees commit to fostering a culture of trust, respect, and integrity. In that regard, we must all work together to ensure that all agency employees can work in an atmosphere that is free from harassment, discrimination, and retaliation. Among the types of conduct prohibited by this policy are epithets, slurs, jokes, negative stereotyping, intimidating acts, and the circulation or posting of written or graphic materials that show hostility toward individuals because of their protected status. The Arts Endowment prohibits this conduct in the workplace, even if the conduct is not sufficiently severe or pervasive to constitute unlawful harassment. Harassment of employees in the workplace by any third party will not be tolerated either. All employees, including supervisors and other management personnel, are expected and required to abide by this policy.

- II. **DEFINITION OF HARASSMENT.** This directive covers conduct that falls within the Equal Employment Opportunity Commission’s (EEOC) definition of unlawful harassment, as well as other prohibited conduct. The EEOC definition of unlawful harassment, and the definition under this policy, is any unwelcome conduct, **verbal or physical** (sexual or non-sexual), based on race, color, religion, sex (including pregnancy, gender identity or expression, sexual orientation, and sex-stereotyping), national origin, age (40 and over), disability, reprisal or genetic information, and any other reason prohibited by law. To rise to the level of unlawful harassment, conduct must be severe or pervasive.

This policy also covers hostile or abusive conduct based on race, color, religion, sex (including pregnancy, gender identity or expression, sexual orientation, and sex-stereotyping), national origin, age (40 and over), disability, or genetic information, marital status, political affiliation, status as a parent, and any other reason prohibited by law. **Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, supporting or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.**

Also prohibited is harassment against an individual in retaliation for that person filing a discrimination charge, supporting or participating in an employment discrimination proceeding (such as an investigation or lawsuit), or opposing discriminatory employment practices. Additionally, harassment that is threatening, intimidating, and/or bullying will not be tolerated. Examples of prohibited harassing conduct may include but are not limited to: physical touching; offensive jokes or phrases; sexual looks or gestures; offensive objects or photos at work; and persistent requests for dates or social engagements. Other examples include when a supervisor coerces an employee into an unwelcome sexual relationship and then rewards the employee, or when a supervisor takes disciplinary action or denies a promotion to an employee because he or she rejected sexual advances from the supervisor.

III. RETALIATION. The Arts Endowment will not tolerate retaliation against any employee for reporting harassing conduct under this policy or any other procedure, or for supporting or assisting in any investigation about such a report. Complaints of such retaliation will be handled pursuant to the procedures in this policy.

IV. REPORTING HARASSMENT. If you believe you have been subjected to harassing conduct as outlined above in section II, **and even if you are unsure whether it has risen to the level of unlawful harassment**, you should promptly report the incident by one or more of the following methods:

- 1) Report the incident to your immediate supervisor in writing or orally.
- 2) If your supervisor is involved with the incident, or for some other reason you do not want to involve the immediate supervisor, an incident may be reported directly to the second level manager or any available supervisor.
- 3) You may report incidents to the Director of Human Resources (DOHR) at (202) 682-5405.

You are not required to only report an allegation using the anti-harassment policy. You may choose another avenue for pursuing your concerns, such as the [EEO complaint process](#) if the EEO process applies. You should be aware that the anti-harassment process is **NOT** the same as the EEO complaint process.

If you observe or become aware of others being harassed, you are strongly encouraged to report harassment using the procedures above. Additionally, you may report harassment incidents anonymously by placing information in the Arts Endowment harassment *Report It!* box located in the hallway next to the 3rd floor kitchen. Be aware that it is unlawful to retaliate against complainants, witnesses, and others who provide information concerning such conduct.

V. CONFIDENTIALITY. All information will be maintained on a confidential basis to the greatest extent possible. The maintenance of records and any disclosures of information from these records will be in complete compliance with the Privacy Act. Such information, however, may have to be disclosed in litigation to which the information may be relevant and necessary. Further, information may need to be disclosed to those officials and employees within the Arts Endowment with a need

to know in order to carry out the purpose and intent of this policy. However, unauthorized disclosure of information by any employee regarding allegations of harassment is strictly prohibited.

- VI. **TRAINING.** The Office of Human Resources will train all supervisors and managers (including new hires) on the proper procedure for conducting a management inquiry. Upon completion of the training, each trained manager will receive a certificate of completion.
- VII. **INQUIRY.** All supervisors and managers receiving an allegation of harassment are required, and have an affirmative duty, to promptly report the incident to the DOHR following this policy, but no later than within five days of receipt of the harassment allegation. The responsible manager/supervisor and the DOHR or designee will work to ensure that a prompt, thorough and impartial management inquiry is conducted, and will resolve allegations of harassing conduct following the procedures outlined in this policy.

If a potential conflict is identified with the DOHR conducting the inquiry, the Arts Endowment Office of General Counsel (OGC) will decide whether a conflict exists and will provide guidance on how to proceed with the inquiry. The employee raising the allegation will be notified in writing if OGC determines it will manage the inquiry process.

The DOHR or OGC will make every effort to have inquiries completed as quickly as possible within 60 days, absent circumstances that may extend the time needed for inquiry. In cases where factors require a delay, such as external services being required, OGC will provide notification to the employee along with an estimated timeframe for completion of the inquiry.

- VIII. **ACTION.** The Arts Endowment manager receiving the harassment allegation, in consultation with the DOHR or designee, will document all reported instances of alleged harassment. Any manager receiving an allegation of harassing conduct, in consultation with the DOHR or designee, will promptly evaluate the information and conduct an inquiry. **The inquiry will be initiated within 10 days of management's receipt of the allegation.**

If appropriate, the Arts Endowment may provide interim relief (short-term actions taken to address alleged harassing conduct) to employees who believe they are victims of harassing conduct.

The manager/supervisor will work with the DOHR to prepare a written summary of the inquiry. A copy of the written summary will be maintained by the DOHR or designee. Where an inquiry is completed by an external agency, that official will prepare a written summary of the inquiry and provide it to the DOHR. The DOHR will review the summary with the manager/supervisor responsible for determining any appropriate corrective action. OGC may also review the summary to assess any potential agency liability. The summary will be prepared within 60 days of completion of the inquiry and, absent extenuating circumstances, the employee will then be notified of the findings.

After reviewing the written summary, if it is determined that harassment has occurred, the responsible manager will take immediate and appropriate corrective action, up to and including removal, within 60 days of receiving the report of harassment. OHR and OGC may consult on each written summary to determine whether the alleged conduct meets the legal definition of harassment. The manager, in consultation with OHR, may also recommend corrective action or discipline for inappropriate conduct that does not meet the legal definition of harassment. The Arts Endowment will also take immediate corrective action against supervisors who do not fully carry out their responsibilities under this policy, and will not tolerate retaliation against any employee for reporting an allegation of harassing conduct or for participating in any management inquiry or related proceeding.

- IX. OTHER APPLICABLE PROCEDURES.** Any employee wishing to also initiate an EEO complaint arising out of an alleged incident of harassment related to the categories of race, color, religion, sex (including pregnancy, gender identity, sexual orientation, and sex-stereotyping), national origin, age (40 and over), disability, genetic information, and/or retaliation must contact the Arts Endowment Office of Civil Rights within 45 calendar days of the incident. For more information, visit <http://arts.gov/open/civil-rights-office/nea-civil-rights-complaint-process>.

The employee may initiate either a harassment complaint or an EEO complaint, or the employee may choose to pursue both options simultaneously. However, the employee should not wait until the agency's internal harassment inquiry is completed to contact an EEO counselor if waiting will allow the 45-day time limit to expire. The procedures of this policy are separate from statutory and collective bargaining claims.



Mary Anne Carter
Chairman

10/13/2020

Date