



MEMORANDUM FOR: All USAGM Personnel

FROM: Kelu Chao, Acting Chief Executive Officer

A handwritten signature in black ink, appearing to read "Kelu Chao", positioned to the right of the "FROM:" line.

DATE: April 15, 2022

SUBJECT: **Policy Prohibiting Harassment**

The U.S. Agency for Global Media ("USAGM" or "Agency") hereby adopts a zero-tolerance policy regarding all forms of discrimination and all forms of harassment, including but not limited to hostile work environment. This zero-tolerance policy means that the Agency will not tolerate any form of unlawful discrimination, harassment, or harassing conduct by or toward any person in the Agency's workplace. USAGM is committed to enforcing this zero-tolerance harassment policy at all levels within the Agency.

#### **SCOPE OF THIS POLICY**

This policy protects all federal employees, contractors (including personal services contractors), vendors, or other persons in the Agency's workplace (collectively "covered persons"). The policy covers harassment of covered persons by anyone in the workplace – supervisors, co-workers, or nonemployees.

The policy is designed to encourage employees to report harassment before it becomes severe or pervasive.

This policy prohibits all forms of harassment, harassing conduct, and discrimination. It is unlawful to harass or discriminate against a covered person based on legally protected characteristics. It is also unlawful to harass a covered person as reprisal for protected activity, as further described in the harassment definition below.

#### **HARASSMENT DEFINITION**

*Unlawful harassment* is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967 (ADEA), the Americans with Disabilities Act of 1990 (ADA), and Title II of the Genetic Information Nondiscrimination Act of 2008 (GINA). Unlawful harassment is a pervasive form of unwelcome conduct that is based on sex, age, disability, perceived disability, genetic information, marital status, sexual orientation, pregnancy, gender identity, race, color, religion, national origin, veteran status, or reprisal.

*Unwelcome conduct* becomes *unlawful harassment* when: 1) enduring the offensive conduct becomes a condition of continued employment; 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive; or 3) a one-time incident is egregious enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

*Unwelcome conduct* that may constitute *unlawful harassment* includes, but is not limited to, offensive jokes, slurs, epithets or name-calling, physical assaults or threats, intimidation, ridicule or mockery,

insults or put-downs, displaying offensive objects or pictures, and interference with work performance.

The *harasser* may be any federal employee, contractor (including a personal services contractor), vendor, or any other person in the Agency's workplace. Any person affected by the harasser's conduct may file a complaint even though the unlawful conduct was not intended to have an effect on them (e.g., the person was a witness to the harassment, rather than an intended target).

However, not all unwelcome conduct constitutes unlawful harassment. To be unlawful, the conduct must create a work environment that could be intimidating, hostile, or offensive to reasonable people. Accordingly, petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of unlawful harassment. In addition, a pattern of unwelcome conduct that is not based on a legally protected characteristic is not unlawful harassment, even though this pattern of conduct may warrant disciplinary or other corrective action. Lastly, legitimate performance-based or conduct-based management actions are not considered harassment solely because the action is unfavorable to an employee.

Anti-discrimination laws also prohibit harassment as reprisal against individuals for filing a discrimination complaint or charge, testifying or participating in any investigation, proceeding, or lawsuit under the laws listed below, or for opposing employment practices that the covered person reasonably believes discriminate against individuals in violation of Title VII of the Civil Rights Act of 1964, the ADEA, the ADA, or GINA.

#### **CONDUCT PROHIBITED BY THIS POLICY**

USAGM prohibits harassment and all forms of discrimination based on sex, age, disability, perceived disability, genetic information, marital status, sexual orientation, pregnancy, gender identity, race, color, religion, national origin, veteran status, reprisal, or any other legally protected characteristic. All Agency covered persons are prohibited from harassing other covered persons. This prohibition of harassment applies regardless of whether or not the incident(s) of harassment occur during work hours; and to the maximum extent allowable, this prohibition of harassment is intended to apply regardless of whether or not the incident(s) of harassment occur on the Agency's premises.

#### **PRIMARY RESPONSIBILITY**

The USAGM Office of Civil Rights (OCR) Director will assign an Anti-Harassment Program Coordinator (AHPC) from among OCR staff to administer this policy. The AHPC may be contacted at (202) 920-2665 or via email at [ocr@usagm.gov](mailto:ocr@usagm.gov).

The AHPC function will be separate from the EEO Complaints Manager position, and the OCR Director will ensure appropriate separations between the anti-harassment program and the EEO complaint process.

#### **PROCEDURES**

If covered persons believe they have been harassed, or subjected to a hostile work environment, any covered person may address the incident directly with the alleged harasser, inform the alleged harasser that their behavior is offensive, and ask the alleged harasser to stop. If the harassment does not cease, or if the covered person is unable to, does not wish to, or is uncomfortable addressing the alleged harasser directly, the covered person should immediately report the incident to the covered person's immediate supervisor, any manager in the covered person's supervisory chain, or alternatively the AHPC. When the covered person believes a member of that person's supervisory

chain committed the act of harassment, the covered person should report the incident to a higher-level manager in the supervisory chain or the AHPC.

It is important to report any and all incidents that may be harassment to an Agency manager or supervisor, or the AHPC. Management must be made aware of the incident so that it can conduct an immediate, impartial, and thorough investigation and take appropriate action to prevent the prohibited conduct from reoccurring or continuing.

USAGM managers and supervisors must act expeditiously and fairly when they receive an allegation involving harassment or hostile work environment, regardless of whether or not the claim of harassment is within their department or area of supervision or whether or not there is a written or formal complaint.

When the AHPC receives a complaint alleging harassment, the AHPC ensures that the investigation process is managed appropriately. The AHPC will notify the appropriate management official(s) immediately after receiving a complaint of harassment. The AHPC will ensure that an investigation begins within ten days after the Agency receives a complaint of harassment and that an investigator meets with the individual filing a complaint or alleging that an incident of harassment occurred (the "Complainant") and the accused individual (the "Respondent"), as well as any witnesses. The investigation may be conducted by either an internal or external investigator designated by the AHPC. The AHPC may also provide guidance on USAGM's harassment policy and procedures for conducting any investigation, explore informal means of resolving harassment complaints, notify appropriate law enforcement officials if criminal acts are alleged, and inform relevant parties that an investigation will take place to determine if Agency policy has been violated, which will result in a written report.

Responsibility for USAGM managers and supervisors to act expeditiously and fairly investigate all allegations of harassment is separate from the Equal Employment Opportunity (EEO) complaint process, managed by OCR. Investigations into claims of harassment must proceed regardless of whether the employee has or will engage the EEO complaint process. Covered persons may engage the EEO complaint process at any time, regardless of whether a separate management investigation is on-going. However, please note that, allegations of discriminatory harassment must be raised with an EEO official within OCR ***within 45 calendar days*** of the date the most recent incident occurred. OCR may be contacted at (202) 920-2665 or via email at [ocr@usagm.gov](mailto:ocr@usagm.gov).

## **ENFORCEMENT**

USAGM will take immediate corrective action whenever Agency management determines that a covered person has committed harassment in violation of this policy. Any corrective action should occur within sixty days after Agency management receives a complaint of harassment. Any and all covered persons who violate this policy are subject to appropriate discipline, or contract termination in the case of a contractor. If an investigation results in a finding that this policy has been violated, the mandatory minimum discipline is a written reprimand. Except that, for supervisors or managers who retaliate against employees in violation of this policy, the minimum discipline for a first offense is a three-day suspension, and the minimum discipline for a second offense is removal. The discipline for very serious or for repeat violations is termination of employment or contract with USAGM and removal from Federal Service. Persons who violate this policy may also be subject to civil damages in civil court or criminal penalties in criminal court.

## **RECORDKEEPING AND CONFIDENTIALITY**

The AHPC will retain all records regarding an inquiry into reports of harassment, and Agency disclosures of information from these records will comply with the Privacy Act, Title 5 USC 552a. USAGM will protect the confidentiality of individuals bringing harassment claims to the extent possible. Information is revealed strictly on a need-to-know basis. However, the identity of the Complainant is usually revealed to the Respondent and witnesses. All supervisors and managers are required to take appropriate and adequate steps to ensure that the Complainant is protected from reprisal to the extent possible.