

MS 645 Anti-Harassment Program

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Responsible Offices: Office of Civil Rights, Office of Global Operations, Office of Human Resources, Office of the General Counsel

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Attachment

Attachment A – Anti-Harassment Procedures versus the Equal Employment Opportunity Complaint Process

1.0 Purpose

The purpose of this Manual Section is to set out the policy prohibiting Peace Corps Staff, as defined by this section, from engaging in harassment, including sexual harassment, of other Peace Corps Staff and Volunteers.

This Manual Section also establishes an Anti-Harassment Program that will take immediate corrective action, including the use of disciplinary actions, to eliminate harassing conduct regardless of whether the conduct violated the law. The goal of the Anti-Harassment Program is to prevent harassing conduct before it can become “severe or pervasive.”

2.0 Authority

- (a) Peace Corps Act, Section 5(a), 22 USC §2504(a); 29 CFR Part 1614.
- (b) Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. S 2000e-16.
- (c) Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. S 633a.
- (d) Rehabilitation Act of 1973, as amended, 29 U.S.C. SS 791, 794, and 794a.
- (e) Vietnam Era Veterans Readjustment Assistance Act of 1974, as amended, 38 U.S.C. 4214.
- (f) Americans with Disabilities Act of 1990, 42 U.S.C. S 12101 et seq.
- (g) Executive Order 13087 (May 28, 1998), amending Executive Order 11478 (August 9, 1969), Equal Employment Opportunity in Federal Government.
- (h) Executive Order 13152 (May 2, 2000), amending Executive Order 11478 (August 9, 1969), Equal Employment in Federal Government.
- (i) Title 5, United States Code (U.S.C.) Section 2302, “Prohibited personnel practices.”
- (j) 29 CFR Subpart A - Agency Program To Promote Equal Employment Opportunity.
- (k) Equal Employment Opportunity Commission Management Directive 715, “Federal responsibilities under Section 717 of Title VII and Section 501 of the Rehabilitation Act” (October 1, 2003).

- (l) Equal Employment Opportunity Commission, “Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors,” No. 915.002 (June 18, 1999).

3.0 Scope

This Manual Section applies to all Peace Corps Staff, as defined in this Manual Section. For the anti-harassment policy regarding the conduct of Volunteers, *see* MS 204 *Volunteer Conduct*.

4.0 Definitions

The following defined terms are based on definitions in applicable statutes and regulations:

- (a) **Harassment** is unwelcome conduct toward any individual or group based on race, color, religion, sex, national origin, age (40 years or older), disability, genetic information, pregnancy, childbirth, or related medical condition, political affiliation, having previously participated in a protected Equal Employment Opportunity (EEO) activity or any other basis protected under the law. Unwelcome conduct rises to the level of harassment under this policy where:
 - (1) The conduct culminates in a tangible employment action or a tangible action by Staff impacting Volunteer service; or
 - (2) The conduct is severe or pervasive enough to create a work or Volunteer environment that a reasonable person would consider intimidating, hostile, or abusive.
- (b) **Sexual Harassment** is harassment based on sex. It may include unwelcome sexual advances, requests for sexual favors, or other verbal or physical harassment (not physical assault) of a sexual nature or based on sex.
- (c) **Staff** means an individual engaged by the Peace Corps, whether full-time or part-time, permanent or temporary, supervisory or non-supervisory, and includes but is not limited to U.S. direct hires (USDHs), experts, Foreign Service Nationals, personal services contractors, Staff of certain other services contracts (as defined in the MS 645 *Anti-Harassment Program Procedures*), interns and Federal work study students, or any individual applying for one of those positions.
- (d) **Office Head** means any domestic Director or Chief, or any Country Director at Post.
- (e) **Supervisor** means any Staff with direct reports.
- (f) **Volunteer** means any Peace Corps Volunteer, Trainee, Applicant, or Invitee.

- (g) **Retaliation** occurs when individuals are treated differently because they are, or were, making a discrimination or harassment complaint, participating in any way in a discrimination or harassment investigation, proceeding, or lawsuit; or opposing practices that they reasonably believe discriminated against or harassed individuals, in violation of Peace Corps policy or the law.

5.0 Policy

Peace Corps prohibits harassment of any kind. It is the policy of the Peace Corps to foster a workplace free of harassment. Additionally, the Peace Corps will correct harassing conduct before it becomes severe or pervasive, take immediate and appropriate corrective action when it determines that harassment has occurred, and provide a complaint process that provides a prompt, thorough, and impartial investigation.

The Peace Corps does not tolerate retaliation by any individual for reporting matters under this policy, for assisting in an inquiry related to such a report, or for opposing employment practices that an individual reasonably believes unlawfully discriminate against individuals.

Harassment by Peace Corps Staff of any other Staff or Volunteer is prohibited at the Peace Corps.

Staff must not harass anyone based on their protected class characteristics or any other basis protected under federal law and regulation.

All Staff are also expected to take appropriate measures to prevent and address harassment. Staff who believe they are being harassed for one of the reasons listed above or who witness potential harassment are encouraged to report the offending conduct so that it can be stopped before it becomes severe or pervasive and rises to a possible violation of law.

5.1 Examples of Harassment

Offensive conduct constituting harassment includes, but is not limited to, the following with respect to Staff and Volunteers:

- (a) Unwanted personal attention such as unwanted letters, telephone calls, visits, pressure for sexual favors, pressure for unnecessary personal interaction and pressure for dates where a sexual/romantic intent appears evident;
- (b) Unwanted physical or sexual advances such as touching, hugging, kissing, fondling, touching oneself sexually for others to view, or other sexual activity;
- (c) Offensive verbal conduct such as obscene language, epithets, suggestive statements, innuendo, or derogatory comments;
- (d) Creating or displaying offensive graphic materials that relate to any protected class characteristics or any other basis protected under federal law and regulation. ;

- (e) Emailing or texting sexually explicit or harassing messages;
- (f) Retaliating against Staff or a Volunteer for their opposition to discrimination or participation in the discrimination complaint process;
- (g) Making submission to offensive conduct, either explicitly or implicitly, a term or condition of a Staff member's employment or a Volunteer's service;
- (h) Using submission to or rejection of offensive conduct by an individual as the basis for tangible decisions affecting a Staff member's employment or a Volunteer's service; or
- (i) Engaging in offensive conduct that unreasonably interferes or is intended to interfere with a Staff member's or Volunteer's performance or creates an intimidating, hostile or offensive environment.

6.0 Roles and Responsibilities

6.1 Office of Human Resources

With regard to allegations of harassment of or by USDH Staff, the Office of Human Resources (OHR) shall establish a workplace Anti-Harassment Program to: 1) prevent harassing conduct before it can become severe or pervasive by, among other things, providing training; 2) provide a prompt thorough and impartial investigation; and 3) take immediate and appropriate corrective action when it determines that harassment has occurred. OHR shall develop procedures to effectuate this program in compliance with the law, including an Anti-Harassment Program complaint procedure to respond to harassment allegations in accordance with this policy.

6.2 Office of the Chief Financial Officer/Acquisition and Contract Management

The Office of the Chief Financial Officer/Acquisition and Contract Management (OCFO/ACM) is responsible for 1) ensuring that Contracting Officers and Overseas Contracting Officers include language related to this Manual Section in personal services contracts and the other service contract types identified in the MS 645 *Anti-Harassment Program Procedures*, and 2) implementing these Procedures as they relate to personal services contractors and the Staff of certain other services contracts, defined in the Procedures.

6.3 Office of Civil Rights

With regard to harassment, the Office of Civil Rights (OCR) manages the EEO complaint process, which is separate from the Anti-Harassment Program and process established by OHR as described in 6.1. The purpose of OCR's EEO complaint process is to provide a remedy for discrimination that has already occurred and to prevent the recurrence of unlawful discriminatory conduct. If Staff or Peace Corps Volunteers believe they have been harassed by a Peace Corps Staff member based on any protected basis in this Manual Section, law, or Peace Corps policy, they may elect to file a discrimination complaint as follows:

- (a) Volunteers through MS 293 *Volunteer Discrimination Complaint Procedure*;
- (b) Non-United States (U.S.) citizen Staff working outside of the U.S. through MS 654 *Non-United States Citizen Staff Discrimination Policy*; and
- (c) USDH Staff should reference MS 653 *Equal Employment Opportunity and Affirmative Employment*, Attachment A.

6.4 Office of the General Counsel

The Office of the General Counsel (OGC) is responsible for providing interpretation, advice and guidance on applicable policies, procedures, regulations, laws, and best practices. OGC is also responsible for assisting stakeholder offices or Staff in the management of matters arising under this policy, which may include reviewing correspondence, reports, and/or documents associated with agency disciplinary actions, as appropriate.

6.5 Office Heads and Supervisors

Prevention is the best approach to eliminate harassment. Office Heads and supervisors should clearly communicate to Staff and Volunteers that harassment will not be tolerated.

- (a) Office Heads are responsible for:
 - (1) Immediately reporting and addressing any harassing conduct, as defined in this Manual Section, they observe or harassment allegations they receive involving Peace Corps Staff or Volunteers to OHR or OCR.
 - (2) Ensuring staff are aware of their obligations under this Manual Section and of the commitment from the Agency to provide a workplace free of harassment by Peace Corps Staff.
- (b) Supervisors are responsible for:
 - (1) Immediately reporting and addressing any harassing conduct, as defined in this Manual Section, they observe or harassment allegations they receive involving Peace Corps Staff or Volunteers to OHR or OCR.
 - (2) Understanding the complaint process to aid Staff and Volunteers when issues arise.
 - (3) Ensuring all Staff complete required training.

7.0 Reporting Process

7.1 Agency Response

The Agency takes all allegations of harassment seriously. Allegations of harassment under this section reported to the Peace Corps by Staff or Volunteers will be investigated and appropriate,

corrective action taken. Please see the MS 645 *Anti-Harassment Program Procedures* for more details about the investigative process. (See MS 645 Attachment A – Anti-Harassment Procedures Versus the Equal Employment Opportunity Complaint Process for a description of the difference between the Peace Corps Anti-Harassment Program and EEO complaint process.)

7.2 When a Non-U.S. Citizen Reports Harassment

- (a) Peace Corps non-U.S. citizen Staff who believe they have been harassed or have witnessed conduct that is in violation of MS 645 should immediately report the behavior either verbally or in writing to any supervisor or Office Head.
- (b) Peace Corps non-U.S. citizen Staff who believe that they have been harassed also have the option of bringing that allegation for potential resolution to OCR within 45 days of the occurrence, or they may contact OCR to discuss all available options under this Manual Section. (See MS 654 *Non-United States Citizen Staff Discrimination Policy*.)
- (c) Peace Corps non-U.S. citizen Staff reports of conduct that may not meet the definition of harassment under this Manual Section may be reported to the supervisor or Office Head, OCFO/ACM, OHR, or Office of Inspector General (OIG).

7.3 When U.S. Citizen Staff Reports Harassment

- (a) Peace Corps U.S. citizen Staff who believe they have been harassed or have witnessed conduct that is in violation of MS 645 should immediately report the behavior either verbally or in writing to any supervisor or Office Head and/or the Employee and Labor Relations (ELR) Division of OHR.
- (b) Peace Corps U.S. citizen Staff who believe that they have been harassed also have the option of filing an EEO discrimination complaint with OCR within 45 days of the occurrence, or may contact OCR to discuss all available options under this Manual Section. The regulations that govern the processing of these discrimination complaints, including complaints of harassment, may be found in Title 29, Code of Federal Regulations, Part 1614, as amended. (See MS 653 *Equal Employment Opportunity and Affirmative Employment*, Attachment A.)
- (c) Peace Corps U.S. citizen Staff reports of conduct that may not meet the definition of harassment under this Manual Section may be reported to the supervisor or Office Head, OHR, OCFO/ACM, or OIG.

7.4 When a Volunteer Reports Harassment

- (a) Volunteers who believe they have been harassed by Peace Corps Staff or who have witnessed conduct in violation of MS 645 should immediately report the conduct either

verbally or in writing to their Country Director, the Regional Director, or the Director of the Office of Global Operations, or OIG.

- (b) The Volunteer also has the option of filing an EEO discrimination complaint with OCR. Volunteer complaints to OCR must be filed within 60 days of the occurrence. The regulations which govern the processing of discrimination complaints by OCR, including complaints of harassment, filed against the Peace Corps by Volunteers, may be found in MS 293 *Volunteer Discrimination Complaint Procedure*.
- (c) Peace Corps Volunteer reports of conduct that may not meet the definition of harassment under this Manual Section may be reported to the Country Director, the Regional Director, the Director of the Office of Global Operations, or OIG.

8.0 Confidentiality

The Peace Corps will protect the confidentiality of Staff and Volunteers who report harassment claims. (For information on Volunteer confidentiality, *see* MS 271 *Confidentiality Protection*.)

9.0 Procedures

Procedures for implementing this Manual Section must be approved by OCR, OHR, the Office of Global Operations, and OGC, in consultation with OCFO/ACM.

10.0 Effective Date

The effective date of this Manual Section is the date of issuance.