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# FDIC DIRECTIVE 2710.03

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## Anti-Harassment Program

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**Approval Authority:** Hansel Cordeiro, Director

**Originating Division/Office:** Office of Professional Conduct

**Approval Date:** 03/29/2021

**Pedestrian Change Date:** 03/07/2025

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The Anti-Harassment Program is implemented in accordance with the legal requirements of the applicable laws, regulations, and guidance provided by the Equal Employment Opportunity Commission (EEOC).

### PURPOSE

This Directive establishes the policies regarding anti-harassment in the workplace or at FDIC-sanctioned activities and events, including those outside of the workplace, and supports the FDIC's commitment to maintaining a workplace free from harassment.

### SCOPE

This Directive applies to all FDIC Divisions/Offices.

### AUTHORITIES

- Title 5, United States Code (U.S.C.), Sections 7101-7135, The Federal Labor-Management Relations Statute
- Title 29, U.S.C., Sections 621-634, The Age Discrimination in Employment Act of 1967, as amended
- Title 29, U.S.C., Section 791, Section 501 of the Rehabilitation Act of 1973, as amended
- Title 38, U.S.C., Sections 4301-4335 Uniformed Services Employment and Reemployment Act of 1994
- Title 42, U.S.C., Section 717, of Title VII of the Civil Rights Act of 1964, as amended, and Section 2000e-16, Employment by Federal Government
- Title 29, Code of Federal Regulations, Part 1635, Genetic Information Nondiscrimination Act of 2008
- Executive Order (EO) 11478, Equal Employment Opportunity in the Federal Government

- EO 13145, To Prohibit Discrimination in Federal Employment Based on Genetic Information
- EO 13152, Further Amendment to Executive Order 11478, Equal Employment Opportunity in Federal Government
- EEOC Management Directive (MD) 715, Instructions to Federal Agencies for Equal Employment Opportunity
- FDIC Board of Directors Resolution 088979, issued June 20, 2024, Establishing the Office of Professional Conduct

## **FORMS**

None.

## **SUMMARY OF CHANGES**

This Directive supersedes FDIC Circular 2710.3, Anti-Harassment Program, dated December 8, 2015.

### **REVISION, dated March 29, 2021**

This Directive had been revised to:

- Include terminology related to sexual harassment in the examples provided in the definition of harassment;
- Include Labor and Employee Relations Section (LERS) HR Specialists as points of contact to report harassment;
- Correct contact information for the Anti-Harassment Program Coordinator;
- Clearly identify the Anti-Harassment Program Coordinator roles and responsibilities;
- Include Legal Division responsibilities;
- Provide for notification to the person reporting the harassment and alleged harasser that the investigation has been completed;
- Take preventive/corrective action, as appropriate, no later than 60 days of receiving notice of a report of harassment;
- Initiate an investigation within ten calendar days of receiving the report of harassment; and
- Upon approval, renumber this Directive to 2710.03.

### **PEDESTRIAN CHANGE, dated June 13, 2021**

This Directive had been revised to:

- Update “gender” to “sex” in the Policy Section; and
- Update “prompt” to “immediate” in Policy Section B.3.

### **PEDESTRIAN CHANGE, dated December 19, 2024**

This Directive had been revised to:

- Clarify the role of the Office of Professional Conduct (OPC);
- Replace the Office of Minority and Women Inclusion (OMWI), Labor and Employment Relations Section (LERS), and Labor, Employment, and Administration Section (LEAS), with OPC;
- Define the term “manager” to include FDIC executives, managers, and supervisors;
- Establish a two-business day timeframe for managers to report harassment allegations covered by this Directive to OPC; and
- Include non-substantive updates and clarifications in the Policy and Responsibilities section to reflect organizational changes.

### **PEDESTRIAN CHANGE, dated January 27, 2025**

This Directive had been revised to remove EO 13672, Prohibiting Discrimination Based on Sexual Orientation and Gender Identity by Contractors and Subcontractors, which has been revoked by the Presidential Memorandum on Ending Illegal Discrimination and Restoring Merit-Based Opportunity, dated January 21, 2025.

### **PEDESTRIAN CHANGE, dated March 7, 2025**

This Directive has been revised to:

- Remove references to “gender” in accordance with the Presidential Memorandum on Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government, dated January 20, 2025;
- Clarify that any individual, including non-FDIC employees, may file a complaint with OPC about harassment by an FDIC employee or contractor;
- Clarify that employees and contractors should report harassment to OPC, even if they are not sure if the conduct violates this Directive;
- Clarify that OPC will investigate harassment allegations in parallel with an Equal Employment Opportunity (EEO) complaint;
- Clarify the responsibilities of the Office of Equal Employment Opportunity, including referring harassment allegations raised in an EEO complaint to OPC; and
- In accordance with Equal Employment Opportunity Commission’s guidance, clarify that managers are required to report harassment to OPC even if the employee does not want the manager to report.

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## **BACKGROUND**

The FDIC is committed to providing its employees with a workplace that is free of harassment. The Director, Office of Professional Conduct (OPC) has the delegated responsibility for the FDIC's Anti-Harassment Program. OPC is responsible for the intake and investigation of complaints of harassment, interpersonal misconduct, and retaliation for reporting harassment and other interpersonal misconduct. When complaints are substantiated, OPC will determine discipline and other actions, including corrective action.

The goal of this Directive is to provide employees with an internal process to report harassment. Employees need not assert that the harassment is unlawful (e.g., the harassment is based on race, color, religion, sex, national origin, age (40 or older), disability, or genetic information) for it to be covered by this Directive. This Directive encourages employees to report conduct that they believe may be harassment (or that, if left unchecked, may rise to the level of harassment) and explains the rights and responsibilities of all employees and the FDIC's system of accountability for violations of this Directive.

# POLICY

## A. General Policy

It is the policy of the FDIC to maintain a workplace free from all forms of harassment, including, but not limited to, harassment based on race, color, religion, sex, national origin, age, disability, and genetic information.

The FDIC will not tolerate harassment by or against any applicant, employee, or contractor. Any individual may file a complaint with OPC alleging harassment by an FDIC employee or contractor, including individuals at FDIC-insured institutions. Similarly, the FDIC will not tolerate retaliation against any applicant, employee, or contractor for opposing harassment, reporting harassment, or participating or assisting in any inquiry, investigation, lawsuit, or other proceeding concerning harassment. The FDIC expects anyone who witnesses or is the alleged victim of harassment to report it immediately, consistent with the reporting process provided, even if they are not sure the conduct violates this Directive. Through OPC, which is an independent and neutral office, the FDIC will provide prompt, impartial, and thorough investigations.

Harassment is any verbal or non-verbal conduct that is unwelcome to the individual and objectively offensive. For workplace harassment to be unlawful, it must be either severe or pervasive, and based on a characteristic protected by a law enforced by the EEOC: race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability, genetic information (information about an individual's genetic tests or the manifestation of a disease or disorder), and retaliation (for participating in the equal employment opportunity complaint process or opposing discriminatory practices).

Conduct need not rise to the level of unlawful harassment to be prohibited by this Directive. Employees are encouraged to report conduct that they believe may be harassment (or that, if left unchecked, may rise to the level of harassment), even if they are unsure that the conduct violates this Directive.

The following are some examples of harassment prohibited by this Directive (additional examples are available on [OPC's webpage](#)):

- Offensive jokes, comments, objects, or pictures.
- Unwelcome questions about a person's identity (e.g., disability status, sex, national origin, religion).
- Undue and unwelcome attention.
- Ridicule or mockery.
- Displaying offensive objects or pictures.
- Insults or put-downs.
- Unwelcome touching or contact.
- Unwelcome sexual advances.

- Requests for sexual favors.
- Other verbal or physical harassment of a sexual nature.
- Slurs, epithets, or name-calling.
- Threats or other forms of intimidation.
- Physical or sexual assault.
- Engaging in bullying, intimidating, or threatening behavior.

To maintain a workplace free from harassment, FDIC management will take appropriate actions to address allegations of harassment made against non-employees, such as staff at examination sites, contract workers, security guards, and delivery or maintenance staff.

Any FDIC employee who engages in conduct prohibited by this Directive is subject to disciplinary action, up to and including removal from federal service.

In most cases, harassment does not include ordinary supervisory actions, such as telling an employee that they are not performing a job adequately. Generally, allegations concerning performance issues, impolite behavior, or personality conflicts will not fall under this Directive.

This Directive is not intended to stand in isolation of other policies and tools available to remedy workplace disputes. FDIC employees involved in a workplace dispute may raise such issues through alternative means, such as the Office of the Internal Ombuds (IO), the Equal Employment Opportunity (EEO) complaint process, the FDIC's Alternative Dispute Resolution Program, or negotiated or administrative grievance procedures.

## **B. Reporting Process**

### **1. Reporting Alleged Harassment**

- a. Individuals who observe, experience, or otherwise learn about harassment covered under this Directive are expected to promptly report the conduct to any of the following:
  - 1) OPC at [OPC@fdic.gov](mailto:OPC@fdic.gov) or through the process specified on [OPC's webpage](#);
  - 2) The alleged victim's immediate supervisor;
  - 3) The supervisor of the person responsible for the alleged conduct; or
  - 4) Any management official with supervisory responsibility.
- b. In accordance with guidance issued by Equal Employment Opportunity Commission, managers (this includes executives, managers, and supervisors) who are notified

about harassment that may be covered under this Directive must report the conduct to OPC at [OPC@fdic.gov](mailto:OPC@fdic.gov), or through the process specified on [OPC's webpage](#), within two business days of becoming aware of the conduct, even if the employee does not want the manager to report.

- c. To fulfill the objectives of this Directive, an individual who has alleged harassment in connection with an EEO complaint, a negotiated or administrative grievance, a complaint filed with the U.S. Office of Special Counsel, or an appeal filed with the U.S. Merit Systems Protection Board, will be deemed to have reported alleged harassment to OPC under this Directive. OPC will review, and if appropriate, investigate allegations of harassment in parallel with an EEO complaint or other administrative process.

If employees raise allegations of harassment to the IO, they will be provided with a safe place to explore their concerns, advised to review this Directive, and referred to OPC, as appropriate. However, because of the unique role of the IO, raising allegations of harassment with the IO does not constitute notice to the FDIC under this Directive.

## 2. Processing/Investigation of Allegations

### a. When OPC receives a report of harassment, OPC:

- 1) Contacts the individual making the report to explain OPC's process and schedules an interview to gather preliminary information about the allegation;
- 2) Once the interview is completed and the allegation is received, determines whether the allegation is covered by this Directive;
- 3) Reports any allegation related to Office of Inspector General (OIG) staff to the OIG for appropriate action pursuant to OIG procedure; and
- 4) Notifies the appropriate contracting officer of an allegation of harassment involving a contract worker.

### b. Allegations Covered by This Directive

- 1) If an allegation is covered by this Directive, OPC determines whether immediate corrective action is necessary to address the allegations. If such action is necessary, it will be effectuated as promptly as possible.



- 2) OPC determines whether investigation of the allegations is appropriate. If an investigation is appropriate, OPC will initiate the investigation no later than 10 calendar days after making such a determination.
  - 3) Within five business days of the conclusion of an investigation, OPC notifies the person reporting the harassment and the alleged harasser that the investigation has been completed. Such notifications are retained in the official investigative file. Consistent with the Privacy Act, information about decisions to take or not take disciplinary action generally are not disclosed.
- c. **OPC Investigation:** All parties—including the reporting party (and the alleged victim of the alleged harassing conduct, if different from the reporting party), the alleged harasser, and any others involved—are required to cooperate with an investigation so it can be conducted in a prompt, thorough, and fair manner. An individual who fails to cooperate with an OPC investigation may be subject to disciplinary action, up to and including removal from federal service.
  - d. **Confidentiality:** Individuals may file a complaint with OPC and share their identity, request that their identity remain confidential to the extent permitted by law, or file a complaint anonymously. OPC will work with individuals who request confidentiality to identify what allegations it can investigate without disclosing the individual's identity.
  - e. **Pursuing More Than One Remedy:** An individual who reports harassment under this Directive may still pursue statutory, administrative, or collective bargaining remedies regarding an alleged act of harassment (e.g., EEO complaint). Such other remedial processes use different procedures; have different rules, requirements, and timeframes; and may provide different remedies than are available under this Directive. Reporting harassment under this Directive does not satisfy the requirements or delay the time limits or deadlines applicable for initiating or pursuing redress through other processes. For more information on filing an EEO complaint, employees should visit the [OEEO website](#).
3. **Disciplinary and Corrective Action**

OPC determines what, if any, action to take as a result of violations of this Directive. Actions may include disciplinary action against the harasser or individuals violating this Directive and corrective action for individuals who were impacted by such misconduct.

## **RESPONSIBILITIES**

### **A. Managers (includes executives, managers, and supervisors):**

1. Do not engage in harassment or retaliatory conduct;
2. Immediately, but no later than two business days after learning of the harassment, report allegations of harassment to OPC, even if you are not sure if the conduct violates this Directive;
3. Take immediate action to stop or correct any harassment or retaliatory conduct;
4. Attend mandatory anti-harassment training;
5. Fully cooperate in the investigative process concerning an allegation of harassment; and
6. Comply with all applicable guidance and procedures referenced in this Directive.

### **B. Employees:**

1. Do not engage in harassment;
2. Immediately report allegations of harassment to a management official and/or OPC even if you are not sure if the conduct violates this Directive; and
3. Fully cooperate in the investigative process concerning an allegation of harassment.

### **C. Office of Professional Conduct (OPC):**

1. Serves as the FDIC's Anti-Harassment Program;
2. Serves as a subject matter expert about issues related to this Directive;
3. Provides mandatory training for all managers and supervisors on how to identify and respond to incidents of harassment in the workplace;
4. Provides training for all employees about the anti-harassment policy and reporting procedures;
5. Coordinates program implementation with other Divisions/Offices, as appropriate;
6. Advises and provides technical assistance to managers and supervisors in preventing and addressing allegations of harassment;

7. Monitors program effectiveness by maintaining a system to track allegations and actions taken;
8. Recommends program changes for enhancement;
9. Works with other FDIC program officials to effectively prevent and eliminate harassment in the workplace through a continuing education program;
10. Develops preventive strategies based on any identified trends and maintains relevant documents collected in investigations in accordance with FDIC Directive 1210.01, Records and Information Management Program;
11. Receives, gathers, and provides data required for reporting on allegations of harassment to the EEOC, other oversight agencies, or Congress;
12. Ensures the policies and procedures of the Anti-Harassment Program are posted on the FDIC internal website and publicized throughout the FDIC, including providing the policy and procedures to employees;
13. Provides prompt, impartial, and thorough investigations into allegations of harassment, interpersonal misconduct, and retaliation for reporting harassment and other interpersonal misconduct. To the extent practicable, OPC will endeavor to complete investigations within 60 days from the date that a clarification interview has been conducted;
14. Provides advice and guidance to management on appropriate interim measures and preventive or corrective action(s) to take in connection with allegations of harassment; and
15. Notifies the individual reporting the harassment or the alleged victim of the alleged harassing conduct, if different from the reporting party, and the alleged harasser when an investigation has been concluded within five business days after its completion.

**D. Office of Equal Employment Opportunity (OEEO):**

1. Timely refers harassment allegations raised in EEO complaints to OPC for review and, if appropriate, investigations to ensure prompt interim actions;
2. Collaborates with OPC to develop and deliver training on preventing, addressing, and reporting unlawful harassment; and
3. Maintains open communication and coordination with OPC to share relevant information, updates, and best practices regarding unlawful harassment.

**E. Contracting Officers:**

Consult with OPC upon receiving an allegation of harassment from a contractor.

## **APPENDIX – CONTACT INFORMATION**

Employees can report harassment to OPC at [OPC@fdic.gov](mailto:OPC@fdic.gov) or follow the process specified in the [OPC's website on FDICnet](#).

For information on filing an EEO complaint, employees can visit the [OEEO website on FDICnet](#).

## **GLOSSARY OF TERMS**

None.

## **LIST OF ABBREVIATIONS**

*EEO*: Equal Employment Opportunity

*EEOC*: Equal Employment Opportunity Commission

*EO*: Executive Order

*IO*: Office of the Internal Ombuds

*OEEEO*: Office of Equal Employment Opportunity

*OIG*: Office of Inspector General

*OPC*: Office of Professional Conduct

*U.S.C.*: United States Code