



DCMA Manual 4201-26

Anti-Harassment Program

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| Office of Primary Responsibility | Talent Management Capability |
| Effective: | February 11, 2022 |
| Releasability: | Cleared for public release |
| New Issuance | |
| Implements: | DCMA Instruction 4201, "Civilian Personnel," July 20, 2018 |
| Internal Control: | Process flow and key controls are located on the Resource Page |
| Labor Codes: | Located on the Resource Page |
| Resource Page Link: | https://360.intranet.dcma.mil/sites/policy/TM/SitePages/4201-26r.aspx |
| Approved by: | David G. Bassett, LTG, USA, Director |

Purpose: In accordance with the authority in DoD Directive 5105.64, "Defense Contract Management Agency (DCMA)," and the Equal Employment Opportunity Commission's Management Directive 715, this issuance:

- Implements a comprehensive DCMA-wide Anti-Harassment Program for civilian personnel
- Updates anti-harassment procedures for DCMA civilian personnel to submit harassment complaints, including anonymous complaints; procedures and requirements for responding to, processing, resolving, tracking, and reporting anti-harassment complaints; and anti-harassment training standards and education requirements

- Supplements the Equal Employment Opportunity Commission's enforcement guidance on harassment complaints. [See Management Directive 715, II(C); Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors (Enforcement Guidance), Equal Employment Opportunity Commission No. 915.002, § V.C.1 (June 18, 1999)]

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SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY. This Manual applies to all civilian DCMA employees unless higher-level regulations, policy, guidance, or agreements take precedence.

1.2. POLICY. In accordance with the Equal Employment Opportunity Commission (EEOC) Management Directive (MD)-715, MD 110, and enforcement guidance on harassment complaints, it is DCMA policy that:

a. DCMA does not tolerate or condone any type of harassment. Harassment jeopardizes organizational effectiveness and mission accomplishment, weakens trust, and erodes organizational cohesion. This Manual covers both harassment and unlawful harassment as defined in the Glossary. All types of harassment is fundamentally at odds with the obligations of DCMA personnel to treat others with dignity and respect.

b. DCMA will hold leaders at all levels accountable for fostering a climate of inclusion that supports diversity, is free from harassment, and does not tolerate retaliation against those filing harassment complaints, those reporting or acting as witnesses regarding harassment that they have observed, or otherwise have engaged in a protected activity.

c. All Commanders/Component Heads/Directors, and supervisors will incorporate the Agency's Anti-Harassment Policy, definitions in the Glossary of this issuance, and anti-harassment procedures set forth in this Manual into their daily routine to eliminate harassment in the workplace and take appropriate actions when harassment does occur.

d. Alternative Dispute Resolution (ADR) will be used, when appropriate, to aggressively resolve harassment claims as early as possible and at the lowest level.

e. This Manual will be executed in a safe, efficient, effective, and ethical manner.

1.3. OVERVIEW.

a. DCMA does not tolerate or condone any type of harassment to include unlawful harassment. Harassment includes behavior that is unwelcome or offensive to a reasonable person, whether oral, written, or physical, that creates an intimidating, hostile, or offensive environment. Harassment can occur through electronic communications, including social media, other forms of communication, and in person. Harassment may include offensive jokes, epithets, ridicule or mockery, insults or put-downs, displays of offensive objects or imagery, stereotyping, intimidating acts, bullying, veiled threats of violence, threatening or provoking remarks, racial or other slurs, derogatory remarks about a person's accent, or displays of racially offensive symbols. Activities or actions undertaken for a proper military or governmental purpose, such as active shooter training, are not considered harassment. Disagreements between employees and their supervisor which are not based on race, color, religion, sex (whether or not of a sexual nature), national origin, age (age 40 or older), disability, genetic information, or reprisal and pertain to work related issues (time and attendance, etc.) or performance do not constitute

unlawful harassment. To be unlawful, the conduct must be based upon race, color, religion, sex (whether or not of a sexual nature), national origin, age (age 40 or older), disability, genetic information, or reprisal, be severe or pervasive, and creates a work environment that would be intimidating, hostile, or offensive to a reasonable person.

b. The offender can be a person's supervisor, a supervisor in another area, a coworker or someone who is not an employee of the Agency, such as a contractor or customer.

c. The Agency may be liable for unlawful harassment by a supervisor that results in a tangible (negative) employment action, such as termination or a failure to promote. If the supervisor's harassment results in a hostile work environment, but not in a tangible employment action, DCMA may nevertheless be liable, unless: (1) management reasonably tried to prevent and promptly correct the harassing behavior, and (2) the employee unreasonably failed to take advantage of any preventive or corrective opportunities DCMA provided.

d. The Agency may be liable for harassment by non-supervisory employees or non-employees it has control over (for example, independent contractors or customers on the premises), if management knew, or should have known, about the harassment and failed to take prompt and appropriate corrective action.

e. Unlawful harassment can include, but is not limited to, unwelcome conduct, intimidation, ridicule, insult, offensive comments or jokes, or physical conduct which is based on race, color, religion, sex (whether or not of a sexual nature), national origin, age (age 40 or older), disability, genetic information, or reprisal. Additionally, unlawful harassment may also include tangible employment actions affecting the employee because of the employee's acceptance or rejection of such conduct explicitly or implicitly. Unlawful harassment occurs when the conduct is sufficiently severe or pervasive as to alter the terms, conditions, or privileges of the employee's employment or otherwise creates an abusive or hostile work environment. Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality.

f. Sexual Assault is not covered by this Manual. The term "**sexual assault**" is defined as intentional sexual contact characterized by the use of force, threats, intimidation, or abuse of authority or when the victim does not or cannot consent. As used in this Manual, the term includes a broad category of sexual offenses consisting of the following specific Uniform Code of Military Justice (United States Code, Title 10, Chapter 47) offenses: rape, sexual assault, aggravated sexual contact, abusive sexual contact, forcible sodomy (forced oral or anal sex), or attempts to commit these offenses.

SECTION 2: RESPONSIBILITIES

2.1. COMMANDERS/COMPONENT HEADS/DIRECTORS. All Commanders/Component Heads/Directors will:

- a. Ensure employees are treated with dignity and respect.
- b. Lead by example by personally creating an environment where all employees and applicants for employment enjoy equality of opportunity in the federal workplace regardless of race, sex, national origin, age (age 40 or older), color, religion, disability and without reprisal for engaging in prior protected activity.
- c. Ensure leaders at all levels are held accountable for fostering a climate of inclusion within their organizations that promotes equal opportunity, supports diversity, is free from harassment, and does not tolerate retaliation for reporting harassment allegations.
- d. Encourage the use of ADR, when appropriate, to aggressively resolve harassment claims as early as possible.
- e. Prominently post and publicize information regarding harassment prevention and response policies and programs.
- f. Ensure that substantiated complaints are annotated on military members' fitness reports and if appropriate, on civilian employees' official personnel files, consistent with regulations and Agency policy.
- g. When appropriate, appoint independent investigators to investigate allegations of unlawful harassment. Appointed investigators should be fielded from an organization outside of the immediate Contract Management Office (CMO) or other organizational element being investigated. For complaints involving an Operational Unit Directorate, the investigation will be conducted by another Operational Unit Directorate. To avoid a conflict of interest, allegations made against personnel within the headquarters may require an external investigation.
- h. Support investigations by providing access to information and potential witnesses, as appropriate, to ensure that investigations are conducted in an impartial and timely manner. Additionally, Commanders/Component Heads/Directors must provide suitable facilities and resources to assist investigators.
- i. Ensure compliance with training and education requirements as outlined in Section 4 of this Manual.
- j. Assist and support harassment complainants in accordance with this Manual. Complainants should be provided adequate protection and care, and informed about available support resources to include:
 - (1) Civilian emergency medical and support services.

(2) Public and private programs that are available to provide counseling, treatment, and other support.

(3) Organizations and entities on and off-base that provide victim and witness services and support.

(4) The Agency's Employee Assistance Programs (EAP).

2.2. GENERAL COUNSEL. The DCMA GC will provide legal advice to management officials during the lifecycle of investigations and provide a legal review of the Report of Investigation (ROI) upon completion of the investigation, and assist in making a legal determination whether there is a sufficient factual basis to determine that the allegation is substantiated or unsubstantiated by the investigation.

a. The GC headquarters staff attorneys will:

(1) Coordinate with Directorate, Operational Command, and CMO Counsel on matters related to investigations and disposition of substantiated misconduct.

(2) Provide the ROI to the offending employee's First Line Supervisor (FLS) whose responsibility it is to determine the type of discipline or corrective action should be taken in circumstances where the investigation substantiates improper conduct. The FLS should coordinate any course of action with the Anti-Harassment Program Manager (AHPM), Employee Relations Group (ERG) and their assigned CMO Counsel.

b. In consultation with Directorate, Operational Command, and CMO Counsel, provide legal advice to the Investigative Officer (IO) during the lifecycle of an investigation.

c. All types of investigations will be conducted in a thorough, responsive, and impartial manner. GC must:

(1) Assist the appointing official and the investigator in framing the relevant issues, identifying the information required, developing investigatory and fact-finding strategies, and preparing for any witness interviews, including the need for any possible rights advisements.

(2) Conduct legal reviews of investigations of DCMA employee misconduct.

(3) Provide legal advice to the Office of Internal Audit and Inspector General (OIA-IG), Labor Relations (LR), ERG, and the FLS.

d. Typically, assigned Counsel will review the ROI and in coordination with the appropriate Operation Command or headquarters GC, render a written opinion of legal sufficiency. However, assigned Counsel conducting the post-investigation legal sufficiency review should be an attorney other than the legal advisor to the IO. Counsel will make the following determinations and findings:

(1) Whether the investigation is legally sufficient and was conducted in accordance with appropriate direction and applicable regulatory guidance.

(2) Whether additional evidence or supporting documentation is required.

(3) Whether the conclusions and findings are supported by the evidence contained within the report.

(4) Whether the recommendations are supported by the evidence and the conclusions and findings of the IO.

e. Headquarters GC will designate an appropriate representative to participate in the DCMA Anti-Harassment Working Group (AHWG).

2.3. DIRECTOR, EQUAL EMPLOYMENT OPPORTUNITY OFFICE (EEO). The Director, EEO will:

a. Act as the principal advisor for DCMA on all matters relating to EEO and the processing of EEO complaints to include those unlawful harassment allegations initiated or requested to be filed by employees using the EEO complaint process.

b. Support collaboration between Total Force (TF), EEO, GC, and OIA-IG and the Anti-Harassment Program (AHP) to establish and maintain an AHP that complies with the EEOC's Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors to include proper investigative determinations and/or complaint processing.

c. Inform employees about the DCMA AHP and their rights and responsibilities under the program to include options available within the EEO informal/formal complaint process. Inform employees that electing to initiate a complaint through the AHP does not preclude them from also filing an EEO complaint on the same matter.

d. Designate an appropriate representative to participate in the DCMA AHWG.

e. Inform the AHPM of all EEO counseling activity alleging harassment.

2.4. EXECUTIVE DIRECTOR, TOTAL FORCE. The Executive Director, TF will:

a. Ensure adequate funding and resources to establish and maintain an AHP with procedures that comply with the EEOC's Enforcement Guidance.

b. Provide general direction and oversight of the DCMA AHP.

c. Support collaboration between TF, EEO, GC, and OIA-IG in the development of procedures and systems to accurately collect, monitor, and analyze the processing of complaints for the AHP.

- d. Ensure employees are informed about and trained on the AHP.
- e. Designate an appropriate representative to participate in the DCMA AHWG.
- f. Ensure all managers and supervisors receive training on their responsibilities under the AHP.

2.5. EXECUTIVE DIRECTOR, OFFICE OF INTERNAL AUDIT AND INSPECTOR GENERAL. The OIA-IG will:

- a. Act as the principal advisor for DCMA on all matters relating to the detection and prevention of fraud, waste, abuse, sexual harassment, general administrative and potential criminal issues and concerns, and harassment complaints against senior-level Commanders/ Component Heads/Directors and other management officials.
- b. Operate the DCMA Hotline and direct cases through the OIA-IG, ensuring that inquiries resulting from allegations are conducted in accordance with applicable laws, DOD regulations, policies, and standards for investigations.
- c. Inform employees about the DCMA AHP and their rights and responsibilities under the program to include options available within the EEO complaint process.
- d. Designate an appropriate representative to participate in the DCMA AHWG.

2.6. DIRECTOR, LABOR RELATIONS. The Director, LR will:

- a. Act as the principal advisor for DCMA LR on all non-legal matters relating to labor relations and the processing of harassment allegations.
- b. Support collaboration between TF, EEO, GC, OIA-IG, and the AHPM to establish and maintain an AHP that complies with the EEOC's Enforcement Guidance to include proper investigative determinations and/or complaint processing. An election to initiate a complaint through the AHP does not preclude an employee from also filing an EEO complaint on the same matter. The primary roles, functions, and interactions between LR and EEO for purposes of EEO complaint processing remains the same. For harassment complaints initiated through the DCMA AHP, LR will provide advisory services to applicable stakeholders as required prior, during, and after completion of the investigative process.
- c. Support collaboration between TF, EEO, GC and OIA-IG in the development of systems to accurately collect, monitor, and analyze the processing of complaints for the AHP.
- d. Inform employees about the DCMA AHP and options available to them.
- e. Designate an appropriate representative to participate in the DCMA AHWG.
- f. Ensure all managers and supervisors receive training on their responsibilities under the AHP.

g. Request the Union to provide/appoint a Council Representative to participate in the AHWG.

h. Oversee the collection of data and information related to allegations of harassment.

2.7. DIRECTOR OF SECURITY AND COUNTERINTELLIGENCE. The Director of Security will:

a. Designate an appropriate representative to participate in the DCMA AHWG.

b. Support collaboration between TF, EEO, GC, OIA-IG, Security Division, and the AHPM to establish and maintain an AHP that complies with the EEOC's Enforcement Guidance to include proper investigative determinations and/or complaint processing.

c. Report information received through security channels meeting the requirements of Paragraph 1.2.e. to the AHPM for appropriate action.

2.8. INVESTIGATIVE OFFICER. The assigned IO will:

a. Review in detail the "Appointment Letter" issued by the Commander/Component Head or civilian Director authorizing the investigation. The appointment letter will outline the scope of the investigation and provide the basic facts about the complaint.

b. Understand that their role is to:

(1) Be thorough and impartial;

(2) Fully establish and consider all relevant evidence;

(3) Gather detailed facts, including: witness interviews, personnel records, email correspondence, photographs, drawings, physical evidence, or other items relevant to the investigation; and

(4) Make findings and recommendations that are warranted by the facts and that comply with the instructions of the appointing authority, and make a recommendation to the Appointing Authority based on those facts.

(5) Understand that investigations should be completed within 30 calendar days upon appointment as an IO.

c. Contact the assigned Counsel to provide practical assistance and legal advice during the lifecycle of an investigation. It is vital to understand the importance of division responsibility and expertise; accordingly, based on the gathered evidence, legal advice and assistance may include:

- (1) Framing the relevant issues,
- (2) Identifying the information required to be gathered,
- (3) Developing investigatory and fact-finding strategies,
- (4) Identifying witnesses to be interviewed and documents to be collected,
- (5) Advising on the preparation of witness interview questions,
- (6) Assessing the need for potential rights advisements that may be required,
- (7) Discussing how to document witness statements and prepare certifications or affidavits for the witness, and
- (8) Reviewing the final report.

2.9. ANTI-HARASSMENT PROGRAM MANAGER. The AHPM will:

- a. Track harassment complaints to include monitoring the final disposition of complaints initiated across the Agency at the local level or through the Anti-Harassment Program Office. Commanders/Component Heads/Directors and other management officials will be responsible for providing detailed information in order for the AHPM to compile statistical reports for internal/external reporting as required by the EEOC and other regulations and directives.
- b. Monitor compliance with this Manual to include conducting an analysis of the number and types of harassment complaints on a quarterly/annual basis and disseminate statistical reports to the DCMA Director/Deputy Director and other offices/personnel on a need-to-know basis. The analysis will include reporting on the number of substantiated and unsubstantiated complaints, corrective actions taken, and any trends by issue, personnel, geographical area, and/or office.
- c. As needed, coordinate actions with TF, EEO, GC, OIA-IG, and the Office of Security and Counterintelligence to ensure that inquiries resulting from allegations are conducted in accordance with applicable laws, DoD regulations, policies, and standards for investigations.
- d. Issue implementing instructions specifying: quality standards for the AHP, procedures to ensure appropriate evaluation and action on all allegations of unlawful harassment, and methods to ensure appropriate protection of the identity of sources requesting anonymity or confidentiality to the greatest extent possible, consistent with a thorough and impartial investigation. Confidentiality is further outlined in Paragraph 3.3.
- f. Provide oversight and follow-up to ensure reported allegations are appropriately investigated, objectively evaluated, and acted upon, and findings and conclusions of any inquiry are fully documented.

g. Maintain an active DCMA Anti-Harassment Publicity Campaign (AHPC) using official notices, posters, telephone directories, and other media to encourage employees to identify and report unlawful harassment.

h. Lead the DCMA AHWG that will comprise of designated representatives from TF, GC, EEO, OIA-IG, Security and an AFGE Council 170 Representative.

i. Establish procedures necessary to ensure that the collection, maintenance, use, and dissemination of anti-harassment case file information is protected from public disclosure in accordance with applicable law and maintained consistent with the requirements of EEOC MD-715 and the Privacy Act of 1974.

j. Conduct compliance reviews of harassment prevention and response policies and programs in accordance with this Manual, including:

(1) Assessments of impartiality, timeliness, and sufficiency of responses to harassment complaints.

(2) Timeliness and sufficiency of feedback provided to complainants.

k. Develop and provide on-line training for DCMA supervisors and employees. The DCMA Anti-Harassment Training will cover the programs applicability, policy, responsibilities, reporting and investigative procedures, and education and training requirements. The training curriculum will also include elements of the EEOC's updated anti-harassment compliance training modules, workplace civility, and bystander intervention strategies.

l. Notify the DCMA Director, OIA-IG, GC, LR Director, and Office of Security and Counterintelligence regarding substantiated allegations upon conclusion of investigations.

2.10. EMPLOYEE RELATIONS GROUP. The ERG will:

a. Act as the principal advisor for DCMA ERG on all non-legal matters relating to employee relations (ER) and the processing of harassment allegations.

b. Provide guidance and assistance to the supervisor or management official with matters requiring further investigation.

c. Support investigations by providing access to information and potential witnesses, as appropriate, to ensure that investigations are conducted in an impartial and timely manner.

d. Report all harassment complaints and investigations to the AHPM.

e. Designate an appropriate representative to participate in the DCMA AHWG.

2.11. ANTI-HARASSMENT WORKING GROUP. The DCMA AHWG will:

- a. Comprise of designated representatives from TF, GC, EEO, OIA-IG, Security and an AFGE Council 170 Representative.
- b. Convene on a quarterly basis to assess program effectiveness.
- c. Assess the workplace for the risk factors associated with harassment and explore ideas for minimizing those risks.
- d. Provide feedback to the AHPM on training effectiveness and make recommendations for policy updates when/if needed.

2.12. SUPERVISORS AND MANAGEMENT OFFICIALS. Supervisors and Managers will:

- a. Maintain a workplace free of unlawful harassment. Supervisors will make reasonable efforts to prevent and promptly correct harassing behavior in the workplace so that all matters can be resolved at the lowest level.
- b. Promptly address allegations of unlawful harassment with the employees directly involved in the incident, along with any witnesses who might have first-hand information. Managers must take prompt preventive and corrective action, including discipline, as appropriate, in consultation with their assigned GC and ER Specialists.
- c. Request that the appropriate Commander/Component Head/Director appoint an independent investigator to investigate the allegations of unlawful harassment if they cannot be resolved at their level, or with the advice of LR, ERG, and GC, refer the allegations to OIA-IG.
- d. Complete the DCMA EEO Office's "EEO and No FEAR Act" training courses for supervisory personnel on an annual basis. In addition, supervisors and managers will complete the AHP's training to satisfy the programs awareness requirements to include understanding the anti-harassment policy and procedures and their role in the complaint process. Follow-on refresher AHP training will be presented by the AHPM upon request and in the DCMA Supervisory Skills Development Course.
- e. Ensure that non-supervisory employees complete the DCMA EEO Office's "EEO and No FEAR Act" training courses for employees on an annual basis. In addition, supervisors and managers will ensure that non-supervisory employees complete the AHP training to satisfy the programs awareness requirements to include understanding the anti-harassment policy and procedures, and their role in the complaint process.
- f. Report all harassment complaints and investigations to the AHPM.

2.13. EMPLOYEES. Employees will:

a. Refrain from engaging in conduct that is discriminatory or harassing. Such conduct is contrary to DCMA's core values and may be unlawful. An employee engaging in such discriminatory conduct or unlawful harassment is subject to appropriate corrective action, including discipline.

b. Report any behavior they view as harassment before it becomes severe or pervasive. Reporting systems available for those observing or experiencing harassment include multiple avenues for resolving matters in a responsive and timely manner. DCMA employees can report harassing conduct to their first- or second-level supervisor, Commanders/Component Heads/Directors, LR, ERG, EEO, or OIA-IG. In order for the Agency to receive and coordinate complaints to and from management and supervisors for appropriate action, employees can also report harassment directly to the DCMA AHPM.

c. Understand that although isolated incidents of harassment generally do not violate Federal law, a pattern of incidents may be unlawful. Employees should take advantage of opportunities the Agency provides to make supervisors and managers aware of potentially unlawful harassment so that supervisors and managers can intercede to prevent, correct, or stop all harassing conduct, whether unlawful or otherwise.

d. Complete the DCMA EEO Office's "EEO, Anti-Harassment" and "No FEAR Act" training courses on an annual basis. In addition, employees will complete the AHP's online Anti-Harassment Training to satisfy the program's awareness requirements to include understanding the anti-harassment policy and procedures and their role in the complaint process.

e. Recognize that electing to initiate a complaint through the AHP does not preclude them from also filing an EEO complaint through the DCMA EEO Office on the same matter.

SECTION 3: PROCEDURES

3.1. HOW TO REPORT UNLAWFUL HARASSMENT. An employee who believes another person has subjected them to unwelcome unlawful harassing conduct should:

a. Inform the person(s) responsible for the conduct that it is unwelcome and offensive and request that it cease.

b. Immediately report the matter to their immediate supervisor or the supervisor of the offender. Employees can also report the conduct to any other management official in the chain of command if the conduct continues or when they are uncomfortable confronting the responsible person(s) directly. The employee may also report the matter to other officials, including the DCMA OIA-IG (website listed on this Manual's Resource Page), EEO officials, LR, ERG, AHPM or union representatives. If an employee elects to report harassing conduct outside their own chain of command, they should also grant permission to notify the employee's supervisory or management chain. All requests for confidentiality will be subject to the Agency's obligation to conduct a thorough and impartial investigation. When an employee makes a complaint to a management official about alleged unlawful harassment, DCMA will investigate the allegation regardless of whether the alleged unlawful harassment rises to the level of being severe or pervasive. Complaints of unlawful harassment do not need to conform to any particular format or be in writing.

c. Employees who witness or become aware of unlawful harassing conduct directed at another employee(s) are encouraged to report the matter to the supervisor of the offending employee(s) or other management officials in their chain of command.

3.2. RESPONDING TO UNLAWFUL HARASSMENT COMPLAINTS.

Commanders/Component Heads/Directors and supervisors will:

a. Inform employees of available reporting options and procedures to include their Commander/Component Head/Director, supervisor, IG, EEO, or AHPM as designated offices to receive complaints. Supervisors will also inform employees that participation in the AHP is a protected activity. The receiving office will provide notification to the DCMA AHPM for awareness and oversight to ensure impartial adjudication of complaints covered by this Manual.

b. Advise employees of available support resources.

c. Respond to and, as appropriate, investigate all harassment complaints as identified in Paragraph 3.3.

d. Follow additional procedures and comply with requirements set forth in this Manual.

e. Take appropriate disciplinary or administrative action when a complaint is substantiated.

f. Determine whether a climate assessment is warranted or additional unit training is required.

g. Prior to initiating any type of investigations into allegations of harassment, first consult with the GC, ERG and the AHPM to make a determination of the appropriate investigative procedure to be used. The types of investigations for use include informal inquiry/investigation, Command Directed Investigations (CDI), and IG investigations. The informal investigation will be used by first and second-level supervisors for matters that can be resolved at the lowest level. For more egregious harassment allegations, the Commander/Component Head/Director will conduct a CDI with an investigating officer appointed in writing and a written ROI to be provided at the conclusion of the investigation. For matters involving sexual harassment and potential criminal conduct, an OIA-IG investigation will normally be used, unless the IG determines at their discretion that an inquiry or CDI is more appropriate. All types of investigations will be conducted in a thorough, responsive, and impartial manner.

3.3. INQUIRIES INTO ALLEGATIONS OF HARASSING CONDUCT. A supervisor or management official who receives notice of an allegation or witnesses harassing conduct will take the appropriate actions as listed below:

a. Initial response.

(1) In the event a supervisor or management official personally witnesses harassing conduct, to prevent further unlawful harassing conduct, they will immediately intercede.

(2) Contact their assigned Counsel and ER Specialist promptly, but within no more than one business day, for guidance on the appropriate type of inquiry and response necessary to promptly address and resolve reported unlawful harassing conduct.

(3) Inform DCMA AHPM for oversight and awareness in tracking final disposition of allegations.

b. Matters requiring further investigation. If the results of a supervisor or manager's initial inquiry are insufficient to determine whether the issue requires corrective action, the supervisor or management official responsible for taking disciplinary action against the alleged offender may request further investigation in accordance with applicable regulations and Agency Directives, as described in Paragraph 2.4. Investigations will begin within 10 days of notification. Investigations should be completed within 30 calendar days upon assignment of an IO. Management should make such requests on a case-by-case basis and in consultation with their assigned Counsel and ER Specialist. Failure to take timely action in accordance with agency procedures puts the agency at increased risk of legal liability. Management officials who fail to comply with these procedures are subject to appropriate administrative or disciplinary action. Management may use the information obtained in the course of an investigation, including the findings and recommendations, in taking corrective action against an alleged offender, including disciplinary action, if appropriate.

c. Confidentiality. DCMA will maintain all reported information, including results of inquiries and investigations, on a confidential basis to the greatest extent possible, consistent with the Agency's obligation to conduct a thorough and impartial investigation. The identity of the employee alleging the violation will remain confidential except as necessary to conduct an

appropriate investigation into the alleged violations or when the law or regulation requires otherwise. Management cannot guarantee complete confidentiality because it cannot conduct an effective investigation without disclosing certain information to the alleged offender and potential witnesses. Management may have to disclose information to an employee being disciplined as a result of an inquiry or investigation. Also, the Agency may have to disclose the information as part of any litigation for which the information may be relevant and necessary. Maintenance of investigative records and any disclosures of information from those records will be in compliance with the Privacy Act of 1974 (Section 552a of Title 5, United States Code). Any Freedom of Information Act requests will be processed in accordance with DoD Directive 5400.07, "DoD Freedom of Information Act (FOIA) Program."

d. **Types of Investigations.** The types of investigations for use include informal inquiry/investigation, CDI, and OIA-IG investigations. The informal investigation will be used by first- and second-line supervisors for matters that can be resolved at the lowest level. For more egregious harassment allegations, the Commander/Component Head/Director will conduct a CDI with an IO appointed in writing and with a written ROI at the conclusion of the investigation. For matters involving sexual harassment and potential criminal conduct, an OIA-IG investigation will normally be used, unless the OIA-IG determines at their discretion that an inquiry or CDI is more appropriate.

3.4. ACTIONS TO TAKE AFTER AN INQUIRY.

a. Upon completion of the inquiry or investigation, the management official responsible for taking disciplinary action against the alleged offender will promptly evaluate the evidence and determine the appropriate action to take in consultation with the servicing GC and ER Specialist. This responsibility normally rests with the FLS of the employee alleged to have engaged in the harassing conduct, unless the supervisor is involved in the allegation. In those cases, the ROI will be provided to the next senior official in the supervisor's chain of command.

b. In case of substantiated severe or pervasive harassing conduct, the management official must consult promptly with the Agency's GC, EEO, ERG, OIA-IG, and AHPM regarding appropriate corrective action.

c. When the inquiry substantiates that an employee engaged in harassing conduct, or that an employee engaged in retaliation against a witness or an individual who submitted a report, that employee is subject to appropriate disciplinary or other corrective action in accordance with applicable regulations and directives listed in the Reference section of this Manual. Any alleged misconduct by a military member will be covered by DCMA Manual 4202-03, "Military Justice."

d. No further action is necessary under these procedures once management, in consultation with the assigned Counsel and ER Specialist, is satisfied that its corrective action has stopped the harassing conduct and deterred its recurrence.

3.5. FILING A COMPLAINT OF DISCRIMINATION OR HARASSMENT IN OTHER FORUMS.

a. Employees have the right to file complaints of discrimination or harassment in other forums to include the DCMA EEO Office. There is no prohibition against filing complaints of harassment in EEO and LR at the same time. Reporting harassment in accordance with the procedures in this Manual does not replace or satisfy the requirements for filing EEO complaints, union grievances or complaints in other forums, nor does it delay or waive the time limits for initiating claims in these forums.

b. Remedies for unlawful harassment may be addressed in the following forums:

(1) EEO. Employees may file an EEO Complaint through their servicing EEO office. The employee must, however, file an EEO Complaint within 45 calendar days of the alleged incident or when the employee knew or should have known of the discriminatory or harassing conduct. To the greatest extent possible, EEO officials must adhere to an aggrieved person's right to anonymity during the informal processing of the complaint unless the aggrieved employee waives their right to anonymity.

(2) Negotiated grievance procedure. DCMA employees covered by a collective bargaining agreement (CBA) may file a grievance under their negotiated grievance procedure. Bargaining unit employees should contact their union steward or appropriate union official for information about their rights and responsibilities under the negotiated grievance procedure.

(3) Merit Systems Protection Board (MSPB). Eligible Federal employees may appeal an adverse Agency personnel action (such as a removal or suspension of more than 14 days) with the MSPB if the personnel action is within the jurisdiction of the MSPB. The employee must file an appeal within 30 calendar days of the effective date of an appealable adverse action or within calendar 30 days of the date of receipt of the Agency's decision, whichever is later. Part 1201 of Title 5, Code of Federal Regulation (CFR), outlines the procedures for filing appeals, including appeals that include a claim of discrimination or harassment.

c. If an employee pursues a claim of harassment through the EEO process, the negotiated grievance procedure or an MSPB appeal, the EEO/AHPM representative who receives notice of the claim will promptly notify the appropriate responsible management official. The management official will then cooperate and respond within the process the employee has elected.

3.6. ANONYMOUS COMPLAINTS. Actions taken in response to anonymous complaints submitted outside the EEO or OIA-IG Hotline processes will depend upon the extent of information provided. If an anonymous complaint contains sufficient information to permit the initiation of an investigation, the investigation will be initiated in accordance with this Manual. If an anonymous complaint does not contain sufficient information to permit the initiation of an investigation, the information should be documented by the person receiving the report in a Memorandum for Record and maintained on file by the AHPM in accordance with the Agency's

disposition instructions. The Memorandum for Record should contain the following information, if available:

- a. Date and time the information was received and by whom,
- b. A detailed description of the facts and circumstances surrounding the complaint,
- c. Date and time the complaint was resolved and by whom, if applicable, and
- d. Any other pertinent information received.
- e. Information collected and retained by the AHPM will be protected in accordance with the Privacy Act of 1974.

SECTION 4: TRAINING AND EDUCATION

4.1. PREVENTION AND RESPONSE TRAINING AND EDUCATION PROGRAMS.

- a. DCMA AHPM will ensure harassment prevention/response training and education is provided to Agency personnel.
- b. Upon issuance of this Manual, the execution of training will be at supervisory and employee training (e.g., DCMA supervisory development training, Keystones, and new employee orientation) and also include an on-line training link provided by the AHPM.

4.2. REQUIREMENTS FOR TRAINING AND EDUCATION PROGRAMS. Harassment prevention and response training will include:

- a. Training that is delivered by the AHPM to ensure appropriate skills and competencies in providing accurate and consistent training across the DCMA workforce.
- b. Education that focuses on prevention and reporting with examples of appropriate conduct in the workplace and how to report perceived or observed harassment.
- c. Defining roles and responsibilities of DCMA personnel, including fostering a culture free from harassment.
- d. Information on how to identify harassment, definitions and types of harassment as outlined in Paragraph 1.3.
- e. Options and procedures for submitting informal (as applicable), formal, and anonymous harassment complaints.
- f. Information on what is/is not covered under the DCMA AHP.
- g. Information regarding how to identify and report retaliation and reprisal in accordance with applicable regulations and directives.
- h. Information regarding any administrative or disciplinary action that could be taken.
- i. Elements of the EEOC's updated anti-harassment compliance training modules, workplace civility, and bystander intervention strategies.

GLOSSARY

G.1. DEFINITIONS.

Bullying. Acts or written or spoken words intended to intimidate or harass a person or to cause physical harm to a person or his or her property.

Harassment. Includes behavior that is unwelcome or offensive to a reasonable person, whether oral, written, or physical, that creates an intimidating, hostile, or offensive environment. Harassment can occur through electronic communications, including social media, other forms of communication, and in person. Harassment may include offensive jokes, epithets, ridicule or mockery, insults or put-downs, displays of offensive objects or imagery, stereotyping, intimidating acts, veiled threats of violence, threatening or provoking remarks, racial or other slurs, derogatory remarks about a person's accent, or displays of racially offensive symbols. Activities or actions undertaken for a proper military or governmental purpose, such as combat survival training, are not considered harassment. Disagreements between employees and their supervisor which are not based on race, color, religion, sex (whether or not of a sexual nature), national origin, age (age 40 or older), disability, genetic information, or reprisal and pertain to work related issues (time and attendance, etc.) or performance do not constitute unlawful harassment. To be unlawful, the conduct must be based upon race, color, religion, sex (whether or not of a sexual nature), national origin, age (age 40 or older), disability, genetic information, or reprisal, be severe or pervasive, and creates a work environment that would be intimidating, hostile, or offensive to a reasonable person.

Protected Activity. The EEOC Enforcement Guidance defined protected activity as: Complaining about discrimination against oneself or others. Threatening to complain about discrimination against oneself or others. Providing information in an employer's investigation of discrimination or harassment.

Severe or Pervasive. Severe or pervasive means conduct that alters the conditions of employment and creates a hostile or abusive work environment. In determining whether the conduct was severe or pervasive, you should consider all the circumstances. You may consider any or all of the following: (a) The nature of the conduct; (b) How often, and over what period of time, the conduct occurred; (c) The circumstances under which the conduct occurred; (d) Whether the conduct was physically threatening or humiliating; (e) The extent to which the conduct unreasonably interfered with an employee's work performance.

Sexual Assault. Is defined as intentional sexual contact characterized by the use of force, threats, intimidation, or abuse of authority or when the victim does not or cannot consent. As used in this Manual, the term includes a broad category of sexual offenses consisting of the following specific Uniform Code of Military Justice offenses: rape, sexual assault, aggravated sexual contact, abusive sexual contact, forcible sodomy (forced oral or anal sex), or attempts to commit these offenses.

Unlawful Harassment. Includes, but is not limited to, unwelcome conduct, intimidation, ridicule, insult, offensive comments or jokes, or physical conduct which is based on race, color, religion, sex (whether or not of a sexual nature), national origin, age (age 40 or older), disability,

genetic information, or reprisal. Additionally, unlawful harassment may also include tangible employment actions affecting the employee because of the employee's acceptance or rejection of such conduct explicitly or implicitly. Unlawful harassment occurs when the conduct is sufficiently severe or pervasive as to alter the terms, conditions, or privileges of the employee's employment or otherwise creates a hostile or abusive work environment. Petty slights, annoyances, and isolated incidents (unless extremely serious) do not rise to the level of illegality.

GLOSSARY

G.2. ACRONYMS.

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| ADR | Alternative Dispute Resolution |
| AHP | Anti-Harassment Program |
| AHPM | Anti-Harassment Program Manager |
| AHWG | Anti-Harassment Working Group |
| CDI | Command Directed Investigation |
| CMO | Contract Management Office |
| EEO | Equal Employment Opportunity |
| EEOC | Equal Employment Opportunity Commission |
| ER | Employee Relations |
| ERG | Employee Relations Group |
| FLS | First Line Supervisor |
| GC | General Counsel |
| IO | Investigative Officer |
| LR | Labor Relations |
| MD | Management Directive |
| MSPB | Merit Systems Protection Board |
| OIA-IG | Office of Internal Audit and Inspector General |
| ROI | Report of Investigation |
| TF | Total Force Directorate |

REFERENCES

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February 8, 2018, as amended
Equal Employment Opportunity Commission Management Directive 110, August 5, 2015
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Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by
Supervisors (Enforcement Guidance), EEOC No. 915.002, § V.C.1, June 18, 1999
United States Code, Title 5, Section 552a, "Privacy Act of 1974"
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