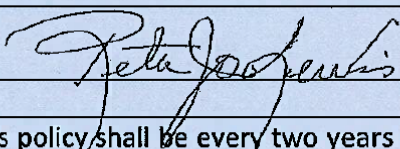


## OFFICIAL POLICY

<b>Policy Name:</b>	<b>Anti-Harassment Policy</b>
<b>Number:</b>	OP-OHC.2022.06
<b>Version:</b>	01
<b>Source:</b>	Office of Human Capital
<b>Approving Authority &amp; Title:</b>	Reta Jo Lewis, President and Chair 
<b>Effective Date:</b>	02/21/2023
<b>Next Review:</b>	02/2025 - The review cycle for this policy shall be every two years or as needed. Please see the Revision History section.

# 1 Policy

## 1.1 Purpose

To promote the health and safety of EXIM employees and prevent and prohibit harassment in the workplace by providing support and assistance to employees whose working lives are affected by such.

## 1.2 Background

This policy supersedes other EXIM policies or procedures that conflict with this policy. EXIM may issue supplemental implementing procedures at its discretion. EXIM's supplemental procedures must be forwarded to the Office of Human Capital (hereinafter 'OHC') prior to implementation for concurrence.

When provisions of this policy differ from changes in applicable law or regulation, the changes in law or regulation apply.

## 1.3 Policy Statement

It is EXIM's policy to maintain a work environment free from any type of harassment based on an individual's race, color, religion, sex (including pregnancy, sexual orientation or gender identity), national origin, age (40 or older), disability or genetic information, marital status, parental status, political affiliation, or any other basis protected by law. When EXIM determines that an allegation of harassment is credible, it will take prompt and appropriate corrective action.

# 2 Authority

## 2.1 Authority

- Title VII of the Civil Rights Act of 1964, as amended (Title VII)
- 5 U.S.C. § 2302 – Prohibited Personnel Practices
- 5 CFR 29 part 1614 – Federal Sector Equal Employment Opportunity
- EXIM's Anti-Harassment Policy Statement, dated March 10, 2020

## 2.2 Review Cycle

The review cycle for this policy shall be every two years or as needed. Please see the Revision History section.

## 2.3 Contact Information

Please contact the Senior Labor Management and Employee Relations Advisor for information regarding this policy.

## 3 Definitions

### 3.1 Definitions

- **Administrative Inquiry:** An internal impartial investigation of non-criminal conduct of an employee or contractor to determine whether such conduct violates this policy.
- **Harassment:** Unwelcome conduct that is based on race, color, religion, sex (including pregnancy, sexual orientation, or gender identity), parental status, marital status, political affiliation, national origin, age (40 or older), disability or genetic information.
- **Management Inquiry:** An external investigation conducted by a contract investigator into the conduct of an employee or contractor to determine whether such conduct violated this policy.
- **Sexual Harassment:** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when this conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment. Sexual assault is a form of sexual harassment, but most sexual harassment does not rise to the level of sexual assault.
- **Workplace:** An employee's official duty station or alternative work location that is associated with the employee's established tour of duty (working hours). The employee is considered to be in the workplace while utilizing the resources of the employer or if outside the resources of the employer.

## 4 Applicability

### 4.1 Applicability

This policy applies to all EXIM employees meeting the definition of "employee" as defined in 5 USC § 2105. This policy also covers student trainees and volunteers, and contractors, regardless of position. As such, each employee and contractor are required to comply with this policy. The principles in this policy also apply to all individuals on owned or leased property.

## 5 Responsibility

### 5.1 President and Chair is responsible for:

- Approving EXIM's Anti-Harassment Policy.
- Fostering civility throughout EXIM.
- Ensuring resources are allocated to promote a safe and civil organizational culture in all EXIM-supported workplaces to create an environment where all individuals are treated with respect, professionalism, and dignity.
- Holding EXIM leadership accountable if they do not coordinate fully with the Senior Labor Management and Employee Relations Advisor (Senior LMER) and/or the Equal Employment Manager. Failure to implement the recommended corrective administrative action in full could result in disciplinary/adverse actions.

## 5.2 Chief Human Capital Officer (CHCO) is responsible for:

- Ensuring all employees successfully complete the annual Anti-Harassment training as required.
- Ensuring that all individuals at EXIM facilities are provided information on EXIM's harassment and workplace violence policies and procedures.
- Partnering with the Senior Labor Management and Employee Relations Advisor and the Equal Employment Manager with the objective of ensuring that all administrative inquiries and subsequent corrective administrative action are appropriate and consistent with similar cases across the EXIM.
- Seeking to ensure that managers and supervisors report allegations of harassment as soon as possible and that they cooperate fully with the Senior Labor Management and Employee Relations Advisor and the Equal Employment Manager on related inquiries and corrective administrative action to address matters appropriately.

## 5.3 Senior Labor Management and Employee Relations Advisor (Senior LMER Advisor) is responsible for:

- Overseeing administrative inquiries into all allegations involving potential harassment or inappropriate conduct as defined above.
- Developing the EXIM policy for preventing and addressing harassment in the workplace.
- Serving as one of the primary contacts in response to harassment allegations.
- Collaborating with staff and management officials to advise on and assist with interim remedial actions during the administrative inquiry process and ensuring timely implementation of corrective actions once the inquiry is complete.
- Ensuring employees are kept abreast of all corrective action recommended and implemented in a timely manner.
- Assessing the urgency and whether there is a need for intervention or assistance from other EXIM resources to address an allegation, including answering questions, giving advice, and making referrals as needed.
- Ensuring appropriate post-incident response.
- Following up with management officials to ensure necessary steps, action, and closure.
- Providing regular updates on case data to EXIM leadership to ensure proper program oversight.
- Ensuring that the reporting process will provide a prompt, thorough, and impartial administrative inquiry into allegations of harassment **that is separate and distinct from the EEO Complaint process, which must be filed from 45 days of the discriminatory treatment.**
- Maintaining the official records.

#### 5.4 The Equal Employment Manager (EE Manager) is responsible for:

- In conjunction with the Senior LMER Advisor, overseeing administrative inquiries into all allegations involving potential harassment or inappropriate conduct as defined above.
- In conjunction with the Senior LMER Advisor, developing the EXIM policy for preventing and addressing harassment in the workplace.
- Serving as one of the primary contacts in response to harassment allegations.
- Serving as the initial contact point with external organizations interested in the Anti-Harassment Program.
- Providing EXIM-wide leadership and guidance on issues of equal employment opportunity, as well as anti-harassment and anti-discrimination efforts.
- Oversight of all discrimination complaints filed under 29 CFR Part 1614.
- Providing appropriate guidance and processing assistance on reasonable accommodation matters to EXIM employees and managers to remove barriers for individuals with disabilities.
- Providing training and guidance to the EXIM community on their rights and responsibilities regarding EEO laws and policies.
- Promoting a diverse and inclusive working environment where individuals are treated equitably and valued for their individuality.
- Promoting accessibility in the physical and digital workspace and ensuring individuals with disabilities are free from harassment and inappropriate conduct.
- Examining employment policies, procedures, and practices to identify employment barriers to EEO.
- Eliminating identified barriers to EEO.
- Providing guidance to managers as appropriate, and when requested, on how to address allegations of unlawful harassment due to membership in a legally protected class or basis.
- In conjunction with the Senior LMER Advisor, ensuring that the reporting process will provide a prompt, thorough, and impartial administrative inquiry into allegations of harassment **that is separate and distinct from the EEO Complaint process, which must be filed from 45 days of the discriminatory treatment.**

#### 5.5 Contracting Officer Representatives (CORs) are responsible for:

- Working to prevent and address harassment and inappropriate conduct in the workplace, promoting a safe and civil organizational culture, and creating an environment where all individuals are treated with respect and dignity.
- Ensuring all contract employees successfully complete the mandatory annual Anti-Harassment training as required.
- Promptly reporting any allegations of harassment to the Senior LMER Advisor and/or EE Manager when they become aware such allegations and being aware that they cannot keep allegations regarding harassment or workplace violence confidential.

- Promptly cooperating fully with the Senior LMER Advisor and/or EE Manager during administrative inquiries and keeping them abreast of the contract company's response and findings.
- Being cognizant of situations that have the potential to escalate conflict and promptly addressing them with all concerned parties.
- Providing information about and encouraging all contract employees to utilize the resources offered by such offices and programs as OHC and the Employee Assistance Program.

#### 5.6 Managers and Supervisors are responsible for:

- Working to prevent and address harassment and inappropriate conduct in the workplace, promoting a safe and civil organizational culture, and creating an environment where all individuals are treated with respect and dignity.
- Ensuring all employees successfully complete the annual Anti-Harassment training as required.
- Reporting any allegations of harassment to the Senior LMER Advisor and EE Manager as soon as they become aware or no more than 2 business days after becoming aware and being aware that they cannot keep allegations regarding harassment or workplace violence confidential.
- Coordinating closely with the Senior LMER Advisor and EE Manager to appropriately address allegations of harassment or inappropriate conduct in a timely manner.
- Promptly issuing interim action for direct reports involved in inquiries, including instructing them to move temporarily, participate in climate surveys, and inquiries, rearrange schedules, provide cease and desist instructions, or otherwise instruct employees in line with guidance from the Senior LMER Advisor and EE Manager.
- Ensuring employees are kept abreast of all corrective action recommended and implemented in a timely manner.
- Cooperating promptly and fully with the Senior LMER Advisor and EE Manager during internal and external administrative inquiries to look into allegations of harassment.
- Being cognizant of situations that have the potential to escalate conflict and promptly addressing them with all concerned parties.
- Ensuring that employees have time and opportunity to attend training for understanding and responding to harassment and inappropriate conduct.

#### 5.7 Employees, contractors, and individuals on EXIM owned or leased property, including extended visitors are responsible for:

- Understanding their rights and responsibilities under this policy.
- Conducting oneself in a manner that promotes and facilitates a safe and civil organizational culture, and an environment where all individuals are treated with respect and dignity.
- Promptly reporting if they believe they have experienced or have witnessed harassment, inappropriate conduct, threats, intimidating or bullying behavior to

appropriate authorities (such as their supervisory chain of command, the contractor company and the Senior LMER Advisor and/or EE Manager).

- Cooperating fully in administrative inquiries of allegations of harassment and inappropriate conduct.
- Respecting the integrity of the process by truthfully and accurately participating in all inquiries and not discussing the content of inquiries with peers.
- Being aware that they cannot ask or expect an EXIM manager or supervisor to keep their allegations regarding harassment or workplace violence confidential, even if the manager or supervisor is a mentor or otherwise outside of the employee's chain of command.
- Reporting any restraining orders and other protective court orders to the Senior LMER Advisor and EE Manager so assistance can be offered, safety measures can be implemented at the work site; and if a contractor or company that employs them, ensuring compliance with all Department of Labor (DOL) and Equal Employment Opportunity Commission (EEOC) statutory requirements as well as adherence to Federal Acquisition Regulation clause 52.222-26 Equal Opportunity.
- Attending all training as required by EXIM.

## 6 Procedures

Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy, sexual orientation, or gender identity), national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful when it alters the conditions of employment either by 1) culminating in a tangible employment action, or 2) creating a hostile work environment.

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people.

Offensive conduct or prohibited harassment may include, but is not limited to:

- Unwelcome and unacceptable conduct based on race, color, religion, sex (including pregnancy, gender identity, transgender status, and sexual orientation), national origin, age (40 or older), disability, equal pay/compensation, or genetic information (including family medical history);
- Inappropriate or racial slurs, comments, and innuendos.
- Making offensive comments or asking questions about someone's sexual history, orientation, or gender identity.
- Psychological bullying or intimidation, such as: making statements which are false, malicious, disparaging, derogatory, rude, disrespectful, abusive, obnoxious, demeaning, belittling, or that have the intent to hurt others.
- Rude or obnoxious remarks or comments.



- Inappropriate touching.
- Inappropriate gestures, expressions, pictures, or graffiti.
- Actions or behaviors that adversely impact EXIM's operations, productivity and/or work environment.
- Threats made against others or other threatening behavior.
- Physical intimidation or aggression (e.g., holding, restraining, impeding or blocking movement, following, stalking, inappropriate contact or advances, bullying, or any other forms of inappropriate touching or gestures);
- Inappropriate communication such as slurs, epithets, ridicule, insults, displaying objects, pictures, graffiti, etc.

## 6.1 Reporting an Allegation of Harassment or Inappropriate Conduct

- Any employee who experiences or witnesses harassing conduct should promptly report the matter to their supervisor, another manager or supervisor, the Senior LMER or EE Manager. In addition, employees may initiate an equal employment opportunity (EEO) complaint based on their membership in one or more protected bases by contacting the EE Manager and initiating the EEO process within 45 days of the alleged harassment.
- Managers/supervisors and CORs have an obligation to report alleged harassment to the Senior LMER Advisor and/or EE Manager as soon as possible.
- Contractors are encouraged to report such behavior to their employing business and/or the COR and are encouraged to follow any reporting requirements set forth by their business.
- Once an allegation is raised, the Senior LMER Advisor and/or EE Manager will initiate a prompt administrative inquiry, as described below. During this process, the reporting party may remain anonymous, but the information shared will not be held as confidential. The Senior LMER Advisor and/or EE Manager must follow up on all allegations of harassment and cannot guarantee that the individual's identity will not become apparent during the process. Please note that if the individual remain anonymous, key details about the allegation or concern may be omitted. This will limit EXIM's ability to conduct an inquiry and take corrective action as warranted.
- Confidentiality indicates that what an individual says is private or secret and no further action will be taken. The Senior LMER Advisor and/or EE Manager is not a confidential resource. The Senior LMER Advisor and/or EE Manager and management officials cannot guarantee confidentiality when it comes to allegations of harassment. If an individual reports an allegation **that meets the definition of harassment, including sexual harassment**, managers/supervisors **must** contact the Senior LMER Advisor and/or EE Manager.
- All employees have the right under EXIM policy to report their concerns about inappropriate conduct to the Senior LMER Advisor and/or EE Manager without negative consequence. Retaliatory treatment towards any EXIM employee or



contractor for reporting allegations of inappropriate conduct or harassment or for participating as a witness in an administrative inquiry is prohibited.

- Raising an allegation with the Senior LMER Advisor and/or EE Manager under this policy is not equivalent to or in lieu of filing an EEO Complaint of Discrimination, under 29 C.F.R. 1614, or a grievance under the administrative or negotiated procedures included in the applicable Collective Bargaining Agreement (CBA).
- The Senior LMER Advisor and/or EE Manager serves as the entity charged with receiving allegations of inappropriate conduct, including all forms of harassment, and overseeing the appropriate administrative inquiry in an objective and consistent manner across all of EXIM. This is a stand-alone requirement, and the goal is to stop any inappropriate or harassing behaviors immediately and to ensure that appropriate corrective action is taken in a timely manner. This is separate and distinct from the EEO complaint process.
- During the inquiry process, the Senior LMER Advisor and/or EE Manager may refer reporting parties to other EXIM resources for remediation and any additional relief sought. The goal of an inquiry is for EXIM to respond to and stop inappropriate or harassing behavior. However, an inquiry will not result in remediation, such as payment of damages, to any individual who has alleged harassment.
- Participation in the process does not prohibit an individual from pursuing relief through the EEO complaint process, or the grievance process. Employees wishing to pursue an EEO complaint must contact EEO separately to ensure they submit their EEO claim within the 45-day timeframe. Reporting an incident to the Senior LMER Advisor and/or EE Manager does not start the 45-day process. However, failure to raise complaints of harassment with or participate in the administrative inquiry process may limit EXIM's ability to respond to inappropriate or harassing behaviors expeditiously.

## 6.2 Reporting an EEO Complaint of Harassment

- An EEO complaint may be filed by a current or former employee or an applicant for employment who alleges harassment on the bases of race, religion, color, national origin, age (40 or older), physical or mental disability, equal pay/compensation, genetic information, sex (including pregnancy, sex stereotyping, gender identity, transgender status, and sexual orientation), and/or retaliation for protected EEO activity. EEO's complaint processing provides for informal counseling, investigation, adjudication, and potential resolution of EEO complaints.
- In order to pursue an EEOC complaint, employees must contact the EE Manager **within 45 days** of the discriminatory incident to file a pre-complaint of discrimination or within 45 days in which they have become aware that they have been discriminated against. Reporting an incident to EE Manager does not start the 45-day process. Employees wishing to pursue an EEO complaint must contact EEO separately to ensure they submit their EEO claim within the 45-day

- timeframe. Contacting the EE Manager will not stay or alter the timeframe available to employees to contact EEO for purposes of filing an EEOC complaint.
- Once an EEO complaint is filed with an allegation of workplace harassment, EEO is obligated to notify the Senior LMER Advisor and/or EE Manager of the allegation, which will initiate EXIM's obligation to conduct an administrative inquiry. The investigations may be similar for both processes. EEO will contact the Senior LMER Advisor and/or EE Manager to learn whether an inquiry has already been conducted on the allegations. However, EEO must conduct their own separate investigation, even if an inquiry regarding the complaint has already been conducted by the Senior LMER Advisor and/or EE Manager.
  - If an employee believes they are being discriminated against, please refer to the EEO Policy or contact the EE Manager.

### 6.3 Administrative Inquiries into Harassment or Inappropriate Conduct Allegations

Once an allegation of harassment or inappropriate conduct is reported to Senior LMER Advisor and/or EE Manager, the following actions must be taken:

1. Contact the reporting party to conduct an administrative inquiry to determine if an administrative inquiry is required and provide them with information about EXIM wellness and conflict resolution resources. If the reporting party chooses to remain anonymous, Senior LMER Advisor and/or EE Manager will proceed with the next steps to the greatest extent possible given the information available.
2. Notify the most appropriate management official of the nature of the allegations and other appropriate information.
3. Review all the initial documentation to determine if an administrative inquiry is required. If they determine the matter would be more appropriately handled by a partner organization, Senior LMER Advisor and/or EE Manager will notify the appropriate management official and involved parties and provide a referral to the most appropriate resource(s). Those resources may include:
  - Office of Inspector General (OIG)
  - Office of General Counsel (OGC)
  - Employee Assistance Program (EAP)
  - Equal Employment Opportunity (EEO)
4. For cases requiring further review, Senior LMER Advisor and/or EE Manager will notify the most appropriate management officials and initiate a more in-depth administrative inquiry. The purpose of the review is to ensure allegations are examined objectively and any inappropriate behavior is curtailed quickly through appropriate corrective action. The type of administrative inquiry can take on a variety of characteristics depending on the nature and complexity of the allegations:
  - Internal administrative inquiries conducted by Senior LMER Advisor and/or EE Manager should typically be initiated within ten (10) business days from receiving the allegation absent extenuating circumstances. The Senior LMER

Advisor and/or EE Manager has the responsibility and discretion to determine the type of inquiry that may be required to ensure a thorough, objective examination of the allegation to determine if inappropriate conduct has occurred.

- External management inquiries conducted by a contract investigator will be initiated if the situation is confounding or has a large, complex scope or potential impact. The Senior LMER Advisor and/or EE Manager will notify the most appropriate management official that the inquiry will be conducted by a third party and obtain approval for funding. The external inquiry should be conducted expeditiously and the timeframe for completion will vary depending on circumstances, e.g., lead time for retention of a contract investigator.
  - Many factors contribute to the time it takes to complete an inquiry, including obtaining statements from multiple employees, scheduling interviews with multiple employees, analyzing all the information collected, and coordinating with the appropriate management officials and stakeholders on next steps.
  - The process can be uncomfortable and stressful for some. Participants are encouraged to ensure they understand the process, comply with their responsibilities, and utilize EXIM resources outlined in this policy to assist them in the process. Participants are to be mindful that all communication with others, the Senior LMER Advisor and/or EE Manager, throughout this process will be considered in the findings and maintained as part of the case file.
5. The Senior LMER Advisor and/or EE Manager will review the documentation to determine if a **preponderance of evidence** (evidence which shows that the fact to be proven is more probable than not) supports that a violation of this policy has occurred.
  6. Upon completion of the administrative inquiry, the most appropriate management official will be notified, and a close-out notification will be sent to the reporting party and the subject of the allegation informing them that the process is complete.
  7. When a government contractor is involved, the preceding steps will include the COR and the contracted business as appropriate. If the situation involves only contractors, then the contracted business may take the lead on the inquiry but must provide findings and subsequent action to the COR, who will then provide the information to Senior LMER Advisor and/or EE Manager.

## 7 Resolution

### 7.1 Corrective Administrative Action

When it is determined that this policy has been violated, the Senior LMER Advisor and/or EE Manager will develop corrective administrative actions. The corrective administrative actions can include a variety of interventions as well as appropriate disciplinary actions such as reprimand, proposed suspension, or proposed removal and shall always include a reminder that retaliatory treatment towards any Federal employee, non-Federal worker, or contractor for

reporting allegations of inappropriate conduct or harassment, or for participating as a witness in an administrative inquiry or EEO complaint process, is prohibited. Other interventions may include training, coaching, facilitated discussions for the team, and/or collaborative work with the Employee Assistance Program. Once the Senior LMER Advisor and/or EE Manager, after consultation with the Office of General Counsel (OGC) determine the corrective administrative action, they will inform the supervisor and recommend target completion dates. If the respondent is a Government contractor, corrective and/or disciplinary action will be the responsibility of the contracted business.

## 7.2 Communicating Outcomes to Reporting Parties

The Senior LMER Advisor and/or EE Manager will notify (via phone, Teams, or email) the reporting party of the status of the administrative inquiry and when it has been referred to the appropriate management officials to make a decision with the assistance of the Senior LMER Advisor and General Counsel. However, because of privacy rights and procedures, no further information will be provided.

## Revision History

Date	Version	Section/s	Comments
07/13/2022	1.0	All	Initial Draft
09/03/2022	1.0	All	SVPs Review
10/28/2022	1.0	All	OGC Review
01/06/2023	1.0	All	Chief of Staff Review
02/02/2023	1.0	All	Senior Advisor of DEIA Review
02/21/2023	1.0	All	Approved by President and Chair