



U.S. ACCESS BOARD ANTI-HARASSMENT POLICY

Equal Employment Opportunity Program

Approval Date: February 7, 2025

Version: Version 2.1

1. PURPOSE

This document makes minor revisions to the policy issued in October 22 (1) to conform to recently issued executive orders; (2) to delete a repeated reference in the “Authorities” section to 29 C.F.R. Part 1614; (3) to clarify in this introduction that harassment based on genetic information is prohibited; and (4) to substitute Dru Gordon as EEO Director in place of Alison Levy. Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, the Americans with Disabilities Act of 1990, and Title II of the Genetic Information Nondiscrimination Act. The U.S. Access Board (Access Board or Board) is committed to maintaining a work environment free from harassment.

The purpose of this Policy is to prevent harassing conduct from occurring in the workplace, and to correct such conduct when it does occur before it becomes severe or pervasive. The conduct covered by this Anti-Harassment Policy is broader than the legal definition of unlawful harassment and includes hostile or abusive conduct based on race, color, religion, sex, national origin, age, disability, retaliation, genetic information (including family medical history), marital status, parental status, or political affiliation, even if such conduct does not rise to the level of illegality. The purpose of this policy is to prevent and eliminate harassment in the workplace by supervisors, co-workers, and contractors or other third parties, and to take all necessary steps to avoid harm to an employee who is subject to unwelcome conduct based on any of the abovementioned protected characteristics.

2. APPLICABILITY

This policy applies to all Access Board employees, public board members, former employees, applicants for employment, and contractors.

3. AUTHORITIES

- [29 C.F.R. §1614](#)
- Title VII of the Civil Rights Act ([42 U.S.C. §2000e et seq.](#)).
- Age Discrimination in Employment Act ([29 U.S.C. §621 et seq.](#)).
- Section 501 of the Rehabilitation Act ([29 U.S.C. §791.](#)).
- Title II of the Genetic Information Nondiscrimination Act ([42 U.S.C. 2000ff](#))
- Civil Service Reform Act ([5 U.S.C. §2302\(b\)\(10\)](#))
- [EEOC Management Directive 715](#)

4. HARASSING CONDUCT

4.1. HARASSING CONDUCT.

Harassment or harassing conduct includes unwelcome verbal or physical conduct that is based on an individual's race, color, religion, sex, national origin, age, disability, genetic information (including family medical history), marital or parental status, political affiliation, or retaliation for opposing conduct made unlawful under the EEO laws or for participating in the EEO process (collectively referred to as "protected characteristics"), even if such conduct does not rise to the level of unlawful harassment that violates EEO laws. Unlawful harassment, in turn, is harassing conduct that is based on one or more protected characteristics and where: (1) enduring the offensive conduct becomes a condition of continued employment; or (2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Even though a single utterance or act typically does not rise to the level of unlawful harassment, it may nonetheless constitute harassing conduct covered under, and prohibited by, this Policy.

4.1.1. Types of harassing conduct.

Harassing conduct can take many forms. It may be verbal or physical. It can take place in person, but also via other forms of communication, such as bulletin boards, phone calls, text messages, emails, or social media posts. Examples of harassing conduct, when based on one or more protected characteristics, include: offensive jokes, comments, objects, or pictures; undue and unwelcome attention; ridicule or mockery; insults or put-downs; unwelcome touching or contact; slurs or epithets; threats or other forms of intimidation; or physical or sexual assault. However, harassing conduct on the basis of sex does not have to be sexual in nature, it can include offensive remarks about a person's sex.

4.1.2. Retaliatory harassment.

Retaliatory harassment may be unlawful even if it is not severe or pervasive enough to create a hostile work environment, as long as it might deter a reasonable person from asserting EEO rights. It is a violation of this Policy to retaliate against employees who engage in protected activity. Protected activity includes reporting harassing conduct, discrimination, or retaliation; filing a claim of harassment; providing evidence in any investigation; or intervening to protect others who may have suffered harassing conduct, discrimination, or retaliation.

4.2. CONDUCT NOT CONSIDERED HARASSING CONDUCT.

While the Access Board expects and encourages all employees to comport themselves in a civil, respectful, and professional manner, this Policy does not cover all rude, uncivil, or disrespectful behavior in the workplace. Also, the Access Board does not typically consider harassing conduct to include a supervisor performing his or her management duties (e.g., telling an employee that he or she is not performing a job adequately, needs to arrive at work on time, or submit work in a timely manner).

5. ROLES AND RESPONSIBILITIES

5.1. SUPERVISORS.

- Supervisors shall act promptly and appropriately to prevent harassing conduct and retaliation against those who complain of harassing conduct.

- Supervisors are responsible for reporting, pursuant to [Section 7.1](#) of this Policy, any incident of harassing conduct that they witness or is brought to their attention to the General Counsel.
- Supervisors will work with the General Counsel to determine if an allegation should be referred for investigation. For example, the supervisor may be able to resolve an alleged incident of harassing behavior by simply asking the individuals involved what happened and directing the employee under his or her supervision to refrain from engaging in the conduct that the coworker found offensive.
- If an allegation is resolved without referral for investigation, the supervisor shall document the incident in writing, including any action taken.
- Supervisors must also work with the Executive Director and General Counsel to provide any interim relief or corrective action to alleged victims deemed appropriate by the Executive Director.
- If a supervisor is the alleged offender, he or she will not take part in conducting the inquiry or determining the appropriate corrective action.

5.2. GENERAL COUNSEL.

- The General Counsel shall act promptly and appropriately to determine whether harassing conduct occurred, and if so, to prevent future harassing conduct, and/or retaliation against those who complain of harassing conduct.
- The General Counsel is responsible for receiving and handling any allegations of harassing conduct promptly and appropriately, initiating an investigation if necessary, reviewing the investigative report and providing any recommendations for corrective action to the Executive Director.
- The General Counsel shall also provide advice and counsel regarding the investigative process and making determinations of appropriate interim relief and corrective action.
- If the General Counsel is the alleged offender, then the Executive Director shall assume the responsibility for conducting the investigation.

5.3. EXECUTIVE DIRECTOR.

- The Executive Director shall act promptly and appropriately to prevent harassing conduct and retaliation against those who complain of harassing conduct.
- The Executive Director is responsible for determining, in consultation with the General Counsel and appropriate supervisor, the appropriate interim relief, if any, to be provided to an alleged victim of harassment pending investigation and the appropriate preventative or corrective action at the conclusion of the investigation.
- If the Executive Director is the alleged offender, then the Chair of the Access Board shall assume the role of the Executive Director for the purposes of an investigation in accordance with this Policy.

5.4. EMPLOYEES AND CONTRACTORS.

Employees and contractors are responsible for acting professionally and refraining from harassing conduct, becoming familiar with this Policy, promptly reporting any incident of harassing conduct that they experience or witness, and cooperating with harassment inquiries conducted in accordance with this Policy.

6. POLICY

The U.S. Access Board does not permit harassing conduct by anyone in the workplace – this includes managers, supervisors, line employees, public board members, applicants, and contractors. The Access Board is committed to maintaining a work environment free from harassing conduct.

The U.S. Access Board has determined that the most effective way to limit harassing conduct is to treat it as misconduct, regardless of whether it rises to the level of unlawful harassment. Unlawful harassment (also referred to as a hostile work environment) claim usually requires a showing of a pattern of offensive conduct. The Access Board will not wait for such a pattern to emerge. Rather, the agency will act proactively to stop the harassing conduct before it can become sufficiently severe or pervasive to constitute unlawful harassment.

Additionally, the agency will not tolerate retaliation against any employee for reporting harassing conduct, or for cooperating or assisting in any harassment inquiry conducted by the agency. Allegations of such retaliation shall be handled pursuant to the procedures in this policy.

7. PROCEDURES

7.1. REPORTING WORKPLACE HARASSMENT

This policy provides multiple avenues through which any person to whom this policy applies may report harassing conduct. Access Board employees, supervisors, contractors, or applicants for employment who believe they have been subject to harassing conduct in the workplace, or who have observed workplace harassment, should report these incidents to any of the following agency officials: their first-line supervisor; another supervisor; the EEO Director; the General Counsel; or the Executive Director. Reports of alleged harassing conduct can be made in-person, by telephone, by an online communication platform (e.g., Microsoft Teams), or via email.

7.2. INVESTIGATION AND INTERIM RELIEF

Supervisors or other agency officials who observe or receive reports of allegedly harassing conduct (or who themselves witness such conduct) should immediately inform the General Counsel. Upon receiving an allegation of harassing conduct, the General Counsel shall promptly:

7.2.1. Resolution of Complaints Without Investigation.

The General Counsel shall work with the appropriate supervisor to promptly determine whether an investigation is necessary, or if the matter can be dealt with in a more informal manner. For example, situations in which the conduct is clear, and the supervisor can correct the behavior with verbal counseling, or the conduct does not fall within the purview of this policy may not necessitate initiating an investigation. If the allegation is settled without initiating an investigation, then the supervisor shall document the incident and actions taken and provide the written report to the General Counsel to be maintained in accordance with [Section 7.3.5](#) of this Policy.

7.2.2. Initiating an Investigation.

The General Counsel shall refer for investigation any complaint of harassing conduct that he or she believes warrants one. The Access Board has contracted with the United States Postal Service's National EEO Investigative Services to provide agency-wide EEO services and investigations into harassing conduct.

7.2.3. Informing the Alleged Victim.

The investigator shall inform the alleged victim about the procedural steps that will follow pursuant to this Policy. This includes an assurance that the investigation will be conducted as timely as possible and that the alleged conduct and all related information will be maintained on a confidential basis to the greatest extent possible, except as necessary to conduct a thorough and fair investigation, or except as required by law in accordance with [Section 9](#) of this Policy.

7.2.4. Other Avenues of Redress.

The investigator shall also inform the alleged victim of other avenues of redress, including:

- (1) the right to file an EEO complaint, which includes informing the complainant of the related deadlines for the EEO complaint process;
- (2) the right to go to the Office of Special Counsel, if the conduct is alleged to be based on marital status or political affiliation; and
- (3) the right to go to the Merit Systems Protection Board, if the conduct results in an adverse personnel action such as suspension, demotion, or termination for more than 14 days. (See 5 C.F.R. §1201.3(a)).

7.2.5. Interim Relief.

The Executive Director shall determine, what, if any, interim action is necessary to stop harassing conduct and prevent further harassment while the allegations are being investigated, including granting interim relief to the alleged victim of harassing conduct, if appropriate. The Executive Director, in consultation with the General Counsel and the appropriate supervisor shall determine and implement interim relief, if warranted. Interim relief may include but is not limited to temporary reassignment; placement in remote work status; placement on administrative leave; or issuing no contact instructions. Interim relief shall be applied in a manner so as not to unduly burden the alleged victim. Except in very limited circumstances, the alleged harasser, rather than the complainant or the target of the conduct, shall be the person who is temporarily reassigned, placed in telework status, or placed on administrative leave.

7.2.6. Investigation Policy.

Investigations shall be completed as quickly as practicable. The complainant may request an update about the status of the investigation at any time. All investigations must be prompt, thorough, and fair. A report of alleged harassing conduct shall not be presumed true, and an alleged harasser shall not be presumed to have engaged in harassing conduct unless and until a complete investigation determines that harassing conduct occurred. The investigator shall determine the scope of the investigation, which is a fact-specific determination made on a case-by-case basis.

7.2.7. Conducting the Investigation.

In conducting the investigation, the investigator must:

- (1) Interview the complainant;
- (2) Interview the alleged harasser;
- (3) Collect relevant evidence, and determine who else may have relevant information and interview them; and
- (4) Prepare a written report on the investigation, as described below.

7.2.8. Cooperation.

All parties, including the complainant, target of the conduct if different from the complainant, the alleged harasser, and any others involved, will be expected to cooperate with an investigation so that it can be conducted in a prompt, thorough, and fair manner.

7.2.9. Written Report of Investigation.

At the conclusion of the investigation, the investigator shall prepare a written summary of the investigation and submit it to the General Counsel. This report shall include the individuals and conduct involved, a description of the collected evidence, the steps taken to conduct the investigation, and any other relevant information. The report of the investigation and other documentation prepared or collected shall be kept confidential to the maximum extent possible in accordance with [Section 9](#) of this Policy.

7.2.10. Review by General Counsel.

The General Counsel shall review the written report of investigation, make a determination if any actionable harassment or harassing conduct that violates this Policy occurred, and, if warranted, make a recommendation of preventive and/or corrective action to address the conduct. The General Counsel will provide the Executive Director with the investigation report and his/her findings and recommendations.

7.3. CORRECTIVE ACTION.

If it is determined that harassing conduct occurred, proportionate preventive and/or corrective action shall be taken promptly. Corrective action may include disciplinary action, as called for by the facts of the case and applicable conduct rules. The penalty imposed for harassing conduct shall be selected in the same manner as for any other violation of workplace rules, taking into consideration the severity and frequency of the conduct, the response required to end the conduct and prevent it from recurring, the offender's disciplinary/conduct history, and other relevant factors. The severity and frequency of harassing conduct shall be considered when determining the level of preventative and/or corrective action. More egregious harassing conduct shall merit more severe action. For example, the use of an epithet, a threat or other intimidation, or a sexual or physical assault would warrant a more severe action than a first-time inappropriate comment or joke.

7.3.1. Determining and Implementing Preventive and/or Corrective Action.

The Executive Director, in consultation with the harasser's direct supervisor and the General Counsel, shall determine the appropriate preventative and/or corrective action to be taken.

7.3.2. Examples of Proportionate Preventive and/or Corrective Action.

Examples of types of proportionate preventive and/or corrective action for harassing behavior include, but are not limited to:

- (1) *Counseling.* An employee shall be counseled for harassing conduct consistent with this Policy and applicable conduct rules. After counseling has been imposed, the conduct of the counseled employee shall be monitored to ensure that the conduct does not continue.
- (2) *Discipline.* For the most serious harassing conduct, corrective action shall include disciplinary action applicable to violations of conduct standards, such as suspension, demotion, or termination. Corrective action shall be in proportion to the seriousness of the harassing conduct.
- (3) *Training.* Training, for specific individuals, units, or agency-wide, may be appropriate in certain circumstances. For example, training for specific individuals who do not know how to respond to harassing conduct may be appropriate; training for a particular unit or agency-wide is likely appropriate if more than one employee in a unit or throughout the agency has engaged in harassing conduct, or if there is other evidence that employees do not know what conduct is appropriate and permissible.

7.3.3. Management Official's Failure to Perform Obligations Under Policy.

Appropriate corrective action, up to and including removal, shall be taken against any management official who fails to perform his/her obligations as set forth in this Policy regarding harassing conduct that the official knew or should have known about. Conversely, appropriate positive reinforcement, up to and including awards and positive feedback on performance appraisals, shall be provided to any management official who responds to harassing conduct in an exemplary manner.

7.3.4. Monitoring.

After instituting corrective action, the supervisor and Executive Director shall monitor the situation to prevent further incidents of harassment or retaliation against individuals who have reported harassment or participated in the inquiry.

7.3.5. Recording.

Once corrective and/or preventative action is implemented, the investigation report described in Section 7.2.9 shall be amended to describe the action taken.

7.4. INFORMING THE PARTIES.

Throughout the investigative process, the General Counsel shall be the point of contact for the alleged victim and alleged harasser regarding the status of the investigation. Once complete, the alleged victim and alleged harasser shall be informed of the outcome of the investigation, in writing, along with any corrective or preventative action taken.

8. CONFIDENTIALITY, RECORDKEEPING, AND OTHER ADMINISTRATIVE MATTERS

8.1. CONFIDENTIALITY AND PRIVACY

Information related to incidents of alleged workplace harassment or retaliation covered by this Policy (i.e., reported incidents of harassing conduct, investigative reports, witness interviews, corrective or disciplinary action) must remain confidential to the greatest extent possible, except as necessary to: conduct a fair and thorough investigation and carry out related procedures specified in this Policy; defend the agency in administrative or legal proceedings in which the information may be relevant; or comply with federal law or regulation.

8.2. INFORMING THE PARTIES

Upon completion of the investigation, the General Counsel should inform the parties, in writing, of the determination and any corrective action that will be taken.

8.3. RECORDKEEPING

Reports of alleged workplace harassment and any related documents must be maintained in a secure manner using appropriate physical controls (e.g., locked file cabinet) or administrative controls (e.g., password protection, limited access network or file location) to ensure confidentiality and privacy. Records shall be retained by the Office of General Counsel pursuant to applicable Access Board or National Archives and Records Administration retention schedule(s).

8.4. POLICY DISSEMINATION AND TRAINING

Copies of this policy shall be distributed to all Access Board staff and posted on the Access Board SharePoint/Teams Folder for Policies. Agency staff shall also receive anti-harassment training appropriately tailored to their roles and responsibilities under this Policy. The agency shall provide such initial training for new employees and board members within 90 days of onboarding. The agency shall also provide recurring training periodically, but not less than every two years.

9. RELATIONSHIP TO OTHER PROCESSES

This Anti-Harassment Policy is intended to supplement, not replace or supersede, other complaint processes that permit employees to pursue complaints of alleged harassment. As such, the procedures in this Policy are separate and apart from the Equal Employment Opportunity (EEO) complaint process, the Merit Systems Protection Board (MSPB) appeal process, or any other statutory complaint process that provides remedial relief for allegations of harassment that violate federal law. Further, because the purpose of this policy is to prevent and correct harassing conduct before it becomes severe or pervasive, any supervisor who is notified of an allegation of harassment must follow the procedures set forth in this Policy, even if the complaining employee also files an EEO complaint, an MSPB appeal, or other like charge regarding the alleged incident. The Access Board's liability for alleged harassment may depend on how quickly and thoroughly it addresses the (mis)conduct of which it becomes aware.

Reporting harassment under this policy does not satisfy or delay the applicable time limits for initiating an EEO complaint, an MSPB appeal, or other statutory complaint process. For example, in the case of an EEO complaint, an employee who has made a report of harassment under this Policy, but also

wishes to pursue a claim of discriminatory harassment through the EEO process, must also contact an EEO

counselor within 45 days of the most recent incident of alleged harassment or personnel action, if applicable. For more information on how to file an EEO complaint, see the USAB EEO Policies and Procedures.

10. APPROVALS

This Anti-Harassment Policy is effective upon signature by the Equal Employment Opportunity Director and the Executive Director, and remains in effect until rescinded, superseded, or reissued.

11. REVISION HISTORY

The “Revision History” table below should be used to capture revisions or updates to this Anti-Harassment Policy. All columns are mandatory.

Dru Gordon

EEO Director

Sachin Pavithran

Executive Director

Date	Revision Summary	Version Number	Author/Owner Name
2/7/2025	Minor edits to comply with Executive Order	2.1	OGC