SMG 3116.6

FDA Staff Manual Guides, Volume III - General Administration

Personnel - Personnel Relations and Services

FDA Inappropriate Conduct and Anti-Harassment Policy

Effective Date: 06/05/2024

1. Purpose

To fulfill our mission and provide a workplace that ensures employees can serve in a positive and engaging work environment, the Food and Drug Administration (FDA) is committed to providing a work environment free from harassing or inappropriate conduct. The FDA has an obligation to create and maintain a work environment in which employees are treated with dignity and respect. The environment must be one of mutual trust and void of intimidation, bullying and harassment. In addition, FDA promotes a work environment where all employees can expect a safe and secure workplace free from harassment or fear of reprisal.

This policy establishes the agency-wide process under which FDA employees, contractors, fellows, trainees, and visitors shall report allegations of inappropriate conduct and harassment, sets forth manager and supervisor responsibilities to maintain a harassment-free workplace, and to take prompt and effective action when allegations of inappropriate conduct and harassment arise. FDA will not tolerate unlawful discrimination, inappropriate conduct, or harassment of any kind. Through enforcement of this policy, the FDA seeks to address and correct any harassing conduct before it becomes severe or pervasive or escalates to an unlawful level.

2. References

A. HHS Anti-Harassment Policy and Procedures (April 17, 2017);

B. HHS Instruction 752: Discipline and Adverse Action dated March 20, 2009, or its successor;

C. Title VII of the Civil Rights Act of 1964, as amended;

D. 42 U.S.C. § 2000e-16;

E. Age Discrimination in Employment Act, 29 U.S.C. § 633a;

F. Rehabilitation Act, 29 U.S.C. § 791(g);

G. Civil Service Reform Act, 5 U.S.C. § 2302(b)(10);

H. Genetic Information Nondiscrimination Act of 2008;

I. Title 29, Code of Federal Regulations (C.F.R) Parts 1604.11, 1605.2, 1606.8, and 1614;

J. Executive Order 11478, as amended May 28, 1998;

K. Vicarious Employer Responsibility for Unlawful Harassment by Supervisors, EEOC 915.002, June 18, 1999;

L. Civil Service Reform Act of 1978, 5 U.S.C. 1101 et seq.;

M. Civil Rights Act of 1871, 42 U.S.C. 1983;

N. Uniformed Services' Employment and Reemployment Rights Act of 1994, 38 U.S.C. 4301 et seq.;

O. Executive Orders 13152 and 11478, as amended by Executive Orders 13087 and 13152;

P. 45 CFR Part 73, HHS Residual Standards of Conduct;

Q. 5 CFR Part 2635 - Standards of Ethical Conduct for Employees of the Executive Branch (5 CFR 2635);

R. 5 CFR Part 752 – Adverse Actions;

S. OPM Guide on Responding to Domestic Violence: Where Federal Employees

Can Find Help; and

T. Instructions to Federal Agencies for EEO – Management Directive 715, October 1, 2003.

3. Definitions

A. Bullying: A persistent pattern of mistreatment from others in the workplace that causes either physical or emotional harm. It can include such tactics as verbal, nonverbal, psychological, and physical abuse, as well as humiliation. This type of workplace aggression is particularly difficult to detect because workplace bullies often operate within the established rules and policies of their organization; however, such rules and polices are applied inappropriately in an effort to cause intentional harm or mistreatment to others.

B. Federal Employee: An individual who is employed by the federal government pursuant to an appointing authority that grants them federal status by law and benefits conferred to them as a federal employee. This includes: Title 5 employees (GS, WG, GP/GR, Title 38), Title 21 CURES employees, all Executives (SES, CURES and Senior Title 42f), and all Title 42g employees (Undergraduate Scholarship Program (UGSP), Clinical and Research Fellows, Staff/Senior Clinicians/Scientists, Senior Biomedical Research and Biomedical Product Assessment Service (SBRBPAS), Senior Scientific Officers (SSO) and Science Policy or Program Leaders (SPL-2), Tenure Track and Tenured Investigators). For purposes of this policy and applicability, this also includes Commissioned Corps Officers of the U.S. Public Health Service.

C. Harassment: Unwelcome, deliberate, or repeated unsolicited verbal or physical conduct including, but not limited to, comments, gestures, graphic materials, physical contact, solicitation of favors, when:

1. The conduct substantially interferes with an individual's work performance or creates a work environment that a reasonable person would consider intimidating, hostile, or abusive. For the purposes of this policy the "reasonable person" standard considers the employee's perspective and assesses if a reasonable person exposed to the same or similar circumstances would find the environment hostile, intimidating, or offensive.

Harassment is considered to have occurred when the conduct was:

2. Sufficiently severe or pervasive (e.g., a pattern) enough to create an environment that is hostile, or intimidating to a reasonable person exposed to the same or similar circumstances; and

3. Based on race, color, religion, sex (including pregnancy, sexual stereotyping, gender identity or sexual orientation), national origin, age, disability, genetic information, and/or prior protected Equal Employment Opportunity ("EEO") activity.

D. Inappropriate Conduct: The term "inappropriate conduct" is broader than the definition of harassment to include any comments or conduct that disparages or demonstrates hostility or aversion towards any person that could reasonably be perceived as disruptive, disrespectful, offensive, or inappropriate in the workplace. Examples include, but are ***not*** limited to:

1. Actions or behaviors that adversely impact Agency operations, productivity, and/or work environment.

2. Inappropriate communication such as slurs, epithets, ridicule, rude comments, or insults.

3. Yelling or emotional outbursts, using expletives, throwing objects, or banging/slamming doors.

4. Inappropriate touching or any form of physical intimidation or aggression (e.g., holding, restraining, impeding, or blocking movement, following, inappropriate contact or advances, bullying, or any other forms of inappropriate touching).

5. Engaging in a personal relationship with someone in an inherently unequal position where there is a real or perceived authority or influence over the other's conditions of employment; or where there is the ability to directly impact the other's career progression. This may include formal and informal supervisory relationships.[1]

6. Inappropriate gestures, expressions, pictures, or graffiti.

7. Threats made against others or other threatening behavior.

8. Psychological bullying or intimidation, such as making statements that are

[1] Authority within professional relationships may result from actual supervision, mentoring, reviewing, advising, evaluating, teaching, or personal relationships with external partners where a real or perceived power imbalance exists. For more information, please see the FDA Policy Statement on Personal Relationships in the Workplace.

false, malicious, disparaging, or derogatory with the intent to hurt another's reputation.

E. Intimidation: Workplace intimidation occurs when a supervisor/manager, colleague, or subordinate uses physical threats or violence, verbal abuse, or blackmail to manipulate an employee for some professional benefit. It is usually a recurring act which creates a pattern of harassment that can significantly affect the mental, and physical health, as well as the productivity, of an employee. Examples of workplace intimidation include but are ***not*** limited to:

1. Physical violence or threats
2. Screaming or yelling
3. Insulting or ridiculing an employee publicly
4. Hostile physical posturing
5. Deliberately assigning duties outside an employee's expertise
6. Taking credit for another employee's work
7. Sabotaging the work of an employee or setting him or her to fail
8. Raising the bar for achievement or establishing different standards for an employee
9. Interfering in an employee's work or in the ability to work

F. Non-Federal Worker: Individuals who perform work for the FDA but have not been employed under an appointing authority that grants them federal status by law and benefits conferred to them as a federal employee. This includes: all Trainees and Interns[2], Volunteers and Special Volunteers, Guest Researchers, and Contractors.

G. Reporting Party: An individual who brings forth an allegation of harassment or inappropriate conduct which they believe violates FDA's Anti-Harassment

[2] Includes all trainees appointed under the following programs: Summer Intern, Postbaccalaureate and Postdoctoral Intramural Research Training Award (IRTA) and Cancer Research Training Award (CRTA), Graduate Partnerships Program (GPP), Medical/Dental Student, Visiting Fellow, ORISE Fellow, and all other student programs.

policy.

H. Respondent: An individual who has been accused of harassment or inappropriate conduct.

I. Retaliation: Any adverse action by an employer towards an employee for engaging in legally protected activities such as making an allegation of harassment or participating in workplace investigations, which would dissuade a reasonable person from opposing harassment or inappropriate conduct or from cooperating in the investigation. Retaliation can include any negative job action, such as demotion, discipline, firing, grade reduction, or position reassignment. Retaliation can also include conduct such as engaging in verbal or physical abuse, increasing scrutiny, spreading false rumors, or making a person's work situation more difficult. For example, it is unlawful to retaliate against applicants or employees for:

- Changing a person's work schedule to conflict with family responsibility;
- filing or being a witness in an EEO charge, complaint, investigation, or lawsuit;
- communicating with a supervisor or manager about employment discrimination, including harassment;
- answering questions during an employer investigation of alleged harassment;
- refusing to follow orders that would result in discrimination;
- resisting sexual advances, or intervening to protect others;
- requesting accommodation of a disability or for a religious practice; and
- asking managers or co-workers about salary information to uncover potentially discriminatory wages.

J. Sexual Harassment: A form of harassment that violates Title VII of the Civil Rights Act of 1964. Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment 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. Examples include, but are ***not*** limited to, the following:

1. Repeated attempts to establish an unwanted relationship

2. Sharing sexually inappropriate images or videos, such as pornography, with others in the workplace

3. Sending suggestive letters, notes, texts, or e-mails

4. Displaying inappropriate sexual images in the workplace

5. Telling lewd jokes or sharing sexual anecdotes

6. Making inappropriate sexual gestures

7. Staring in a sexually suggestive or offensive manner or inappropriate whistling

8. Making sexual comments about appearance, clothing, or body parts

9. Inappropriate touching, including pinching, patting, rubbing purposefully brushing up against another person

10. Making offensive comments or asking questions about someone's sexual history, orientation, or gender identity.

4. Background

This policy covers all Federal employees, non-Federal workers, U.S. Public Health Service Commissioned Corps officers, and visitors at the FDA, regardless of their position. As such, individuals at the FDA are protected against inappropriate conduct and harassment and are also expected to comply with this policy and to take the appropriate measures to ensure that they do not engage in any forms of prohibited conduct. Management is responsible for taking appropriate action against any individual who violates this policy. Appropriate actions for Federal employees may include, but are ***not*** limited to counseling, reprimand, suspension, demotion, or removal from one's position and/or from the Federal service. The entity charged with overseeing the FDA's anti-harassment activities will hereby be referred to as the AHP – CREW which stands for the Anti-Harassment Program - **C**ivility, **R**espect, and **E**ducation in the FDA **W**orkplace.

The FDA, AHP-CREW is an agency level centralized program located within the Office of the Commissioner (OC), Office of Operations (OO), Office of Human Capital Management (OHCM). OHCM is further charged with providing agency

level human capital programs and operational services in support of the agency's public health mission.

5. Policy

The FDA will not tolerate harassment or inappropriate conduct, including sexual harassment. Timely and appropriate action will be taken against any individual found to be in violation of this policy. Through enforcement of this policy, the FDA will take proactive measures to identify, correct, and eliminate inappropriate conduct and harassment that is inconsistent with the values, ideals, and culture of respect and inclusion that this agency strives to promote and achieve. Retaliation against any individual for reporting allegations of inappropriate conduct or harassment, or for participating as a reporting party, complainant, or witness in an administrative investigation or in the Equal Employment Opportunity (EEO) process, is prohibited.

6. Procedures

A. Reporting an Allegation of Inappropriate Conduct or Harassment

Any individual who believes they have experienced or observed inappropriate conduct or harassment, also known as the Reporting Party, may report such behavior to the AHP-CREW. If inappropriate conduct or harassment is reported to any FDA manager or supervisor, to the Office of Equal Employment Opportunity (OEEO), to the Division of Labor and Employee Relations (DLER) or to any other FDA official, the individual who received the allegation is responsible for reporting the matter to the AHP-CREW immediately (within one business day) for coordination and response. The Reporting Party is not required to make such a report only to their immediate supervisor (or in the case of Government contractors, their Contracting Officer Representative (COR) or employing company) or to the supervisor or employee who they alleged engaged in the behavior.

All attempts will be made to ensure that information gathered during the administrative investigation process is kept confidential. Witnesses and others involved in an investigation will be asked to keep their participation confidential. While there is not a time limit for the Reporting Party to bring forth an allegation of inappropriate conduct or harassment, prompt reporting will help the AHP-CREW to conduct a more thorough investigation, with fresh recollections and available witnesses, and will also allow the agency to address and prevent inappropriate conduct and harassment in a timely manner.

Please be advised, Reporting Parties who want to pursue an EEO complaint alleging a violation of EEO laws (i.e., harassment based on a protected class and

other factors) must contact FDA's Office of Equal Employment Opportunity (OEEO). As a reminder, an employee must contact FDA's OEEO within 45 days from the date of the incident, as discussed further below.

If the Reporting Party makes an allegation directly to AHP-CREW, they may remain anonymous. However, to remain anonymous, key details may need to be omitted which will limit the agency's ability to conduct a thorough investigation and take corrective administrative action. If the Reporting Party would like to discuss the allegations in a confidential setting, they should contact the Employee Assistance Program or the FDA Ombudsman/Office of Conflict Prevention & Resolution (OCPR), both of which operate under principles of confidentiality. Once an allegation is raised to any Federal manager, the FDA is required to initiate a prompt administrative investigation, as described below.

Raising an allegation with the AHP-CREW under this policy is not equivalent to or in lieu of filing an EEO Allegation of Discrimination under 29 C.F.R. 1614, or a grievance under the administrative or negotiated procedures included in applicable Collective Bargaining Agreements (CBA).3 The Agency's responsibility to conduct an administrative investigation is a stand-alone requirement to ensure that the allegation is examined expeditiously and any inappropriate behavior is curtailed quickly. If a Federal employee wishes to pursue an EEO allegation, they must contact FDA OEEO within 45 days of the discriminatory incident in order to file a Pre-Allegation of Discrimination. If an EEO allegation is filed that includes allegations of discriminatory workplace harassment, OEEO will notify the appropriate Center/Office Executive Officer and the AHP-CREW of the allegation, which will initiate FDA's obligation to conduct an administrative investigation to determine if the agency's inappropriate conduct and anti-harassment policy has been violated. This administrative investigation is separate from any investigation initiated through the EEO process. Information on FDA's EEO program can be found at https://fda.sharepoint.com/sites/OC-Intranet-OC-OO-OEEO.

B. Witness to Inappropriate Conduct or Harassment

Any individual who believes they have witnessed inappropriate conduct or harassment should report the behavior to the AHP-CREW as soon as possible so an appropriate administrative investigation can be conducted, and if necessary, the appropriate corrective action implemented. Every member of the FDA community has an obligation to assist in identifying and eliminating inappropriate conduct and harassment in our workplace.

C. Administrative Inquiries into Allegations of Inappropriate Conduct or Harassment

[3] This policy does not, nor is it intended to, supersede the policies and/or procedures of any collective bargaining agreement in effect as of the date of publication.

Once an allegation of inappropriate conduct or harassment is reported, the AHP-CREW will take the following actions:

a. Review the allegation to determine if it states an actionable claim of inappropriate conduct or harassment. If more information is required, the AHP-CREW will contact the Reporting Party to seek additional information to determine if an administrative investigation is appropriate.

b. If it is determined that the matter would be more appropriately and efficiently handled by an AHP-CREW partner organization, an AHP-CREW Specialist will refer the matter to the most appropriate resource(s). Those resources include but are not limited to: Office of Internal Affairs, FDA Security, Police, Office of the Inspector General, OHCM's Division of Labor and Employee Relations, Employee Assistance Program, Office of the Ombudsman and Office of Equal Employment Opportunity.

c. Ensure that the Reporting Party is not at risk from actions of the Respondent. As appropriate and based on the nature of the allegation, the Center management official (e.g., Center Executive Officer) shall ensure that the Reporting Party is put in a place of safety and is not subjected to harm or fear of harm from any individual.

d. If it is determined that the Reporting Party's allegations cannot be pursued, then the Reporting Party shall be notified in writing, and the matter shall be closed.

e. If there is an actionable claim, then the AHP-CREW will take the following steps:

    (1) Notify both the Reporting Party's and Respondent's appropriate management officials (usually the Center Executive Officer or equivalent), and the appropriate OHCM Division of Labor and Employee Relations (DLER) Specialist about the allegations, what investigative steps will be undertaken, and who else will be contacted as part of the investigative process (e.g., potential witnesses, etc.).

    (2) Remind all parties of their requirement to cooperate fully throughout the investigative process without fear of retaliation or reprisal.

(3) Initiate an administrative investigation. The investigation is prompt to include interviews with the parties involved, witnesses, and other individuals with potential pertinent information. It also includes collection and review of evidence, including witness statements. This type of fact-finding review can take on a variety of characteristics depending on the nature and complexity of the allegations. A prompt, thorough, and impartial investigation of harassment allegations shall occur within ten (10) calendar days of receiving the harassment complaint. The AHP-CREW has the discretion to determine the type of review that may be required to ensure a swift, objective examination of the allegation to determine if inappropriate conduct or harassment (as defined in this policy) has occurred. The investigation may be conducted by the AHP–CREW staff or by a contractor coordinated by AHP-CREW staff.

(4) After fact finding is complete, the AHP–CREW will review the documentation and consider the record as a whole to determine if the preponderance of evidence supports that a violation of FDA policy has occurred. These findings will be outlined in the written Report of Investigation (ROI).

f. If the administrative investigation results ***do not support*** a conclusion that a violation of policy has occurred, the appropriate management official will be notified of the determination. A close-out notification will be sent to the Reporting Party and the Respondent. If other workplace issues are identified throughout the course of the investigation, they will be referred to DLER who will work with the supervisor to develop and implement corrective action that is appropriate given the circumstances.

g. When a government contractor is involved, the preceding steps will include the contracting officer, the COR, and the contracting company as appropriate.

7. Resolution

A. Corrective Action/Sanction

When it is determined that harassment has occurred, immediate and appropriate corrective action should take place within sixty (60) days of receiving the final investigation results. DLER, in consultation with AHP–CREW will coordinate to make a recommendation for corrective action to the appropriate management official. Such recommendations should be measured against discipline imposed for similar behaviors and circumstances and at other offices at the FDA. The AHP–CREW staff and the DLER Specialist shall then meet with the appropriate

management official to present the recommendation. The management official will then decide whether to proceed with the recommended corrective action.

Corrective action can include a variety of interventions as well as appropriate disciplinary actions. The interventions may include training, facilitated discussions for the team, and/or collaborative work with the Employee Assistance Program or the Office of the Ombudsman. Corrective action can range from informal disciplinary actions, e.g., Letter of Counseling up to formal disciplinary actions to include removal from Federal service. If the Respondent is a government contractor, determination of the corrective action is the responsibility of the contracting company. If there is a recommendation by management for disciplinary action for a Public Health Service ("PHS") Commissioned Officer, the corresponding Center/Office Commissioned Corps liaison may be consulted for assistance with any PHS adverse action processes that may be recommended.

B. Communicating Outcomes to Reporting Party and Respondent

The AHP–CREW will notify the Reporting Party and the Respondent of the status of the administrative investigation and when it has been referred to the appropriate management officials. At the conclusion of the investigation, findings are not shared with the Reporting Party or the Respondent. Both the Reporting Party and the Respondent will receive notification that the investigation is complete and that AHP-CREW is working with management to ensure a safe and harassment free work environment. However, because of privacy rights and procedures, no additional information will be provided to the Reporting Party or the Respondent.

C. Tracking Outcomes

The AHP–CREW will:

a. Upload case management and record keeping information into its access-controlled tracking system.

b. Maintain a case file for each administrative investigation. Documents maintained include investigative plans, witness interviews and statements, meeting notes, affidavits, copies of letters and emails. It shall also include the Report of Investigation, the recommendation of sanction, and the decision made by management officials.

c. Ensure that retention and disposal of these records will be generally

covered by the Records Management Schedule that requires case file materials to be maintained for seven (7) years after case closure. An ongoing EEO case, or other ongoing matter involving these case materials, will postpone/stay the retention and disposal of the requirement until the conclusion of such matters.

d. Report findings of inappropriate conduct and harassment (and the imposition of sanctions) to the Commissioner and Senior Management Officials as appropriate.

e. Brief the FDA's Management Council on a regular basis, at least semi-annually.

f. Produce an annual report with de-identified information on the program, provided to the EEOC and made available to the public, that provides:

(1) a summary compilation of allegations received over the past year,

(2) findings made by AHP-CREW over the past year,

(3) related actions taken by management.

g. Maintain an ongoing dashboard on the FDA intranet site for program awareness and transparency purposes. Information listed will include general information on case outcomes, number of allegations received and other high-level summary statistics.

8. Responsibilities

A. **The Commissioner, FDA, is responsible for:**

1. Establishing policy for creating and maintaining a healthy, productive and harassment free workplace by fostering and implementing the requirements of the MD-715; and

2. Establishing, issuing, and communicating an agency-wide Anti-Harassment policy.

B. **The Deputy Commissioner for Operations/Chief Operating Officer, FDA, is responsible for:**

1. Overseeing development of the FDA policy for preventing and addressing inappropriate conduct and harassment in the workplace; and

2. Ensuring resources are allocated to promote a safe and civil organizational culture in all FDA-supported workplaces and scientific meetings to create an environment where all individuals are treated with respect and dignity.

C. The Director, Office of Human Capital Management (OHCM), FDA, is responsible for:

1. Oversight of the AHP–CREW Program;

2. Ensuring all Federal employees and non-Federal workers successfully complete mandatory Anti-Harassment training as required on a periodic basis, and to carry out their duties as listed below;

3. Ensuring that all individuals at FDA facilities are provided information on the FDA policy on inappropriate conduct and harassment, and workplace violence policies and procedures;

4. Serving as the primary contact for Center/Office Executive Officers in response to allegations raised to them by the AHP-CREW;

5. Partnering with the AHP-CREW with the objective of ensuring that all investigations and sanctions are appropriate and consistent with similar cases across the FDA; and

6. Ensuring that managers, supervisors, and Centers/Program Offices are aware of their responsibility to report allegations of inappropriate behavior and harassment to the AHP-CREW within one (1) business day of receiving the allegation and that they are aware of the requirement to cooperate fully with the AHP-CREW on related investigations and corrective action to address matters appropriately.

D. FDA Management Officials are responsible for:

FDA managers and supervisors have an obligation to report allegations of harassment or inappropriate conduct to the AHP-CREW within one (1) business day. Federal employees and non-Federal workers who come forward with a harassment allegation should be informed that managers and supervisors have an obligation to report the alleged inappropriate conduct or harassment to the AHP-CREW and an administrative investigation will be

conducted. This obligation of management to report to the AHP-CREW and the subsequent administrative investigation into inappropriate conduct or harassment is required **even if the individual coming forward wishes to remain anonymous, requests confidentiality, or does not wish the allegation to be addressed with the alleged harasser**. This obligation exists even if the Reporting Party is not under the supervision of the manager or supervisor who received the allegation about harassment. Management is expected to take corrective action against any Federal employee, non-Federal worker, or visitor who violates this policy.

Managers and supervisors must not discourage staff from or reprimand staff for contacting the AHP–CREW. Retaliatory treatment towards any Federal employee, non-Federal worker, or visitor for reporting allegations of inappropriate conduct or harassment, or for participating as a witness, Reporting Party, or Complainant, in an administrative investigation or in the EEO process, *is prohibited*. Retaliation is defined as an adverse action taken against an employee for engaging in legally protected activity, such as making an allegation of inappropriate conduct or harassment, or participating in an administrative investigation, which would discourage a reasonable person from raising a complaint of harassment or cooperating in the process

Managers and supervisors are responsible for the following:

1. Working to prevent and address inappropriate conduct and harassment in the workplace, promoting a safe and civil organizational culture, and creating an environment where all individuals are treated with dignity and respect.

2. Ensuring all Federal Employees successfully complete mandatory Anti-Harassment training as required.

3. Promptly reporting any known allegations of inappropriate conduct or harassment to the AHP–CREW.

4. Coordinating closely with the AHP–CREW and the servicing DLER staff to appropriately address allegations of inappropriate conduct or harassment when necessary.

5. Cooperating fully with the AHP-CREW during inquiries to look into allegations of inappropriate conduct or harassment.

6. Being cognizant of situations that have the potential to escalate conflict and promptly addressing them with all concerned parties when appropriate.

7. Providing information about and encouraging staff to utilize the resources offered by such organizations as the Employee Assistance Program and the Office of the Ombudsman; and

8. Ensuring that staff have time and opportunity to attend training for understanding and responding to inappropriate conduct or harassment.

E. All Federal employees, non-Federal workers, and visitors at FDA facilities are responsible for:

1. 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.

2. Promptly reporting if they believe they have experienced or have witnessed inappropriate conduct or harassment to appropriate authorities (such as their supervisory chain of command, the AHP–CREW, or FDA Security).

3. Cooperating fully in administrative inquiries of allegations of inappropriate conduct and harassment.

4. Respecting the integrity of the process by truthfully and accurately participating in investigations when required.

5. Being aware that they cannot ask an FDA manager or supervisor to remain silent regarding any allegations of inappropriate conduct, harassment, or workplace violence confidential, even if the manager or supervisor is a mentor or otherwise outside of the employee's chain of command; and

6. Reporting any restraining orders and other protective court orders involving other FDA employees and non-Federal workers to the AHP-CREW or FDA Security so assistance can be offered, and safety measures can be implemented at the work site if appropriate.

F. Office of Human Capital Management (OHCM) AHP–CREW, is responsible for:

1. Coordinating and overseeing timely inquiries into reported allegations involving inappropriate conduct or harassment as defined above.

2. Assessing the urgency and whether there is a need for management intervention or assistance to address an allegation, including answering questions, giving advice, and making referrals as needed.

3. Ensuring appropriate post-incident response.

4. Following up with Center/Office Executive Officers to ensure necessary steps, action, and closure.

5. Providing regular updates on case data to FDA leadership in order to ensure proper program oversight; and

6. Serving as the initial contact point with external organizations interested in the program or related data.

G. Division of Labor and Employee Relations (DLER):

1. Providing guidance in reviewing or conducting inquiries into allegations of workplace conflicts raised by supervisors, managers, AHP–CREW Specialists, law enforcement personnel, and other individuals at FDA facilities.

2. Providing advice and assistance to managers regarding appropriate personnel and administrative actions related to harassment, bullying or intimidation, threats, or workplace conflict.

3. Consulting with AHP-CREW and the Office of the General Counsel (OGC), as necessary, on how to prevent or respond to an incident.

H. The Office of Equal Employment Opportunity (OEEO), is responsible for:

1. Providing agency-wide leadership and guidance on issues of equal employment opportunity, diversity, and inclusion; and

2. Overseeing all discrimination allegations filed under 29 CFR Part 1614; and

3. Notification to the AHP-CREW of allegations of discrimination that allege inappropriate conduct or harassment covered by this policy.

4. Coordinating with the AHP–CREW on the appropriate sequencing of investigations of matters alleging inappropriate conduct or harassment included in allegations of discrimination.

5. Providing training and guidance to the FDA community on their rights and responsibilities in regards to EEO laws and policies.

6. Promoting a diverse and inclusive working environment where individuals are treated equitably and valued for their individuality.

7. Examining employment policies, procedures, and practices to identify employment barriers to EEO.

8. Eliminating identified barriers to EEO; and

9. Providing guidance to managers as appropriate, and when requested, on how to address allegations of unlawful harassment as a result of a legally protected basis.

I. The Employee Assistance Program (EAP), provides:

1. Confidential, neutral, and personalized consulting, short-term counseling, crisis intervention, referral and follow up services to all members of the FDA workforce to enhance personal and professional well-being.

2. Training on a variety of topics such as Emotional Intelligence, Organizational Transition, Stress Management, Managers Workshop, Work/Life Balance, and Workplace Communication to educate and inspire workgroups to create a healthier, safer, and more productive workplace.

3. A full range of onsite crisis intervention services to individuals and workgroups impacted by traumatic events.

4. Behavioral health expertise, guidance, and support to assist managers successfully navigate complex workplace situations.

J. The Ombudsman and Conflict Prevention & Resolution (OCPR) provides:

1. Confidential, informal, and neutral assistance to FDA staff to address and resolve work-related conflicts and issues.

2. Consulting, coaching, and mediation and facilitation services to individuals as appropriate, and when requested, to help resolve work-related conflicts.

3. Training to the FDA community on conflict resolution, negotiation, communication, and other topics to help prevent and mitigate workplace problems.

4. Consulting and guidance to managers to address and resolve work- related conflicts on individual, group, and organizational levels; and

5. Providing information to intramural trainees about the resources offered by OCPR.

9. Assistance

Questions about this FDA Inappropriate Conduct and Anti-Harassment policy, allegations, and/or related matters should be addressed to the agency's AHP- CREW. In efforts to be proactive, learn more about this program, and/or to help with ensuring our workplace is secure, free from inappropriate conduct, harassment, fear, or reprisal, you can log on via the inside FDA SharePoint page at FDA Anti-Harassment Program, or send an email to AHP- CREW@fda.hhs.gov.

10. Effective Date

This Staff Manual Guide is effective on June 5, 2024, and supersedes any other existing FDA guidance.

11. Document History - SMG 3116.6, "FDA Inappropriate Conduct and Anti-Harassment Policy"

Status (I,R,C)	Date Approved	Location of Change History	Contact	Approving Official
Initial	05/10/2024	N/A	OHCM	Fernandez C. Vines, Deputy Director, OHCM