



ADF MANUAL TRANSMITTAL MEMORANDUM

TM No. 137

DATE: May 1, 2012
TO: ADF MANUAL HOLDERS
FROM: Lloyd Pierson, President and CEO
SUBJECT: Manual Section Update Project - Renumbering

BACKGROUND:

One activity of the 2012 Manual Section Update Project will re-group and re-sequence the current Manual Section's numbering convention. The purpose of the re-numbering is to add a level of priority, function, and logical sequence to Manual Section naming convention. The overall structure for the updated and re-ordered Manual is seen in the table below:

New Series Categories	
000	Interim Policy Statements and Manual Content
100	Authorities, Agreements, Organizations
200	Program
300	Human Resources
400	Administration
500	Finance

MANUAL MAINTENANCE:

Change the following 15 Manual Sections to the new numbering convention:

Old Number	New Number	Series Name
MS-201	101	ADF ACT
MS-503	303	Merit Promotion Plan
MS-561	310	Exit Clearance Procedures
MS-550	320	Equal Employment Opportunity Policy & Procedures
MS-557	323	Elimination and Prevention of Workplace Harassment ...
MS-504	324	Admin Grievance Policy - Non-Bargaining Unit Employees

MS-556	325	Workplace Anti-Harassment Policy
MS-553	341	No FEAR Act Policy on Annual Notification
MS-560	351	Reduction in Force Policy
MS-572	363	Federal Career Intern Program
MS-577	365	Recruitment of Attorney, Attorney-Advisor Positions
MS-545	371	Personal Identification Verification Cards
MS-410	410	Use of Binding Arbitration
MS-526	450	Procedures for Public & Confidential Financial Disclosure Systems
MS-558	451	Reporting Allegations of Criminal Offenses, Misuse of Grant & ...

Clearance: 
Doris M. Martin, General Counsel

Date: 05/01/2012

Approved: Lloyd O. Pierson
Lloyd O Pierson, President

Date: May 1, 2012

ADF MANUAL

SUBJECT: Workplace Anti-Harassment Policy

Section: MS-325

Date: May 1, 2012

Responsible Office: Office of the President

Supersedes: MS-556 “Workplace Anti-Harassment Policy”

1. AUTHORITY

Federal laws prohibit harassment in the workplace due to race, color, religion, sex, national origin, age, physical/mental disability, or genetic information. These laws also prohibit retaliation against any employee or job applicant who opposes an unlawful employment practice or who participates in any procedure alleging a discriminatory practice made unlawful by Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination in Employment Act of 1967, the Equal Pay Act of 1963, the Rehabilitation Act of 1973, as amended; the Civil Rights Act of 1991; or the Genetic Information Nondiscrimination Act of 2008.¹ See also the Whistleblower Protection Act of 1989, Pub.L. 101-12 (5U.S.C. §2302(b)(8)). Moreover, Executive Order 13087 and 13152 prohibit discrimination and harassment against federal employees or job applicants on the basis of sexual orientation or parental status.

2. PURPOSE

This sets forth the commitment of the African Development Foundation (ADF) to maintain a work environment which is free from any form of discrimination/reprisal or harassment related to a person's race, color, national origin, religion, age, sex (including sexual harassment), sexual orientation, genetics, physical/mental disability, or parental status. Discriminatory harassment against employees and applicants for employment in any form simply will not be tolerated at ADF.

¹ Title II of the Genetic Information Nondiscrimination Act (GINA) of 2008 protects applicants and employees from discrimination based on genetic information in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment. GINA also restricts employers' acquisition of genetic information and strictly limits disclosure of genetic information. Genetic information includes information about genetic tests of applicants, employees, or their family members; the manifestation of diseases or disorders in family members (family medical history); and requests for or receipt of genetic services by applicants, employees, or their family members.

3. POLICY AND SCOPE

All employees of ADF must be committed to ensuring a professional and productive working environment by engaging in respectful behavior that reflects the highest standard of conduct at all times. This includes refraining from engaging in any form of discriminatory harassment toward our diverse workforce or toward the customers whom we serve. To reach our goal of achieving a “model” EEO workplace, we must also strive to prevent any discriminatory harassment from occurring within our organization.

Harassment includes unwelcome verbal or physical conduct based on race, color, religion, sex, genetic information, national origin, age, disability (mental or physical), sexual orientation or reprisal for participating in protected EEO activity. Harassment becomes unlawful when it:

- 1) affects tangible job benefits;
- 2) interferes unreasonably with an individual’s work performance; or
- 3) creates an intimidating, hostile, or offensive working environment.

Harassment includes, but is not limited to: epithets or name-calling; sexual advances or sexual favors; labels; slurs or negative stereotyping; jokes that denigrate on the basis of race, ethnicity, religion, disability, age or any other protected basis; and written or graphic materials (including electronic media) displayed or circulated in the workplace that degrades a group.

It is the intent of the ADF to prevent harassment of any kind and to stop it before it rises to the level of a violation of federal law. Therefore, any employee who engages in improper conduct will be subject to appropriate disciplinary action. Supervisory or management officials who either condone or fail to act promptly to correct alleged harassing conduct that is brought to their attention will also be subject to appropriate disciplinary action.

Any employee who witnesses harassment or who feels he or she is being harassed, even if such conduct is not severe or pervasive, should immediately report the behavior to any supervisor/manager, the EEO Officer, or to the Human Resources Specialist.

The ADF wants to assure all employees that workplace harassment is unacceptable conduct and will not be tolerated or condoned in any way. All employees are personally responsible for their behavior. In addition, all supervisors and managers must set an example by exhibiting behavior that promotes a healthy non-discriminatory work environment.

4. RESPONSIBILITIES

- 4.1** **ADF EEO Officer** has oversight responsibility for the entire EEO program of the Foundation; provides or assures the provision of adequate and timely training for Foundation supervisors and managers; ensures that all EEO policies are updated and disseminated annually or in accordance with federal regulations; and provides advice and guidance to agency officials to ensure that compliance with all

provisions of law and regulation are met in the day-to-day operations of the Foundation.

4.2 Supervisors and Managers are responsible for ensuring that they are familiar with this Manual Section and can identify various examples of verbal, non-verbal, and physical forms of harassment; and that they are familiar with the requirements of law and regulation with regard to preventing workplace harassment and hostile work environment. It is axiomatic that management officials must not engage in harassing behavior of any kind, and must take prompt and appropriate action if they are witness to such behavior. When incidents of harassment are reported to supervisory or management officials, the Foundation shall:

4.2.1 review allegations promptly and take immediate corrective action, including discipline;

4.2.2 talk to all individuals involved in order to discern the facts;

4.2.3 respect the privacy rights of all individuals involved by extending confidentiality to the complainant, the accused harasser, and to their witnesses to the extent possible; and

4.2.4 protect employees from retaliation if they make a complaint or assist in an investigation.

4.3 Employees are responsible for the prevention of harassment by not engaging in inappropriate verbal, non-verbal, or physical behavior that creates a hostile, intimidating, or threatening environment for another employee or job applicant. Additionally, employees are required to **report** all incidents of harassment to any supervisor/manager, the EEO Officer, or to the Human Resources Specialist, and to be truthful in cooperating with any official administrative inquiry on the matter. This requires employees to be familiar with the definition of harassment as outlined in Section 5 of this Manual Section.

4.4 The ADF is responsible for updating, posting, and/or disseminating this Directive annually, and for taking disciplinary action against anyone who engages in reprisal for reporting incidents of sexual harassment.

5. DEFINITIONS

5.1 Equal Employment Opportunity Commission has defined prohibited harassment as:

any unwelcome verbal or physical conduct that defames or shows hostility towards any individual in the workplace on the basis of that person's race, color, religion, sex, national origin, disability (mental or physical), age, genetic

information, or any other protected group status when such conduct has the purpose or effect of:

- 5.1.1 creating an intimidating, hostile or offensive work environment;
- 5.1.2 unreasonably interfering with an individual's work performance;
- 5.1.3 negatively impacting the individual's employment status or job benefits.

5.2 Harassing conduct that creates a hostile work environment includes, but is not limited to, the following:

5.2.1 Verbal (oral or written) conduct that is connected to the individual's membership in a protected group such as:

- disparaging or derogatory remarks about a person's accent or attire;
- epithets or slurs about a person's religious beliefs;
- negative stereotyping;
- ridicule or insults about a person's mental characteristics;
- threatening comments;
- requests for sexual favors, or comments about physical characteristics;
- profanity or vulgar language directed toward members of one protected group only;
- offensive comments that are overheard by other employees;
- graffiti written or posted on the employer's premises;
- emails, cartoons or jokes that are circulated.

5.2.2 Physical conduct that is connected to the individual's membership in a protected group such as:

- offensive physical objects (such as a noose, swastika, etc);
- hostile conduct such as obstructing a person's path; grabbing a person;
- imposing burdensome or abusive working conditions;
- general uncivil conduct (slamming files, throwing things, etc.);
- offensive pictures or symbols placed on walls, bulletin boards, common areas;
- suggestive poses or looks;
- any inappropriate touching or physical contact.

5.3 Unwelcome conduct is defined as follows: the employee did not invite or solicit the conduct, and regarded it as undesirable or offensive.

5.4 The standard for determining whether verbal or physical conduct, related to one of the protected bases is sufficiently severe or pervasive to create a hostile work environment is whether a "reasonable person" in the same or similar circumstance

would find the conduct intimidating, hostile, or abusive. The “reasonable person” standard means consideration of the conduct from the perspective of the recipient or victim’s race, color, religion, sex (including sexual orientation and same-sex), national origin, age, or disability.

Therefore:

- 5.4.1 all employees are encouraged to report potentially harassing conduct before it becomes severe or pervasive;
- 5.4.2 all employees have the right to file a complaint of harassment or report an incident of harassment without fear of retaliation;
- 5.4.3 employees are not required to follow their chain-of-command when reporting an incident of harassment, especially if the supervisor is the harasser;
- 5.4.4 employees have the right to go to ADF EEO Officer to report incidents of harassment and to preserve their rights and remedies under federal statutes, but the employee has multiple avenues for reporting incidents such as reporting it to *any* manager or supervisor, or to the designated Human Resources Specialist;
- 5.4.5 supervisors and managers are responsible for conducting prompt inquiry into complaints of harassment, and reporting their findings to their chain of supervision for appropriate action. In order to avoid liability, the agency must show that it exercised reasonable care to prevent and promptly correct any harassing behavior;
- 5.4.6 the agency has a duty to exercise due care when harassment complaints are brought to its attention by launching an internal investigation regardless of whether an EEO complaint is contemporaneously filed; and
- 5.4.7 the agency will not rely solely on the EEO process as a mechanism for ensuring a prompt, thorough, and impartial investigation of discriminatory harassment complaints or before any corrective action is taken. Moreover, the EEO process is designed to determine whether the law was violated, but the Workplace Anti-Harassment Policy presented in this Manual Section is designed to address issues and take appropriate action when incidents may not be severe enough to violate the law.

6. PROCEDURES

- 6.1** All managers and supervisors will be held responsible for ensuring that the workplace is free from discriminatory harassment and that appropriate action is taken when allegations of violations of this policy are brought to their attention. The ADF will not tolerate any retaliation against an individual who brings such a complaint or who provides information related to a complaint.
- 6.2** Any ADF employee found to have engaged in workplace harassment in violation of this policy will be subject to disciplinary action. Supervisors who observe unprofessional behavior that may create an environment offensive to any staff member have a responsibility to take appropriate action to stop the behavior.
- 6.3** When incidents of discriminatory harassment have been alleged, management shall:
- 6.3.1 be prompt at taking corrective, curative and preventive actions to stop the harassment--even if the victim asks you not to;
 - 6.3.2 be objective -- do not express disbelief that the alleged harasser would not do such a thing, and do not ignore or trivialize the incident;
 - 6.3.3 conduct a thorough interview of the complaining party;
 - 6.3.4 assure the complaining party of the appropriateness of coming forward;
 - 6.3.5 assure the complaining party that his or her complaint will be taken seriously and that retaliation against the complaining party will not be tolerated and that the ADF will protect the confidentiality of the individuals bringing harassment complaints to the extent possible;
 - 6.3.6 conduct a thorough and objective interview of the alleged harasser and any relevant witnesses, again reiterating that retaliation against the complaining party will not be tolerated;
 - 6.3.7 create a written factual record of a fair and objective review of the incident including time, place, witnesses, identity of the harasser(s), and frequency of the incidents, and whether previous concerns have been reported against the alleged harasser; and
 - 6.3.8 determine and implement appropriate remedial or disciplinary action, if it is determined that harassment occurred.