

MEMORANDUM OF AGREEMENT

DFAS 1440.1-R DFAS ANTI-HARASSMENT AND NON-DISCRIMINATION

The Parties agree that the following changes will be made to the DFAS 1440.1-R, DFAS Anti-Harassment and Non-Discrimination:

TITLE PAGE

Title Page: Add “PROGRAM” following the word “NON-DISCRIMINATION” and delete “OFFICE OF EQUAL OPPORTUNITY PROGRAMS”

CHAPTER 1

Paragraph C1.1: Delete the first sentence and replace with the following sentence:

“To establish, implement and maintain policy for an effective Anti-Harassment program which prevents and eliminates unlawful harassment.”

Paragraph C1.4: Delete the last sentence and replace with the following sentence:

“The DFAS policy is intended to take immediate and appropriate corrective action, including the use of disciplinary actions, to eliminate harassing conduct regardless of whether the conduct violated the law. Ultimately, the goal of the DFAS Anti-Harassment program is to prevent harassing conduct before it can become severe or pervasive.”

Paragraph C1.5: The Agency will send a supplemental e-mail with an ePortal link to the workforce regarding this regulation.

CHAPTER 2

Renumber to “Chapter 3” and insert a new Chapter 2 as described below:

“C2. CHAPTER 2

PROHIBITED FORMS OF HARASSMENT

C2.1. Generally, unlawful harassment is defined as verbal or physical conduct which denigrates or shows hostility or aversion to an individual because of his or her race, color, religion, gender, national origin, age, disability (physical and mental), marital status, political affiliation, parental status, and reprisal/retaliation for participating in a protected activity or opposing discriminatory practices, policies, and procedures, and which:

- a. Has the purpose or effect of creating an intimidating, hostile, or offensive work environment; or,
- b. Has the purpose or effect of unreasonably interfering with an individual's work performance; or,
- c. Otherwise adversely affects and individual's employment opportunities.

C2.2. For example, the following kinds of behavior, or others with a similar harassing effect, are absolutely prohibited:

- a. Abusing an employee through epithets, slurs, negative stereotyping, or threatening, intimidating or hostile acts (even if claimed to be "jokes" or "pranks") which relate to race, creed, color, religion, gender, national origin, age, disability, marital status, or genetic predisposition or carrier status; and,
- b. Written or graphic material which denigrates or shows hostility or aversion toward an individual or group because of race, creed, color, religion, gender, national origin, age, disability, marital status, or genetic predisposition or carrier status, and is displayed or circulated in the workplace.

CHAPTER 3 (formerly titled and numbered as Chapter 2)

Renumber all paragraphs to reflect inclusion in Chapter 3.

Paragraph C3.1.2: Delete the last sentence and replace with the following sentence:

"Individuals who believe they have been harassed or discriminated against, or are aware of harassment or discipline in violation of this policy, should promptly report the matter to one of the following officials and the EEO, as appropriate:"

Paragraph C3.1.2.1.5: Add the following sentence:

"That designation will be published to the workforce."

Paragraph C3.1.3.1: Add the following sentence immediately following the first sentence:

"This designation shall be coordinated with the DFAS Office of General Counsel (OGC) and the EEO."

Add the following sentence at the end of the paragraph:

"The employee will be briefed by the management official who appointed the investigator."

Paragraph C3.1.3.2: Add the following sentence at the beginning of the paragraph:

"Investigations shall be conducted in an impartial and unbiased manner."

Paragraph C3.1.3.4: Add the following phrase to the end of the sentence following the word “action”:

“...in accordance with applicable DFAS regulations and negotiated agreements.”

Paragraph C3.1.3.5: Add the following phrase to the end of the sentence following the word “action”:

“...in accordance with applicable DFAS regulations.”

Paragraph C3.1.3.6: Add the following sentence:

“The individual who raised the harassment claim and the alleged harasser (e.g., management officials, co-workers, contract employee), shall be promptly provided a comprehensive oral brief and written summary on the outcome of the investigation by the management official authorizing the investigation.”

CHAPTER 4 (formerly title as “Chapter 3)

Renumber all paragraphs to reflect inclusion in Chapter 4.

Paragraph C4.1: Delete the word “SHALL”

Paragraph C4.1.1: Add the word “Shall” at the start of the sentence.

Paragraph C4.1.2: Add the word “Should” at the start of the sentence.

Paragraph C4.1.3: Add the word “Should” at the start of the sentence. Add the following sentence at the end of the paragraph:

“Bargaining unit employees have the right to address unlawful harassment complaints through the Anti-Harassment and Non-Discrimination Program and/or the negotiated grievance procedure.”

Paragraph C4.5.3: Delete the word “Investigator” and replace with “Investigating” in the sentence. Delete the phrase, “to conduct inquiries and investigations regarding harassment and retaliation claims,”.

Lee Krushinski
Management Co-Chair

Kelley Dull
Union Co-Chair



ANTI-HARASSMENT AND NON-DISCRIMINATION

OCTOBER 2006

PROGRAM

FOREWORD

This Regulation outlines policies for the Defense Finance and Accounting Service (DFAS) Anti-Harassment and Non-Discrimination Program. The objective of this Regulation is to ensure all DFAS personnel are informed and knowledgeable of their responsibilities to create, foster, and maintain a work environment that is free from discrimination and other forms of discriminatory harassment. Specific policy is provided on reporting, addressing, preventing, and eliminating discriminatory harassment before it becomes severe or pervasive.

This Regulation is effective immediately and is applicable to all DFAS personnel including contract employees.

Signed
Zack E. Gaddy
Director

TABLE OF CONTENTS

	<u>Page</u>
Foreword	i
Table of Contents	ii
References	iii
Abbreviations and/or Acronyms	v
CHAPTER 1 – GENERAL INFORMATION	
C1.1. Purpose	1-1
C1.2. Applicability and Scope	1-1
C1.3. Policy	1-1
C1.4. Zero Tolerance for Discrimination	1-1
C1.5. Posting and Dissemination	1-1
C1.6. Inquiries and Additional Information	1-1
CHAPTER 2-PROHIBITED FORMS OF HARASSMENT	
C2.1 Definition.	
C2.2 Examples of Unlawful Harassment.	
CHAPTER 3 – REPORTING HARASSMENT	
C3.1. Reporting	3-1
C3.2. Additional Avenues of Redress	3-2
CHAPTER 4 – RESPONSIBILITIES	
C4.1. Employees	4-1
C4.2. Supervisors and Managers	4-1
C4.3. Office of Equal Opportunity Programs	4-2
C4.4. Office of General Counsel	4-2
C4.5. Human Resources	4-3

APPENDIX 1 – DEFINITIONS

AP1-1

REFERENCES

- (a) Title VII of the 1964 Civil Rights Act and the 1991 Civil Act
- (b) Equal Pay Act, 1963
- (c) Age Discrimination in Employment Act, 1967
- (d) Rehabilitation Act, 1973 and the Americans with Disabilities Act, 1990
- (e) Executive Order 11478, Equal Employment in the Federal Government, 1978
- (f) Executive Order 13087, Prohibited Discrimination based on Sexual Orientation, 1998
- (g) Executive Order 13152, Prohibited Discrimination based on Parental Status
- (h) Equal Employment Opportunity Commission Management Directive 110, Federal Sector Complaints Processing Manual, November 1999
- (i) Equal Employment Opportunity Commission Management Directive 715, Federal Responsibilities under Section 717 of Title VII and Section 501 of the Rehabilitation Act, October 2003
- (j) EEOC Model EEO Anti-Harassment Program, Objectives, Scope, and Methodology, September 23, 2005; Modified, October 18, 2005

ABBREVIATIONS AND/OR ACRONYMS

DCIS	Defense Criminal Investigative Service
DFAS	Defense Finance and Accounting Service
EEOC	Equal Employment Opportunity Commission
HR	Human Resources
OEOP	Office of Equal Opportunity Programs
OGC	Office of General Counsel

C1. CHAPTER 1

GENERAL INFORMATION

C1.1. PURPOSE. . To establish, implement and maintain policy for an effective Anti-Harassment program which prevents and eliminates unlawful harassment. The policies in this Regulation are in compliance with governing statutes, and the Equal Employment Opportunity Commission's (EEOC) regulations and directives which prohibit employment discrimination and harassment based on race, color, national origin, religion, sex (includes sexual harassment), marital status, political affiliation, parental status, age, disability (physical and mental), and reprisal/retaliation for participating in a protected activity or opposing discriminatory practices, policies, and procedures.

C1.2. APPLICABILITY AND SCOPE. This Regulation applies to all DFAS personnel and contract employees.

C1.3. POLICY. It is DFAS policy to maintain a work environment in which all individuals are treated with respect and dignity, and to ensure equal employment opportunities free from any form of unlawful discrimination and harassment based on an individual's race, color, religion, sex (whether or not of a sexual nature), national origin, age (40 or older), disability (mental or physical), retaliatory harassment based on opposition to discrimination or participation in the discrimination complaint process, and other protected characteristics.

C1.4. ZERO TOLERANCE FOR DISCRIMINATION, HARASSMENT AND RETALIATION. Under DFAS policy, discrimination, unlawful harassment, and retaliation directed against an individual based on his or her race, color, religion, sex (male or female), sexual orientation, marital status, political affiliation, parental status, age (40 and over), national origin, disability (physical and mental), or other protected characteristics is not tolerated or condoned. The DFAS policy is intended to take immediate and appropriate corrective action, including the use of disciplinary actions, to eliminate harassing conduct regardless of whether the conduct violated the law. Ultimately, the goal of the DFAS Anti-Harassment program is to prevent harassing conduct before it can become severe or pervasive.

C1.5. POSTING AND DISSEMINATION. The Anti-Harassment Policy is posted on official bulletin boards and disseminated to all employees. The policy and the Regulation are also available on the e-Portal EEO Community Page. Employees are provided the policy and Regulation at EEO training sessions and in the Supervisors' and Employees' handbooks. The Agency will send a supplemental e-mail with an ePortal link to the workforce regarding this regulation.

C1.6. INQUIRIES AND ADDITIONAL INFORMATION. Please contact the Office of Equal Opportunity Programs, 703-607-5136/0080 or 1-866-607-7746.

C2. CHAPTER 2

PROHIBITED FORMS OF HARASSMENT

C2.1. DEFINITION. Generally, unlawful harassment is defined as verbal or physical conduct which denigrates or shows hostility or aversion to an individual because of his or her race, color, religion, gender, national origin, age, disability (physical and mental), marital status, political affiliation, parental status, and reprisal/retaliation for participating in a protected activity or opposing discriminatory practices, policies, and procedures, and which:

- a. Has the purpose or effect of creating an intimidating, hostile, or offensive work environment; or,
- b. Has the purpose or effect of unreasonably interfering with an individual's work performance; or,
- c. Otherwise adversely affects an individual's employment opportunities.

C2.2. EXAMPLES. For example, the following kinds of behavior, or others with a similar harassing effect, are absolutely prohibited:

- a. Abusing an employee through epithets, slurs, negative stereotyping, or threatening, intimidating or hostile acts (even if claimed to be "jokes" or "pranks") which relate to race, creed, color, religion, gender, national origin, age, disability, marital status, or genetic predisposition or carrier status; and,
- b. Written or graphic material which denigrates or shows hostility or aversion toward an individual or group because of race, creed, color, religion, gender, national origin, age, disability, marital status, or genetic predisposition or carrier status, and is displayed or circulated in the workplace.

C 3. CHAPTER 3

REPORTING HARASSMENT

C3.1. REPORTING.

C3.1.1 Employees must take prompt, reasonable steps to avoid harm from unlawful harassment by doing the following to help prevent, eliminate, and correct harassing conduct or discrimination before it becomes severe or pervasive. Reports of unlawful harassment may be provided verbally, or in writing, and may come from any source. (*NOTE:* The availability of this policy does not preclude individuals who believe they are being subjected to harassing conduct from promptly and emphatically informing the offender that his or her behavior is unwelcome and must stop; and immediately reporting the unlawful harassment to appropriate officials before the harassment becomes severe or pervasive.)

C3.1.2. Multiple impartial paths to report claims of harassment or retaliation including one outside the supervisory chain of command are provided below. Individuals who believe they have been harassed or discriminated against, or are aware of harassment or discrimination in violation of this policy, should promptly report the matter to one of the following officials and the EEO office, as appropriate:

C3.1.2.1. Supervisor or management official in or outside of their supervisory chain, or

C3.1.2.1.1. Operations Directors, Strategic Business Management Directors, Corporate Directors, Client Executives, Site Directors, or

C3.1.2.1.2. Office of General Counsel, or

C3.1.2.1.3. Equal Employment Opportunity (EEO) official, or

C3.1.2.1.4. Human Resource (HR) Employee Relations official, or

C3.1.2.1.5. Management official designated to receive harassment complaints. That designation will be published to the workforce.

C3.1.3. All reported allegations of harassment, discrimination, or retaliatory harassment shall result in a prompt, impartial, and thorough official inquiry or investigation.

C3.1.3.1 A management official or other official shall be designated, in writing, as the Investigator who conducts the inquiry or investigation. This designation shall be coordinated with the DFAS Office of General Counsel (OGC) and the EEO. After the investigation or inquiry is completed, the Investigator shall prepare either a memorandum of record or an investigative report on the harassment or retaliation claim. The employee will be briefed by the management official who appointed the investigator.

C3.1.3.2. Investigations shall be conducted in an impartial and unbiased manner. The inquiry or investigation may include individual interviews with the parties involved and with individuals who may have observed the alleged conduct or may have other relevant information. The report shall include interview statements, related documents, materials, and responsive actions.

(NOTE: Officials appointed to conduct investigations must have knowledge and experience in fact-finding, investigative techniques, and due process requirements.)

C3.1.3.3. The Investigator shall consult with and coordinate the investigative report and recommended actions with the Office of General Counsel (OGC), Office of Equal Opportunity Programs (OEOP), and Human Resources (HR).

C3.1.3.4. If the claim of harassment or retaliation is substantiated, the employee who committed the harassing or retaliatory conduct shall be subject to appropriate disciplinary action, in accordance with applicable DFAS regulations and negotiated agreements.

C3.1.3.5. If, under this Regulation, the investigation established that a supervisor or manager failed to fulfill their responsibilities, he or she shall be subject to appropriate disciplinary action, in accordance with applicable DFAS regulations.

C3.1.3.6. Involved individuals shall be promptly informed of the investigation's outcome. The individual who raised the harassment claim and the alleged harasser (e.g., management officials, co-workers, contract employee), shall be promptly provided a comprehensive oral brief and written summary on the outcome of the investigation by the management official authorizing the investigation.

C3.1.3.7. The written summary of the investigation and other documentation prepared under the investigative process shall be kept confidential, to the extent possible under law, and maintained in the OEOP and copies provided to the OGC, and as required, to the HR directorate.

C3.2. ADDITIONAL AVENUE OF REDRESS. Individuals electing to initiate an EEO discrimination complaint shall contact the Central Complaints Processing Center (CCPC) at 317-510-2165 within 45-calendar days, from the date of the most recent incident. Also, serviced area EEO Offices may be contacted to initiate a complaint: Arlington, 703-607-0080; Cleveland, 216-204-7423; Columbus, 614-693-6648; and Denver, 303-676-6851.

C4. CHAPTER 4

RESPONSIBILITIES

C4.1. EMPLOYEES :

C4.1.1. Shall refrain from any harassing or discriminatory conduct.

C4.1.2. Should inform an offender that the harassing conduct is *unwelcome* and must stop.

C4.1.3. Should promptly report incidents of harassing/discriminatory conduct regardless of the offender's identity or position. Prompt reporting of the harassing conduct ensures immediate action is taken to prevent the conduct from continuing or recurring. Additionally, prompt reporting ensures the harassing conduct does not become so severe or pervasive that it constitutes a hostile work environment. Bargaining unit employees have the right to address unlawful harassment complaints through the Anti-Harassment and Non-Discrimination Program and/or the negotiated grievance procedure.

C4.2. SUPERVISORS AND MANAGERS SHALL:

C4.2.1 Model appropriate professional behavior that fosters and promotes a work environment free from discriminatory harassment or retaliation, or other illegal discrimination.

C4.2.2. Respond promptly and appropriately to all claims of harassment, from any source. Supervisors and managers must ensure appropriate action is taken, whether or not the individual raising the claim requested that no action be taken. Individuals shall be informed that confidentiality, to the extent possible under law, will be maintained.

C4.2.3. Inform all individuals who raised harassment claims that DFAS policy strictly prohibits retaliation, and that substantiated retaliation or harassment claims result in appropriate disciplinary action.

C4.2.4. Act promptly and proactively to prevent and eliminate harassment and discriminatory conduct—ensuring the misconduct does not recur, and that persons who raise claims of harassment are not subject to reprisal or retaliation.

C4.2.5. Ensure incidents of harassing conduct that they may witness, become aware of, or that are brought to their attention from any source, receive a prompt, thorough, and impartial inquiry or investigation into the matter; or as appropriate refer the claim to the official designated to receive harassment complaints.

C4.2.6. Consult with the OGC, OEOP, or HR regarding appropriate corrective, remedial preventative, and disciplinary action; and providing interim relief to persons who claim harassment pending the outcome of the inquiry or investigation.

C4.2.7. Take prompt and appropriate corrective, remedial, or disciplinary action against persons found culpable for the harassing or discriminatory conduct; or persons who failed to carry out their responsibilities in preventing, eliminating or correcting harassing or discriminatory conduct.

C4.3. OFFICE OF EQUAL OPPORTUNITY PROGRAMS SHALL:

C4.3.1. On behalf of the Director, develop and update, as required, the Anti-Harassment and Nondiscrimination Program; coordinate programmatic actions with the OGC and HR

C4.3.2. Disseminate the policy and procedures to all DFAS personnel; update and maintain a link to this Regulation on the EEO e-Portal community page.

C4.3.3. Provide, annually, training to all DFAS personnel on the Anti-Harassment program, and their responsibilities for preventing, eliminating, and reporting harassing conduct. Collect and maintain records of persons attending the training.

C4.4.4. Consult with and advise management officials and non-managerial employees on the Anti-Harassment Program's requirements, procedures, and their respective responsibilities; recommend results-oriented corrective and remedial actions for preventing and eliminating the misconduct and related discriminatory actions.

C4.4.5. Collect and maintain records and related documents on the Anti-Harassment program, prepare the annual EEOC report and related ad hoc internal reports. The reports include total number of claims, bases and issues, resolutions, disciplinary actions, and settlement costs, if any.

C4.5. OFFICE OF GENERAL COUNSEL SHALL:

C4.5.1. On behalf of the Director, provide legal advice and guidance to management officials to ensure appropriate handling of unlawful harassment, retaliation, and related discrimination claims.

C4.5.2. Consult with and advise management officials and non-managerial employees on the Anti-Harassment Program's requirements, procedures, and their respective responsibilities; recommend results-oriented corrective and remedial actions for preventing and eliminating the misconduct, and related discriminatory actions.

C4.5.3. Consult with and advise management officials on the appointment of an Investigating Officer, and prepare required correspondence, documents, and forms.

C4.5.4. Provide guidance and assistance to the Investigator on requirements and protocol for conducting the inquiry or investigation into the harassment or retaliation claims, individuals' involved due process rights, and writing the investigative report or memorandum of record.

C4.5.5. Review the investigative report to ensure the evidence of record substantiates recommended corrective, remedial or disciplinary actions. Coordinate the report and recommend actions with appropriate management officials, the OEOP, and HR.

C4.5.6. Advise the manager or supervisor to contact the Defense Criminal Investigative Service (DCIS) when harassment claims involve criminal conduct.

C4.6. HUMAN RESOURCES SHALL:

C4.6.1. On behalf of the Director, provide assistance, regulatory guidance, and advice to management officials and employees on harassment claims and related misconduct.

C4.6.2. Consult with and advise management officials and non-managerial employees on the Anti-Harassment Program's requirements, procedures, and their respective responsibilities; recommend results-oriented corrective and remedial actions for preventing and eliminating the misconduct and related discriminatory actions.

C4.6.3. Provide guidance and assistance to the Investigator on requirements and protocol for conducting the inquiry or investigation into harassment or retaliation claims.

C4.6.4. Consult with and advise management officials on appropriate penalties and disciplinary action for substantiated misconduct. Coordinate recommended actions with the OGC and the OEOP.

C4.6.5. Assist the OEOP in providing annual Anti-Harassment training to all DFAS personnel, and the collection and maintenance of training records. Include the Anti-Harassment policy in the new employees' orientation, and include in the Employees' and Supervisors' Handbooks.

AP1. APPENDIX 1

DEFINITIONS

AP1.1. DISPARATE IMPACT. A claim of discrimination wherein an allegedly neutral employment policy, practice, system, or process adversely impacts a particular protected group. This type of claim may be made either by an individual or a group. If made on behalf of a group; it is called a “Class Action Complaint.”

AP1.2. DISPARATE TREATMENT. A claim of discrimination wherein an individual claims difference in treatment from other “similarly situated” employees because of his or her membership in a different protected group (e.g., different race, color, age, national origin, sex, religion, or disability).

AP1.3. RETALIATION/REPRISAL. Discrimination based on an individual’s prior EEO activity including (1) opposing any practice made unlawful by governing statutes and regulations; (2) or participating in any stage of adjudicative or judicial proceedings under governing statutes or regulations.

AP1.4. SEX-BASED HARASSMENT (NON-SEXUAL). Is harassment based on an individual’s sex (male or female) and may constitute discrimination if the conduct is severe and pervasive.

AP1.5. SEXUAL HARASSMENT. Unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individuals employment; (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or, (3) the conduct has the purpose or effect of unreasonable interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

AP1.6. UNLAWFUL DISCRIMINATION. Title VII of the Civil Rights Act of 1964, other statutory mandates, and executives orders, prohibit employment discrimination based on an applicant or employee’s protected status, e.g., race, color, national origin, sex (whether or not of a sexual nature), age (40 and over), religion, disability (physical or mental), and retaliation/reprisal for participating in a protected activity or opposing discriminatory practices, policies and procedures.

AP1.7. UNLAWFUL HARASSMENT (NON-SEXUAL). A form of discrimination that is unwelcome verbal or physical conduct based on an individual’s race, color, national origin, age (40 and over), sex (whether or not of a sexual nature), religion, disability (physical or mental) sexual orientation, marital status, parental status, veteran status, political affiliation, or retaliatory harassment based on opposition to discriminatory practices, policies, or procedures, or participation in a protected activity. Harassing behavior has the purpose or effect of (1) creating an intimidating, hostile or offensive work environment; and (2) unreasonably interfering with an individual’s work; or (3) adversely affecting an individual’s employment opportunities or benefits; or (4) adversely affecting tangible job benefits or other employment opportunities.

