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Standards for Equal Employment Opportunity and Diversity at the CFPB

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1. Introduction

Section 342(b)(2)(A) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 requires the Office of Minority and Women Inclusion (OMWI) Director to develop standards for “equal employment opportunity and the racial, ethnic, and gender diversity of the workforce and senior management of the agency.”

The CFPB’s Office of Equal Opportunity and Fairness (OEOF), which is a part of the Bureau Director’s Office, is primarily responsible for overseeing equal employment opportunity and diversity and inclusion at the CFPB. The OEOF consists of the Office of Civil Rights (OCR) and the Office of Minority and Women Inclusion (OMWI). In addition, the Bureau has adopted procedures to handle complaints of harassment and inappropriate conduct, which are administered through the Office of Human Capital (OHC).

Generally, it is the policy of the CFPB to follow applicable standards promulgated by the agencies that have primary responsibility for equal employment opportunity and diversity and inclusion. In the case of equal employment opportunity, that agency is the Equal Employment Opportunity Commission (EEOC). Other agencies, as set forth below, may also have responsibilities depending on the type of claim. In the case of Diversity and Inclusion, that agency is the Office of Personnel Management (OPM).

1.1 Equal Employment Opportunity (EEO)

The CFPB’s OCR is responsible for administering the EEO program at the CFPB. The CFPB is an equal opportunity employer, in compliance with federal law.

As stated above, the CFPB follows applicable standards promulgated by the EEOC for equal employment opportunity. EEOC Regulations, set forth at 29 CFR Part 1614, govern equal

employment opportunity in the federal sector. EEOC Management Directive 110 gives further guidance to the regulations. CFPB follows this regulation and management directive.

The Bureau ensures that any CFPB employee, former employee, or applicant for a CFPB position may file a complaint of discrimination (including harassment and retaliation) through its EEO program. The Bureau provides advice and information to employees, former employees, and applicants regarding the process for filing a complaint, depending on the type of complaint raised, and will process the complaint in line with applicable standards. Complaints relating to harassment and inappropriate conduct (whether covered by the EEO laws or not) may also be filed with OHC.

The Bureau has an EEO program that addresses illegal discrimination, including *disparate treatment*, which can occur when an employer treats one employee differently from another when the two are similarly situated and the treatment is based on a protected basis, and *disparate impact*, which can occur when an employer uses a policy or practice that appears neutral on its face but has an adverse impact on a protected group.

Harassment is a form of discrimination. It is illegal to harass an employee on any protected basis. Harassment can take the form of slurs, graffiti, offensive or derogatory comments, or other verbal or physical conduct. Sexual harassment (including unwelcome sexual advances, requests for sexual favors, and other conduct of a sexual nature) is also unlawful.

The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer. Harassment outside of the workplace may also be illegal if there is a link with the workplace (for example, if a supervisor harasses an employee while driving the employee to a meeting or at an after-hours event with co-workers).

It is CFPB's policy to ensure that every employee enjoys a work environment free from discriminatory harassment. As stated above, discriminatory harassment is a violation of the Federal civil rights laws and will not be tolerated at CFPB. Even inappropriate conduct that is not of sufficient severity to constitute harassment as a matter of law may be considered misconduct. CFPB will address complaints about such inappropriate conduct when reported, by taking measures necessary for the protection and benefit of all employees, including discipline where appropriate.

Retaliation is also a form of discrimination. It is the taking of any materially adverse action against an individual because of his or her prior participation in the EEO process or opposition to discriminatory practices. Unlawful retaliation is very broadly defined and may include actions likely to deter EEO activity or that might exert a chilling effect on an employee's willingness to engage in protected EEO activity. Anti-retaliation protections also exist for persons who engage in federally protected whistleblowing.

Under Federal law, employment discrimination is illegal based on the following protected classes:

- Race
- Color
- Religion
- Sex (including pregnancy, sexual orientation, transgender status, gender identity or expression, gender non-conformity, or sex stereotyping of any kind)
- National Origin
- Disability
- Age (40 years or older)
- Genetic Information

Laws governing these protections are enforced by the EEOC. CFPB follows applicable regulations and management directives of the EEOC.

In addition, there are additional protections against discrimination based on factors listed below:

- Political Affiliation
- Marital Status
- Uniformed Status
- Membership in a Labor Organization or Union Activities

- Prior EEO or Whistleblower Activity, or
- Any Other Non-Merit Factor

But OCR does not accept and investigate complaints based on the above factors. Employees would contact the entities listed below to obtain additional information about how to file a complaint.

- For complaints based on marital status, political affiliation, or any other non-merit factor, or retaliation against for whistleblower activity, employees would contact the Office of Special Counsel (<http://www.osc.gov>) or the Merit Systems Protection Board (<http://www.mspb.gov>).
- For complaints based on uniformed status, employees would contact the Veterans' Employment and Training Service (VETS) at the Department of Labor (<http://www.dol.gov/vets/programs/userra/aboutuserra.htm>), the Merit Systems Protection Board, or the Office of Special Counsel, depending on the circumstances.
- For complaints based on membership in a labor organization or union activities, employees would contact the Federal Labor Relations Authority (<http://www.flra.gov>) or the employee's union (if applicable).

Bureau employees are responsible for:

- Respecting others in the workplace;
- Not engaging in harassing or disrespectful conduct with coworkers, contractors or customers;
- Cooperating during EEO investigations and throughout the entire EEO and alternative dispute resolution process;
- Reporting allegations of harassment or allegations of discrimination to the appropriate management officials; and
- Learning rights and responsibilities under the EEO program.

In addition, managers and supervisors are responsible for:

- Ensuring the non-discriminatory treatment of all employees and applicants for employment;
- Providing for full and fair opportunity for advancement and training for all employees;
- Removing barriers to EEO and ensuring that recruiting, outreach, hiring, and similar diversity and inclusion objectives are accomplished in their areas of responsibility;
- Encouraging and taking positive steps to ensure respect for and acceptance of all persons in the workforce, including minorities, women, persons with disabilities, veterans and others with diverse backgrounds;
- Encouraging and authorizing staff participation in the various diversity observances and training opportunities;
- Being proactive in addressing EEO and alternative dispute resolution issues and maintaining work environments that encourage and support complaint avoidance through sound management and personnel practices;
- Attempting to resolve complaints of discrimination early in the EEO process, either independently or through the use of alternative dispute resolution techniques; and
- Evaluating and documenting subordinate managers and supervisors on their performance of EEO and alternative dispute resolution process responsibilities.

1.2 Diversity and Inclusion

The CFPB's OMWI is responsible for overseeing diversity and inclusion at the Bureau. Working with Bureau partners, including OHC, OCR, and Bureau divisions and offices, the Bureau proactively addresses diversity and inclusion challenges and seeks paths to improve diversity and inclusion at the Bureau.

The standards for diversity and inclusion at the Bureau are aligned with the goals developed by OPM, and are consistent with Executive Order 13583 which established a coordinated government-wide initiative to promote diversity and inclusion in the federal workforce. The OPM Government-wide Diversity and Inclusion Strategic Plan, created by OPM in 2011 pursuant to that Executive Order, has the following goals, which are shared by the CFPB:

1. **Workforce Diversity.** Recruit from a diverse, qualified group of potential applicants to secure a high-performing workforce drawn from all segments of American society.
2. **Workplace Inclusion.** Cultivate a culture that encourages collaboration, flexibility, and fairness to enable individuals to contribute to their full potential and further retention.
3. **Sustainability.** Develop structures and strategies to equip leaders with the ability to manage diversity, be accountable, measure results, refine approaches on the basis of such data, and institutionalize a culture of inclusion.

As OPM notes in its Government-wide plan:

The three goals listed above are absolutely necessary for the successful growth of diversity and inclusion. Other characteristics of diversity and inclusion best practice plans, such as leadership, accountability, measurement, and training are components of, and integrated in, the three goals.

CFPB has developed its standards consistent with the OPM Government-wide strategic plan.

- The Bureau will have articulated policies in support of diversity and inclusion, and communicate these policies to its staff and to the public.
- The Bureau will conduct outreach and recruitment to seek and enhance diversity in its workforce.

- The Bureau will analyze its performance, including metrics, on achieving diversity and inclusion and take steps to address barriers to achieving performance.
- The Bureau will take active measures to cultivate a culture that encourages collaboration, flexibility, and fairness, and one that creates and maintains a supportive, welcoming, inclusive and fair work environment.
- The Bureau will develop structures and strategies to equip leaders with the ability to manage diversity, be accountable, measure results, refine approaches on the basis of such data, and engender a culture of inclusion.