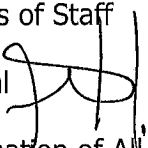




August 26, 2015

D-01/15

To: The Assistant Secretary General, the Secretaries and Executive Secretaries, Directors and all other Members of Staff

From: Luis Almagro, Secretary General 

Subject: Policy for Prevention and Elimination of All Forms of Workplace Harassment

The General Secretariat is committed to foster a workplace free of harassment, where all can work together with trust and respect for differences. All forms of harassment in workplace are contrary to the spirit of the OAS Charter, the General Standards to Govern the Operation of the General Secretariat, and the Staff Rules. In this sense, the General Secretariat does not condone any type of conduct that may be construed as workplace harassment, sexual harassment or abuse of authority, and it will take prompt and appropriate corrective action.

In recognition and support of the commitment of all international organizations to zero-tolerance harassment in the workplace, the General Secretariat considered imperative to undertake a comprehensive and inclusive analysis of all aspects of workplace and sexual harassment within the General Secretariat, and to strengthen and update the current regulations with regard to the policy on workplace and sexual harassment and its conflict resolution system.

For this purpose, the General Secretariat commissioned the Secretariat for Administration and Finance (SAF) to set up an inter-departmental task force to undertake the review and update the existing policies and practices on the matter.

After a comprehensive and thorough analysis, SAF submitted an improved and updated *Policy for Prevention and Elimination of All Forms of Workplace Harassment*. As a result, Staff Rule 101.8 (Prohibition Against Sexual Harassment), Staff Rule 101.10 (Prohibition Against Workplace Harassment), Executive Order No. 95-7 (Guidelines and Procedures for the Prevention and Handling of Sexual Harassment), and Executive Order No. 05-7, Rev. 1 (Guidelines and Procedures for the Prevention of Workplace Harassment) are hereby amended to include the attached *Policy for Prevention and Elimination of All Forms of Workplace Harassment*.

Except as amended by the attached Policy, Staff Rules 101.8 and 101.10, and Executive Orders No. 95-7 and 05-7, Rev. 1 remain in full force and effect without modification or amendment.

This task force is currently working on the regulations that will apply to the conflict resolution system which complements the attached Policy and includes the participation of the Ombudsperson. The General Secretariat aims to enact in the following weeks an Executive

Order with both the *Policy for Prevention and Elimination of All Forms of Workplace Harassment* and the procedures of the conflict resolution system.

This Directive shall enter into force upon the date printed above.

Policy for Prevention and Elimination of All Forms of Workplace Harassment

I. Policy Directives

This Policy is intended to increase awareness of unacceptable behavior to prevent Workplace Harassment from happening and to deal constructively with any allegations of Workplace Harassment that may arise. The Policy identifies two lines of organizational action: preventive measures, which introduce safeguards to prevent or mitigate Workplace Harassment; and proactive measures, which establish roles and responsibilities of the GS/OAS, Staff Members, Non-staff Personnel and Managers and Supervisors with respect to complaints and cases of harassment.

II. Guiding Principles

- 2.1 **Respect and dignity.** The GS/OAS strives for a positive professional work environment in which every Staff Member and Non-staff Personnel is treated with respect and dignity.
- 2.2 **Harassment-free environment.** Staff Members and Non-staff Personnel have the right to work in a harassment-free and respectful environment. Harassment is any form of unwanted and unwelcome behavior, which may range from mildly unpleasant remarks to physical violence.
- 2.3 **Equal treatment and non-discrimination.** Staff Members and Non-staff Personnel are expected to behave with tolerance, mindfulness and respect toward others. Discrimination is any unfair or unequal treatment or arbitrary distinction based on any grounds (such as race, religion, color, creed, age, disability, ethnic origin, physical attributes, sexual orientation, or gender identity).
- 2.4 **Confidentiality.** The processes governed by this Policy shall preserve discretion and confidentiality.
- 2.5 **Privileges and immunities.** OAS Member States grant the OAS certain privileges and immunities with respect to the work of Staff Members and Non-staff Personnel in their official capacities. Staff Members and Non-staff Personnel must be especially careful not to abuse these privileges and immunities, and never use or attempt to use them for their own personal benefit. The GS/OAS is committed to cooperating with the authorities of Member States in investigating any violations and facilitating proper administration of justice whenever necessary.
- 2.6 **Due process.** The processes governed by this Policy shall safeguard the rights of any person involved in a workplace harassment claim process. All processes shall follow the applicable internal rules and procedures, and shall undertake the appropriate legal steps.
- 2.7 **Fairness and impartiality.** All processes governed by this Policy will be fair, and any person involved in a Workplace Harassment claim will be given notice of the relevant process and an opportunity to be heard. Workplace Harassment processes shall not be unreasonable, arbitrary, or capricious, nor motivated by intent to harass, embarrass, torment or otherwise injure another person.

III. Legal Framework

- 3.1 Article 3 (I) of the OAS Charter: "The American States proclaim the fundamental rights of the individual without distinction as to race, nationality, creed, or sex".
- 3.2 Article 45 (a) of the OAS Charter: "All human beings, without distinction as to race, sex, nationality, creed, or social condition, have a right to material well-being and to their spiritual development, under circumstances of liberty, dignity, equality of opportunity, and economic security".
- 3.3 Article 137 of the OAS Charter: "The Organization of American States does not allow any restriction based on race, creed, or sex, with respect to eligibility to participate in the activities of the Organization and to hold positions therein".
- 3.4 Article 41.b. of the General Standards: "Persons shall be selected for appointment as staff members without regard to race, creed, or sex".
- 3.5 Staff Rule 104.8 (a)ii, Selection Criteria, also provides that recommendations made to fill vacancies shall be made without regard to race, creed, or sex.
- 3.6 Staff Rule 101.10 prohibits workplace harassment.
- 3.7 Staff Rule 101.8 prohibits sexual harassment and provides for the issuance of Administrative Provisions to implement the rule.
- 3.8 The Code of Ethics (Executive Order No. 12-3), Section II, regulates the relationship with GS/OAS colleagues and other persons, and at section (D), prohibits harassment, including Workplace Harassment as well as Sexual Harassment.
- 3.9 Staff Rule 101.11 (Executive Order No. 14-3) governs the procedures for whistleblowers and protections against Retaliation.
- 3.10 Articles 1, 2 and 3 of the Inter-American Convention against Racism, Racial Discrimination, and Related Forms of Intolerance.¹
- 3.11 Articles 1, 2 and 3 of the Inter-American Convention against All Forms of Discrimination and Intolerance.
- 3.12 Articles 1, 2, 3, 4, and 6.a of the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Convention of Belém Do Pará).

¹ Although the GS/OAS is not a signatory to this Convention, and the following referenced Conventions, OAS Member States have set forth these concepts and the GS/OAS is guided by their stated principles. The GS/OAS is not a signatory because these are multilateral conventions intended for signature and ratification by OAS Member States governments.

3.13 Article 1 of the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): "For the purposes of the present Convention, the term 'discrimination against women' shall mean 'Any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field'."

3.14 General Recommendation No. 19, 11th session 1992, "Violence against women," by the Committee on the Elimination of Discrimination against Women, CEDAW.

IV. Definitions and Abbreviations

For the purposes of this Policy, the following definitions apply:

- 4.1 **"Prohibited Conduct"**: Any form of Workplace Harassment, including Sexual Harassment and Abuse of Authority, is prohibited. Staff Members or Non-staff Personnel responsible for conduct that can be construed as Workplace Harassment, Sexual Harassment or Abuse of Authority will be subject to administrative or disciplinary measures as established in the Staff Rules.
- 4.2 **"Abuse of Authority"**: The improper use of a position of influence, power or authority by an individual against a colleague or group of colleagues. This behavior is particularly serious when an individual misuses his/her influence, power or authority to negatively affect the career or employment conditions (including - but not limited to - appointment, assignment, contract renewal, performance evaluation or promotion) of another. It can include a one-off incident or a series of incidents. Abuse of Authority may also include — but is not limited to — misuse of power that creates a hostile or offensive work environment, and the use of intimidation, threats, blackmail or coercion.
- 4.3 **"Retaliation"**: As defined by Staff Rule 101.11 (b) (vi) (Executive Order No. 14-03 "Procedures for Whistleblowers and Protections Against Retaliation"), "Retaliation" is a direct or indirect adverse action or omission recommended, threatened, or taken by any Staff Member against a Whistleblower because the Whistleblower is perceived as providing, assisting in providing, or is preparing to provide evidence to an Appropriate Authority about Misconduct. Such threats and adverse actions include but are not limited to dismissal, suspension, reassignment of duties, Workplace Harassment, refusal to employ or contract, or other conduct that chills or impedes activity protected by this Staff Rule. When established, Retaliation in and of itself constitutes serious misconduct which may lead to disciplinary measures as specified in Chapters X and XI of the Staff Rules.
- 4.4 **"Malice"**: Any action, conduct, or spoken word taken with gross negligence or with the specific and primary intent to annoy, alarm, or cause substantial emotional distress. See also, Staff Rule 113.5.
- 4.5 **"Staff Member"**: Include all human resources of the GS/OAS as set forth in Article 17 a) of the General Standards.
- 4.6 **"Non-staff Personnel"**: Include all human resources of the GS/OAS as set forth in Article 17 b) of the General Standards.

4.7 **“Managers and Supervisors”**: Any person whose tasks include, amongst others, to supervise and evaluate Staff Members and Non-staff Personnel’s performance of official duties, work assignments, appointments, etc.

For the purposes of this Policy, the following abbreviations apply:

| | |
|--------------------|--|
| OAS: | Organization of American States. |
| GS/OAS: | General Secretariat of the Organization of American States. |
| OAS Charter: | Charter of the Organization of American States. |
| General Standards: | General Standards to Govern the Operations of the General Secretariat. |
| Staff Rules: | Staff Rules of the GS/OAS. |
| SAF: | Secretariat for Administration and Finance. |
| DHR: | Department of Human Resources. |
| DLS: | Department of Legal Services. |

V. Scope

This Policy applies to all Staff Members and Non-staff Personnel in a work-related situation, which includes official travel and missions. Complaints of Prohibited Conduct may be made by any Staff Member or Non-staff Personnel in a work-related situation, or by any other person who may have been subject to Prohibited Conduct on the part of a Staff Member or Non-staff Personnel in a work-related situation.

If a Staff Member or a Non-staff Personnel believes that he or she has been a victim of Workplace Harassment caused by a representative, employee, or agent of a Member State, of a Permanent Observer, or of a Civil Society organization, or by any other person who is neither a Staff Member nor a Non-staff Personnel, the alleged victim may have access to the specific measures provided by the conflict resolution system of this Policy.

VI. Workplace Harassment

Workplace Harassment is any improper, unwanted and unwelcome conduct that might reasonably be expected or be perceived to cause offense, violate the dignity of a person, or cause personal humiliation to another or to cause an intimidating, hostile, degrading or offensive work environment. Staff Members and Non-staff Personnel need to be aware of their responsibilities to ensure that the working environment or workplace culture is not ‘hostile’. Examples of a potentially hostile working environment include instances in which pornographic materials are displayed, or in which crude conversations, innuendo or offensive jokes are part of the accepted culture. A person has the right to complain about the effects of a sexually or racially hostile working environment, even if the conduct in question was not specifically targeted at him or her.

Workplace Harassment includes — but is not limited to — words, gestures or actions that tend to annoy, alarm, abuse, demean, intimidate, belittle or cause personal embarrassment to another. Workplace Harassment can be based on any grounds, such as race, religion, color, creed, age, disability, ethnic origin, physical attributes, sexual orientation, or gender identity.

Workplace Harassment can:

- a) include comments (verbal, written), gestures, or physical actions;

- b) consist either of a single (one-off) incident, or of a repeated, continuous pattern of behavior;
- c) demean, belittle or cause personal humiliation or embarrassment;
- d) be directed at a particular person or a number of people;
- e) be engaged in by any colleague (including subordinates or superiors);
- f) take place at work or during social functions related to the job; and
- g) be linked to bias when a group of people is singled out for negative attention.

Behaviors that might constitute Workplace Harassment include, but are not limited to:

- a) an improper use of a position of influence, power or authority by an individual against a colleague or group of colleagues. This behavior is particularly serious when an individual misuses his/her influence, power or authority to negatively affect the career or employment conditions of a colleague;
- b) aggressive forms of speech (whether public or private);
- c) insults related to a person's personal or professional competence;
- d) threatening or insulting comments, whether oral or written, including those made through all types of electronic media;
- e) deliberate desecration of religious and/or national symbols;
- f) racial epithets, slurs, and malicious, negative stereotyping expressed toward an individual or a group directly or indirectly (*e.g.*, circulated via e-mail, written on walls); and
- g) malicious and false complaints of misconduct against one or more colleagues.

Conduct that would not, in itself, be considered Workplace Harassment includes among others:

- a) a Manager's or Supervisor's words or actions taken or used without Malice for the primary purpose of evaluating a person's performance of official duties;
- b) the application of disciplinary measures for misconduct, including unsatisfactory performance;
- c) the decision not to renew a contract together with delivery of the corresponding notice; and
- d) the termination of a Staff Member's employment or a Non-staff Personnel contract together with delivery of the corresponding notice, for any of the reasons stated in the Staff Rules and/or contract.

Staff Members and Non-staff Personnel must have reasonable grounds before making a complaint of Workplace Harassment. Not all situations which appear to meet the definition may ultimately be found to amount to Workplace Harassment. There is a wide range of ambiguous behavior that might offend some people, but not others. The key is whether or not the action was unwelcome, particularly in light of whether the recipient asked the alleged harasser to stop the relevant conduct where this is possible.

Sometimes people who make remarks or gestures are not aware of their effect on others. They may think that they are being flattering, and may not realize that they are hurting the person in some way. Situations can be perceived as Workplace Harassment because of differences in:

- a) Power. Often people with power or authority are not aware of the effect their behavior has on others, because they are used to saying things and not being challenged. They may not know that Staff Members or Non-staff Personnel are often afraid to speak up.

- b) Culture. A flattering comment in one culture may be very inappropriate or offensive in another culture. For example, in some cultures it is inappropriate for a man to take gender-based notice of a woman in any way in a professional context.
- c) Gender. Men and women may define Workplace Harassment differently. Studies have shown that men tend to see only overt behaviors—crude jokes, outright propositions, etc.—as Workplace Harassment, while women tend to encompass more subtle behaviors within their conception of Workplace Harassment.

Managers and Supervisors have a responsibility to give frank and constructive feedback, and to take appropriate corrective action. They may make decisions that could have a negative impact on a person (e.g., with respect to her/his performance, evaluation or promotion, contract renewal or related to work assignments, appointments), but which do not, in and of themselves, constitute Workplace Harassment.

VII. Sexual Harassment

Sexual Harassment is a specific form of Workplace Harassment that deserves particular attention due to its serious effects on individuals and the Organization. Sexual Harassment is any unwelcome sexual advance, request for sexual favor or other verbal, non-verbal, or physical conduct of a sexual nature which interferes with work, alters or is made a condition of employment, or creates an intimidating, hostile, degrading or offensive work environment. Sexual Harassment may occur between persons of the opposite sexes or of the same sex. Unwelcome sexual behavior may be obvious, or it may be subtle. While typically involving a pattern of behavior, it can take the form of a single incident.

Sexual Harassment at work is defined as any unwanted conduct of a sexual nature in the workplace or in connection with work, which, in the reasonable perception of the person concerned, is: (a) used as a basis for a decision which affects that person's employment or professional situation, or (b) creates an intimidating, hostile or humiliating work environment for that person.

Sexual Harassment may occur between a superior and a subordinate (often in the context of *quid pro quo* harassment) or between co-workers (often in the context of hostile environment harassment). An example of *quid pro quo* Sexual Harassment would be found where a supervisor either offers improved terms and conditions of employment to the victim in exchange for sexual favors, or threatens to take negative action in regard to the victim's employment situation if the request for sexual favors is refused. Verbal or non-verbal conduct that creates a sexually offensive working environment may also constitute Sexual Harassment. An example of *hostile environment* harassment would be found where one or more co-workers subject a victim to comments of a sexual nature that are sufficiently offensive and pervasive as to have a negative impact upon the victim or his or her working environment.

Sexual Harassment includes:

- a) unsolicited requests for sexual favors;
- b) requests for sexual favors linked to career prospects;
- c) unwanted physical contact;
- d) visual displays of sexual images;
- e) sexually suggestive conduct; and
- f) inappropriate or offensive remarks of a sexual nature.

The most obvious form of Sexual Harassment in the workplace is a direct or implicit request for, or offer to, provide sexual favors in exchange for favorable career treatment or other work-related benefits. A wide range of other types of behavior can also constitute Sexual Harassment. These include but are not limited to:

- a) the repetition of sexually suggestive comments or innuendo;
- b) the exhibition of materials of a sexually-oriented nature (*e.g.*, displaying pornographic web sites or screen savers);
- c) the use of crude or obscene language or gestures, or the telling of disrespectful, offensive and/or obscene jokes;
- d) repeated and/or exaggerated compliments about a colleague's personal appearance or physical features;
- e) invitations to social activities if they persist after the recipient has made clear that they are not welcome; and
- f) deliberate and unsolicited physical contact, or unwelcome close physical proximity.

VIII. Preventive Measures

Prevention of Prohibited Conduct is an essential component of the action to be undertaken by the GS/OAS. It is important for all Staff Members and Non-staff Personnel to understand what constitutes Workplace Harassment. They also should be aware that all forms of Workplace Harassment constitute Prohibited Conduct that is subject to disciplinary action, including, in some instances, termination of employment or contract.

In the discharge of the duty of GS/OAS to take all appropriate measures towards ensuring a harmonious work environment and to protect its Staff Members and Non-staff Personnel from any form of Prohibited Conduct, the following preventive measures shall be adopted:

- 8.1 The GS/OAS shall inform all Staff Members and Non-staff Personnel (without exception) of its Policy and rules concerning Workplace Harassment.
- 8.2 The GS/OAS shall conduct regular and mandatory awareness-raising activities for all Staff Members and Non-staff Personnel in order to raise awareness of the Organization's zero tolerance of Prohibited Conduct; to provide guidance on the relevant Policy and processes; and to foster the creation of an open and harmonious working environment, free from intimidation, hostility, offense and any form of discrimination and/or Retaliation. These programs are recognized as the most efficient and effective means to communicate information concerning Workplace Harassment.
- 8.3 The GS/OAS will ensure that appropriate training programs will be offered, including targeted training for Managers and Supervisors, completion of which will be a requirement for advancement to successive levels of responsibility. Specific training will be provided to officials involved in Workplace Harassment claims processes. These programs will provide tools to identify, understand, and deal constructively with Workplace Harassment issues.
- 8.4 All Staff Members and Non-staff Personnel with contracts of more than six months shall be required to complete a mandatory program on prevention of Workplace Harassment (including Sexual Harassment), and Abuse of Authority in the workplace.

- 8.5 Every Staff Member and Non-staff Personnel must be actively provided with a copy of this Policy.
- 8.6 Staff Members and Non-staff Personnel should also be aware that they are protected from Retaliation for reporting Prohibited Conduct and for cooperating with investigations and Workplace Harassment claim processes.
- 8.7 Managers and Supervisors shall endeavor to create an atmosphere in which Staff Members and Non-staff Personnel feel free to express concerns about inappropriate behaviors and to use, without fear of reprisal, existing institutional channels for conflict resolution.
- 8.8 Everyone in line management must take reasonable action to prevent harassing behavior and retribution for bringing concerns forward.

IX. Proactive Measures

As with all types of Workplace Harassment, the effect of inappropriate behaviors on others, and not the intention of the harasser, is critical. If an action is reasonably perceived as offensive or intimidating by another, whether intended or not, it should be stopped.

9.1 Role and responsibilities of the GS/OAS under this Policy

- a) Actively communicate GS/OAS Policy on Workplace Harassment and Sexual Harassment to all Staff Members and Non-staff Personnel;
- b) implement the present Policy; and
- c) commit to addressing Workplace Harassment: if it receives an allegation of Workplace Harassment, or has reason to believe Workplace Harassment is occurring, the GS/OAS shall act consistently and take the appropriate administrative, investigative, and disciplinary action that may be required to ensure that the matter is promptly investigated and addressed.

9.2 Role and responsibilities of Staff Members and Non-Staff Personnel under this Policy

- a) Any Staff Member or Non-staff Personnel who believes that he or she has been the target of Workplace Harassment is encouraged to inform the offending person through verbal expressions or in writing that such conduct is unwelcome and offensive, and that it must stop. If the offended person does not wish to communicate directly with the offending person, or if such communication has been ineffective, he or she has multiple avenues for reporting allegations of Workplace Harassment and/or pursuing resolution;
- b) Staff Members and Non-staff Personnel are encouraged to report the unwelcome conduct as soon as possible; and
- c) Staff Members and Non-staff Personnel are responsible for familiarizing themselves with the GS/OAS Policy on Workplace Harassment and with the various options and internal channels available for addressing such conduct. Staff Members and Non-staff Personnel are also reminded on protection against retaliation for reporting misconduct and for cooperating with duly authorized investigations.

Staff Members and Non-staff Personnel must:

- a) Be respectful of their colleagues and maintain the highest standards of conduct and confidentiality;
- b) maintain a harmonious working environment for other colleagues by behaving in a manner that is free of intimidation, hostility, offence, and any form of Workplace Harassment, Sexual Harassment or Abuse of Authority; and
- c) refrain from all forms of Retaliation.

Failure of Staff Members and Non-staff Personnel to promote and maintain a respectful work environment or to assist in enforcing established standards of conduct may result in appropriate administrative or disciplinary action.

9.3 Specific role and responsibilities of Managers and Supervisors under this Policy

Managers and Supervisors must at all times:

- a) Act as role models by upholding the highest standards of conduct in order to achieve a Workplace Harassment-free environment. Managers and Supervisor have a particular responsibility to set positive examples. In their daily actions and communications with Staff Members and Non-staff Personnel they must make clear that harassing behavior will not be tolerated;
- b) facilitate, inspire and help to create a harmonious working environment free of intimidation, hostility, offense and any form of Workplace Harassment, including Sexual Harassment and Abuse of Authority;
- c) avoid excusing or minimize inappropriate behavior;
- d) make themselves available to provide guidance on prevention and dealing with such form of misconduct;
- e) ensure that incidents of Workplace Harassment, Sexual Harassment or Abuse of Authority are promptly and adequately addressed. In such cases, Managers and Supervisors must demonstrate fairness, impartiality and be free from intimidation or favoritism. They must also take measures consistent with the present Policy should they witness any acts of Workplace Harassment, Sexual Harassment or Abuse of Authority; and
- f) take all necessary measures to prevent and address Retaliation.

Managers and Supervisors at any level have a personal responsibility to communicate and/or properly address any known act of Workplace Harassment, Sexual Harassment or Abuse of Authority. Failure to do so may result in appropriate administrative or disciplinary action.

X. Confidentiality

The GS/OAS will seek to protect to the maximum extent possible the privacy, dignity and self-respect of the parties involved in a process of Workplace Harassment. It will take all necessary action to maintain confidentiality during the process of investigation, including by protecting the identities of the alleged victim and alleged offender.

Except to the extent required in the context of the relevant process, Staff Members and Non staff-Personnel shall not disclose any information learned during the course of a Workplace Harassment claim process. Managers and Supervisors are expected to play a special role by upholding the highest standards of conduct, confidentiality and discretion, without prejudice to their duty to report and/or properly address any known act of Workplace Harassment, Sexual Harassment or Abuse of Authority.

Circumstances may arise in which it might not be reasonable to preserve confidentiality. In particular, if an alleged offense becomes the subject of a formal complaint, the GS/OAS shall be obligated to inform the person accused of the allegations against him or her. In addition, where an alleged incident may constitute Prohibited Conduct by a Staff Member or Non-staff Personnel, it will be reported to the GS/OAS. Should this happen, the complainant will be so informed in writing as soon as possible. All relevant parties must have full access to all relevant documents related to the complaint.

Any Staff Member or Non-staff Personnel who is aware of a Workplace Harassment complaint, or is involved in its resolution, must (i) take immediate appropriate steps to address the situation, respecting the sensitivity and confidentiality that must be accorded to the matter; and (ii) refrain from discussing the complaint with anyone who does not have a "need to know." Appropriate administrative or disciplinary action will result from any breach of confidentiality.