



# ST/SGB/2019/8

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Addressing discrimination, harassment, including  
sexual harassment, and abuse of authority



# Changes

- Victim-centered approach
- Less aspirational and more concrete regarding obligations of Head of Entity (HoE) and staff members
- More emphasis on training and early/informal resolution for workplace grievance/inappropriate behavior falling short of workplace harassment
- All formal reports of prohibited conduct to OIOS in the first instance and process largely in accordance with ST/AI/2017/1
- OIOS may and will refer reports it is not investigating to the HoE for action



# Changes (continued)

- Each office/department to have a Conduct & Discipline focal point (C&D focal point) appointed by HoE
- Time limit on institution of an investigation by HoE
- No time limit on an investigation by panel or OIOS but status reports to be provided by C&D focal points
- No joint harassment prevention board but other data collection required, e.g., through Case Management Tracking System (CMTS) (the proposed successor to MTS)



# Prohibited conduct

## DISCRIMINATION

Discrimination is any unfair treatment or arbitrary distinction based on a person's race, sex, gender, sexual orientation, gender identity, gender expression, religion, nationality, ethnic origin, disability, age, language, social origin or other similar shared characteristic or trait.

## ABUSE OF AUTHORITY

Harassment is any unwelcome conduct that might reasonably be expected or be perceived to cause offence or humiliation to another person, when such conduct interferes with work or creates an intimidating, hostile or offensive work environment.

## HARASSMENT

Harassment is any unwelcome conduct that might reasonably be expected or be perceived to cause offence or humiliation to another person, when such conduct interferes with work or creates an intimidating, hostile or offensive work environment.

## SEXUAL HARASSMENT

Sexual harassment is any unwelcome conduct of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment.



# Discrimination

- Discrimination is any unfair treatment or arbitrary distinction based on a person's race, sex, **gender**, sexual orientation, **gender identity**, **gender expression**, religion, nationality, ethnic origin, disability, age, language, social origin or **other similar shared characteristic or trait**.
- Discrimination may be an isolated event affecting one person or a group of persons similarly situated, or may manifest itself through harassment or abuse of authority.



# Harassment

- Harassment is any unwelcome conduct that might reasonably be expected or be perceived to cause offence or humiliation to another person, when such conduct interferes with work or creates an intimidating, hostile or offensive work environment.
- Harassment may take the form of words, gestures or actions which tend to annoy, alarm, abuse, demean, intimidate, belittle, humiliate or embarrass another. ST/SGB/2019/8  
**Harassment may be directed at one or more persons based on a shared characteristic or trait as set out in section 1.2 above.** Harassment normally implies a series of incidents.



# Sexual harassment

- Sexual harassment is any unwelcome conduct of a sexual nature that might reasonably be expected or be perceived to cause offence or humiliation, when such conduct interferes with work, is made a condition of employment or creates an intimidating, hostile or offensive work environment. Sexual harassment may occur in the workplace or in connection with work.
- While typically involving a pattern of conduct, sexual harassment may take the form of a single incident. In assessing the reasonableness of expectations or perceptions, the perspective of the person who is the target of the conduct shall be considered.



# Sexual harassment (continued)

- Sexual harassment is the manifestation of a culture of discrimination and privilege based on unequal gender relations and other power dynamics. Sexual harassment may involve any conduct of a verbal, non-verbal or physical nature, including written and electronic communications. Sexual harassment may occur between persons of the same or different genders, and individuals of any gender can be either the affected individuals or the alleged offenders. Sexual harassment may occur outside the workplace and outside working hours, including during official travel or social functions related to work. Sexual harassment may be perpetrated by any colleague, including a supervisor, a peer or a subordinate. An offender's status as a supervisor or a senior official may be treated as an aggravating circumstance. Sexual harassment is prohibited under staff rule 1.2 (f) and may also constitute sexual exploitation or abuse under staff rule 1.2 (e).

\*This definition and many of the provisions relating to support and prevention are derived from the CEB's Model Policy on Sexual Harassment.





# Abuse of authority

- Abuse of authority is the improper use of a position of influence, power or authority against another person.
- This is particularly serious when a person uses their influence, power or authority to improperly influence the career or employment conditions of another, including, but not limited to, appointment, assignment, contract renewal, performance evaluation, working conditions or promotion.
- Abuse of authority may also include conduct that creates a hostile or offensive work environment which includes, but is not limited to, the use of intimidation, threats, blackmail or coercion. Discrimination and harassment, including sexual harassment, are particularly serious when accompanied by abuse of authority.



# Prevention



- Reference checks for external candidates
- Policy is to be incorporated into conditions of service of contractors, suppliers and partners
- Targeted trainings for managers, C&D focal points, staff reps, HR officers, medical personnel, other support personnel
- Ongoing training for all staff members
- Emphasis on early intervention/informal resolution
- Specific obligations of HoEs and staff members



# Informal resolution and early intervention

- ❑ Managerial intervention by supervisors
  - Interim measures by the HoE
  - Facilitate discussions/conversation if agreed by the affected individual
  - Timely and sensitive support to the affected individual
  - Submit a record of managerial intervention to the HoE
- ❑ Confidential support by UN Ombudsman and Mediation Services and Staff Counsellor
- ❑ Informal resolution
  - No preclusion of the matter from being formally reported
- ❑ Support person(s) for an affected individual during the formal or informal processes
  - One or two staff members- one may accompany to investigative interviews.
  - An individual of non-staff personnel status if reasonably acceptable to HoE.



# Informal resolution and early intervention (continued)



## ❑ Interim measures: upon receiving written notice of possible prohibited conduct

- Physical separation of the alleged offender and the affected individual
- Reassignment with the consent of the alleged offender or the affected individual
- Instituting flexible working arrangements
- Granting unplanned annual leave
- Consideration of special leave
- Temporary changes in reporting lines
- Placement of the alleged offender on administrative leave with pay

**\* Physical separation, without delay, including flexible working arrangements, if allegations involve attempted or actual assault, including sexual assault.**



# Head of entities' obligations

- Act as role models
- Prompt and diligent action on handling formal reports referred for action by OIOS
- Open dialogues and open-door policy
- Encourage personnel to use the informal and formal processes
- Screen candidates using ClearCheck database
- Periodically engage providers of training
- Communicate the policy/procedures to personnel annually through a dedicated in-person meeting
- Monitor the situation, when brought to their attention in writing, of a staff member engaging in
  - informal/formal process under this bulletin,
  - acting as a staff rep, or challenging a decision through management evaluation,
  - appearing as a witness before UNDT/UNAT
- Interim measures
- Designate C&D focal points to provide advice to HoE regarding their obligations and to provide information to concerned parties



# Head of entities' obligations (continued)

- Accommodations for work performance issues: upon receiving written notice of possible prohibited conduct,
  - A new workplan
  - Authorization of special leave and/or other flexible working arrangements
- Monitoring during an investigation: the status of the affected individual, the alleged offender and the work unit(s) concerned until investigation and subsequent action has been completed.
- Post-investigation review: Once decision taken on the outcome, through the C&D focal point, keep the situation under review:
  - Monitoring for at least one year the status of the affected individual, the offender and the work unit concerned at regular intervals, at least every three months
  - Due consideration given to any special requirements for the affected individual
  - Ensure any administrative or disciplinary measures be duly implemented



# Staff members' obligations



- Mandatory online training
- Familiarize with policies and procedures
- Attend other training opportunities
- Raise awareness of the very specific harassment threats that transgender and gender non-conforming individuals can face
- Report possible prohibited conduct and cooperate with investigations, audits and reviews

\*Performance appraisals, including through 360-degree reviews may record instances of non-adherence by staff members. Appraisals shall reflect the compliance of staff members with mandatory training requirements

- Active bystander action encouraged: provided they feel comfortable doing so and where possible, after consulting the affected individual



# Formal resolution

- ❑ May be made anonymously either to HoE (with a copy to OIOS), or to OIOS
- ❑ HoE shall forward the report to OIOS
- ❑ OIOS:
  - notify ASG/OHR and the HoE of the initiation of the investigation
  - copy ASG/OHR on its referral of the report to a HoE for action
  - inform the affected individual of the referral to the HoE
  - inform the affected individual and the alleged offender at least every three months of the status of the investigation
  - inform the HoE if the matter referred to OHR for action





# Formal resolution (continued)

- ❑ If OIOS refers the matter to the HoE,
  - the HoE:
    - Decide the course of action within three months of receipt of the report of prohibited conduct
    - inform OIOS and ASG/OHR of the decision
    - constitute an investigation panel within one month of the decision to initiate an investigation
  - C&D focal point:
    - inform the affected individual and the alleged offender, if appropriate, of the referral and at least every two months thereafter of the status of the matter
    - respond, at the request of an affected individual or alleged offender, within two weeks, to queries relating to the handling of the formal complaint.



# Formal resolution (continued)

## ☐ Outcome of the matter

- By OIOS: closure by OIOS (copy to the head of entity and ASG/OHR)
- By the HoE: closure or admin action by HoE (copy to OIOS and ASG/OHR)
- By ASG/OHR: if referred to OHR for action (copy to the HoE and OIOS)

\*ASG/OHR: disclosure of the outcome to third parties that respects privacy and confidentiality concerns (at the request of the affected individual or the offender or alleged offender).

## ☐ Right to appeal by affected individual or alleged offender contesting procedural impropriety

## ☐ Referral to national authorities: upon consultation with OLA, credible allegations of criminal conduct established by an investigation.

## ☐ Criminal activity may be reported by the affected individual to local authorities



# Transitional Measures



- ❑ Investigations initiated under ST/SGB/2008/5 prior to 10 September 2019 are to be governed by ST/SGB/2008/5
- ❑ Complaints under consideration by HoE as at 10 September 2019 should be referred to OIOS
- ❑ OIOS will determine if they will investigate or refer it back to HoE to be dealt with under ST/SGB/2019/8



THANK YOU

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