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ADS Chapter 113

Preventing and Addressing Sexual Misconduct

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ADS Chapter 113 – Preventing and Addressing Sexual Misconduct

113.1 OVERVIEW

Effective Date: 12/23/2020

This chapter provides policies and procedures for implementing USAID's zero tolerance approach to establishing a workplace free of sexual misconduct. The chapter covers the range of potential offenses and is intended to supplement related USAID policies and guidance, including but not limited to: [ADS 110, Equal Employment Opportunity](#), and [USAID's Employee Standards of Conduct](#).

113.2 PRIMARY RESPONSIBILITIES

Effective Date: 12/23/2020

- a. The **Administrator (A/AID)** serves as the senior accountable official for cultivating a respectful, inclusive, and safe workplace at USAID and for providing oversight for Agency performance regarding USAID's zero tolerance policy for sexual misconduct, pursuant to this chapter, in cooperation with the other entities outlined below.
- b. The **Director, Office of Civil Rights and Diversity (OCRD)** serves as the Agency Equal Employment Opportunity (EEO) and Chief Diversity Officer, and reports to the A/AID to carry out the functions of the Agency's EEO Program in all USAID organizational units and locations, including establishing, maintaining, and administering a continuing program designed to ensure equality of opportunity and eliminate discrimination and harassment within USAID.
- c. The **Office of Civil Rights and Diversity (OCRD)** processes allegations of sexual misconduct through the Agency Anti-Harassment Program; conducts inquiries into allegations of sexual misconduct; documents findings; refers findings to the appropriate entities for action (e.g., HCTM/ELR, Resident Legal Officers (RLOs), Contracting Officer(CO)); and provides training and neutral guidance to USAID staff, including supervisors and other responsible officials, to assist them with preventing and addressing sexual misconduct and on the established process for handling allegations of sexual misconduct.
- d. The **Director, Office of Employee and Labor Relations (ELR)**, within the **Office of Human Capital and Talent Management (HCTM)**, assists with the Agency's response to employee misconduct; advises managers and supervisors on employee accountability for conduct and performance; leads the Agency's Integrity Working Group; and oversees the [Misconduct Reporting Portal](#), including managing intake specialists.
- e. The **Office of Human Capital and Talent Management, Office of Employee and Labor Relations (HCTM/ELR)**: manages intake through USAID's Misconduct Reporting Portal, including directing allegations to the responsible entities (e.g., OCRD, Office of Security (SEC), Office of Inspector General (OIG)) and tracking report status

and inquiry completion; conducts administrative inquiries into alleged sexual misconduct involving Civil Service and Foreign Service employees that does not meet the threshold of discriminatory or EEO-based harassment; provides guidance to supervisors or other responsible officials as needed on addressing the alleged sexual misconduct; drafts disciplinary actions to address misconduct; and analyzes and reports on Misconduct Reporting Portal data, in close coordination with other responsible entities, as well as oversees records management responsibilities for the portal.

f. Contracting Officers (COs), including warranted EXOs, are designated decision-makers with the authority to take appropriate contract administrative action in specific cases of alleged sexual misconduct involving contractors (including Personal Services Contractors (PSCs)). COs ensure that the Misconduct Reporting Portal is updated to reflect any contract administrative action taken in relation to a report. The term “CO” in this chapter includes all individuals who are warranted or otherwise delegated authority to award U.S. Government contracts.

g. The Office of the General Counsel (GC) and Resident Legal Officers (RLOs) provide advice to Agency management (*i.e.*, supervisors, managers, and other management officials) on all legal matters involving allegations of sexual misconduct.

h. The Office of Security (SEC) addresses allegations involving sexual assault. In cases of allegations of sexual assault committed domestically, SEC liaises with local law enforcement. For allegations of sexual assault committed abroad, SEC liaises with the Regional Security Officer (RSO) and with the Department of State’s Office of Special Investigations. SEC also addresses staff misconduct through the security clearance process.

i. The Office of the Inspector General (OIG) is statutorily authorized to conduct independent and objective audits and investigations of USAID and report its findings to USAID, Congress, and the public; assess and monitor foreign aid and development activities; and, where appropriate, recommend actions for improving Agency programs and operations and safeguarding taxpayer funds. In cases where allegations of sexual misconduct intersect with issues of fraud, waste, and abuse or criminal acts, reported allegations may be referred to the OIG for review. OIG considers all available criminal, civil, and administrative enforcement remedies, as appropriate. The OIG also maintains its own processes for addressing allegations of sexual misconduct involving OIG staff.

j. Supervisors and other management officials who observe, are informed of, or reasonably suspect incidents of possible sexual misconduct must report such incidents within one business day of having knowledge of the information (see **113.3.1** for information on how to report). For this chapter, management officials include Administrative Management Services Officers, Executive Officers, Rating Officials, and supervisors (whether the individual supervises the parties involved). Failure by supervisors or other management officials to report such incidents, in accordance with Agency policy, will be considered a violation of this policy in most instances and may result in disciplinary action.

k. Assistant Administrators and Independent Office Directors proactively establish expectations regarding workplace behavior, in keeping with the USAID Standards of Conduct and Leadership Philosophy, and promote a respectful, safe, healthy, and inclusive work environment within their Bureau/Independent Office (B/IO).

l. Executive Officers (EXOs), in their role of human capital management at USAID Missions and Offices abroad, facilitate procedures for preventing and addressing sexual misconduct, in coordination with the appropriate subject matter experts (HCTM, RLO, GC). For warranted EXOs, see additional responsibilities for a CO.

m. Mission Directors maintain respectful, inclusive, and safe environments in USAID workplaces overseas and implementing USAID's zero tolerance policy for sexual misconduct utilizing Agency-wide policies and post-specific procedures. Mission Directors may establish, maintain, and distribute post-specific procedures to supplement Agency policies. Post-specific procedures may not supersede Agency policies, such as the one business day reporting requirement for allegations of sexual misconduct.

n. Employee Resource Groups (ERGs) provide input on the effectiveness of the policies and procedures for preventing and addressing sexual misconduct, including the Sexual Misconduct Prevention Plan, as part of annual reviews of the policy.

o. USAID's Staff Care Center provides support on resilience and well-being to USAID staff on a variety of issues, regardless of hiring type or contract mechanism, as well as eligible family members. This support includes confidential counseling services provided through both U.S. and local service providers.

113.3 POLICY DIRECTIVES AND REQUIRED PROCEDURES

Effective Date: 12/23/2020

USAID has a zero tolerance policy for all forms of sexual misconduct, which encompasses inappropriate conduct of a sexual nature or that is sex-based that includes but is not limited to:

1. Conduct that violates the Agency's code of workplace conduct and Agency policy, including occasional unwelcome compliments, questionable jokes, bullying, insults, etc.;
2. Conduct that violates Federal EEO law because it is so severe or pervasive that it creates a hostile or offensive work environment or results in a negative employment action; and
3. Conduct that violates U.S. criminal laws.

Zero tolerance refers to the principle that every allegation is taken seriously and acted upon in line with USAID's established procedures for resolving reports of sexual

misconduct, as outlined in this policy. This policy prohibits sexual misconduct by any employee, supervisor, manager or contractor at USAID. The policy applies to inappropriate conduct even if the conduct does not rise to a level that is actionable under civil or criminal law.

The following principles guide the implementation of USAID's zero tolerance policy:

- Survivor-Centered – Survivors of sexual misconduct will be treated with dignity and respect and to the extent possible, the safety, confidentiality, needs, and wishes of survivors will be prioritized in USAID's response.
- Leadership-Driven – Agency senior leadership will consistently communicate expectations for all organizational leaders and staff and communicate USAID's commitment to prevention, transparency, and accountability.
- Proactive Stance – USAID will proactively deter sexual misconduct and foster a respectful workplace culture by adopting effective policies and procedures, as well as enhancing training and communications around prevention.
- Confidentiality – The Agency will protect the confidentiality of all individuals involved during an inquiry and/or investigation in accordance with legal requirements. The Agency abides by specific requirements under U.S. privacy laws that restrict who can access information related to reports, inquiries, and/or investigations, and any resulting findings, determinations, or corrective actions.
- Prohibit Retaliation – Per the USAID Standards of Conduct and the Agency's Equal Employment Opportunity policy statement, employees have the right to report sexual misconduct in an environment free of retaliation or reprisal. If an individual believes they are experiencing retaliation, they should immediately report this behavior to the [Misconduct Reporting Portal](#) or through any of the other avenues available for reporting (see section **113.3.1**).
- Transparency – The Agency will increase transparency around the processes for addressing sexual misconduct, including standardizing case updates for individuals involved in the administrative inquiry process (see section **113.3.1**) as well as regularly reporting on Agency-level data related to sexual misconduct.
- Due Process – The Agency will deal consistently and effectively with sexual misconduct and will place accountability at the forefront of its efforts, while also respecting the legal and administrative rights of all individuals involved.

The goal of the policies and procedures outlined in this chapter, in line with other Agency policies, is to maintain a workplace where Agency staff treat each other with dignity and respect, value diversity and inclusivity, and challenge themselves to reach the highest standards of professional conduct. USAID is an organization that values multi-cultural sensitivity and tolerance. While the Agency aids in diverse cultural

settings with varying societal norms, USAID's zero tolerance expectations and standards of conduct for its staff apply in all countries and settings.

113.3.1 Reporting Sexual Misconduct

Effective Date: 12/23/2020

USAID requires all supervisors and management officials, and strongly encourages all other staff to report sexual misconduct they witness, experience, or otherwise become aware of in connection to USAID's workplace or facilities. Staff can report sexual misconduct at any time, regardless of when the incident occurred. However, to access the Agency's EEO process, which is distinct from the Agency's administrative inquiry and resolution process, staff must file a report within 45 days of the incident (see [ADS 110, Equal Employment Opportunity](#) for details).

The Agency makes multiple channels available for reporting sexual misconduct. Any individual, notwithstanding hiring type or contract mechanism, can report sexual misconduct directly to the [Misconduct Reporting Portal](#) in LaunchPad. The [Misconduct Reporting Portal](#) offers three options for reporting: 1) Standard; 2) Confidential; and 3) Anonymous. Under standard reporting, the individual gives the Agency permission to use their name and information as needed to resolve the situation. Under confidential reporting, the individual gives the Agency permission only to provide their name and information to investigative bodies as needed to resolve the situation. Under anonymous reporting, the Agency does not have access to an individual's name. Regardless of the type of report selected, USAID will protect the privacy and confidentiality of the individuals involved, to the extent possible.

Staff can also report sexual misconduct by dialing the Service Desk at (202) 712-1234 and selecting "2" for Human Resources and "2" for the Employee and Labor Relations Misconduct Hotline. The hotline is staffed by intake trained professionals. Staff can also report directly to any supervisor or other management official (*i.e.*, Administrative Management Services Officers, overseas Executive Officers), as well as to EEO Counselors, and other responsible entities, such as OCRD (ocrdharassment@usaid.gov), HCTM/ELR (hctm.elr@usaid.gov), or GC (ethics@usaid.gov).

Separate from the reporting process, staff may reach out to USAID's Staff Care Center at any time at (877) 988-7243 or support@usaidstaffcarecenter.net for access to confidential counseling services, as well as additional wellness and resilience support. Staff Care services are available 24 hours per day/seven days a week via telephone, online, or in-person.

Supervisors and other management officials have a special reporting requirement for tracking and accountability purposes. Supervisors and management officials who observe, are informed of, or reasonably suspect incidents of possible sexual misconduct must report such incidents within one business day of having knowledge of the information to the Misconduct Reporting Portal.

Intake specialists process reports alleging sexual misconduct that are channeled to the [Misconduct Reporting Portal](#). The specialists:

- a. Review allegations to determine the fact-finding entity for follow-up. The fact-finding entity determines whether and how to conduct further inquiry but does not make management decisions related to the subject of allegations, which is the responsibility of the Decision-Maker (see section **113.3.1.2**);
- b. Notify the fact-finding entity (e.g., OCRD, HCTM/ELR, SEC, OIG) and provide the initial incident report, generally within two business days; and
- c. Track the status of the report, including referral for action and close-out, and provide status updates to individuals of concern as appropriate.

Where the fact-finding entity is OCRD or HCTM, the fact-finding entity will then generally follow these steps:

- a. Review the initial report and any other documentation provided, as well as request any additional information needed to determine if an inquiry and/or investigation is needed;
- b. Contact the individual of concern, subject of allegation (if appropriate), and management official(s) with a “need to know” to inform them as is suitable of process information, generally within 3-5 business days, which may include next steps, timeline for action, prohibitions against retaliation, and requirements to protect confidentiality. Management officials with a “need to know” may include, for example, the supervisor of the individual of concern, the supervisor of the subject of allegation, and the Decision-Maker (if not already named);
- c. Complete the inquiry (where required), generally within 60-90 business days in most cases, which may involve collecting additional information, as necessary, including interviewing witnesses and accessing Agency systems and records, while also protecting confidentiality and Personally Identifiable Information (PII). The length of the inquiry will generally depend upon the complexity of the allegations and will vary from case to case;
- d. Document any findings related to the inquiry and forward them to the Decision-Maker and other appropriate entities for corrective action (see section **113.3.1.2**); and
- e. Provide periodic status reports as appropriate to the individual of concern, subject of allegation, management official(s) with a “need to know,” and Misconduct Reporting Portal, including a notification when the inquiry is completed.

USAID may conduct inquiries into allegations of sexual misconduct where the subject of allegations is USAID staff acting in an official status; where the allegations occur within U.S. Government facilities; or where the individual of concern was subjected to the alleged misconduct while in an official status. Where contractor staff (and PSCs) are concerned, this will apply to allegations of sexual misconduct that occur within U.S. Government facilities or while the contractor employee is performing services under the contract. For procedures specific to sexual assault, see section **113.3.3**.

113.3.1.1 Interim Measures

Effective Date: 12/23/2020

Interim measures are temporary risk mitigation actions intended to prevent further alleged sexual misconduct and/or harm from continuing or escalating during an inquiry. Interim measures are not disciplinary actions. Supervisors or other responsible management officials (*e.g.*, COs) are responsible for determining, with the appropriate consultation with the complainant, whether interim measures are necessary in a given situation. HCTM/ELR, GC, and RLOs are available to provide guidance to them on the implementation of such measures and otherwise on the handling of the alleged misconduct based on the specifics of the situation and the individual's hiring type or contract mechanism. The CO must be involved in all cases where the subject of allegations is a contractor employee or a PSC.

Interim measures may include a variety of actions, such as a physical separation of the subject of allegations from the individual of concern's work space; a telework schedule for the subject of allegations; a directive to the subject of allegations to limit communications with the individual of concern to business needs, to copy the supervisor on all communications with the individual of concern, or to refrain altogether from communicating with the individual of concern; a temporary duty assignment (TDY) elsewhere for the subject of allegations; or a memorandum to the subject of allegations notifying them that allegations have been raised and that any such behavior should stop immediately (*i.e.*, "cease and desist" notice).

In determining the need for interim measures, particular consideration should be given to the safety of the complainant as well as any disparate power dynamics that exist between the individual of concern and the subject of allegations. This may include power dynamics between supervisors and supervisees or dynamics between Americans and local staff at post. At post, where appropriate, the Mission Director, in consultation with other entities (*e.g.*, RLO, EXO, CO, HCTM/ELR, GC), may consider whether the subject of allegation's credibility as a USAID representative in the host country has been compromised enough to warrant voluntary or involuntary curtailment or contract termination as appropriate. In some cases (*e.g.*, subject of allegation is engaging in retaliation), curtailment may also be appropriate. If the Agency seeks to notify the individual of concern of interim measures implemented, it should contact GC or RLO. In addition, the Agency will generally not impose an action on the individual of concern (*e.g.*, moving the individual of concern's office, requiring the individual of concern to telework) as an interim measure without the individual of concern's request or cooperation and without GC or RLO concurrence.

113.3.1.2 Administrative Actions Post-Inquiry

Effective Date: 12/23/2020

After completing the administrative inquiry, the responsible entity will refer the findings to the officials identified below, including the “Decision-Maker,” to determine the appropriate course of administrative action. The Decision-Maker refers to the individual with direct responsibility for managerial decisions related to the subject of allegation. For contractual decisions, this is the Contracting Officer as the warranted individual with authority over a contract.

Subject of Allegations	Recipient of Report	Decision-Maker
Civil Service Employee (including Civil Service Employees of other agencies detailed to USAID)	<ul style="list-style-type: none"> ● Supervisor of subject of allegations ● HCTM/ELR ● GC 	Usually the employee’s first-line supervisor, in consultation with HCTM/ELR and GC as appropriate, as the Agency is committed to providing resolution at the lowest level possible.
Foreign Service Employee (including Foreign Service Limited)	<ul style="list-style-type: none"> ● Supervisor of subject of allegations ● HCTM/ELR ● Director, HCTM/FSC or Chief Human Capital Officer (CHCO) ● GC 	The Director of HCTM’s Foreign Service Center (FSC) or CHCO, in consultation with HCTM/ELR, GC, and where appropriate, the employee’s supervisor.
PSCs at Missions (i.e., US, CCN, and TCN PSCs)	<ul style="list-style-type: none"> ● Supervisor of subject of allegations ● RLO ● EXO ● Cognizant CO 	The PSC’s supervisor, in consultation with the cognizant CO. If contractual action is needed, the cognizant CO, in consultation with the Mission Director and RLO as necessary regarding remedy options.
USPSCs in Washington	<ul style="list-style-type: none"> ● Supervisor ● Cognizant CO ● GC 	The PSC’s supervisor, in consultation with the cognizant CO. If contractual action is needed, the cognizant CO, in consultation with GC as necessary regarding remedy options.
PASA/PAPA Staffer (see ADS 306)	<ul style="list-style-type: none"> ● Participating Agency subject to information disclosure policies ● GC ● Signatory to the Agreement 	The Participating Agency
Contractor Employee (an individual employed by an Institutional Support Contractor (ISC))	<ul style="list-style-type: none"> ● Cognizant CO ● Contractor 	Subject to information disclosure policies, USAID will provide the results of any inquiry to the Contractor for action. It is the Contractor’s responsibility to ensure its policies are followed and any disciplinary actions are taken consistent with those policies. USAID cannot take direct disciplinary action against a contractor’s employees but can consider this

Subject of Allegations	Recipient of Report	Decision-Maker
		information and the response in management of the Contractor's overall performance. For ISCs with performance overseas see also contract clause 752.7013 Contractor-mission relationships.
Foreign Service National (DH) (see ADS 495)	<ul style="list-style-type: none"> • Supervisor of subject of allegations • RLO • EXO 	EXO, in consultation with RLO and the individual's first-line supervisor and Mission Management, as appropriate.
Student Volunteer Intern (Washington)	<ul style="list-style-type: none"> • Supervisor of subject of allegations • GC 	Usually the first-line supervisor, as the Agency is committed to providing resolution at the lowest level possible.
Student Volunteer Intern (Overseas)	<ul style="list-style-type: none"> • Supervisor of subject of allegations • RLO • EXO 	EXO, in consultation with RLO and the individual's first-line supervisor and Mission Management, as appropriate.

The Decision-Maker reviews the findings and when findings warrant disciplinary action, should perform the following:

- a. Where the subject of allegations is a U.S. Direct-Hire Civil Service employee, the Decision-Maker consults with HCTM/ELR and GC and considers the guidance in [ADS 487, Disciplinary and Adverse Actions Based Upon Employee Misconduct - Civil Service](#), as appropriate.
- b. Where the subject of allegations is a Foreign Service Officer, the Decision-Maker consults with HCTM/ELR and GC and consider the guidance in [ADS 485, Disciplinary Action - Foreign Service](#).
- c. Where the subject of allegations is a USPSC, the Decision-Maker consults with the RLO (if at the subject is posted overseas) and/or GC (if Washington-based) to determine a course of action consistent with available managerial or contractual rights and remedies.
- d. Where the subject of allegations is a Cooperating Country National Personal Services Contractor (CCNPSC) or Third-Country National Personal Services Contractor (TCNPSC), the Decision-Maker consults with the CO, as well as considers any applicable post-established procedures, including local labor law, as may be incorporated in the local employee handbook, in order to determine a course of action, in consultation with the RLO and Mission Director.
- e. Where the subject of allegations is a contractor, the CO provides the results of any inquiry to the contractor for action, subject to USAID's information disclosure policies.

113.3.1.3 Additional Considerations for Sexual Misconduct Occurring at Post

Effective Date: 12/23/2020

The Agency will follow the reporting process outlined in this chapter for all USAID staff, regardless of location. However, management officials may need to consider additional issues when responding to allegations of sexual misconduct at post, depending upon the nature of the allegations (location, severity, etc.) and the hiring type or contract mechanism and agency (USAID, Department of State, etc.) of the involved individuals. In every case, the management official(s) in the position to do so (typically, the supervisor of the individual of concern, the supervisor of the subject of allegation, and/or the Decision-Maker) can and should act to protect the individual of concern from any continuing potential sexual misconduct by ensuring that any interim measures recommended by RLO, GC or HCTM are implemented promptly and properly. They should further observe the situation and report any future concerns to the RLO, GC, or HCTM/ELR for any appropriate additional measures.

Primary responsibility for responding to the allegations will depend on the other agencies involved and the severity of the allegations. For severe cases, defined as sexual assault under [3 FAM 1710](#), the Department of State (DOS) has primary responsibility for responding to the allegations (see section **113.3.3**).

When USAID has primary responsibility for responding, USAID must handle sexual misconduct allegation reports consistent with Federal laws and regulations and USAID policies, including this ADS chapter, to the extent practicable under local laws.

For cases where U.S. citizen staff (U.S. Direct-Hire staff and all U.S. citizen staff under other mechanisms) or resident alien U.S. PSCs are the subject of allegations, the post must apply the same policies and procedures that apply in the United States.

For cases where non-U.S. citizen staff are the subject of an allegation, each Mission has or may have specific post-established procedures specific to local staff. Non-U.S. citizen staff with questions about post procedures should contact the post's EXO and/or RLO. Non-U.S. citizen staff may also contact OCRD and HCTM/ELR for guidance.

Where TCNPSCs, CCNPSCs, and Foreign Service National Direct-Hires (FSNDHs) are alleged to have perpetrated sexual misconduct in the continental United States and the Agency receives the report while the individual is physically present in the continental United States, the Agency must determine a course of action in accordance with the staff member's contract or terms of their employment, and as consistently as possible with its policy applicable to U.S. citizen staff.

113.3.2 Sexual Assault

Effective Date: 12/23/2020

USAID will make every effort to prevent sexual assault from being committed by, or against, its staff. USAID is committed to taking a survivor-centered approach for responding to staff who have been sexually assaulted, including, to the extent possible,

making efforts to ensure that their needs and wishes are taken into account, that they are kept informed throughout the process, and that they are treated with care and respect. The policies and procedures in this section define the Agency's goals of effectively preventing and addressing sexual assaults; the actions it will take in response to allegations of sexual assault; and the approach it will use in holding those Agency staff who commit sexual assault accountable for their actions. The language used in sections **111.3.2.1** and **113.3.2.2**, by necessity, must be technical, comport with and relate to relevant laws and policy, and be administratively sound.

For all reports of sexual misconduct, supervisors and other management officials who observe, are informed of, or reasonably suspect a sexual assault must report the misconduct within one business day of having knowledge of the information.

113.3.2.1 Sexual Assault Involving Staff and Facilities in the United States

Effective Date: 12/23/2020

Sexual assaults that occur within the United States generally fall under the jurisdiction of the State or locality where the assault occurred. Staff who are victims of sexual assault are not under any obligation to report the assault to the Agency. If a report regarding alleged sexual assault committed domestically is made to the Misconduct Reporting Portal or directly to any responsible entity such as OCRD, HCTM/ELR, or GC/EA, the report will be shared with SEC for referral of the allegation to state or local law enforcement. Regardless of any criminal investigation, sexual assault by Agency staff is actionable misconduct. If such an act occurs, the Agency will take a survivor-centered approach, as outlined above, and will take appropriate administrative action against those who have committed sexual assault, in coordination with the range of Operating Units involved at Agency headquarters, such as SEC, HCTM, OCRD, GC, COs (in consultation with the Bureau for Management), and Staff Care.

Anyone who has been sexually assaulted anywhere in the United States has several options available to them if they choose and feel safe to do so. Survivors of sexual assault can:

- 1) Go to a safe place away from the perpetrator;
- 2) Reach out for help. Call 911 to receive assistance from local medical and law enforcement; and
- 3) Preserve all evidence of the assault:
 - a. Refrain from washing hands, bathing, brushing teeth, eating, laundering clothes, or smoking, until contact can be made with medical or law enforcement first responders; and
 - b. If still at the location of the assault, refrain from cleaning or straightening up or removing anything from the surroundings.

If the victim did not immediately call for medical or law enforcement assistance and later would like to reach out for help, the victim may still call 911 at any time. Victims of sexual assault may also reach out to USAID's Staff Care at (877) 988-7243 or **support@usaidstaffcarecenter.net**. Staff Care services are available 24 hours per day/seven days a week via telephone, online, or in-person.

113.3.2.2 Sexual Assaults Involving Agency Staff and Facilities Outside the United States

Effective Date: 12/23/2020

Under [3 FAM 1710](#), the Department of State, specifically the RSO and Office of Special Investigations (OSI), has primary responsibility for addressing allegations of sexual assault involving Agency staff and facilities outside the United States.

Anyone who has been sexually assaulted is advised to, if possible, given the circumstances:

- 1) Go to a safe place away from the perpetrator;
- 2) Reach out for help from a healthcare provider;
- 3) Reach out for help from the RSO; and
- 4) Preserve all evidence of the assault.

If a report regarding alleged sexual assault committed abroad is made to the Misconduct Reporting Portal or directly to any responsible entity such as OCRD, HCTM/ELR, GC/EA, EXO, or RLO, the responsible entity must notify SEC and the local RSO. Following such notification, the responsible entity in the Agency must initiate an administrative inquiry that defers appropriately to any requirements of U.S. Federal, state, or local law enforcement, as well as to Chief of Mission procedures outlined in 3 FAM 1710.

113.3.3 Accountability

Effective Date: 12/23/2020

USAID staff are held accountable for complying with the Agency's zero tolerance policy for sexual misconduct and for fostering a respectful, safe, healthy, and inclusive work environment. As it does with all misconduct, USAID will consider findings of sexual misconduct when making decisions regarding performance, hiring, awards, public recognition, promotions and other personnel and procurement actions (e.g., procuring services).

113.3.3.1 Performance Management

Effective Date: 12/23/2020

USAID’s performance management system must foster a workplace free of sexual misconduct. The performance management standards for all Foreign Service, including Senior Foreign Service, and all Civil Service employees, including General Schedule, Senior Executive Service, Senior Level, Scientific and Professional employee, identify elements that pertain to maintaining such a workplace. Supervisors and employees must consider these elements when developing new performance plans and when evaluating Direct-Hire employees and, on an equivalent basis, the performance of PSCs.

113.3.3.2 Vetting Prior to Personnel Actions

Effective Date: 12/23/2020

Agency management will ensure appropriate vetting for sexual misconduct when considering Direct-Hire employees and PSCs for awards and long-term training, and additionally for Direct-Hire promotions, bonuses, Senior Leadership Group (SLG) assignments, and tenure (see [ADS 113maa, Vetting for Sexual Misconduct Prior to Certain Personnel Actions](#), for detailed information on specific actions and timing for the vetting process).

113.3.3.3 Employment Screening for Direct-Hire Employees and PSCs

Effective Date: 12/23/2020

USAID will screen potential Direct-Hire or re-hire employees and PSCs, including new contracts with the same individual, for prior histories of sexual misconduct. The process will rely on strategic “checkpoints” that will begin with reference checks and end with the issuance of a new employee’s personal identity verification (PIV) card. This process will not necessarily preclude individuals from working with the Agency but will trigger additional review to ensure that the individual is eligible and appropriate to join USAID. The screening process includes the following to the extent applicable to each hiring type and contract mechanism:

- Reference Checks: HCTM is administering a reference check program that includes a question related to sexual misconduct. COs may also include such questions related to past performance, including workplace conduct, in conjunction with the pre-award responsibility determination for PSCs.
- Tentative Offer Self-Certification: Prospective Direct-Hire employees must sign a self-certification related to any past sexual misconduct as part of accepting a tentative offer with USAID.
- Security Clearance Investigation: If a prospective staff member indicates a history of employment misconduct on eQIP forms, investigators will ask additional questions to determine if there is a history of sexual misconduct.
- New Employee Orientation (NEO): New staff members on-boarded in Washington must confirm completion of the information session on USAID’s zero tolerance policy for sexual misconduct as part of NEO.

113.3.4 Monitoring and Evaluation

Effective Date: 12/23/2020

The Agency will seek to achieve an organizational environment where all staff feels safe and respected by setting and maintaining priority goals; targeting specific outcomes and results; and periodically monitoring and evaluating the effectiveness of implementation in preventing and addressing sexual misconduct. The Misconduct Reporting Portal, in addition to being a reporting vehicle, is a tool for increased transparency and accountability for the Agency.

HCTM/ELR, as the manager of the Misconduct Reporting Portal, maintains and analyzes data collected through the portal. HCTM/ELR will disaggregate the data collected through the portal by year, geography, Operating Unit (OU), sex, and hiring type or contract mechanism of those submitting misconduct claims. This data, along with data obtained from other sources (e.g., reports submitted directly to OCRD or HCTM/ELR and mandatory reporting, such as the annual Management Directive 715 and Federal Anti-Discrimination and Retaliation [No FEAR] Act reports) is used for semi-annual reviews of this policy under the framework of the Agency's Executive Management Council on Risk and Internal Control (EMCRIC). At an aggregate level, the data may also be used for the annual progress report to the EMCRIC and Agency leadership (see below for details). Any data used for such purposes is reviewed to ensure that names or any other personally identifiable information are removed to protect confidentiality.

The Agency, led by HCTM and OCRD, must develop a three-year Sexual Misconduct Prevention Plan that will track the planning, monitoring and evaluation, and reporting of progress in complying with the Agency's zero-tolerance policy. The plan must require an annual written report to the EMCRIC and Agency leadership, accompanied by a live briefing to the EMCRIC, to detail progress, challenges, and any necessary adjustments to the Agency's approach to preventing sexual misconduct. The prevention plan and annual report will draw on data taken from the Misconduct Reporting Portal, as well as data from the annual Federal Employee Viewpoint Survey (FEVS) and any other relevant sources.

113.4 MANDATORY REFERENCES

113.4.1 External Mandatory References

Effective Date: 12/23/2020

- a. [3 FAM 1710](#)
- b. [Equal Employment Opportunity Commission Management Directive 110](#)
- c. [Title VII of Civil Rights Act of 1964](#)

113.4.2 Internal Mandatory References

Effective Date: 12/23/2020

- a. [Addressing and Preventing Sexual Misconduct Toolkit](#)
- b. [ADS 110, Equal Employment Opportunity](#)
- c. [ADS 113maa, Vetting for Sexual Misconduct Prior to Certain Personnel Actions](#)
- d. [ADS 302, Direct Contracting](#)
- e. [ADS 302mas, Special Contract Requirements](#)
- f. [ADS 306, Interagency Agreements](#)
- g. [ADS 309, Personal Services Contracts with Individuals](#)
- h. [ADS 485, Disciplinary Action – Foreign Service](#)
- i. [ADS 487, Disciplinary and Adverse Actions Based Upon Employee Misconduct - Civil Service](#)
- j. [ADS 487saa, Table of Offenses and Penalties](#)
- k. [ADS 495, Foreign Service National Personnel Administration](#)
- l. [ADS 527, Functions of the Mission Executive Officer](#)
- m. [Policy Statement on EEO Harassment and Retaliation](#)
- n. [USAID Standards of Conduct](#)

113.5 ADDITIONAL HELP

Effective Date: 12/23/2020

There are no Additional Help documents for this chapter.

113.6 DEFINITIONS

Effective Date: 12/23/2020

See the [ADS Glossary](#) for all ADS terms and definitions.

Administrative Inquiry

An internal Agency-driven investigative process, to be distinguished from an “EEO investigation,” in which the Agency seeks to investigate allegations of misconduct regardless of whether an employee decides to file a formal EEO complaint. Inquiries

include allegations of misconduct that both do and do not rise to the level of EEO harassment. (**Chapter 113**)

Chief of Mission Authority

Chief of Mission is the principal officer in charge of a diplomatic mission of the United States or of a United States office abroad which is designated by the Secretary of State as diplomatic in nature, including any individual assigned to be temporarily in charge of such a Mission or Office. (**Chapter 113, 530**)

Decision-Maker

Refers to the individual with direct responsibility for managerial decisions related to the subject of allegations. For contractual matters, the Contracting Officer is the warranted individual with authority over a contract. (**Chapter 113**)

Fact-Finding Entity

Operating Unit assigned responsibility to review allegations of sexual misconduct, up to and including conducting an inquiry, where appropriate. The fact-finding entity may differ depending on the specifics of the case, including the hiring mechanism or contract type of the individuals involved as well as the location, the nature and/or severity of the misconduct. The fact-finding entity does not make management decisions related to the subject of allegations, which are the Decision-Maker's responsibility. (**Chapter 113**)

Individual of Concern

A person who reports that they have been subjected to sexual misconduct or who is the identified subject of alleged sexual misconduct in another person's report alleging sexual misconduct. (**Chapter 113**)

Interim Measures

Temporary, non-disciplinary actions that a management official may take to ensure that possible sexual misconduct does not continue while an administrative inquiry is pending. (**Chapter 113**)

Manager

A manager directs the work of an organization, is held accountable for the success of specific line or staff programs, monitors the progress of the organization toward goals and periodically makes adjustments. (**Chapter 113, 413**)

Reporter

An individual who submits a report of sexual misconduct. The individual can be the actual individual of concern or a third-party. (**Chapter 113**)

Sexual Assault

Any non-consensual sexual act proscribed by Federal, tribal, or state law, including when the victim lacks capacity to consent. The term "sexual act" means touching, or causing another person to touch, either directly or through the clothing, any person, with an intent to abuse, humiliate, harass, or degrade them based on their sex or to arouse

or gratify the sexual desire of any person. Touching may be accomplished by any part of the body or an object. For the purpose of the Agency's internal policy, such definition also extends overseas. (Note that the Department of State has a definition for sexual assault in 3 FAM 1710, which the Agency's above definition is intended to include). **(Chapter 113)**

Sexual Harassment

According to the Equal Employment Opportunity Commission, sexual harassment is conduct that is sexual in nature or sex-based that is so pervasive or severe that it violates Federal EEO law and creates a hostile or offensive work environment or results in a negative employment action. **(Chapter 113)**

Sexual Misconduct

An umbrella term that encompasses inappropriate conduct of a sexual nature or that is sex-based that includes but is not limited to: 1) conduct that violates the Agency's code of workplace conduct and Agency policy, including occasional unwelcome compliments, questionable jokes, bullying, insults, etc.; 2) conduct that violates Federal EEO law because it is so severe or pervasive that it creates a hostile or offensive work environment or results in a negative employment action; 3) conduct that violates U.S. criminal laws. The misconduct need not rise to the level of civil (e.g., discriminatory harassment) or criminal illegality (e.g., sexual assault or rape) to warrant corrective or disciplinary action. Whether an action constitutes sexual misconduct does not depend on the intent of the subject of allegations, but rather, is evaluated from the objective standpoint of a reasonable person. **(Chapter 113)**

Staff

For purposes of this chapter only, staff refers to individuals working for or on behalf of the Agency, regardless of hiring type or contract mechanism, who have access to USAID facilities. This includes Direct-Hire (DH) employees, Personal Services Contractors (PSCs), Fellows, student volunteer interns, and individuals under a Participating Agency Service Agreement. Contractors are not automatically subject to Agency policy and procedures, as indicated in [ADS Chapter 501](#). However, the policies and procedures in this chapter apply to all staff, including certain contractor personnel to the extent possible where special contract requirements are included in the contract. Where policies are only applicable to certain hiring types or contract mechanisms, this is noted in the chapter. **(Chapter 113)**

Subject of Allegations

A person who is accused of sexual misconduct. **(Chapter 113)**

Supervisor

An employee that is responsible for the "direction" of subordinates within their organization unit and whose supervisory responsibilities meet at least the minimum requirements for coverage under the General Schedule Supervisory Guide. Those directed may be subordinate Federal civil service employees, assigned military employees, unpaid volunteers, student trainees, or others. Supervisors serve as

coaches that empower staff to accomplish work. Traditional supervisory duties include evaluating employee performance; selecting or participating with considerable weight in the selection of subordinate employees; reviewing and approving leave requests; hearing and resolving complaints and grievances; and effecting disciplinary measures. (Chapters [102](#), [113](#) and [413](#))

Survivor/Victim

A person who is or has been subjected to sexual misconduct, including but not limited to sexual harassment, assault, exploitation, or abuse. (Chapter 113)

Zero Tolerance

The principle that every allegation is taken seriously and acted upon in line with agreed procedures for resolving reports of sexual misconduct. This approach pursues measures in an effective manner that is accountable to staff, respects the rights of all involved parties, and prioritizes support for those who experience any form of sexual misconduct. (Chapter 113)

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