

## The Andrew W. Mellon Foundation

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### Equal Opportunity and Anti-Harassment Policy

The Andrew W. Mellon Foundation (the “Foundation”) is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in an environment that is free of discriminatory practices and behavior, including harassment.

#### Equal Opportunity

It is the policy of the Foundation to provide equal employment opportunities, and to administer its personnel practices and maintain an environment free of discrimination or harassment on the basis of actual or perceived race, color, national origin, religion, sex (including pregnancy, childbirth, breast feeding, and related medical conditions), sexual and reproductive health decision-making (including but not limited to decisions to use or access a particular drug, device, or medical service), age, actual or perceived physical or mental disability, genetic information, marital status, sexual orientation, gender (including gender identity or expression and/or the status of being transgender), military or veteran status, citizenship status, status as a victim of domestic violence, stalking, or sex offense, caregiver status, arrest or conviction record, credit history, unemployment status, or any other unlawful criterion or circumstance. The Foundation prohibits and will not tolerate any such discrimination or harassment or retaliation in response to good faith reports or the provision of information about such discrimination or harassment.

#### Definitions of Harassment

Sexual harassment constitutes discrimination and employee misconduct and is illegal under federal, state, and local laws. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, visual, or physical conduct of a sexual nature or based on a person’s gender. Sexual harassment may include a range of subtle and not so subtle behaviors and may involve individuals of the same or different gender. Prohibited behaviors may include, among others:

- Explicit sexual propositions, advances, or requests for sexual favors
- Sexual jokes and innuendo, or jokes about gender specific traits
- Lewd or suggestive comments or gestures or verbal abuse of a sexual nature
- Leering or catcalls
- Commentary about an individual’s body, sexual prowess or sexual deficiencies
- Displays of insulting or obscene printed or visual materials (including through email, text or social media)
- Physical contact such as hugging, patting, pinching, fondling, intentionally brushing against another individual’s body, rape, sexual battery, molestation, or attempts to commit these acts
- Hostile actions taken against an individual because of that individual’s sex, sexual orientation, gender identity/expression, and/or the status of being transgender.

Sexual harassment also occurs when a person in authority makes threats and demands that an individual submit to sexual requests in order to keep their job, or to avoid some other loss, as well as when a person in authority offers job benefits in return for sexual favors.

Harassment on the basis of any other protected characteristic is also strictly prohibited. Such harassment can be defined as conduct that shows hostility or aversion toward an individual because of any protected characteristic. Harassing conduct includes, but is not limited to: intimidating or hostile acts, the use of offensive materials, whether in the form of comments or jokes, degrading or offensive language (including racial slurs or epithets), photographs, cartoons, drawings, gestures, posters, or emails.

Individuals who believe they have been subjected to harassment on the basis of any protected classification should report that behavior pursuant to the procedures described below.

### Individuals and Conduct Covered

These policies apply to employees, applicants for employment, interns (paid or unpaid), contractors, vendors, grantees, visitors, board members and other non-employees who interact with Foundation employees in the course of their work (collectively “Covered Persons”), and prohibit harassment, discrimination, and retaliation by or against an employee or other Covered Person in connection with Foundation work.

Conduct prohibited by these policies is unacceptable in the workplace and in any work-related settings outside the workplace, such as during business trips, tours, and business-related social events. Calls, texts, emails and social media usage by employees and other Covered Persons can constitute prohibited workplace harassment, even if they occur away from the workplace premises, on personal devices, or during non-work hours.

### Retaliation is Prohibited

The Foundation prohibits retaliation against any individual who in good faith reports or provides information about discrimination or harassment, participates in any investigation of such reports, or testifies or assists in any legal proceeding regarding harassment or discrimination, even if it turns out that the person was mistaken. Retaliation can include a range of actions, such as:

- reprimanding an employee or giving a performance evaluation that is lower than warranted;
- transferring an employee to a less desirable position;
- engaging in verbal or physical abuse;
- increasing scrutiny of an employee’s performance without basis;
- spreading rumors about an employee;
- making an employee’s work environment more difficult; or
- shunning or isolating an employee.

Retaliation is a violation of the law as well as a serious violation of this policy and, like harassment or discrimination itself, will be subject to discipline, up to and including termination. Individuals who believe they have been subject to retaliatory treatment are urged to report the incident, as discussed below.

### Complaint Procedure

#### *Reporting an Incident of Harassment, Discrimination, or Retaliation*

The Foundation strongly urges the reporting of all perceived incidents of discrimination, harassment, or retaliation, regardless of the identity or position of the perceived offender. Individuals who believe they have experienced, or who are aware of, conduct that they believe is contrary to this policy, or who have any concerns about such matters, have a number of options for reporting those concerns:

1. An individual can bring these concerns to the attention of the Foundation's Executive Vice President, Chief Operating Officer, General Counsel and Secretary (Michele S. Warman). Communications to Michele Warman should be directed to: tel: (212) 500-2530; email: [maw@mellon.org](mailto:maw@mellon.org); or mail: 140 East 62<sup>nd</sup> Street, New York, NY 10065 attn: Michele S. Warman.
2. Alternatively, an individual can bring concerns to the attention of the Director of Human Resources (Annette J. Phillips). Communications to Annette Phillips should be directed to: tel: (212) 500-2460; email: [ajp@mellon.org](mailto:ajp@mellon.org); or mail: 140 East 62<sup>nd</sup> Street, New York, NY 10065 attn: Annette J. Phillips.
3. Reports also may be made to EthicsPoint, a third-party reporting service authorized by the Foundation to receive such reports. Reports may be submitted to EthicsPoint via a telephone hotline: 1-844-446-5361 or website: [www.mellon.ethicspoint.com](http://www.mellon.ethicspoint.com).

Reports of harassment, discrimination or retaliation may be made verbally or in writing. A complaint form is attached to this policy, which may also be used to report harassment that an individual witnesses or experiences in the workplace.

The Foundation strongly urges the prompt reporting of complaints or concerns so that prompt and constructive action can be taken. Individuals who believe they have been subjected to sexual harassment may also seek assistance in other available forums, as explained below.

The availability of this complaint procedure does not preclude individuals who believe they are being subjected to harassing conduct from promptly advising the offender that his or her behavior is unwelcome and requesting that it be discontinued.

### *The Investigation*

Any reported allegations of harassment, discrimination, or retaliation will be investigated thoroughly, impartially, and promptly. The investigation will be commenced as soon as possible under the circumstances. The investigation may include review of relevant documents, individual interviews with the parties involved and, where necessary, interviews with individuals who may have observed the alleged conduct or may have other relevant knowledge. While the investigation is ongoing, the Foundation may take interim action to address circumstances, as appropriate. Upon conclusion of the investigation, the individual(s) who reported and the individual(s) about whom the complaint was made will be notified of the conclusion of the investigation.

Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action. All employees are expected to cooperate fully in such investigations.

### *Responsive Action*

Misconduct constituting harassment, discrimination, or retaliation will be dealt with appropriately to resolve prohibited conduct and to prevent the occurrence of such conduct in the future. Responsive actions will entail those actions that the Foundation believes to be appropriate under the circumstances. This may include, for example, training, referral to counseling, and/or disciplinary action, such as a warning or reprimand, withholding of a promotion or pay increase, reassignment, a temporary suspension without pay, or termination. In the case of harassment, discrimination or retaliation by someone outside of the Foundation, the Foundation will take appropriate action.

### *Supervisory Responsibilities*

Supervisors and managers who receive a complaint or information about harassment, discrimination or retaliation, observe what may be harassing, discriminatory or retaliatory behavior, or for any reason suspect that harassment, discrimination or retaliation is occurring, are required to report such suspected conduct to one of the individuals identified above. In addition to being subject to discipline if they engage in harassing, discriminatory or retaliatory conduct themselves, supervisors and managers will be subject to discipline for failing to report suspected harassment, discrimination or retaliation or otherwise allowing it to continue.

### *Legal Protections and External Remedies*

Sexual harassment is not only prohibited by the Foundation but is also prohibited by state, federal, and local laws.

Aside from the internal process at the Foundation, employees and other Covered Persons may also choose to pursue legal remedies with the following governmental entities. While a private attorney is not required to file a complaint with a governmental agency, you may seek the legal advice of an attorney.

### *New York State Human Rights Law (HRL)*

The Human Rights Law (HRL), codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns, and non-employees regardless of immigration status. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights (DHR) or in New York State Supreme Court. Complaints with DHR may be filed any time within three years of the harassment. If an individual did not file with DHR, he or she can sue directly in state court under the HRL, within three years of the alleged sexual harassment. An individual may not file with DHR if he or she has already filed a HRL complaint in state court. Complaining internally to the Foundation does not extend the time to file with DHR or in court. The three years is counted from the date of the most recent incident of harassment.

Individuals do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate the complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found to have occurred after a hearing, DHR has the power to award relief, which varies but may include requiring the employer to take action to stop the harassment, or redress the damage caused, including by paying monetary damages, attorney's fees and civil fines.

DHR's main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call (718) 741-8400, or visit [www.dhr.ny.gov](http://www.dhr.ny.gov)

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

### *Title VII of the Civil Rights Act of 1964*

The United States Equal Employment Opportunity Commission (EEOC) enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An employee alleging discrimination at work can file a "Charge of Discrimination" with the EEOC anytime within 300 days from the harassment or other discrimination. The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov). There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court. The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

#### *New York City Human Rights Law (CHR)*

The New York City Human Rights Law (CHR) allows individuals to file a complaint with the Law Enforcement Bureau of the NYC Commission on Human Rights or proceed directly to court. DHR and CHR have a work-sharing agreement. Therefore, filing a claim with each agency is unnecessary, as long as you indicate to one of the agencies that you want it to cross-file the claim with the other agency. You can contact the main office at Law Enforcement Bureau of the New York City Commission on Human Rights, 40 Rector Street, 10th Floor, New York, New York; call 311 or (212) 306-7450; or visit [www.nyc.gov/html/cchr/html/home/home.shtml](http://www.nyc.gov/html/cchr/html/home/home.shtml).

#### *Local Police*

If the harassment involves unwanted physical touching, coerced physical confinement, or coerced sex acts, the conduct may constitute a crime. Individuals may wish to consider contacting the local police department.

#### Notice on Reproductive Health Decision-Making Pursuant to New York Labor Law §203-e

New York labor law and the Foundation prohibit discrimination based on an employee's or a dependent of an employee's reproductive health decision-making, which includes, but is not limited to, decisions to use or access a particular drug, device, or medical service. In addition, New York labor law and the Foundation prohibit requiring any employee to sign a waiver or other document denying the employee the right to make their own reproductive health decisions. Also, employees are prohibited from accessing another employee's personal information regarding the employee's or a dependent of the employee's reproductive health decision-making without the employee's prior informed written consent.

The Foundation strongly encourages employees to report any violation of this policy using the complaint procedures set forth above. Employees may also may file a legal action in court and seek remedies available under applicable law. Retaliating against an employee for exercising their rights under this policy is prohibited.

Anyone who has questions or concerns about this policy should contact the Foundation's Executive Vice President, Chief Operating Officer, General Counsel and Secretary (Michele S. Warman).

As of March 6, 2020

## Appendix

### ANTI-HARASSMENT POLICY COMPLAINT FORM

The Andrew W. Mellon Foundation (the "Foundation") is committed to a work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in an environment that is free of discriminatory practices and behavior, including harassment.

If you are aware of, have observed, or believe that you have been subjected to sexual harassment or discriminatory behavior or practices, you are encouraged to report this to the Executive Vice President, Chief Operating Office, General Counsel and Secretary and/or the Director of Human Resources, as described in the Equal Opportunity and Anti-Harassment Policy. If you do not wish to use the form, you may report the matter verbally or in writing directly, or by utilizing the Foundation's anonymous reporting tool, EthicsPoint ([www.mellon.ethicspoint.com](http://www.mellon.ethicspoint.com) or 1-844-446-5361). The Foundation prohibits retaliation against any individual who in good faith reports discrimination or harassment or participates in any investigation of such reports.

#### COMPLAINANT INFORMATION

Name:

Work Address:

Work Phone:

Job Title:

Email:

Select Preferred Communication Method:  Email  Phone  In person

#### SUPERVISORY INFORMATION

Immediate Supervisor's Name:

Title:

Work Phone:

Work Address:

Please indicate/describe if you have discussed this matter with your supervisor or if you believe that the supervisor is aware of this issue.

**COMPLAINT INFORMATION**

1. Your complaint of Sexual (or other) Harassment is made about:

Name:

Title:

Work Address:

Work Phone:

Relationship to you: Supervisor Subordinate Co-Worker Other

2. Please describe what happened and how it is affecting you and your work. Please use additional sheets of paper if necessary and attach any relevant documents or evidence.

3. Date(s) sexual (or other) harassment occurred:

Is the harassment continuing? Yes No

4. Please list the name and contact information of any witnesses or individuals who may have information related to your complaint:

*The last question is optional, but may help the investigation.*

5. Have you previously complained or provided information (verbal or written) about related incidents? If yes, when and to whom did you complain or provide information?

As described fully in the Equal Opportunity and Anti-Harassment Policy, in addition to filing a complaint internally, there are federal, state and city agencies with whom a complaint may be filed, without retaining legal counsel.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_