

## POLICY STATEMENT



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### *Farm Credit System Insurance Corporation*

#### **FARM CREDIT SYSTEM INSURANCE CORPORATION POLICY STATEMENT CONCERNING EQUAL EMPLOYMENT OPPORTUNITY AND DIVERSITY (NV 12-02)**

**Effective Date:** September 20, 2012

**Effect on Previous Action:** Replaces BM-09-DEC-10-03

**Source of Authority:** Farm Credit Act of 1971, as amended (Act), sections 5.53 and 5.58 (12 U.S.C. §§ 2277a-2 and 12 U.S.C. § 2277-a-7); Bylaws of Farm Credit System Insurance Corporation (as revised), BM-12-SEP-06-05; Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352), as amended (42 U.S.C. § 2000e *et seq.*) (which includes the Pregnancy Discrimination Act); Rehabilitation Act of 1973, as amended (29 U.S.C. § 721 *et seq.*); Civil Service Reform Act of 1978 (Pub. L. 96-54), (5 U.S.C. § 3112); Equal Pay Act of 1974 (29 U.S.C. § 206 (d)); Age Discrimination in Employment Act (29 U.S.C. § 621 *et seq.*); Genetic Information Nondiscrimination Act of 2008 (42 U.S.C. § 2000ff); Executive Order 11478, as amended by Executive Orders 13087 and 13152; Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act) (5 U.S.C. § 2301); EEOC Regulation 29 C.F.R Part 1614; EEOC Management Directives including MD-110 and MD-715; EEOC Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, No. 915.002 (6/18/99); EEOC, "Model EEO Programs Must Have an Effective Anti-Harassment Program" (10/18/05).

WHEREAS, the Farm Credit System Insurance Corporation Board (Board) finds:

- Title VII of the Civil Rights Act of 1964, as amended, protects individuals against employment discrimination on the basis of race, color, religion, national origin, and sex (including, but not limited to, discrimination based on pregnancy, childbirth, or related medical conditions);
- The Age Discrimination in Employment Act of 1967, as amended, protects individuals who

- are 40 years of age or older from employment discrimination based on age;
- Section 501 of the Rehabilitation Act of 1973, as amended, prohibits employment discrimination against qualified individuals with disabilities who work in the Federal Government and requires Federal agencies to provide reasonable accommodation to employees or job applicants with disabilities, unless doing so would cause undue hardship;
- The Genetic Information Nondiscrimination Act of 2008 prohibits employment discrimination based on an individual's genetic information;
- The above laws also make it illegal to retaliate against a person because he or she complained about discrimination or participated in an employment discrimination investigation or lawsuit;
- Executive Order 11478 (Equal Employment Opportunity in the Federal Government), as amended by Executive Orders 13087 and 13152, includes prohibitions on Federal employment discrimination based on sexual orientation and status as a parent;
- The No FEAR Act requires Federal agencies to be accountable for violations of antidiscrimination and whistleblower protection laws; and
- Equal Employment Opportunity Commission (EEOC) regulations at 29 CFR § 1614.102, as well as various EEOC guidance documents, provide standards and guidelines for Federal agencies to establish and maintain continuing affirmative programs to promote equal opportunity and to identify and eliminate discriminatory practices and policies.

**THEREFORE, the Board adopts the following policy statement and attachment:**

The Farm Credit System Insurance Corporation (Corporation) affirms its commitment to the principles embodied in the Federal laws, regulations, and executive orders that establish equal employment opportunity and prohibit employment discrimination. It is the policy of the Corporation to provide equal opportunity for all employees and applicants for employment and to prohibit discrimination in Corporation policies, program practices, and operations. All Corporation employment decisions will be made without regard to race, color, religion, sex, national origin, age, disability, genetic information, sexual orientation, status as a parent, opposition to discrimination or harassment, or participation in discrimination or harassment complaint proceedings.

It is the Corporation's policy to provide a work environment free from unlawful discrimination in any form, and to protect all employees from any form of harassment, either physical or verbal. The Corporation will not tolerate harassment in the workplace for any reason. The Corporation also will not tolerate retaliation against any employee for reporting harassment or for aiding in any inquiry about harassment.

In addition, as far as possible considering its size, the Corporation will seek to build and maintain a workforce that reflects the rich diversity of individual differences evident throughout this nation. The Corporation views individual differences as complementary and believes these differences enrich our organization. When individual differences are respected,

recognized, and valued, diversity becomes a powerful force that can contribute to achieving superior results. Therefore, the Corporation will endeavor to create, maintain, and continuously improve on an organizational culture that fully recognizes, values, and supports employee diversity. The Corporation is committed to promoting and supporting an inclusive environment that strives to provide to all employees, individually and collectively, the chance to work to their full potential in the pursuit of its mission. When a barrier to someone achieving this goal exists, the Corporation will strive to remove this barrier.

Moreover, the Corporation is committed to increasing the representation of disabled veterans (defined as someone who is entitled to compensation under the laws administered by the Department of Veterans Affairs or someone who was discharged or released from active duty because of a service-connected disability) within its organization. Our nation owes a debt to veterans who are disabled as a result of their service. To honor these disabled veterans, the Corporation will place emphasis on making vacancies known to disabled veterans and providing opportunities for employing disabled veterans.

The Corporation expects full cooperation and assistance from everyone associated with recruitment, hiring and firing, development, transfer, promotion, layoff or recall, training, compensation, assignment or classification of employees, provision of benefits, or other terms and conditions of employment to assure that such actions are free of unlawful discrimination and support the Corporation's equal employment opportunity and diversity policies.

In addition, the Corporation will implement procedures for employees and applicants for employment to seek resolution of discrimination and harassment complaints in accordance with Federal law and regulations.

#### **OVERALL OBJECTIVES:**

- The Corporation is committed to ensuring that all employees and applicants for employment enjoy equality of opportunity from the Corporation regardless of their race, color, national origin, sex, religion, disability, genetic information, sexual orientation, status as a parent, opposing a discriminatory or harassing act in employment, or participation in discrimination or harassment complaint proceedings.
- The Corporation will comply with all applicable EEOC regulations and guidelines for a Federal organization of its size and configuration. This includes maintaining a continuing affirmative program to promote equal opportunity and to identify and to eliminate discriminatory practices and policies; implementing procedures for employees and applicants for employment to seek resolution of discrimination and harassment complaints; and implementing procedures for qualified employees and applicants with disabilities to seek reasonable accommodation.

DATED THIS 20<sup>th</sup> DAY OF SEPTEMBER, 2012

BY ORDER OF THE BOARD



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**Dale L. Aultman**  
Secretary to the Board

**Attachment**

1. Policy Statement Regarding Harassment

**FARM CREDIT SYSTEM INSURANCE CORPORATION  
POLICY STATEMENT REGARDING HARASSMENT**

**DEFINITION:**

Harassment is unwelcome verbal or physical conduct based on race, color, religion, sex (sexual or non-sexual), national origin, age, disability, genetic information, sexual orientation, status as a parent, or reprisal for raising or participating in a discrimination or harassment complaint or for opposing discrimination or harassment, when the conduct results in a *tangible employment action* or creates a *hostile work environment*.

1. *Tangible Employment Actions* include:

- Hiring.
- Firing.
- Promoting.
- Denial of promotions.
- Demoting.
- Suspending.
- Removing.
- Reassigning.
- Negative performance evaluations.
- Withholding training or denying opportunities to compete for awards and recognition.
- Job assignments designed to limit career progression.
- Any other action that significantly affects one's employment status.

2. *Hostile Work Environment* occurs when anyone in the workplace engages in conduct so severe and pervasive that it creates a work environment that a reasonable person would consider intimidating, hostile, or offensive.

Harassment includes, but is not limited to:

- Threats or reprimands.
- Intimidating acts, words, or gestures.
- Coercing acts.
- Emotional abuse, bullying, or stalking.
- Display of derogatory graphic or written material.

- Derogatory, offensive, or suggestive comments, slurs or jokes.
- Vulgar gestures or language.
- Unwelcome flirtations, advances, or touching.

#### **POLICY STATEMENT:**

The Farm Credit System Insurance Corporation (FCSIC or Corporation) will not tolerate harassment in the workplace or reprisal for raising or participating in an Equal Employment Opportunity (EEO) or harassment complaint or for opposing discrimination or harassment. All managers, supervisors, employees, and agents of the Corporation must comply with the requirements of this policy. Any employee or agent of the Corporation found to have engaged in harassing behavior will be subject to discipline or adverse action, with penalties ranging up to and including removal.

This policy applies to all FCSIC employees (whether supervisory or not); to all applicants for employment; and to third parties, such as contractors or any other nonemployees (consistent with FCSIC's control over third parties), in any FCSIC-related setting, on or off FCSIC premises. To the extent possible, consistent with its duty to prevent, investigate, and correct any violation of this policy, the Corporation will protect against unnecessary disclosure of the confidentiality of all parties to a harassment complaint.

**FCSIC's Chief Operating Officer (COO)** is responsible for ensuring the Corporation complies with this policy.

**FCSIC managers and supervisors** will take responsibility for creating and upholding a workforce free of harassment; will commit to bringing harassment to a halt before it becomes so severe or pervasive that it rises to a violation of Federal law; on seeing or becoming aware of harassment, will immediately intervene to stop the objectionable behavior and report it to the COO, even in cases where an employee or applicant fails to report it; and will prevent retaliation against any employee or applicant who reports harassment or aids in any harassment inquiry.

**FCSIC employees** are urged to protect their rights and those of others by reporting possible incidents of harassment through the procedures outlined in this policy; and must certify each year that they have read and understood this antiharassment policy by completing training provided by the Corporation.

#### **COMPLAINT PROCESS:**

Employees may choose to resolve a harassment complaint informally, formally, or both formally and informally. Job applicants may resolve a harassment complaint only through a formal process, by pursuing either an EEO claim or an Office of Special Counsel (OSC) complaint, or both, as appropriate, as discussed below. Employees planning to use both informal and formal methods should be aware that there are strict time limits for filing a grievance or EEO

complaint that will run simultaneously with the time that the employee may attempt to reach an informal resolution.

#### **A. Informal Complaint Method**

It may be possible to resolve harassment concerns without filing a formal complaint or conducting an investigation. For example, if an employee believes someone in the workplace is harassing him or her in violation of this policy, the employee may choose to discuss the matter informally with any of the following individuals who may be able to assist him or her in resolving the matter or refer him or her to the appropriate person to resolve the harassment complaint:

- (a) The employee's supervisor;
- (b) The accused harasser's supervisor; or
- (c) The Chief Human Capital Officer of the Farm Credit Administration (FCA), who is hereby designated as, and delegated the authority to act as, the Chief Human Capital Officer of the FCSIC for this purpose.

The employee that is seeking a resolution and any individual named in (a) through (c) may take any of the following steps to resolve the matter without a formal investigation:

- Contact the accused harasser in person or in writing.
- Ask a resolving official to speak to the accused harasser about the employee's concern.
- Use mediation to address the concern.
- Explore other ways to resolve the concern.

Any individual listed in (a) through (c) that is contacted by an employee regarding an act of harassment will inform the employee in the initial contact about the provisions in this policy relevant to the 15-day and 45-day time periods for filing a grievance or an EEO claim, respectively. (See discussion below.) Any individual listed in (a) through (c) that helps the employee resolve the matter will record how the matter was resolved and provide a report to the COO. More information about the formal processes is provided below and in the attached chart.

#### **B. Formal Complaint Processes**

If an informal resolution is not achieved, if the complaining employee chooses to pursue a formal resolution, or if the complainant is a job applicant, formal processes for resolving a harassment complaint include the following, depending on the nature of the harassment:

**FCSIC Grievance System:** An employee may seek redress through the FCSIC grievance system for claims of harassment based on race, color, religion, sex (sexual or nonsexual), national origin, age, disability, genetic information, sexual orientation, status as a parent, or reprisal for raising or participating in a discrimination or harassment complaint or opposing discriminatory or harassing employment practices.<sup>1</sup>

An employee must submit a grievance within 15 calendar days from the date on which he or she knew or had reason to know about the issue, condition, or occurrence that is the subject of the grievance. A grievance presented beyond this time limit may be rejected as untimely, but an exception may be granted if the complaining employee can demonstrate that extenuating circumstances precluded the submission of the complaint within the 15-calendar-day time limit. See FCA PPM 827 for more information.

Harassment is a form of unlawful discrimination under title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Rehabilitation Act of 1973, or the Genetic Information Nondiscrimination Act of 2008 when it is based on race, color, religion, sex (sexual or nonsexual), national origin, age, disability, genetic information, or reprisal for raising or participating in a discrimination or harassment complaint. Federal government policy, as set forth in Executive Order 11478, as amended, forbids discrimination in Federal employment based on sexual orientation or status as a parent. It is also a prohibited personnel practice, under 5 U.S.C. § 2302(b)(10), to discriminate based on conduct that does not adversely affect job performance. FCSIC will address claims of harassment on any of these bases through the grievance system.

A grievance is a request by an employee for “personal relief” in a matter of concern or dissatisfaction relating to the employment of the employee that is subject to the control of FCSIC management. “Personal relief” means a specific remedy directly benefiting the grievant. Although the personal relief available through the grievance system does not include a disciplinary or other action affecting another employee, FCSIC may implement such corrective action as a result of a grievance system claim.

**EEO Claims:** An employee or job applicant may bring claims of harassment based on race, color, religion, sex (sexual or nonsexual), national origin, age, disability, genetic information, or reprisal for raising or participating in a discrimination or harassment complaint through the EEO process. In FCSIC Board Action on Delegations of Certain Functions to Officials at the FCA, BM-21-JUN-01-03, effective June 21, 2001, FCSIC authorized FCA’s EEO Director, or alternates as chosen by FCA, to serve as the FCSIC EEO Director. (As noted above, these claims can also be brought under FCSIC’s grievance system.)

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<sup>1</sup> See Memorandum from Dorothy L. Nichols, FCSIC Chief Operating Officer, to Stephen Smith, Director, Office of Management Services, FCA, dated November 10, 2008, Subject: Applicability of PPM 827 – Grievance System, concurring in the application of the existing FCA PPM 827 to FCSIC.

If an employee or a job applicant chooses to bring an EEO harassment claim, the EEO administrative process for filing discrimination claims (*see* 29 C.F.R. Part 1614) applies. These regulations require him or her to seek the advice of an EEO Counselor or the EEO Director *within 45 days of the date of the alleged discrimination or, for a discriminatory personnel action, within 45 days of the effective date of the action.* This means that to meet the 45-day time frame and preserve the employee's rights under the EEO administrative process, the employee may need to contact an EEO Counselor or the EEO Director even if he or she is continuing to attempt to resolve the concern informally or through the grievance system.

As noted above, harassment is a form of unlawful discrimination under title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, the Rehabilitation Act of 1973, or the Genetic Information Nondiscrimination Act of 2008 when it is based on race, color, religion, sex (sexual or nonsexual), national origin, age, disability, genetic information, reprisal for raising or participating in a discrimination or harassment complaint, or opposing discrimination or harassment.

The EEO process is designed to make individuals whole for discrimination that has occurred through damage awards and equitable relief paid by the agency and to prevent the recurrence of the unlawful discriminatory conduct. Additionally, FCSIC may implement corrective action it deems appropriate.

**Office of Special Counsel (OSC) Complaints:** The OSC is an independent Federal investigative and prosecutorial agency whose basic authorities include protecting Federal employees and applicants from prohibited personnel practices, including discrimination on specified bases. The OSC may investigate claims of discrimination, including harassment, based on marital status and political affiliation. Although the OSC is also statutorily authorized to investigate allegations of discrimination based on race, color, religion, sex, national origin, age, sexual orientation, or handicapping condition, its general policy is to defer these claims to the procedures of federal agencies (such as FCSIC) and the EEOC. *See* the OSC's website [www.osc.gov](http://www.osc.gov) or call 800 872-9855 for more information.

**Merit Systems Protection Board (MSPB) Complaints:** In some circumstances, employees may be able to bring certain types of harassment claims or appeals to the MSPB. *See* the MSPB's web site [www.mspb.gov](http://www.mspb.gov) or call 800 209-8960 for more information.

## **CORRECTIVE ACTION**

Whether the complaint was made through the EEO process or the FCSIC grievance process, if the Corporation finds that harassment took place, the COO will consult with the *parties who need to know* to decide what corrective action to take. Parties who need to know may include the:

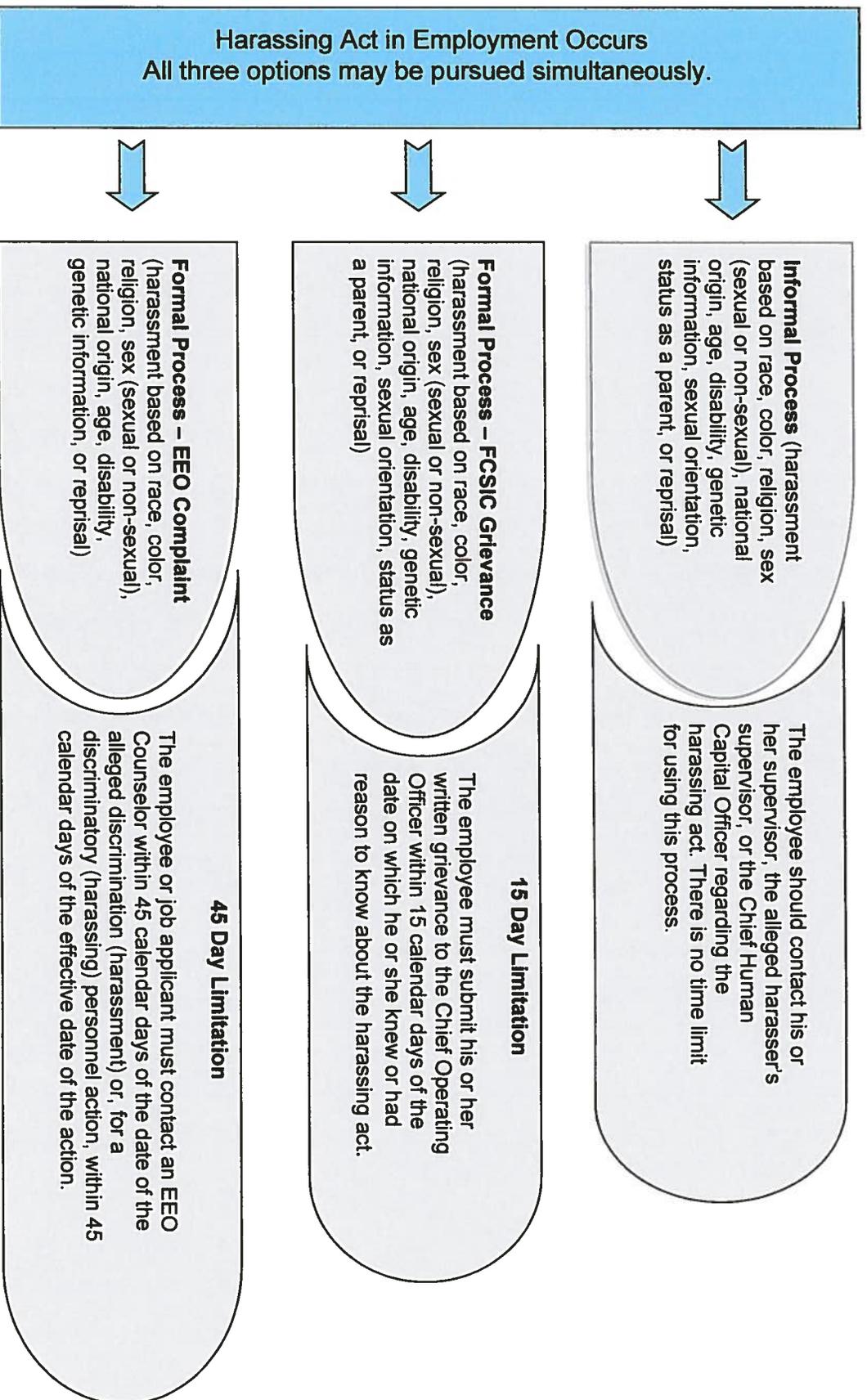
- Supervisors of the complaining party or harasser.
- Supervisors affected by a proposed corrective action (such as a proposed transfer of the harasser).
- General Counsel.
- EEO Director.

Corrective action includes disciplinary action, which may include any Corporation administrative action from reprimand to removal, as well as training and monitoring. Corrective action may also include anything to make the complainant whole again, such as:

- Restoring leave taken because of harassment.
- Deleting a negative performance evaluation given because of harassment.
- Requiring the harasser to apologize to the complaining party.

The Corporation will decide what corrective action is appropriate and will implement it promptly. The Corporation will initiate follow-up procedures to ensure that: (a) the problem has been resolved, and (b) no retaliation occurs. If corrective action includes disciplinary action, FCA's Office of Management Services (OMS), acting on behalf of the Corporation's COO will follow the appropriate procedures under the Memorandum from Dorothy L. Nichols, FCSIC COO, to Stephen Smith, Director, OMS, FCA, dated November 10, 2008, Subject: Applicability of PPM 826 – Disciplinary and Adverse Actions, concurring in the application of the existing FCA PPM 826 to FCSIC.

## Farm Credit System Insurance Corporation Resolution Processes for Harassing Act In Employment<sup>2</sup>



<sup>2</sup> For a more complete explanation, see FCSIC Policy Statement Concerning Equal Employment Opportunity and Diversity, and the guidance cited therein.