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Office of Evaluations and Special Projects

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Evaluation of the Handling of EEO and Harassment Conflict Cases by the Office of Civil Rights

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HIGHLIGHTS

Office of Inspector General
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What OIG Reviewed

In 2024, at the request of the then-Under Secretary for Management, the Office of Inspector General (OIG) initiated an evaluation to determine whether the Office of Civil Rights (S/OCR) has policies and procedures to avoid conflicts of interest in both equal employment opportunity (EEO) and Anti-Harassment Program (AHP) cases and how these policies are communicated to employees.

What OIG Recommends

OIG made three recommendations to S/OCR to adopt consistent and current conflict of interest procedures for both EEO and AHP cases, to adopt a standard practice to consult with the Office of Legal Adviser when EEO or AHP complaints involve a current or former S/OCR employee to ascertain whether there is a conflict of interest and seek guidance on proper handling, and to include current information on conflict case procedures on its intranet page. S/OCR concurred with all of the recommendations.

September 2025

OFFICE OF EVALUATIONS AND SPECIAL PROJECTS

Evaluation of the Handling of EEO and Harassment Conflict Cases by the Office of Civil Rights

What OIG Found

The Equal Employment Opportunity Commission requires that federal agencies adopt procedures to avoid conflicts of interest within EEO offices, such as when an employee of an EEO office initiates a complaint or is the subject of one.

OIG found that while the EEO and AHP programs within S/OCR are separate and distinct programs, it is important to mitigate conflicts of interest in both, yet S/OCR does not have consistent processes for doing so. OIG also found that S/OCR policies on conflict cases were outdated. The lack of consistency and current procedures has resulted in considerable confusion among Department of State (Department) officials as to how conflicts of interest are handled in S/OCR.

OIG also found that S/OCR has not developed and issued clear information for Department employees on how conflicts of interest are handled. Finally, OIG identified best practices for handling conflict cases, such as the involvement of ethics attorneys and conflict case managers, but found that S/OCR has only partially adopted such best practices. These practices are important to ensure the fairness and consistency of complaints.

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OBJECTIVE

In 2024, the then-Under Secretary for Management requested that the Office of Inspector General (OIG) review the Office of Civil Rights (S/OCR) procedures for handling complaints that could involve a conflict of interest. In October 2024, OIG initiated an evaluation of issues surrounding whether the Department of State (Department) has appropriate procedures to mitigate potential conflicts and to ensure the fairness and integrity of its equal employment opportunity (EEO) and anti-harassment programs.

Since 2023, S/OCR has had a series of acting directors. According to S/OCR, its current Acting Director is reviewing the office's policies, all of which were adopted by her predecessors, to ensure they are in line with best practices, serve employees, and allow program standards to be met. This is critical because the former Under Secretary for Management and the Office of the Legal Adviser have raised concerns that S/OCR does not have appropriate safeguards to handle cases involving potential conflicts of interest.

BACKGROUND

All federal agencies are required by law to maintain programs that promote EEO and “identify and eliminate discriminatory practices and policies.”¹ Pursuant to these requirements, agency EEO programs must investigate and resolve employment discrimination complaints and prevent harassing conduct, among other duties.² The U.S. Equal Employment Opportunity Commission (EEOC) is responsible for “provid[ing] leadership and coordination” to agencies to ensure consistent enforcement of EEO laws within the federal government.³ To carry out this responsibility, the EEOC issues binding rules, regulations, and guidance documents referred to as Management Directives.⁴ The EEOC requires agencies to establish procedures to receive and investigate complaints of unlawful EEO-based discrimination and harassment. At the Department, S/OCR oversees both the EEO and harassment complaint processes. Though housed in the same office, the programs are separate and unique. As explained in further detail below, the EEO program assesses liability for allegations of discrimination and is governed by federal regulations, while the Anti-Harassment Program (AHP) investigates and addresses allegations of discriminatory and sexual harassment as misconduct, and is an internal, administrative body.

¹ 42 U.S.C. § 2000e-16(e); 29 Code of Federal Regulations (C.F.R.) § 1614.102. In this report, OIG is using the terms “federal agency” or “agency” to refer collectively to the federal government departments, agencies, and units required to maintain EEO programs. 29 C.F.R. § 1614.103(b) (listing covered agencies).

² MD-110, ch. 1, § II; MD-715, Part G, C.2.a.1. Part G is the Agency Self-Assessment Checklist.

³ Executive Order 12067, Providing for Coordination of Federal Equal Employment Opportunity Programs, January 3, 1979.

⁴ See 29 C.F.R. § 1614.102(e) (“Agency programs shall comply with this part and the Management Directives and Bulletins that the Commission issues.”).

Federal regulation and Department policy require fair and impartial processing of complaints alleging discrimination or harassment based on an EEO-protected category. A conflict of interest—real or perceived—may compromise the integrity of the impartial complaint process. Several types of complaints may present potential conflicts, such as when the complainant or subject is an S/OCR employee. The EEOC requires that agencies “develop procedures for investigating complaints in which it is perceived that the EEO office would have an actual or perceived conflict of interest.”⁵

The EEO Complaint Process

A federal employee (or applicant for federal employment) who believes that he or she has been discriminated against is entitled to file a complaint with their agency’s EEO program.⁶ The main goals of the EEO process are to assess the agency’s liability and to make complainants whole for the unlawful discrimination they experienced.⁷ Upon a finding that the complainant was discriminated against, the complainant is entitled to relief necessary to place them in the relative position they would be in had the agency not engaged in discrimination.⁸

When a complaint is received, the agency must move the complaint through the process within certain time frames.⁹ The EEO complaint process consists of two stages within the agency.¹⁰ These are: (1) Informal (“Pre-Complaint”), in which an EEO counselor provides information about the EEO process to the employee and attempts to resolve the matter; and (2) Formal, in which the agency conducts a full investigation of the complaint to determine whether discrimination occurred.¹¹ The EEOC provides specific requirements for each stage of the process in Management Directive 110 (MD-110).¹²

The Anti-Harassment Program

The EEOC’s requirements related to agency anti-harassment policies are contained in Management Directive 715 (MD-715), which instructs agencies to establish and maintain “model EEO programs” with various minimum requirements that agency EEO programs must

⁵ MD-110, ch. 1, § IV.

⁶ See 29 C.F.R. §§ 1614.105(a)(1), .106

⁷ See 29 C.F.R. § 1614.501.

⁸ 29 C.F.R. § 1614.501; MD-110, ch. 11. Some examples of remedies include (as applicable) reinstatement, back pay, attorney’s fees and costs, compensatory damages, expunction of discriminatory performance appraisals, etc.

⁹ 29 C.F.R. §§ 1614.105-.110.

¹⁰ There are also two additional potential stages beyond the agency: a possible appeal with the EEOC and then a judicial stage, in which the complainant may file a lawsuit in federal court.

¹¹ At the conclusion of the investigation, the complainant can either request a hearing with an EEOC Administrative Judge to make a determination regarding discrimination or the agency will do so in a “Final Agency Decision.” 29 C.F.R. § 1614.108(f), (h).

¹² MD-110, ch. 1, § II (explaining that agencies have a duty to “maintain EEO programs in a manner consistent with the mandatory directives of the Commission”).

implement to achieve model status.¹³ A model EEO program must have procedures that “prevent all forms of EEO discrimination,” which includes a comprehensive anti-harassment policy and program.¹⁴

Although the complainant-focused, remedial aims of the EEO complaint process are vital to correcting harms caused by discrimination, the EEO complaint process cannot force agencies to discipline those who engaged in discrimination, nor is it guaranteed to correct inappropriate conduct before it becomes unlawful.¹⁵ The anti-harassment program was conceived to cover these gaps as to harassment only, and is intended to “prevent and eliminate conduct *before* it rises to the level of unlawful harassment.”¹⁶ The EEOC’s interest in specifically targeting harassment ensures that agencies take immediate and appropriate corrective action to prevent the harassing conduct from becoming severe or pervasive, because harassment is “the one type of discrimination that can be stopped in progress.”¹⁷ The legal standard for unlawful harassment is conduct based on a protected characteristic that is sufficiently “severe or pervasive” to create an objectively hostile or abusive work environment.¹⁸ Unlawful harassment has been the issue most often alleged in federal employee EEO complaints since at least 2011.¹⁹

Unlike the EEO complaint process—which must strictly adhere to procedures established by regulation—the EEOC does not require agency anti-harassment programs to be structured in any particular or uniform manner. However, an agency’s policies and programs must still adhere to several standards to comply with MD-715. The anti-harassment policy must comply with the EEOC’s enforcement guidance and allow for corrective action to be taken to address harassing conduct.²⁰ Agencies must also have a separate process for addressing harassment complaints; they cannot rely solely on the EEO complaint process.²¹

¹³ See also MD-715, Part G, C.2.a. through C.2.a.6.

¹⁴ MD-715, Part G, C.2.

¹⁵ “Title VII [of the Civil Rights Act of 1964] makes no reference to allowing courts or the EEOC to order discipline for [agency] employees, or similar corrective action. The EEO process may not be capable of providing the same corrective action that an agency could impose upon its own employees through an internal anti-harassment policy.” EEOC, *Model EEO Programs Must Have An Effective Anti-Harassment Program*, nn.9-10 (2005), <https://www.eeoc.gov/federal-sector/model-eeo-programs-must-have-effective-anti-harassment-program>. Therefore, the EEOC only “strongly urges” agencies to consider imposing discipline on officials who engaged in discrimination. MD-110, ch. 11, § V, n.3.

¹⁶ MD-715, Part G, C.2.a.1 (emphasis added).

¹⁷ See EEOC, *Model EEO Programs Must Have an Effective Anti-Harassment Program* (2005).

¹⁸ EEOC, *Enforcement Guidance on Harassment in the Workplace* (No. 915.064, April 29, 2024); see, e.g., *Harris v. Forklift Sys.*, 510 U.S. 17, 21 (1993).

¹⁹ EEOC, *Promising Practices for Preventing Harassment in the Federal Sector*, page 1 (2023).

²⁰ MD-715, Part G, C.2.a & C.2.a.1. For example, the EEOC requires agencies to conduct a “prompt inquiry” into all harassment allegations within 10 days of becoming aware of the allegations.

²¹ *Ibid.*, C.2.a.3. The agency EEO office is also required to inform the anti-harassment program of harassment allegations raised at the start of the Informal Stage during the EEO counseling process. *Ibid.*, C.2.a.4.

The Department of State Office of Civil Rights

S/OCR manages the Department's EEO and anti-harassment programs. It is led by an Office Director (S/OCR Director) who is designated as the Department's EEO director.²² S/OCR's Adjudication, Resolution, and Compliance section (ARC) processes EEO complaints, and its Legal section ensures legal compliance and sufficiency throughout the complaints process.²³ The AHP is located within and managed by S/OCR's Legal section. The Legal Chief concurrently serves as the AHP Director and oversees AHP policy, strategic oversight, and planning.

Conflicts of Interest in EEO Complaints

Agency EEO programs are required to provide fair and impartial processing of EEO and harassment complaints.²⁴ The existence of a real or perceived conflict of interest at any stage of either process can compromise the integrity of the EEO program. Guidance provided by the EEOC in MD-110 provides several examples of potential conflicts of interest in the EEO process.²⁵ It also requires agencies to develop conflict of interest procedures to ensure an impartial factual record.²⁶

The EEOC also addresses conflicts of interest that may arise out of individual complaints. These "conflict cases" may exist when: (1) the alleged Responsible Management Official is the head or senior leader of the agency; and (2) when the alleged Responsible Management Official is the agency EEO director or a supervisor in the EEO office.²⁷ When a real or perceived conflict exists, MD-110 encourages agencies to consider implementing a formal contract or informal arrangement with a third party to handle one or more stages of the EEO process.²⁸ In doing so, it recommends that agencies "assess the stages of the EEO complaint process at which the assistance of a third party would be most effective."²⁹ Such third parties include private contractors, parallel subcomponents within a department or agency, and other federal agencies.³⁰

²² 2 FAM 1515(b), "Responsibilities."

²³ S/OCR reported that the office was recently reorganized as part of the Department's reorganization efforts.

²⁴ MD-110, ch. 1, § IV; EEOC, *Promising Practices for Preventing Harassment in the Federal Sector*, pg. 3 (2023) (first citing *Complainant v. Dep't of Defense*, EEOC Appeal No. 0120084008 (June 6, 2014); and then citing *Rucker v. Dep't of the Treasury*, EEOC Appeal No. 0120082225 (Feb. 4, 2011)).

²⁵ MD-110, ch. 1, § IV.

²⁶ *Ibid*, § IV.C.

²⁷ *Ibid*, § IV.B. The Responsible Management Official is the individual that is alleged to have engaged in discriminatory conduct. 2 FAM 1513, "Definitions."

²⁸ MD-110, ch. 1, § IV.C.1. A formal contract involves agencies entering into written interagency agreements with other agencies for their assistance; an informal arrangement are situations wherein a third party provides EEO assistance on an as-needed basis. *Ibid*.

²⁹ MD-110 indicates that many agencies use third parties in conflict cases to conduct counseling during the Informal Stage, administering alternative dispute resolution, conducting the investigation in the Formal Stage, "and/or writing the accept/dismiss letter and/or the final agency action." *Ibid*, § IV.C.2.

³⁰ *Ibid*, § IV.C.1.

The Department's policies to define and handle EEO conflict cases generally accord with the EEOC's guidance in MD-110. According to the Foreign Affairs Manual (FAM) and S/OCR procedures, a conflict case at the Department may exist when: (1) the complainant is an S/OCR employee, former employee, or an applicant for employment with S/OCR; (2) the Responsible Management Official is the S/OCR Director, Deputy Director, or any supervisor with S/OCR; (3) the Responsible Management Official is the Secretary of State, a Deputy Secretary, an Under Secretary, or any immediate staff to these individuals; and/or (4) there is a perception of a conflict (e.g., an S/OCR employee has a personal relationship with the Responsible Management Official).³¹ The FAM directs employees wishing to initiate a conflict case to follow the procedures located on S/OCR's "internal/external website."³² S/OCR had also designated an ARC employee as a conflict case manager to assist with such cases.

In 2023, S/OCR and the Department's Office of the Legal Adviser for Ethics and Financial Disclosure (L/EFD) executed a memorandum of understanding (MOU) in which L/EFD agreed to handle intake of EEO conflict cases. Specifically, "L/EFD serves as the first point of contact for individuals who raise allegations where there is a potential conflict of interest for S/OCR. L/EFD will determine whether the matter is a conflict for S/OCR requiring the matter to be handled outside of S/OCR's standard processes."³³ Throughout the intake process, L/EFD works with the conflict case manager, who is responsible for handling the logistical and technical aspects of the case.³⁴ If L/EFD concludes that the matter is a true conflict case, the conflict case manager must arrange for another agency's EEO office or a contractor to handle all stages of the conflict case.³⁵ The external office that agrees to assist will handle all aspects of processing the conflict case, including attempting to resolve the matter, conducting the investigation and communicating with the complainant. When assistance from another agency EEO office or external party has been secured, the conflict case manager connects them to L/EFD. From that point, the conflict case manager works with L/EFD to support as needed and ensures the outside agency adheres to the mandatory processing timelines. During the course of this evaluation, L/EFD officials raised concerns about the burden that the MOU places on its staff and has sought to revise or terminate it.³⁶

³¹ 2 FAM 1565(b), "Conflict Cases."

³² 2 FAM 1565(d). The FAM also provides that, given the unique circumstances of a conflict case, S/OCR "will restrict knowledge of the complaint to only those individuals with a genuine need to know." Ibid.

³³ This MOU does not cover complaints in which the RMO is the Secretary, Deputy Secretary, Deputy Secretary for Management and Resources, or an Under Secretary. When S/OCR receives potential conflict cases, it must refer them to L/EFD.

³⁴ The conflict case manager must provide information to L/EFD that will help L/EFD determine whether a conflict exists, which "may include providing information about S/OCR processes, S/OCR's org chart, etc."

³⁵ The conflict case manager solicits assistance from other agency EEO offices for an informal arrangement using the EEOC's online directory of agency EEO directors. If no agency EEO office accepts the conflict case, the conflict case manager assigns it to the U.S. Postal Service's National EEO Investigative Services Office (NEEOISO). S/OCR has a formal contract with NEEISO to handle conflict cases.

³⁶ In response to a draft version of this report, the acting S/OCR Director stated that L/EFD has withdrawn from this MOU.

Conflicts of Interest in Harassment Complaints

The EEOC provides minimal guidance specifically regarding conflicts of interest in harassment complaints. The available guidance is similar to the basic standards for EEO conflict cases. An EEOC guidance document on federal agency harassment complaints simply provides that agencies are required to “ensure investigations are not conducted by individuals who have a conflict of interest or bias in the matter.”³⁷ It further states that “a conflict of interest may exist when harassment allegations involve senior officials, EEO staff, or anti-harassment program personnel.”³⁸ To make agency anti-harassment policies “as comprehensive and effective as possible” it recommends they implement “standards and procedures for eliminating conflicts of interest in investigating harassment allegations and taking corrective actions.”³⁹

FINDINGS

S/OCR Lacks Clear and Consistent Processes for Handling Conflict Cases

The officials that OIG spoke within S/OCR and Office of the Legal Adviser had differing understandings of how conflict cases are handled. The conflict case manager told OIG that she believes that she is responsible for coordinating conflicts of interest in both EEO complaints and harassment allegations according to the MOU with L/EFD. The former Director of S/OCR authorized her to handle both types of cases.

However, the team leads for AHP, as well as S/OCR’s Legal Chief, told OIG that the conflict case manager has no role in AHP complaints. If a conflict exists, the Legal Chief will refer the matter to an investigative office within the Department but outside of S/OCR, to another federal agency, or to a contract investigator.⁴⁰ AHP then sends that entity the complaint and any documents it has received, as well as the contact information for the Bureau of Personnel and Training (PERT), so that the completed investigation can be directly transmitted to PERT with no review by AHP.⁴¹ This referral process was reflected in FAM amendments that were pending when this report was submitted to the Department for comment.⁴² OIG identified at least two cases that were handled according to this process, with the Bureau of Diplomatic Security conducting the investigations.

³⁷ EEOC, *Promising Practices for Preventing Harassment in the Federal Sector*, page 11 (2023).

³⁸ *Ibid*, page 11 n.41.

³⁹ *Ibid*, pages 6, 8. It does not provide examples or specific recommendations of conflict-eliminating standards and procedures, other than that small agencies may have to enter into agreements with third parties to conduct harassment investigations and ensure impartiality. *Ibid*, page 11 n.41.

⁴⁰ S/OCR officials stated that referring conflict cases to an internal entity is often preferable because it has a better understanding of the Department.

⁴¹ PERT is the Department bureau responsible for human resources functions, including discipline for harassment-related misconduct.

⁴² The amendments to AHP procedures were subsequently published in May 2025. See 3 FAM 1529, “Anti-Harassment Procedures.”

The MOU between S/OCR and L/EFD uses the term “EEO complaint” and on its face appears limited to EEO complaint conflicts, rather than harassment allegations. The L/EFD attorney with whom OIG spoke confirmed that this was his understanding of the process but was not sure why AHP complaints were excluded. In contrast, an Office of the Legal Adviser attorney who represents the Department in personnel matters did not realize that the MOU excluded AHP complaints and cited at least one example of a harassment allegation that was handled through the conflict case manager and referred to another federal agency to investigate.

The lack of consistent processes could confuse Department employees who want to file complaints that may involve a conflict of interest. Indeed, if the attorneys and S/OCR employees who handle such issues lack clarity on how conflicts in harassment cases are handled, then an employee is likely to have difficulty identifying the appropriate procedure to use.

S/OCR Lacks Sufficient Internal Procedures for Handling Conflict Cases

S/OCR’s written procedures for handling conflict cases in its EEO and AHP programs do not reflect current Department practices and do not sufficiently protect against real or perceived conflicts of interest.

The procedures for handling EEO conflict cases are contained in a Standard Operating Procedure (SOP) dated September 30, 2021. Due to the SOP’s age, the conflict case procedures do not align with the current definition in the FAM.⁴³ They also do not include any information regarding the MOU with L/EFD and its role in conflict case intake and management, nor does it explain S/OCR’s duties arising out of the MOU. In a response to an OIG request for information, S/OCR stated that all S/OCR staff were informed about the MOU at an all-staff meeting after it was finalized.⁴⁴ Relying on word of mouth to communicate policy changes and failing to periodically review and update written procedures to ensure their continued relevance could lead S/OCR employees to either misunderstand the new policy or unknowingly follow outdated policy.⁴⁵ In fact, the L/EFD attorney with whom OIG spoke said that he has experienced confusion from S/OCR staff about how the MOU works. For example, he has received requests from S/OCR staff for certain details about complaints in conflict cases, which is contrary to the MOU.

Although the EEO conflict case SOP identifies several circumstances (and officials, if involved) that may present conflicts of interest, the AHP SOP has a conflict case definition that is

⁴³ The 2021 SOP states that cases in which the alleged Responsible Management Official is the Under Secretary of Management or holds a “high influential position in DOS” would present an actual or perceived conflict. The FAM (most recently updated in July 2023) states that a conflict case may exist when “[t]he RMO is the Secretary, a Deputy Secretary, an Under Secretary, or any immediate staff to these individuals.” 2 FAM 1565.

⁴⁴ In January 2024, OIG sent a request for information to the then-Acting Director of S/OCR.

⁴⁵ See generally Government Accountability Office, *Standards for Internal Control in the Federal Government* (GAO-14-704G, September 2014) (“Documentation [of internal controls] provides a means to retain organizational knowledge and mitigate the risk of having that knowledge limited to a few personnel . . .”).

narrower and lacks this level of specificity.⁴⁶ It provides that conflicts may exist where: (1) any S/OCR employee is named as victim or harasser; or (2) anyone in S/OCR's chain of command is named as a victim or harasser.⁴⁷ The first category appears to cover only current S/OCR employees and does not apply to complaints involving former S/OCR employees or applicants for employment with S/OCR.⁴⁸ As to the second category, the only official in S/OCR's "chain of command" is the Secretary; thus, only allegations involving the Secretary, and no other senior Department official, would constitute a conflict.⁴⁹

While the EEO and AHP are separate and distinct programs and have considerable differences, impartiality is integral to both programs. Because certain complaints could implicate both programs—such as employees alleging their supervisor sexually harassed them and that personnel actions were taken because of their objection to such harassment—it is important that both programs have clear and current procedures in place to identify and properly handle real or perceived conflicts of interest. Ambiguous or outdated procedures may lead to inadvertent mishandling of conflict cases and cause employees to question the impartiality of these programs.

S/OCR Has Not Developed and Issued Clear Information for Department Employees on Handling Conflict Cases

EEOC regulations emphasize the importance of informing employees of their equal employment rights and the processes that they can use to exercise them.⁵⁰ However, S/OCR has limited information available to employees as to how cases involving a conflict of interest will be handled. At the time of this evaluation, the sole available public guidance was in the section of the FAM involving EEO complaints. The FAM states:

⁴⁶ Information obtained by OIG seems to indicate that AHP did not have a written policy for handling conflict cases until recently. According to one of the AHP Team Leads, what is written in the SOP is their "first pen-to-paper guidance of our conflicts process." The conflict case manager told OIG that she was informed about AHP's development of conflict case procedures at some point in mid-2024 but had never seen them.

⁴⁷ The recently amended AHP procedures in the FAM uses this definition. 3 FAM 1529(i).

⁴⁸ A "former S/OCR employee" or "an applicant for employment with S/OCR" in the harassment context would mean someone who is presently employed with the Department but not directly employed with S/OCR when the allegations are reported. AHP may choose to close a case at any point if the alleged harasser is no longer employed at the Department.

⁴⁹ The FAM and federal regulation require that the S/OCR Director be under the Secretary's "immediate supervision." 2 FAM 1515(b)(1); 29 C.F.R. § 1614.102(b)(4). It is possible the SOP is using "chain of command" to refer to leadership within S/OCR, such as the Director, Deputy Director, and section Chiefs. However, these officials would arguably be covered by the first category. Regardless, the ability for these provisions to be interpreted in various ways underscores the need for precise language. In response to a draft version of this report, S/OCR officials stated that "though statute requires the S/OCR Director to report to [the Secretary], the Director reports to [the Under Secretary for Management] in practice."

⁵⁰ See, e.g., 29 C.F.R. § 1614.102(b)(5) (requiring each agency to "make written materials available to all employees and applicants informing them of the variety of equal employment opportunity programs and administrative and judicial remedial procedures available to them and prominently post such written materials in all personnel and EEO offices and throughout the workplace.")

When a conflict of interest arises, S/OCR's ability to process that EEO complaint fairly and impartially may be called into question. Therefore, these matters must be addressed through procedures designed to uphold the integrity of the EEO complaint process.⁵¹

The FAM requires that in such cases, S/OCR will ensure the EEO process "proceeds without conflict or the appearance thereof" which "may require that a complaint be handled outside of the normal complaint channels, including enlisting the services of another office within the Department or another federal agency to assist with processing the complaint."⁵² The FAM instructs employees that "to initiate a conflict case, please follow the procedures on S/OCR's internal/external website."⁵³ However, at the time of this evaluation, there were no such procedures listed on S/OCR's intranet or website.

Until recently, there was no public guidance on how conflicts of interest in AHP complaints are handled, either in the FAM or on S/OCR's intranet or website. At the time of this evaluation, there was an amendment to the FAM under consideration that would note that "anyone reporting allegations that may present a conflict may report . . . directly to the AHP Director and/or team leads, or to any S/OCR Section Chief, Deputy, or Director." This amendment also states that S/OCR "will ensure the case is handled without conflict, which may include referral to an external investigative entity." However, the provision does not give any further details. These amendments were published in the FAM after this report had been submitted to the Department for comment.⁵⁴

The lack of detailed public information about how conflicts of interest are handled in EEO and AHP matters in the Department could deter employees from filing a complaint if they are concerned about a conflict of interest and are unaware of how such a conflict would be mitigated. More comprehensive guidance on the Department's intranet or website, consistent with the FAM, would ensure that employees understand the process and can make an informed decision before deciding whether to file a complaint and would improve the Department's compliance with EEOC guidance.

OIG Identified Several Best Practices for Handling Conflict Cases, but S/OCR Has Made Limited Use of Them

OIG reviewed several agency policies and EEOC materials, and spoke to EEOC officials, and identified several best practices for agencies in how to handle complaints that may involve a conflict of interest.

⁵¹ 2 FAM 1565(a).

⁵² 2 FAM 1565(c).

⁵³ 2 FAM 1565(d).

⁵⁴ 3 FAM 1529(i).

One of the best practices identified is having a clear written agency policy on conflicts of interest. The EEOC recommends that agencies adopt a written policy that clearly defines what constitutes a conflict of interest.⁵⁵ EEOC officials told OIG that protocols and clear guidance are important to ensure that such cases are handled consistently and without bias. As noted above, OIG found a lack of clarity and consistency in S/OCR's conflict case procedures.

Another best practice in handling conflict cases is the use of conflict case managers. The EEOC recommends that agencies designate a conflict case manager and an alternate and that their responsibilities be clearly set out.⁵⁶ Information about cases identified as conflicts of interest should be kept confidential and limited to the conflict case manager.⁵⁷ For example, the General Services Administration has a detailed standard operating procedure that designates a conflict case manager and an alternate and specifies that information about conflict cases must be limited to them. As noted above, S/OCR uses a conflict case manager only for EEO complaints but does not do so for AHP complaints. In response to a draft version of this report, S/OCR raised concerns about an EEO employee handling AHP matters; however, a conflict case manager could be assigned to each office.

Finally, OIG identified the use of ethics attorneys to help identify conflicts of interest as a best practice. The EEOC officials with whom OIG spoke characterized the use of ethics attorneys as a best practice and a "natural fit" for such situations. For example, the National Aeronautics and Space Administration, whose policies the EEOC officials commended, uses an Anti-Harassment Team that includes a representative of the Office of General Counsel to ascertain whether an harassment allegation constitutes a conflict of interest, and if so, reassigns the complaint for investigation. As noted above, S/OCR had an MOU with L/EFD to process EEO conflict cases, and was used in at least two AHP conflict cases, but L/EFD has since withdrawn.

CONCLUSION

There is considerable confusion and a lack of a clear and consistent process for handling complaints within S/OCR that may involve a conflict of interest. For example, procedures for EEO conflict cases involve a conflict case manager and an L/EFD attorney, while AHP conflict cases do not. OIG also found that S/OCR policies on conflict cases are outdated and there is limited publicly available information for employees on conflict cases. OIG identified best practices for handling conflict cases, such as using ethics attorneys and conflict case managers. S/OCR could improve its processes and ensure fairness in the handling of all its cases by consistently employing these best practices.

⁵⁵ EEOC, *Best Practices in EEO Conflict Case Management for Federal Agencies* (June 2020), available at <https://www.eeoc.gov/federal-sector/reports/best-practices-eeo-conflict-case-management-federal-agencies>.

⁵⁶ *Ibid.* The alternate should manage a conflict case when the conflict case manager is named in the complaint.

⁵⁷ *Ibid.*

RECOMMENDATIONS

OIG issued the following recommendations to ensure there are clear and consistent procedures for handling conflicts of interest within the Office of Civil Rights. In its response, the Office of Civil Rights concurred with all recommendations. However, the response asserted that the report was “out-of-date” and therefore “mislead[ing],” because the Office “is under new leadership and Department oversight.” OIG completed its evaluative work in early 2025 and provided a draft of this report to the Department of State in March 2025. The Department did not provide its final comments until August 2025, so any issue with the timeliness of this report is attributable to that delay. The Office of Civil Rights response to the recommendations offered is reprinted in Appendix B.

Recommendation 1: The Office of Civil Rights should adopt consistent and current conflict of interest procedures for both equal employment opportunity and anti-harassment program complaints that include use of a conflict case manager.

Management Response: In its August 15, 2025, response, the Office of Civil Rights concurred with this recommendation.

OIG Reply: Based on its concurrence with the recommendation and planned actions, OIG considers this recommendation resolved, pending further action. OIG will close this recommendation when the Office of Civil Rights provides OIG with its revised procedures that include the use of a conflict case manager.

Recommendation 2: The Office of Civil Rights should adopt a standard practice to consult with the Office of the Legal Adviser in any case involving a complaint involving a current or former Office of Civil Rights employee to ascertain whether there is a conflict of interest and to seek guidance as to proper handling of the complaint.

Management Response: In its August 15, 2025, response, the Office of Civil Rights concurred with this recommendation.

OIG Reply: Based on its concurrence with the recommendation and planned actions, OIG considers this recommendation resolved, pending further action. OIG will close this recommendation when the Office of Civil Rights provides OIG with documentation that demonstrates it has adopted a standard practice to consult with the Office of the Legal Adviser in any case involving a complaint involving a current or former Office of Civil Rights employee to ascertain whether there is a conflict of interest and to seek guidance as to proper handling of the complaint.

Recommendation 3: The Office of Civil Rights should update its intranet page to include current and comprehensive information on conflict case procedures.

Management Response: In its August 15, 2025, response, the Office of Civil Rights concurred with this recommendation.

OIG Reply: Based on its concurrence with the recommendation and planned actions, OIG considers this recommendation resolved, pending further action. OIG will close this recommendation when the Office of Civil Rights provides OIG its revised intranet page that includes current and comprehensive information on conflict case procedures.

APPENDIX A: PURPOSE, SCOPE, AND METHODOLOGY

At the request of the then-Under Secretary for Management, the Office of Inspector General (OIG) began research on conflicts of interest within the Office of Civil Rights (S/OCR) in February 2024. Based on this research, OIG began an evaluation of this issue in October 2024. The scope of this work included evaluating whether S/OCR has policies and procedures to avoid conflicts of interest in both equal employment opportunity (EEO) and anti-harassment cases and how these policies are communicated to employees.

To conduct this evaluation, OIG interviewed officials in S/OCR and the Office of the Legal Adviser, collected and reviewed S/OCR policies and procedures, and reviewed public information on conflict cases. OIG also reviewed Equal Employment Opportunity Commission (EEOC) guidance and materials on conflicts of interest, collected and reviewed other federal agencies' EEO and anti-harassment policies, and interviewed EEOC officials.

In March 2025, OIG shared a draft version of this report with S/OCR and the Office of the Legal Adviser. S/OCR provided technical comments and a draft response on April 28, 2025. The Office of the Legal Adviser provided comments on June 16, 2025. Because some facts had changed in this time, OIG provided a slightly revised report on July 3, 2025. S/OCR provided its final formal comments on August 18, 2025. OIG incorporated the technical comments as appropriate.

OIG conducted this evaluation in accordance with the Quality Standards for Inspection and Evaluation as issued by the Council of the Inspectors General on Integrity and Efficiency (December 2020).

APPENDIX B: OFFICE OF CIVIL RIGHTS RESPONSE



United States Department of State

Washington, D.C. 20520

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August 15, 2025

MEMORANDUM

TO: Office of the Inspector General – Jeffrey McDermott, Assistant Inspector General, Evaluations and Special Projects

FROM: Office of Civil Rights

SUBJECT: Response to Revised Draft OIG Report – Evaluation of the Handling of EEO and Harassment Conflict Cases by the Office of Civil Rights

S/OCR provides the following response to the Evaluation’s recommendations.

The Office of Civil Rights (S/OCR) is under new leadership and Department oversight. All policies drafted, published, or otherwise established under former S/OCR and Department leadership are being reviewed and revised, as appropriate. This includes the conflicts case policy. OIG’s inspection is out-of-date and misleads. Nevertheless, S/OCR is committed to ensuring integrity in all processes, including cases that present a conflict of interest and, to that end, will implement the recommendations as follows.

Recommendation 1: The Office of Civil Rights should adopt consistent and current conflict of interest procedures for both equal employment opportunity and anti-harassment program complaints that include use of conflict case manager(s).

OCR Response: S/OCR will review and update all conflict procedures adopted by prior S/OCR leadership to ensure consistency. Updates will include use of conflict case manager(s).

Recommendation 2: The Office of Civil Rights should adopt a standard practice to consult with the Office of the Legal Adviser in any case involving a complaint involving a current or former employee to ascertain whether there is a conflict of interest and to seek guidance as to proper handling of the complaint.

OCR Response: S/OCR will review and update all conflict procedures adopted by prior S/OCR leadership for cases involving S/OCR employees. The updated policy will include a procedure for when and how S/OCR will consult with appropriate Department officials for any case involving current or former S/OCR employees.

Recommendation 3: The Office of Civil Rights should update its intranet page to include current and comprehensive information on conflict case procedures.

OCR Response: S/OCR will review and update all conflict procedures adopted by prior S/OCR leadership and will update its intranet page to include current information on conflict case procedures.

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ABBREVIATIONS

AHP	Anti-Harassment Program
ARC	Adjudication, Resolution, and Compliance
Department	Department of State
EEO	Equal Employment Opportunity
EEOC	Equal Employment Opportunity Commission
FAM	Foreign Affairs Manual
L/EFD	Office of the Legal Adviser, Office of Ethics & Financial Disclosure
MD-110	EEOC Management Directive 110
MD-715	EEOC Management Directive 715
OIG	Office of Inspector General
PERT	Bureau of Personnel and Training
S/OCR	Office of Civil Rights
SOP	Standard Operating Procedure

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