FDIC Office of Inspector General

The FDIC's Sexual Harassment Prevention Program

Evaluation Report - Final - Audits, Evaluations, and Cyber

July 2024 | No. EVAL-24-05

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NOTICE

Pursuant to Pub. L. 117-263, section 5274, non-governmental organizations and business entities identified in this report have the opportunity to submit a written response for the purpose of clarifying or providing additional context to any specific reference. Comments must be submitted to comments@fdicoig.gov within 30 days of the report publication date as reflected on our public website. Any comments will be appended to this report and posted on our public website. We request that submissions be Section 508 compliant and free from any proprietary or otherwise sensitive information.

Executive Summary

Evaluation | Issued 7/31/2024 | EVAL-24-05

What We Did

Our objective was to determine whether the FDIC implemented an effective sexual harassment prevention program to facilitate the reporting of sexual harassment allegations and address reported allegations in a prompt and effective manner. To address this objective, we assessed the FDIC's actions since our 2020 evaluation. We evaluated policies, procedures, and training; conducted interviews of responsible officials; conducted a survey of all employees; and evaluated a sample of sexual harassment misconduct allegations against established policies and procedures.

Impact on the FDIC

Sexual harassment can have profound effects and serious consequences for the harassed individual, fellow colleagues, and the agency as a whole. Absent an Anti-Harassment Program (AHP) with committed leadership; an effective complaint tracking system; updated policies, procedures, and training; the FDIC cannot ensure that it has taken all of the steps necessary to prevent sexual harassment, facilitate reporting, and promptly and appropriately address sexual harassment allegations.

What We Found

The FDIC has not implemented an effective sexual harassment prevention program that facilitates the reporting of sexual harassment misconduct allegations and has not always investigated and addressed allegations of sexual harassment promptly and effectively. We found that FDIC leadership at several levels has not demonstrated sufficient commitment to, and accountability for, the AHP; has not implemented an effective program structure or dedicated sufficient resources to the program; does not have an effective system for tracking, addressing, and documenting allegations; has not established adequate complaint procedures or an adequate AHP policy; and has not provided sufficient training to its supervisors and staff. This occurred because the FDIC has not sustained many program improvements that were initiated as a result of our prior 2020 evaluation. As a result, the FDIC is experiencing an environment of distrust, and many employees do not feel comfortable reporting sexual harassment at the FDIC or are afraid of reporting for fear of retaliation. The FDIC has developed and begun implementing an Action Plan for a Safe, Fair, and Inclusive Work Environment that includes eight action areas described in this report.

What We Recommended

We made 24 recommendations to improve the FDIC's AHP, including updating and fully implementing the Anti-Harassment Oversight Plan; updating performance management and bonus criteria to incorporate a harassment-free standard; implementing a mechanism to sustain corrective actions; reevaluating the organizational structure, providing appropriate authority, and dedicating necessary resources to the AHP; implementing an effective system for tracking, securing, documenting, and reporting sexual harassment misconduct allegations; developing and implementing standard operating procedures for the AHP Coordinator and case file records management; providing regular training for all of the Labor and Employee Relations Section Specialists conducting investigations; developing and implementing a policy to ensure staff conducting investigations are neutral and free from conflicts of interest; and developing and implementing a comprehensive training program on the prevention of sexual harassment for all FDIC employees. The FDIC concurred with all 24 recommendations and plans to complete all corrective actions by March 31, 2025.

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OBJECTIVE

The objective of our evaluation was to determine whether the FDIC implemented an effective Sexual Harassment Prevention (SHP) program to facilitate the reporting of sexual harassment allegations and address reported allegations in a prompt and effective manner.

To answer this objective, we obtained and reviewed the FDIC's policies and procedures related to sexual harassment misconduct allegations and interviewed FDIC officials in the Division of Administration (DOA), Legal Division, and the Office of Minority and Women Inclusion (OMWI) to determine changes made to the SHP program since our last evaluation in 2020 (Preventing and Addressing Sexual Harassment (EVAL-20-006)),[1] including those taken in response to our prior recommendations. We also conducted a survey of all FDIC employees to understand their experiences with sexual harassment since our last review and compared the results of our survey to the prior survey results. Finally, we tested 15 reported sexual harassment misconduct allegations against FDIC policy and procedures.[2] Our evaluation focused on sexual harassment misconduct allegations and the FDIC's process for addressing those allegations. It did not focus on the FDIC's process for handling EEO allegations of unlawful sexual harassment.[3] Appendix 1 of this report includes additional details about our objective, scope, and methodology.

We conducted this evaluation in accordance with the Council of the Inspectors General on Integrity and Efficiency's Quality Standards for Inspection and Evaluation. These standards require that we plan and perform the evaluation to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our evaluation objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our evaluation objective. While we obtained sufficient evidence to support the findings herein, due to the FDIC's inconsistent and incomplete tracking of sexual harassment misconduct allegations described in our report, our scope and results are limited to those allegations reported to us or identified during the evaluation, and might not address all instances of sexual harassment misconduct at the FDIC. During this evaluation, we referred any concerns expressed or allegations that we identified to the OIG assignment team conducting the Special Inquiry of the FDIC's Workplace Culture with Respect to Harassment and Related Misconduct (Special Inquiry).

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[1] FDIC OIG, *Preventing and Addressing Sexual Harassment* (EVAL-20-006) (July 2020). *See* Appendix 2, which includes the prior recommendations with linkage to findings and recommendations in this report.

[2] As we conducted our review of the sample of 15 allegations, we identified additional allegations of sexual harassment misconduct or retaliation through a review of FDIC records and or witness interviews. Throughout the report we used the term "Matter" to identify each of the allegations whether they were part of our sample or were identified later. The matters are presented alphabetically (i.e., Matter A, Matter B, etc.) to assist the reader. Additionally, a matter may be referred to more than once in the report.

[3] Further discussion of the distinction between sexual harassment and unlawful sexual harassment follows in the next section.

BACKGROUND

Foundational to this evaluation is a common understanding of key concepts, processes, and activities relating to sexual harassment and anti-harassment programs at the FDIC. To provide this foundation, this background section includes: (1) a definition of sexual harassment used for this report; (2) a presentation of best practices to prevent sexual harassment; (3) a description of the FDIC's processes for addressing sexual harassment; (4) a discussion of the OIG's prior evaluation of the FDIC relating to sexual harassment from 2020; (5) an overview of external reporting and scrutiny of sexual harassment at the FDIC; and (6) a brief summary of the FDIC's recent actions to address sexual harassment at the FDIC.

Defining Sexual Harassment

Federal statute does not explicitly define what constitutes "sexual harassment" in the Federal workplace. The U.S. Equal Employment Opportunity Commission (EEOC)[4] defines the term, "sexual harassment," as unwelcome sexual advances, requests for sexual favors, or other verbal or physical harassment of a sexual nature. Sexual harassment is considered unlawful and in violation of Federal law (Title VII of the Civil Rights Act of 1964) when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.[5] Not all sexual harassment fits within this definition. For example, according to the EEOC, unlawful sexual harassment does not include simple teasing, offhand comments, or isolated incidents that are not very serious. Although not unlawful, such behavior could constitute misconduct in violation of agency policies or standards of conduct and could result in disciplinary action. Therefore, depending on the conduct and surrounding facts, sexual harassment in the Federal government can result in a finding of: (1) *unlawful* sex discrimination in violation of Title VII of the Civil Rights Act of 1964, and/or (2) a *misconduct* violation of an agency's harassment policies or standards of conduct (referred to herein as "sexual harassment misconduct").[6] The facts in each case determine whether conduct constitutes unlawful sexual harassment, misconduct, both, or none.

[4] The EEOC is responsible for enforcing Federal laws that make it illegal to discriminate against a job applicant or an employee because of the person's race, color, religion, sex (including pregnancy, childbirth, or related conditions, gender identity, and sexual orientation), national origin, age (40 or older), disability or genetic information.

[5] The EEOC has concluded that unlawful sexual harassment constitutes sexual discrimination under Title VII of the Civil Rights Act of 1964. Title VII of the Civil Rights Act of 1964 prohibits discrimination of an employee based on race, color, sex, religion, or national origin.

[6] FDIC Directive 2710.03, *Anti-Harassment Program* (March 2021).

Preventing Sexual Harassment

Sexual harassment in an organization can have profound effects and serious consequences for the harassed individual, fellow colleagues, and the agency as a whole. It can undermine an agency's mission by creating a hostile work environment that lowers productivity and morale, affects the agency's reputation and credibility, and exposes the agency to judgments for monetary damages. Establishing an effective SHP program and addressing sexual harassment allegations in a prompt and effective manner can protect employees and the agency against the risk of such harm and costs.

In November 2017, the EEOC issued *Promising Practices for Preventing Harassment* (EEOC's 2017 *Promising Practices*),[7] which included core principles for preventing and addressing harassment.[8] To further build upon those principles, in April 2023, the EEOC issued *Promising Practices for Preventing and Addressing Harassment in the Federal Sector* (EEOC's 2023 *Promising Practices*), which provides practical tips for preventing and addressing harassment within the Federal civilian workforce. The 2023 technical assistance document provided recommended practices in four main areas detailed in Table 1 below.

[7] EEOC Technical Assistance Document, *Promising Practices for Preventing Harassment* (EEOC-NVTA-2017-2) (November 2017). According to the EEOC, the document is intended only to provide clarity to the public regarding existing requirements under the law or agency policies. The contents of this document do not have the force and effect of law and are not meant to bind the public in any way.

[8] The 2017 EEOC technical assistance document was based on a Report of the Co-Chairs of the EEOC's Select Task Force on the Study of Harassment in the Workplace ("Report"). The Report identified five core principles that were generally proven effective in preventing and addressing harassment: committed and engaged leadership; consistent and demonstrated accountability; strong and comprehensive anti-harassment policies, trusted and accessible complaint procedures; and regular, interactive training tailored to the audience and the organization.

Table 1: EEOC *Promising Practices for Preventing Harassment in the Federal Sector (2023)*

No.	Promising Practice	Brief Description
1	Leadership and Accountability	Demonstrated commitment and accountability from agency leadership are essential to a model Federal agency EEO program, and preventing and correcting harassment is essential to securing EEO for applicants and employees.
2	Comprehensive and Effective Anti-Harassment Policy	A comprehensive, clear anti-harassment policy that is regularly disseminated to all employees is an essential element of an effective harassment prevention strategy, as well as a tool that may help limit Federal agencies' liability for harassment.
3	Effective and Accessible Anti-Harassment Program	Agency anti-harassment policies must be accompanied by reporting and complaint procedures to ensure the agency properly responds to harassment allegations.
4	Effective Anti-Harassment Training	To help prevent and properly address harassment, employees and management must be aware of what conduct is prohibited and how to prevent and correct it.

Source: EEOC *Promising Practices for Preventing Harassment in the Federal Sector*, April 2023.

Although these principles are not legal requirements, these leading practices can assist agencies in strengthening their anti-harassment programs and preventing workplace harassment. We address each of these core promising practices in this evaluation.

Additionally, in December 2023 the U.S. Merit Systems Protection Board (MSPB) issued its own internal Anti-Harassment Policy and Procedures that had a goal to promote a workplace that is free of harassment and address harassing conduct before such behaviors become widespread, common, or repeated throughout the agency.[9] The MSPB Anti-Harassment Policy and Procedures[10] contain instructions for reporting harassment, responding to harassment reports, conducting further investigation, conducting and authorizing fact-finding, conducting interviews, notifying the alleged target,[11] and taking corrective action for harassing conduct. Given the mission of the MSPB to "[p]rotect the Merit System Principles and promote an effective Federal

[9] *Supra* note 4. The MSPB protects the Merit System Principles and promotes an effective Federal workforce free of Prohibited Personnel Practices.

[10] U.S. MSPB *Anti-Harassment Policy and Procedures* (December 1, 2023).

[11] This refers to notifying the employee who reported the harassment at the conclusion of the investigation.

workforce free of Prohibited Personnel Practices," we consider these policies and procedures to be leading practices for the Federal sector.

The FDIC's Processes for Addressing Sexual Harassment

In 2003, the EEOC issued EEO Management Directive 715, which requires Federal agencies to establish EEO programs that include policies and procedures for addressing all forms of harassment, including sexual harassment. The requirement includes programs to: (1) process EEO complaints (EEO Complaint Process) and (2) create an environment that is free from sexual and non-sexual harassment (Anti-Harassment Program). According to the EEOC, an agency's EEO complaint process and its anti-harassment program do not exist for the same purposes. The EEO complaint process is designed to provide redress for discrimination that has occurred and to prevent the recurrence of the unlawful discriminatory conduct. However, the EEO process cannot require an agency to discipline its employees. In contrast, the agency's anti-harassment program is intended to assist agencies in taking immediate and appropriate corrective action, including the use of disciplinary actions, to eliminate harassing conduct regardless of whether the conduct violated the law. The goal of an agency's anti-harassment program should be to prevent harassing conduct before it can become severe or pervasive.[12]

The FDIC has both an EEO Complaint Process and an Anti-Harassment Program (AHP) to address harassment, including sexual harassment. Accordingly, allegations of sexual harassment may trigger either process, both, or none.

The FDIC's EEO Discrimination Complaint Process

FDIC Directive 2710.2, EEOC *Discrimination Complaint Process* (November 2015), and FDIC Directive 2710.4, FDIC *Discrimination Complaint Process* (November 2015), outline the FDIC's EEO Complaint Process, including the process for initiating and managing individual discrimination complaints involving allegations of unlawful sexual harassment. The first step in the FDIC's EEO Complaint Process is for the victim(s) of harassment (complainant(s)) to report the allegation(s) to an EEO Counselor in OMWI. The EEO Counselor provides information to the complainant on informal options for resolving a complaint, such as traditional counseling or mediation. If these informal options do not result in resolution, the EEO Counselor provides the complainant(s) with a written notice of the complainant's rights and responsibilities, including the applicable deadline to file a formal complaint of discrimination with the FDIC.

The FDIC processes formal harassment complaints, including sexual harassment complaints, under the EEO Complaint Process, which requires that OMWI conduct an investigation of the complaint allegations. Upon receipt of a formal complaint, OMWI reviews it to ensure the

[12] EEOC *Model EEO Programs Must Have An Effective Anti-Harassment Program* (2005).

complaint was timely filed.[13] Once accepted by OMWI as timely, an OMWI EEO Specialist from the Headquarters Office oversees the EEO investigations, including hiring a contractor to investigate the allegation(s). Following the investigation, OMWI advises the complainant of his/her right to request a hearing before an EEOC Administrative Judge or request a Final Agency Decision on the merits of the complaint. Under this EEOC-administered process, it is significant whether "harassment" rises to the level of a violation of Title VII because such a finding (as well as any other finding of discrimination) entitles the employee who was the subject of such harassment to monetary recoveries.

The FDIC's Anti-Harassment Program (AHP)

FDIC Directive 2710.03, *Anti-Harassment Program* (March 2021) (AHP Directive), outlines the FDIC's AHP, including the process for reporting harassment allegations and the roles and responsibilities of FDIC employees in implementing the AHP.

The first step in the process under the FDIC's AHP is for an individual to report harassment. As outlined in the AHP Directive, individuals who observe or experience harassment should promptly report the matter to any of the following: (1) the alleged victim's immediate supervisor; (2) the supervisor of the person responsible for the alleged conduct; (3) any management official with supervisory responsibility; (4) the Anti-Harassment Program Coordinator (AHPC); (5) Division of Administration's (DOA) Labor and Employee Relations Section (LERS) Assistant Director; or (6) any LERS Specialist. As noted above, the EEO Complaint Process is separate but can also apply to allegations that are subject to the AHP Complaint Process. The FDIC's AHP Directive provides that an individual who reports harassment under the AHP Directive may still pursue remedies for an alleged act of harassment via the EEO Complaint Process.

For all harassment complaints covered by the FDIC's AHP,[14] including sexual harassment complaints, the FDIC's AHPC is to be notified immediately. Once intake is completed, the AHPC refers the matter to LERS. Thereafter, LERS and the Legal Division's Labor, Employment and Administration Section (LEAS) determine whether the allegation is covered by the AHP Directive. If so, LERS and LEAS, in consultation with the appropriate management official(s),[15] determine whether immediate corrective action is necessary and whether an additional investigation of the allegation is appropriate. The FDIC's former Chief Human Capital

[13] OMWI's acceptance of formal complaints is based on criteria listed in EEOC regulations (29 C.F.R. Part 1614).

[14] Importantly, the AHP Directive states that, "In most cases, harassment does not include ordinary supervisory actions, such as telling an employee that they are not performing a job adequately. Generally, allegations concerning performance issues, impolite behavior, or personality conflicts will not fall under this Directive. Also, occasional and innocuous compliments generally will not constitute harassment, but rather reflect the reality of human experience and common courtesy." The AHP Directive does not provide any additional examples of what specific employee behaviors are not subject to the AHP Directive.

[15] The AHP Directive does not define the term "appropriate management officials," or indicate who those officials are in the context of the AHP Directive.

Officer, who oversaw LERS, stated that LERS represents the Agency and management interests in preventing and remedying harassment, whereas OMWI conducts independent investigations and protects employees.

According to a May 2020 Memorandum of Understanding (MOU) between LEAS and LERS (LEAS/LERS MOU), LEAS is responsible for supervising investigations into employee misconduct. LEAS has attorneys in the Virginia Square Headquarters Office and at each of the FDIC's six Regional Offices, with an Assistant General Counsel in headquarters overseeing the work. According to the *Conducting Management-Initiated Investigations* Standard Operating Procedures (SOP) (December 2020), LERS, with assistance from LEAS, is responsible for investigating sexual harassment misconduct allegations under the AHP. According to the LEAS/LERS MOU, once a request for investigation is made, LEAS assigns an attorney and LERS assigns a specialist to conduct the investigation. LERS has specialists from the Virginia Square Headquarters Office and at each of the FDIC's six Regional Offices to conduct this investigation work. The LERS Assistant Director and two Chiefs, one for the regions and one for headquarters, oversee the work of the LERS Specialists.

Within 10 calendar days of receiving a report of harassment, LERS and LEAS must determine whether an investigation is appropriate, assign an attorney and specialist, and initiate an investigation. According to the AHP Directive, once the investigation is complete, within 5 business days, LERS/LEAS notifies the person reporting the harassment and the alleged harasser that the FDIC has completed the investigation. LERS/LEAS provide the investigative findings to the appropriate management official. In most cases, this will be the alleged harasser's immediate supervisor. FDIC management, in consultation with LERS and LEAS, determines what, if any, action to take based on the findings. The AHP Directive states the FDIC should take action no later than 60 days after receiving notice of a report of harassment.

According to the AHP Directive, the AHPC has responsibility to oversee the FDIC's AHP. The AHP Directive lists 12 separate responsibilities for the AHPC including, but not limited to, overseeing the program, providing training for all FDIC employees on harassment and reporting, providing technical assistance to managers and supervisors, monitoring program effectiveness, developing preventive strategies based on identified trends, and maintaining relevant documents from harassment investigations. The individual currently serving in the AHPC role was hired in January 2023 as the Chief, Affirmative Employment, Diversity and Inclusion Branch in OMWI. The AHPC role is a collateral duty to the individual's primary role at the FDIC.

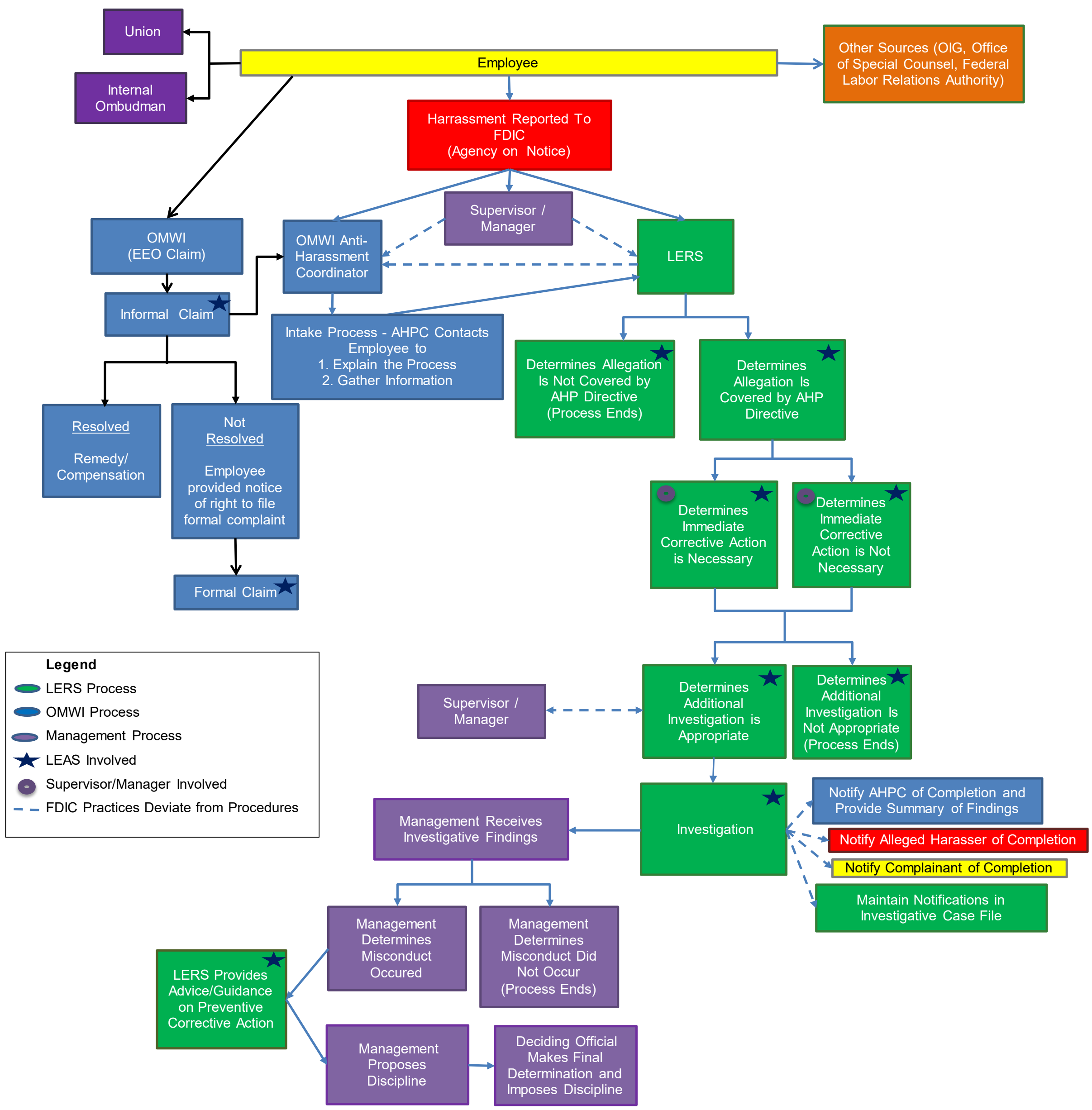
The FDIC's Discipline for Sexual Harassment

FDIC Directive 2710.03, *Anti-Harassment Program* (AHP Directive) (March 2021), provides that any FDIC employee who engages in conduct prohibited by the directive is subject to disciplinary action, up to and including removal from Federal service. The directive includes examples of prohibited harassment, such as displaying offensive objects or pictures, unwelcome touching or contact, unwelcome sexual advances, requests for sexual favors, and physical or sexual assault.

FDIC Directive 2750.01, *Disciplinary and Adverse Actions* (March 2021), presents information and guidance to FDIC supervisors on the use of disciplinary and adverse actions at the FDIC. FDIC supervisors, in consultation with LERS and LEAS, apply discipline for substantiated misconduct. The FDIC may discipline an employee in the following ways, escalating in order of increasing severity: letter of reprimand, suspension from duty and pay, reduction in grade or pay, and removal. LEAS, in collaboration with LERS, makes decisions about the conduct of investigations and advises managers of investigatory findings as well as options for disciplinary or adverse action.

The FDIC process flow from initial harassment or sexual harassment allegation to discipline is laid out in Figure 1 on the next page and notates where the FDIC's current practices deviate from the FDIC's policy and procedures, which will be discussed later in the report.

Figure 1: FDIC Procedures for Processing Allegations of Sexual Harassment



Source: OIG analysis of FDIC policies, procedures, and practices.

FDIC OIG Prior Evaluation Findings and Recommendations

In July 2020, the OIG issued an evaluation report: *Preventing and Addressing Sexual Harassment*.[16] In that report, we found that the FDIC had not established an adequate sexual harassment prevention program and should improve policies, procedures, and training to facilitate the reporting of sexual harassment allegations and address allegations in a prompt and effective manner. As a part of that evaluation, we conducted a survey of FDIC employees. The survey indicated that during the period of January 2015 through April 2019, approximately 8 percent of FDIC respondents (191 of 2,376) had experienced sexual harassment at the FDIC and 38 percent of FDIC respondents who stated they had experienced sexual harassment said that they did not report the incident(s) for "fear of retaliation." Nearly 40 percent of FDIC respondents did not know, or were unsure, how to report allegations of sexual harassment. Further, almost 44 percent of the FDIC respondents to the OIG survey felt that the FDIC should provide additional training on sexual harassment. Given these responses, we recommended that the FDIC should do more to prevent and address sexual harassment. We made 15 recommendations across four broad areas: improving policies and procedures relating to FDIC actions in response to sexual harassment misconduct allegations; promoting a culture in which sexual harassment is not tolerated and such allegations are promptly investigated and resolved; ensuring consistent discipline; and enhancing training for employees and supervisors.

On June 16, 2020, after reviewing the OIG's evaluation report, the FDIC responded that it appreciated the OIG's observations and recognized that improvements could "always be made to the program." However, the FDIC stated it respectfully disagreed with the OIG's conclusion that the FDIC's AHP was inadequate. Furthermore, in direct contradiction with its own policy,[17] the FDIC responded that the OIG's report ignored the possibility that the basis for under-utilization of the AHP was that employees wanted to address issues in a more informal way. The FDIC asserted the practice should be encouraged and reflected positively on the Agency's commitment to address allegations expeditiously. The FDIC also provided a significant amount of information to support the FDIC's position that the FDIC: (1) had a robust AHP, (2) demonstrated leadership and accountability in its AHP, (3) had a strong and comprehensive AHP, and (4) provided training on its AHP.

While the FDIC disagreed with the OIG's conclusion, it did not dispute the underlying findings that led to the conclusion that the program was inadequate. Accordingly, the FDIC concurred with 12 of the 15 recommendations and provided alternative actions to address the remaining

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[16] *Supra* note 1.

[17] According to the AHP Directive, employees are to immediately report allegations of harassment to a management official, the AHPC, or a LERS Human Resources Specialist, and when allegations of harassment are received by the aforementioned groups, they are to notify the AHPC immediately.

3 recommendations. Specifically, the FDIC presented alternative actions for report recommendation numbers 1, 5, and 12.

- **Recommendation 1: Develop and implement a strategy for acknowledging employees, supervisors, and managers, as appropriate, for creating and maintaining a culture in which harassment is not tolerated and promptly reporting, investigating, and resolving complaints.** The FDIC reported that it would take alternative actions because it already had a robust, multi-faceted strategy in place. As such, the FDIC stated it would expand the requirements in the supervisory performance management system to require supervisors to cultivate an inclusive, constructive, harassment-free work environment built upon transparent communication, mutual trust, and respect for all to succeed. The FDIC also stated it would update the Disciplinary and Adverse Actions Directive to include a statement that Managers/Supervisors regularly monitor and evaluate employees' performance and conduct and take corrective action if the performance or conduct falls below acceptable standards. The OIG accepted this alternative action before issuing its final report.
- **Recommendation 5: Include requirements in FDIC policy for proportionate corrective action (discipline) when harassment is substantiated.** The FDIC originally nonconcurred with this recommendation due to a misunderstanding over the intent of the recommendation. After issuance of our report, however, the FDIC agreed to update its Disciplinary and Adverse Actions Directive to state that when misconduct is substantiated, managers/supervisors work with LERS and LEAS to ensure that proportionate corrective action is taken, including disciplinary and adverse actions when appropriate based on the facts of the particular case and in accordance with relevant law. The OIG accepted this action after issuing its final report.
- **Recommendation 12: Develop and implement procedures to ensure that supervisors take consistent disciplinary actions for substantiated sexual harassment, in line with Federal government law on imposing disciplinary actions.** The FDIC originally nonconcurred with this recommendation due to a misunderstanding over the intent of the recommendation. After issuance of our report, however, the FDIC agreed to update its Disciplinary and Adverse Actions Directive to state that when misconduct is substantiated, managers/supervisors work with LERS and LEAS to ensure that proportionate corrective action is taken, including disciplinary and adverse actions when appropriate based on the facts of the particular case and in accordance with relevant law. Further, the FDIC developed and implemented Disciplinary and Adverse Actions SOPs to ensure the FDIC administered disciplinary and adverse actions in a fair and consistent manner. The OIG accepted this action after issuing its final report.

The FDIC took corrective action to, among other things, update policies and procedures, better define roles and responsibilities, implement a tracking system for all allegations and disciplinary actions, and establish an oversight plan. Specifically, the FDIC developed an Anti-Harassment Program Oversight Plan in June 2021 to take actions on an ongoing basis to assess the effectiveness, evaluate potential deficiencies, and make improvements to its AHP. As of September 2021, the OIG concluded that the corrective actions taken for all 15 recommendations were responsive and considered them closed.[18]

External Reviews and Scrutiny of Sexual Harassment at the FDIC

In 2023, two separate external sources provided information about potential ongoing issues relating to sexual harassment at the FDIC: (1) an MSPB report and (2) several Wall Street Journal (WSJ) articles. The following discussion summarizes this external reporting on the FDIC culture issues impacting sexual harassment allegations/complaints.

First, in June 2023, the MSPB issued *Sexual Harassment in the Federal Workplaces: 2021 Update*.[19] The MSPB reported that 18 percent of female employees and 6 percent of male employees within the FDIC had experienced sexual harassment. The FDIC's percentages were near the overall average for Federal agencies, with 17.5 percent of females and 7.8 percent of males reporting they had experienced sexual harassment across the Federal workforce. The MSPB concluded that agencies should strengthen their efforts to ensure that all employees are aware of the prohibitions on sexual harassment and promptly address any behavior that is contrary to these expectations.

Second, from November 2023 through February 2024, the WSJ published a series of articles reporting on the purported toxic and sexualized workplace environment at the FDIC.[20] The articles reported, among other claims, that female FDIC employees "received lewd photos sent from male colleagues, were propositioned and followed back to their hotel rooms during travel for bank exams" and that there were "few consequences for bad behavior."

On November 17, 2023, based on these articles, the U.S. Senate Committee on Banking, Housing, and Urban Affairs (Senate Banking Committee) questioned whether the FDIC implemented meaningful changes after the issuance of our 2020 evaluation report: *Preventing and Addressing Sexual Harassment* (EVAL-20-006).[21] Specifically, the Senate Banking Committee stated that "it appears these issues continue to persist and the FDIC has failed to make the necessary and meaningful changes." At that time, the OIG received a letter from the

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[18] To close report recommendations, the OIG reviews and analyzes FDIC-provided evidence to determine whether the Agency's corrective actions taken meet the intent of the recommendations.

[19] U.S. MSPB *Sexual Harassment in the Federal Workplaces: 2021 Update*, June 2023.

[20] *Strip Clubs, Lewd Photos and a Boozy Hotel: The Toxic Atmosphere at Bank Regulator FDIC*, November 13, 2023. *FDIC Faces Internal Reckoning Over Toxic-Culture Allegations*, December 1, 2023. *FDIC Human-Resources Operation Faced Numerous Misconduct Complaints*, February 8, 2024.

[21] *Supra* note 1.

Chairman of the Senate Banking Committee requesting that we conduct a review to determine whether the FDIC implemented meaningful changes in response to our prior evaluation.[22]

FDIC Recent Activities Relating to Sexual Harassment

After the external reporting noted above, on December 1, 2023, the FDIC developed and issued an Action Plan for a Safe, Fair, and Inclusive Work Environment (Action Plan). The Action Plan contained action items in eight broad areas and identified project completion dates for each of the action areas. Table 2 below provides a brief description of each Action Plan area and the estimated completion date.

Table 2: FDIC Action Plan for a Safe, Fair, and Inclusive Work Environment

Action No.	Action Area	Estimated Completion[a]
1	Support for Victim and Survivors	December 31, 2024
2	Prompt Investigation, Identification, and Correction of Current Problems	December 31, 2024[b]
3	Repercussions for Harasser	July 31, 2024[b]
4	Leadership Accountability	July 31, 2024[b]
5	Policies, Procedures, and Operations Review and Enhancement	December 31, 2024
6	Training Programs	December 31, 2024[b]
7	Communication and Outreach Strategy	Ongoing
8	Cultural Transformation	July 31, 2024[b]

[a]Table Note. Each of these action areas has multiple subparts. We do note that some subparts of these action areas have been completed as of May 2024, but we used the latest estimated completion date for any subpart of each action area.

[b]Table Note. Actions in this subpart are labeled as ongoing.

Source: FDIC Action Plan for a Safe, Fair, and Inclusive Work Environment.

In addition, the FDIC has an Enterprise Risk Management program to facilitate efforts of the Board and management to identify, assess, and address major risks that have a potential broad impact on the FDIC's ability to achieve its goals, objectives, and mission. The FDIC recognized

[22] United States, Congress, Letter from the Senate Committee on Banking, Housing, and Urban Affairs. November 2023. Available at https://www.banking.senate.gov/imo/media/doc/letter_to_the_fdic_ig.pdf.

that any kind of harassment, including sexual harassment, posed a risk to the Agency and noted this on the Agency's risk inventory profile in January 2024,[23] summarized as follows:

> *If the FDIC does not provide a supportive, inclusive work environment and one that promptly addresses discrimination and harassment of any kind, including sexual harassment, then employees and contractors will not feel safe raising concerns and employee morale and productivity may be affected, the FDIC will face increased risk, and will not be an employer of choice.*

In April 2024, the FDIC followed up by adding a related risk inventory item,[24] as follows:

> *If the FDIC does not provide a supportive, inclusive work environment that promptly addresses discrimination and harassment of any kind, including sexual harassment, then employees and contractors may not feel safe raising workplace concerns, resulting in loss of employee morale and productivity, heightened exposure to reputational and legal risk, and difficulty attracting or retaining necessary staff.*

On December 11, 2023, a Special Committee appointed by the FDIC Board of Directors (FDIC Board) hired a law firm to conduct a third-party review of (a) allegations of sexual harassment and interpersonal misconduct at the FDIC and (b) management's response to that harassment and misconduct. On May 7, 2024, the Special Committee released the final report of the third-party review of the FDIC's workplace culture. The final report identified that there were weaknesses in the FDIC's workplace culture, including lack of accountability; fear of retaliation; insufficient prioritization of workplace culture; patriarchal, hierarchic, and insular culture; risk aversion; lack of clear guidance; abuse of power dynamics; confusing and ineffective reporting channels; investigative processes that lacked credibility; and insufficient record keeping. The third party proposed a number of corrective actions to the FDIC in response to the results of the review.

Finally, in 2024, the FDIC added as its Number 1 Performance Goal[25] – "Create a work environment that is supportive, inclusive, and promptly addresses discrimination and harassment of any kind, including sexual harassment." Specific targets within this Performance Goal include implementing initiatives from the Action Plan, considering recommendations from

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[23] According to FDIC Directive 4010.03 *Enterprise Risk Management and Internal Control Program* (Directive 4010.03), the risk inventory profile specifies the most significant risks associated with achieving FDIC strategic objectives.

[24] According to Directive 4010.03, the risk inventory is a comprehensive, detailed list of risks that could affect the FDIC's ability to meet its strategic objectives. The risk inventory includes an assessment of impact and likelihood and is prioritized and summarized into the risk profile.

[25] According to Directive 4100.04 *Corporate Planning and Budget Processes*, FDIC Performance Goals are a compilation of specific performance targets and measures developed during the annual planning and budget process. Many of these goals are change-oriented and often cut across organizational lines.

the Special Committee of the Board's third-party review, raising FDIC employee awareness of harassment reporting channels, and evaluating the structure and governance of the AHP.

Separately, in response to the recent allegations and the FDIC's activities in response, the OIG is also conducting a separate Special Inquiry of the FDIC's Workplace Culture with Respect to Harassment and Related Misconduct. That project differs from this evaluation insofar as the objectives of the Special Inquiry are to determine (1) employee perceptions of the workplace culture with respect to harassment, or related misconduct, and management actions; (2) FDIC management's actions to review, process, and address complaints of harassment and related misconduct, including the management of related litigation; (3) FDIC executives' knowledge of harassment and related misconduct and what actions (if any) were taken in response; and (4) factual findings regarding selected allegations that senior officials personally engaged in harassment or related misconduct. We will include the results of that inquiry in a separate report.

RESULTS

As a follow-up to our prior evaluation issued 4 years ago, we have concluded that the FDIC has not yet implemented an effective sexual harassment prevention program that facilitates the reporting of sexual harassment misconduct allegations. Further, the FDIC has not consistently investigated and addressed allegations of sexual harassment in a prompt and effective manner.[26] Specifically, the FDIC has not sustained many program improvements that were initiated as a result of our prior evaluation and in some cases has regressed on the progress that was made in response to our July 2020 recommendations. For example, the FDIC took corrective action to develop investigation procedures; implement a tracking system for all allegations and disciplinary actions, including specific recommended data elements; and establish an oversight plan. However, we found during our evaluation that the FDIC was not following the investigation procedures and had not updated the procedures since our last review; abandoned the tracking system and replaced it with one developed in-house which was no longer tracking the recommended data elements; and had not fully implemented the AHP Oversight Plan. Therefore, in these cases, the FDIC has regressed on the progress that was made in response to our prior recommendations.

[26] Our current evaluation focused on sexual harassment misconduct allegations and the FDIC's process for addressing those allegations. It did not focus on the FDIC's process for handling EEO allegations of unlawful sexual harassment.

As a part of this evaluation, we conducted a survey of all 6,210 FDIC employees about their experiences with sexual harassment from April 20, 2019 through January 19, 2024.[27] Our survey results reflected the following:

- First, of the 2,812 survey respondents, 191 employees (7 percent) responded they had experienced sexual harassment at the FDIC since April 20, 2019. The FDIC, however, reported to the OIG that it had received only 34 allegations of sexual harassment since April 2019, indicating an underreporting of sexual harassment allegations at the FDIC. In our prior survey, 191 employees (8 percent of respondents) reported that they had experienced sexual harassment at the FDIC.

- Second, in our current survey, 49 percent of employees who experienced sexual harassment and 51 percent of employees who observed it responded that they did not report it due to fear of retaliation. In our prior survey, 38 percent of employees who experienced sexual harassment and 36 percent of employees who observed it responded that they did not report it due to fear of retaliation. Accordingly, the survey reflects that the proportion of employees who experienced or observed sexual harassment but did not report it due to fear of retaliation rose.

- Third, our current survey results reflected an improvement in employees knowing how to report sexual harassment at the FDIC. Our prior survey showed that 60 percent of respondents knew how to report allegations of sexual harassment, whereas our current survey reflects that 71 percent of employees responding know how to report sexual harassment.

Appendix 4 presents a comparison of the complete current and prior survey results.

During the time period covered by the most recent survey, much of the FDIC workforce was governed by pandemic-era rules that limited in-person interactions. From March 2020 until April 2022, most FDIC employees were on mandatory telework. From April 2022 through September 2022, the FDIC gave employees the option to work at an FDIC facility but did not require them to do so. In September 2022, the FDIC transitioned to a limited return to the office. The limited in-person interaction may have reduced the likelihood of certain forms of sexual harassment such as unwelcome touching or physical contact. However, we note the number of reported instances of sexual harassment remained constant. At a minimum, current survey results indicate an ongoing problem continuing beyond the corrective measures undertaken by the FDIC following our July 2020 report.

[27] The survey was conducted from December 15, 2023, through January 19, 2024. The survey time period captured employee experiences since the last survey was conducted for the prior OIG evaluation, ending April 19, 2019.

Notwithstanding our prior report on the FDIC's AHP, FDIC leadership[28] has not taken the steps necessary to implement an effective program. Specifically, FDIC leadership has not demonstrated a sufficient commitment to, and accountability for, its AHP (Finding 1). The FDIC has not implemented an effective AHP organizational structure with appropriate authorities and sufficient resources (Finding 2). The FDIC also does not have an effective system for tracking, addressing, and documenting allegations of sexual harassment (Finding 3). Additionally, the FDIC has not established adequate complaint procedures (Finding 4) or an adequate AHP policy (Finding 5). Finally, the FDIC has not provided sufficient anti-harassment training to its supervisors and staff (Finding 6). The weaknesses we identified in the FDIC's AHP occurred as a result of a lack of attention and action by FDIC leadership at several levels to assessing and improving the program, and a failure to sustain many prior actions in response to OIG recommendations. As such, the FDIC cannot attain its goal of a harassment-free environment, including sexual harassment, until significant changes are made to its program. Our report makes 24 recommendations to assist the FDIC in correcting serious deficiencies in its sexual harassment prevention program and addressing allegations in a prompt and effective manner. Our recommendations will also assist the FDIC in moving forward toward its goal of a harassment-free environment.

Finding 1

FDIC Leadership Has Not Demonstrated Sufficient Commitment to, and Accountability for, Its Anti-Harassment Program

According to the EEOC 2017 *Promising Practices*, demonstrated commitment from senior leaders is the cornerstone of a successful sexual harassment prevention strategy.[29] FDIC leadership has not demonstrated a sufficient commitment to, and accountability for, the AHP. As discussed in Findings 2 through 6 below, the FDIC has not: implemented an effective AHP organizational structure with appropriate authorities and sufficient resources; maintained an effective system for tracking allegations; established adequate policies and procedures; and provided sufficient and effective training.

[28] For purposes of this report, we consider FDIC leadership to include the Chairperson of the FDIC (referred to throughout this report as the Chairman); the Board of Directors; and supervisory and managerial personnel in OMWI, LERS, LEAS, and the Divisions and Offices throughout the FDIC responsible for the AHP and attaining a harassment-free environment.

[29] U.S. EEOC *Promising Practices for Preventing Harassment*, November 21, 2017.

> Further demonstrating a lack of sufficient commitment to, and accountability for, the AHP, FDIC leadership has not implemented its AHP Oversight Plan, which was created in 2021 in response to a prior OIG recommendation.[30] We also found that opportunities exist for leadership to demonstrate a commitment to the AHP by enhancing the FDIC's Performance Management Program.[31] The weaknesses we identified in the FDIC's AHP occurred as a result of a lack of attention and action by FDIC leadership in assessing and improving the program, and a failure to sustain prior OIG recommendations. As a result, the FDIC is experiencing an environment of distrust, and many employees do not feel comfortable reporting sexual harassment at the FDIC.

According to the EEOC, the cornerstone of a successful harassment prevention strategy is the consistent and demonstrated commitment of senior leaders to create and maintain a culture that does not tolerate harassment. This is categorized by the EEOC as "Leadership and Accountability." The EEOC has identified 19 leadership and accountability practices that demonstrate this commitment and can assist agencies in strengthening their anti-harassment programs and preventing workplace harassment. Our evaluation focused on 17 of those practices that are most relevant to our objective and the FDIC's operating environment.[32] Table 3 on the next page shows that the FDIC has partially, or has not, implemented most of these 17 practices based on our assessment.

[30] FDIC OIG, *Preventing and Addressing Sexual Harassment* (EVAL-20-006) (July 2020) Recommendation No. 15 – Develop oversight mechanisms to assess the effectiveness of the FDIC's sexual harassment prevention efforts and determine whether the FDIC is addressing sexual harassment allegations in a prompt and effective manner.

[31] The Performance Management Program allows for distribution of bonuses based on employee, manager, and executive performance.

[32] The two promising practices not included in our review are: incorporating enforcement of, and compliance with, the organization's harassment and other discrimination policies and procedures into the organization's operational framework; and partnering with researchers to evaluate the organization's harassment prevention strategies.

Table 3: FDIC Implementation of EEOC Leadership and Accountability Practices

No.	EEOC Leadership and Accountability Practice	Being Accomplished
1.	Clearly, frequently, and unequivocally stating that harassment is prohibited.	Yes
2.	Acknowledging employees, supervisors, and managers, as appropriate, for creating and maintaining a culture in which harassment is not tolerated; and promptly reporting, investigating, and resolving harassment complaints.	Partially
3.	Ensuring that any necessary changes to the harassment policy, complaint system, training, or related policies, practices, and procedures, are implemented and communicated to employees.	No
4.	Ensuring that concerns or complaints regarding the policy, complaint system, and/or training are addressed appropriately.	Partially
5.	Periodically evaluating the effectiveness of the organization's strategies to prevent and address harassment, including reviewing and discussing preventive measures, complaint data, and corrective action with appropriate personnel.	Partially
6.	Directing staff to periodically, and in different ways, test the complaint system to determine if complaints are received and addressed promptly and appropriately.	No
7.	Conducting anonymous employee surveys on a regular basis to assess whether harassment is occurring, or is perceived to be tolerated.[33]	No
8.	Allocating sufficient resources for effective harassment prevention strategies.	No
9.	Providing appropriate authority to individuals responsible for creating, implementing, and managing harassment prevention strategies.	No
10.	Allocating sufficient staff time for harassment prevention efforts.	No
11.	Assessing harassment risk factors and taking steps to minimize or eliminate those risks.	No
12.	Engaging organizational leadership in harassment prevention and correction efforts.	Partially
13.	Having a harassment complaint system that is fully resourced, is accessible to all employees, has multiple avenues for making a complaint, if possible, and is regularly communicated to all employees.	Partially
14.	Imposing discipline that is prompt, consistent, and proportionate to the severity of the harassment and/or related conduct, such as retaliation, when it determines that such conduct has occurred.	Partially
15.	Having a harassment policy that is comprehensive, easy to understand, and regularly communicated to all employees.	Partially
16.	Regularly and effectively training all employees about the harassment policy and complaint system.	Partially
17.	Regularly and effectively training supervisors and managers about how to prevent, recognize, and respond to objectionable conduct that, if left unchecked, may rise to the level of prohibited harassment.	Partially

Source: OIG analysis of EEOC 2017 *Promising Practices for Preventing Harassment*, interviews with FDIC officials, and analysis of FDIC records.

As identified in the table above, we determined that FDIC leadership has accomplished 1 of the 17 Leadership and Accountability practices defined and encouraged by the EEOC. We

[33] The EEOC's 2017 *Promising Practices* characterizes this as an item that senior leaders "could consider." Although it is included as optional by the EEOC, it is included in this report because the FDIC has previously recognized the benefit of such a strategy and adopted this as one of the practices in its Oversight Plan.

recognize that FDIC leadership has partially accomplished nine practices but has not demonstrated sufficient commitment to seven important leadership and accountability practices, including allocating sufficient resources and staff time, providing appropriate authority, making and implementing necessary changes to policy, procedure, and training, testing the program to ensure complaints are received and addressed promptly and appropriately, and conducting anonymous surveys to determine if harassment is occurring and being tolerated. Throughout this report, we discuss how the FDIC could improve the effectiveness of the AHP by implementing these practices.

Further, in our prior evaluation, we found that the FDIC did not have Agency-specific program oversight practices, including performance goals, metrics, or surveys to determine its effectiveness in preventing and addressing sexual harassment allegations. In response, the FDIC developed its AHP Oversight Plan, effective June 2021; however, we found that FDIC leadership has not fully implemented the AHP Oversight Plan. Within the AHP Oversight Plan, the FDIC committed, on an ongoing basis, to five actions to ensure the effectiveness of the AHP and demonstrate accountability.[34] To date, we found the FDIC has only partially met two commitments, and has not conducted activities in response to the other three commitments that it made, as detailed in Table 4.

Table 4: FDIC AHP Oversight Plan Accomplishments

No.	FDIC AHP Oversight Plan Commitments	Accomplished
1.	Review preventive or corrective measures/actions, harassment report data, and complaint data.	Partially
2.	Evaluate any feedback or complaints received regarding the Anti-Harassment Program policy, reporting system, complaint system, or training and take the appropriate steps to address any concerns or deficiencies identified.	Partially
3.	Ensure that any changes to the Anti-Harassment Program policy, reporting system, complaint system, training, or related policies, practices, and procedures are implemented and communicated promptly to employees.	No
4.	Test periodically the reporting and complaint systems to verify that reports of harassment and complaints are being received and addressed in accordance with the established timeframes.	No
5.	Conduct climate surveys or anonymous employee surveys, which may include adding questions to the Federal Employee Viewpoint Survey, when appropriate, to assess the extent to which harassment exists in the workplace and is perceived to be tolerated.	No

Source: FDIC AHP Oversight Plan elements and OIG analysis of accomplishments.

We found that the FDIC has partially accomplished the first and second AHP Oversight Plan commitments in that the FDIC has evaluated the feedback it has received regarding the AHP

[34] The *FDIC AHP Oversight Plan* (effective June 1, 2021).

policy and has made some improvements. However, with respect to item 2 above, the FDIC has not fully implemented changes to the AHP policy based on another complaint received regarding how the FDIC handles allegations in which both LERS and LEAS officials are named. The FDIC has also reviewed available harassment report data and has taken some preventive actions. The FDIC has not implemented the other three aspects of the oversight plan as detailed below.

- We found that while the FDIC has drafted changes to its AHP Directive and communicated some of these proposed changes to employees in December 2023, it has not finalized the changes in the AHP Directive and implemented the policy. As discussed in Finding 4, the Conducting Management Initiated Investigations procedures are high-level and do not provide enough guidance and have not been updated since 2021. As discussed in Finding 5, the FDIC has not developed and implemented a comprehensive and effective anti-harassment policy and it was last updated in 2021. Finally, as discussed in Finding 6, the FDIC needs to implement a comprehensive training program on the prevention of sexual harassment.

- We also found that the FDIC has not taken any steps to periodically test the reporting and complaint systems to verify that reports of harassment and complaints are being received and addressed in accordance with established timeframes. As discussed further in Finding 3, the FDIC's sexual harassment data is unreliable, and the FDIC does not have data quality procedures in place to ensure the data is correct once the information is entered into the tracking tool.

- Finally, we found that the FDIC has not conducted climate surveys or any anonymous employee surveys to assess the extent to which harassment exists in the workplace and is perceived to be tolerated. According to DOA, in response to general questions on the Federal Employee Viewpoint Survey (FEVS) about "what suggestion do you have for improving the FDIC" and general questions on the exit surveys about Diversity, Equity, Inclusion, and Accessibility, the FDIC has received a small amount of feedback relating to sexual harassment.[35] However, it is unclear whether the FDIC took any action in response to this feedback. We do recognize that the FDIC has obtained from the MSPB and the OIG specific workforce surveys related to sexual harassment. However, periodic agency surveys, which the FDIC previously agreed to conduct, could serve as a reminder to employees of the importance leadership places on preventing and addressing sexual harassment. They would also provide the FDIC the opportunity to see trends in the number of employees reporting that they have experienced or observed sexual harassment. Finally, periodic surveys might serve as a deterrent to

[35] The FEVS is administered by the U.S. Office of Personnel Management each year. The survey contains questions aimed at measuring employees' experiences within their respective agency and its leadership.

potential harassers who see the continuous attention the Agency places on sexual harassment prevention.

FDIC leadership has not focused its attention on preventing sexual harassment and has not sustained our prior recommendation in this area.[36] Without fully implementing the AHP Oversight Plan, the FDIC cannot assess the effectiveness of its sexual harassment prevention program and whether the handling of such allegations is prompt and effective. Further, the FDIC's AHP could benefit from implementing the EEOC Leadership and Accountability Practices.

Enhancing the Performance Management Program

The FDIC has taken some positive steps in terms of performance management since our last evaluation, but work remains to ensure both positive and negative behavior is appropriately handled and further program enhancements can be made based on the EEOC's 2023 *Promising Practices*.

In our 2020 evaluation, we found the FDIC had not developed and implemented a strategy for acknowledging employees, supervisors, and managers, as appropriate for creating and maintaining a culture in which harassment is not tolerated and promptly reporting, investigating, and resolving harassment complaints.[37] In response, the FDIC updated its Leadership Performance Management Program (LPMP) to require supervisors to cultivate an inclusive, constructive, harassment-free work environment and to initiate and support timely and appropriate action to address problems (conduct issues, ineffective or poor performance) when they arise. The FDIC also added a statement to its *Disciplinary and Adverse Actions* Directive that supervisors regularly monitor and evaluate employees' performance and conduct, and take corrective action if the performance or conduct falls below acceptable standards. However, as demonstrated through examples in this report, the FDIC did not sustain this recommendation as it did not hold managers and supervisors accountable for maintaining a culture in which harassment is not tolerated and promptly reporting, investigating, and resolving harassment complaints.

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[36] *See* Appendix 2 for a complete list of our prior report recommendations.

[37] There are two performance management programs at the FDIC, one for employees and one for managers. The employee Performance Management Program (PMP) has a two-level rating scale (Successful and Unsatisfactory) with a merit increase for successful performance, and a bonus component that rewards exceptional performance. The manager Leadership Performance Management Program (LPMP) also has a performance evaluation (Successful and Unsatisfactory) and bonus component. The two performance management programs contain differing standards, as described in this section of the report.

> In one recent example, according to alleged victim and witness accounts, an FDIC employee engaged in unwelcome touching of a sexual nature. Two months later, FDIC management raised concerns to LERS, and LERS immediately began its investigation. While disciplinary action was under consideration, the FDIC paid the alleged harasser three bonus shares, including a bonus for "commitment to teamwork and collaboration" and a cash award. The FDIC proposed removal 4 months after LERS initiated its investigation and the individual immediately retired. (Matter D)
>
> In another recent example, an FDIC manager displayed a sexually explicit picture to a co-worker and received a Letter of Reprimand, which was to remain in effect for a period of 2 years. The FDIC then entered into a settlement agreement with the manager, reassigning the manager to a non-supervisory position, agreeing upon a retirement date, and removing the Letter of Reprimand. The same year the settlement agreement was entered into the individual received a cash award and later a bonus for "commitment to teamwork and collaboration." (Matter A)

Further, the PMP performance standards and bonus criteria for employees do not specifically address harassment prevention. To ensure employees are both rewarded appropriately and held accountable, FDIC leadership should take action to incorporate harassment prevention into the PMP.

The EEOC's 2023 *Promising Practices* states that agency leaders should consider undertaking the following actions to increase accountability in their anti-harassment efforts among managers, supervisors, EEO officials, and employees in general:

- Rewarding supervisors and managers for taking actions that prevent harassment.
- Considering the extent to which agency personnel should be ineligible for promotions or performance awards when they violate an agency's anti-harassment policy.
- Considering the extent to which agency personnel should be ineligible to serve in a supervisory or managerial capacity when they violate an agency's anti-harassment policy.
- Incorporating performance measures on harassment prevention and response into the performance evaluations of any agency staff with supervisory or managerial responsibilities.[38]

We believe the FDIC leadership should consider all of these actions to increase accountability in its anti-harassment efforts among managers, supervisors, EEO officials, and employees. Similarly, the LPMP bonus criteria for managers do not specifically address harassment prevention. FDIC compensation policies also do not prohibit the payment of bonuses to any individual found to have committed sexual harassment. Finally, FDIC policies do not prohibit an individual who has violated the anti-harassment policy from serving in a supervisory or managerial capacity. Considering the risk and potential ramifications, it is imperative for the

[38] The MSPB internal *Anti-Harassment Policy and Procedures (2023)* requires that supervisors and management officials who fail to perform their anti-harassment obligations may also be subject to disciplinary action.

FDIC to enhance its performance management program, particularly when allegations of sexual harassment or related misconduct involve management or supervisory positions.

Recent FDIC Demonstrations of Leadership and Accountability

The FDIC has taken initiative to demonstrate more effective leadership and accountability for sexual harassment prevention, in part, in response to the November 2023 WSJ articles. From April 2022 to September 2023 (prior to the publication of various media articles), the Chairman sent three global messages indicating that the FDIC lacked tolerance for harassment; and that the FDIC would correct harassing conduct before it became severe or pervasive. The messages included a link to the AHP Directive. Since November 2023, the Chairman has posted video messages on the FDIC internal website about the FDIC's plans to address harassment, discrimination, and unprofessional conduct; the Chairman and other Agency leaders have conducted listening sessions in the FDIC headquarters and regional offices; and the FDIC has compiled a listing of support resources for victims of sexual harassment.

Further, on November 13, 2023, the Chairman announced the hiring of an independent firm to conduct a review of the FDIC, whose selection was later overturned by the FDIC Board. On November 21, 2023, the FDIC Board announced the establishment of a Special Committee of the Board to oversee an independent third-party review of the Agency's workplace culture and immediately began soliciting law firms to conduct the review. On December 11, 2023, the Special Committee issued a statement that it had selected a law firm to conduct a third-party review of the Agency's workplace culture.[39]

Additionally, the FDIC developed and issued an Action Plan for a Safe, Fair, and Inclusive Work Environment (Action Plan) on December 1, 2023, that calls for removing bonus opportunities for sexual harassers or those being investigated, withholding bonuses for failure to implement a safe workplace, and updating leadership performance standards to better support accountability for sexual harassment detection and prevention. As of April 2024, the FDIC was continuing work on these aspects of the Action Plan.

Further, we identified that the FDIC did not have a performance goal related to sexual harassment prevention in 2022, and its 2023 Diversity, Equity, Inclusion, and Accessibility-related performance goal did not specifically reference sexual harassment prevention. In 2024, however, the FDIC now has as its Number 1 Performance Goal – "Create a work environment that is supportive, inclusive, and promptly addresses discrimination and harassment of any kind, including sexual harassment." Specific targets within this Performance Goal include implementing initiatives from the Action Plan, considering recommendations from the Special

[39] The Special Committee of the FDIC's Board provided oversight of the third-party review conducted by the law firm. As discussed earlier in this report, on May 7, 2024, the Special Committee released the final report of the third-party review of the FDIC's workplace culture. The final report identified several weaknesses in the FDIC's workplace culture and proposed a number of corrective actions to the FDIC in response to the results of the review.

Committee of the Board's independent review, raising FDIC employee awareness of harassment reporting channels, and evaluating the structure and governance of the AHP.

> In one case, management was aware of harassing behavior that occurred over a number of years (since at least 2018) but did not initiate an investigation until employees reported they were contacted by the WSJ in June 2023. (Matter B) Further, based on our review of the case file for this same investigation, it appears that other supervisors may have been exhibiting sexually harassing behavior. (Matter E, F, G) As of April 2024, the FDIC had not opened any follow-on investigations into these matters.

Despite these recent initiatives, FDIC inaction in previous years, such as limited communications from leadership, not sustaining and advancing many recommendations, and not focusing attention on preventing sexual harassment and correcting the harassing behavior when it occurred, has resulted in an environment of distrust.[40]

Further, in two other cases reviewed, we found scenarios in which managers did not timely report allegations of sexual harassment brought forward by employees. In one of these cases, despite evidence of sexual harassment misconduct by an employee, the manager did not report it until 2 months later when the individual (i.e., the alleged harasser) was recommended for a promotion. (Matter D) In another example, a new employee was warned by colleagues about an individual who regularly exhibited sexually harassing behavior about which management was aware. (Matter H) The warned employee later personally experienced the sexually harassing behavior and when reporting it, the employee was told that the alleged harassing employee would be retiring in the near future and so it [the sexually harassing behavior] would soon no longer be a problem. According to the allegation, management chose not to address the reported behavior.

Importantly, concerns have also been raised by FDIC employees that some of the individuals directing and working on aspects of the Action Plan have, or had, sexual harassment misconduct or retaliation allegations raised against them. (Matter I, J, K) This undermines the overall effort to improve the culture, diminishes trust in leadership, and creates the impression that FDIC leadership will continue to tolerate inappropriate behavior despite the intent and content of the Action Plan.

A 2016 EEOC *Select Task Force on the Study of Harassment in the Workplace* (Harassment Study) stated that organizational cultures that tolerate harassment have more of it, and workplaces that are not tolerant of harassment have less of it. According to the Harassment Study, this common-sense conclusion has been demonstrated repeatedly in research studies. If leadership values a workplace free of harassment, then it will ensure that harassing behavior against employees is prohibited as a matter of policy; that swift, effective, and proportionate

[40] This is further depicted in Appendix 3 – a timeline of FDIC Action and Inaction since 2020.

responses are taken when harassment occurs; and that everyone in the workplace feels safe from retaliation when reporting harassing behavior. Conversely, leaders who do not model respectful behavior, who are tolerant of demeaning conduct or remarks by others, or who fail to support anti-harassment policies with necessary resources, may foster a culture conducive to harassment.

Recommendation 1

We recommend the **Chairman** reevaluate and make further updates, as necessary, and fully implement all provisions of the FDIC's Anti-Harassment Oversight Plan.

Recommendation 2

We recommend that the **Chairman:** (a) incorporate a specific harassment-free culture standard into the Performance Management Program and Bonus Criteria for all staff; (b) incorporate harassment prevention into the bonus criteria for managers and executives; (c) develop and implement a process that considers violations of the anti-harassment policy when determining whether an employee should serve in a supervisory or managerial capacity; and (d) develop and implement a process that considers violations of the anti-harassment policy when determining whether an employee is eligible to receive a bonus.

Recommendation 3

We recommend that the **Chairman/COO** develop and implement a mechanism to ensure that corrective actions used to close recommendations related to the sexual harassment prevention program are sustained.

Finding 2

The FDIC Has Not Implemented an Effective Program Structure for the AHP, nor Provided Appropriate Authority or Dedicated Sufficient Resources

The FDIC has not implemented an effective AHP organizational structure with appropriate authorities and sufficient resources to meet the program goals outlined in the AHP Directive (updated March 29, 2021) for handling and addressing allegations of sexual harassment misconduct. The U.S. Government Accountability Office (GAO) *Standards for Internal Control in the Federal Government* (Internal Control Standards) requires management to establish an organizational structure, develop and assign responsibility, and delegate authority to achieve the entity's objectives. According to the EEOC, conferring appropriate authority upon individuals responsible for creating, implementing, and managing harassment prevention strategies and allocating sufficient resources for effective harassment prevention strategies are key aspects of demonstrating committed leadership. These deficiencies in the AHP structure and the lack of authority and resources occurred because FDIC leadership has not prioritized the AHP and fully engaged in the harassment prevention and correction efforts. As a result, the AHPC, integral to implementing key mandates of the AHP Directive, has not been able to execute these responsibilities. Also, LERS Specialists may not be able to conduct timely investigations because the FDIC has not filled vacancies caused by attrition. Finally, without a central oversight body with sufficient authority to oversee the program, the FDIC cannot ensure either that its processes address sexual harassment misconduct allegations in accordance with the AHP Directive or that its program meets its intended goal of having a harassment-free workplace.

The FDIC Did Not Implement an Effective AHP Organizational Structure or Provide Appropriate Authorities

According to the GAO, management develops an organizational structure with an understanding of the overall responsibilities, and assigns these responsibilities to discrete units to enable the organization to operate in an efficient and effective manner, comply with applicable laws and regulations, and reliably report quality information. As part of establishing an organizational structure, management considers how units interact in order to fulfill their overall responsibilities. Management establishes reporting lines within an organizational structure so that units can communicate the quality information necessary for each unit to fulfill its overall responsibilities.[41] Based on the nature of the assigned responsibility, management chooses the type and number of discrete units, such as divisions, offices, and related subunits. The FDIC charged four groups with implementing the FDIC's AHP (OMWI, Legal-LEAS, DOA-LERS, and supervisory personnel). However, these four groups did not act in concert, or share important information, to efficiently and effectively implement the AHP. This lack of coordinated and effective effort was neither identified nor addressed by senior FDIC leaders, thereby creating gaps in accountability for ensuring the AHP would be implemented in a manner to achieve the AHP objectives and the FDIC's commitment to maintaining a workplace free from harassment.

OMWI

Although the AHP Directive assigns a significant oversight role to the AHPC, in practice the AHPC's authority to execute the role is limited. Moreover, we found that the entire program structure outlined by the AHP Directive was deficient. Specifically, the AHP Directive does not give the AHPC authority to direct other FDIC Divisions to comply with the Directive and does not provide a process for the AHPC to raise issues directly with senior management to address harassment prevention and correction efforts. The FDIC-assigned OMWI AHPC responsibilities

[41] GAO-14-704G, *Standards for Internal Control in the Federal Government* (September 2014).

outlined in the AHP Directive generally align with those contained in the MSPB *Anti-Harassment Policy and Procedures*.

These leading practices suggest that the Anti-Harassment Officer[42] should be informed of sexual harassment misconduct allegations, be the primary point of contact for conducting inquiries or designating the fact finder to conduct an investigation into allegations of harassment, receive the fact-finder report with respect to allegations that have been investigated, notify the employee who reported the harassment of the completion of the fact-finding investigation, and be involved in taking corrective action. We found that the AHPC was conducting actions related to the AHP Directive responsibilities by providing training, advice, and technical assistance. However, the AHPC was not conducting key program oversight roles outlined in the AHP Directive and in line with MSPB leading practices, including maintaining a system to track allegations, monitoring program effectiveness, and maintaining records. See Table 5 on the next page for the key responsibilities of the AHPC outlined in the AHP Directive and whether those responsibilities were being accomplished by the AHPC.

[42] This Anti-Harassment Officer role, outlined in the MSPB's policy, is similar to that of the FDIC's Anti-Harassment Program Coordinator.

Table 5: Accomplishment of AHPC Responsibilities

No.	AHPC Responsibilities	Being Accomplished
1.	Serving as a subject matter expert	Yes
2.	Providing mandatory training for all managers and supervisors on how to identify and respond to incidents of harassment	Yes
3.	Advising and providing technical assistance to managers and supervisors in preventing and addressing harassment	Yes
4.	Providing training for all employees about the anti-harassment policy	Partially
5.	Coordinating program implementation with LERS, LEAS, and other Divisions/Offices, as appropriate	Partially
6.	Recommending program changes for enhancement	Partially
7.	Receiving, gathering and providing data required for reporting on allegations of harassment to the EEOC, other oversight agencies, or Congress	Partially
8.	Conducting intake to gather preliminary information about all harassment allegations	Partially
9.	Overseeing the FDIC's AHP	No
10.	Monitoring program effectiveness by maintaining a system to track allegations and actions taken	No
11.	Developing preventive strategies based on any identified trends	No
12.	Maintaining relevant documents collected in the fact-finding inquiry in accordance with records management requirements	No

Source: OIG analysis of Directive 2710.03, interviews with FDIC officials, and analysis of FDIC records.

We recognize that the AHPC was completing or partially completing 8 of the 12 assigned responsibilities. However, we found that the AHPC had not achieved work in the remaining four areas, which included responsibilities fundamental to AHP effectiveness, such as: overseeing the AHP; maintaining a system to track allegations; developing preventive strategies; and maintaining relevant documents. For example, as discussed in this report, there was not a dedicated repository to track allegations. As a result, it is unclear how many allegations the FDIC received and whether they were handled consistently and timely, or at all. Further, without the information relating to the allegations and outcomes, the AHPC could not identify trends and/or develop preventive strategies to execute an effective AHP.

Moreover, we identified additional important AHPC responsibilities cited by the MSPB *Anti-Harassment Policy and Procedures* that are not contained in the current AHP Directive, and are not being completed by the AHPC. Specifically, at the MSPB, the Anti-Harassment Officer:

- Serves as the AHP manager and is the primary point of contact for persons alleging harassment and managers receiving allegations of harassment, and conducts inquiries, or designates officials as appropriate to conduct inquiries.
- Assists managers and supervisors in ensuring that appropriate corrective action is taken.
- Acts as, or designates a fact finder to conduct an investigation into allegations where the need for fact-finding is indicated.

The AHP Directive envisions that the AHPC will oversee the whole program, which includes, by definition, individuals in DOA (LERS) and Legal (LEAS). However, FDIC Leadership did not support the AHPC with an organizational structure and the authority necessary to carry out the responsibilities called for in the AHP Directive and oversee the other divisions and offices involved. Leadership also did not adopt and implement the additional responsibilities outlined as leading practices by the MSPB. Without the appropriate structure and authority in place for an AHP, the FDIC limits its ability to effectuate an AHP that provides its employees with a harassment-free workplace.

LERS and LEAS

MSPB leading practices support a collaboration role for the Anti-Harassment Officer and the agency's Human Resources (HR) function for ensuring an effective anti-harassment policy and procedures; receiving harassment allegations; and providing guidance to employees, supervisors, and management officials related to the policy and procedures. Further, according to MSPB leading practices, the Anti-Harassment Officer, sometimes in coordination with HR and the EEO Director, will determine whether an allegation is suitable for the AHP. If the allegation is deemed suitable, the Anti-Harassment Officer and Legal Division (LEAS) will determine how the inquiry will be carried out and direct further investigation. The Anti-Harassment Officer may conduct the inquiry themselves, engage management officials from outside of the responsible office, or engage an outside investigative service if they deem it necessary. The Legal Division's (LEAS) role according to MSPB should be more of a consultative role providing legal advice regarding anti-harassment matters to supervisors, managers, the Anti-Harassment Officer, and the HR Director, as needed; and consulting with the HR Director if disciplinary personnel actions are indicated as a result of fact-finder conclusions. However at the FDIC, LERS and LEAS[43] oversee significant aspects of the AHP.

[43] LERS and LEAS are also responsible for supporting management as part of the groups' primary mission. LERS gives advice to managers on employee matters and LEAS represents the FDIC against the employee in EEO matters.

According to the AHP Directive, LERS and LEAS, without AHPC involvement, collaborate to:

- Determine whether an allegation of sexual harassment misconduct falls within the AHP.
- Determine whether to conduct an investigation.
- Conduct investigations of allegations of harassment.
- Provide advice to management on appropriate preventive or corrective action to take in connection with allegations of harassment.

Additionally, the LEAS/LERS MOU, which was established outside of the AHP Directive, gave LEAS further authority and responsibility for supervising investigations into employee misconduct. Conversely, the AHP Directive states that LERS and LEAS will collaborate to serve as fact finders, and does not state that LEAS is authorized to supervise investigations. Several LERS Specialists have said that either the questions they were going to pose during an investigation of alleged sexual harassment misconduct were significantly altered by LEAS attorneys or they have had their investigation interviews taken over by LEAS attorneys. The oversight duties assigned to LERS and LEAS, independent of the AHPC, contradicts the role of the AHPC to oversee the AHP and coordinate program implementation, and creates confusion over who is ultimately responsible for the program – OMWI, LERS, or LEAS. The MOU is silent on any coordination or collaboration with the AHPC.

Furthermore, when LEAS and/or LERS do not provide information as required by the AHP Directive to the AHPC about allegations or investigations, the AHPC lacks any authority under the AHP Directive to take action or ensure compliance by other FDIC Divisions and employees. There also is no structure, mechanism, or senior supervisor who has taken the responsibility to ensure actions are taken to ensure the sharing of this information with the AHPC. In practice, the AHPC has a very limited role that does not have authority over the AHP. As a result, we found that there were many omitted oversight steps that involved:

- LERS and LEAS not consistently informing the AHPC of sexual harassment allegations;
- LERS and LEAS rarely informing the AHPC of the start of an investigation;
- LERS and LEAS not consistently providing information to the AHPC of the completion of an investigation, a summary of the findings, and what, if any, corrective action was taken; and
- The AHPC not having access to the LERS anti-harassment tracking system or relevant documents collected by LERS and LEAS in the fact-finding inquiry/investigation.

Without having sufficient information related to reports of sexual harassment; decisions to investigate allegations; visibility into the investigation, including its outcome; and recommendations for discipline; the AHPC cannot fulfill the intended role to oversee the program that the Directive intended.

Supervisors

According to the AHP Directive section on responsibilities for supervisors, supervisors are to immediately report allegations of harassment to the AHPC. No other responsibilities for coordinating with the AHPC are listed. However, separately noted in the AHP Directive, supervisors are to coordinate with LEAS and LERS on:

- Identifying immediate corrective actions to take,
- Determining whether additional investigation of the allegation is appropriate,
- Determining whether harassment occurred after reviewing the investigative findings, and
- Determining what, if any, action to take as a result of the findings.

The MSPB recommends that supervisors coordinate these actions with the AHPC, not the HR function.

Importantly, while not clearly depicted in the AHP Directive, we observed that supervisors make key decisions on how allegations of sexual harassment misconduct are handled and addressed. Ultimately, the supervisors:

- Help determine whether sexual harassment misconduct allegations should be further reviewed by participating in the initial intake and processing of the allegation;
- Make the final determination of whether harassment occurred. Supervisors are provided a fact-finding report of the alleged harassment, but the report does not include conclusions on whether harassment occurred; and
- Make the decision on corrective actions.

The current AHP organizational structure does not require a neutral party such as the AHPC to assist supervisors in these key actions.

The MSPB also requires that supervisors and management officials who fail to perform their obligations may also be subject to disciplinary actions, up to and including removal. In contrast, the FDIC AHP Directive does not emphasize that supervisors could be subject to discipline for failing to perform their required AHP duties. Additionally, a LERS Specialist[44] stated having seen examples of supervisors failing to make decisions on corrective actions and having to sequentially consider multiple supervisors in order to identify an individual willing to serve as the proposing official. (Matter D)[45] A LERS Specialist also noted supervisors having bias in their decision-making because of a friendship with the alleged harasser, or where the alleged harasser employee was a strong performer so they were given more latitude and a lesser disciplinary corrective action.

In one example, multiple managers were aware of harassing behavior and did not report it until 2 months after the incident occurred. When asked if these managers would be held accountable for not reporting, according to the LERS Specialist, LERS had talked about warning letters but did not believe that anyone would ever be willing to take these actions because of the culture and mindset that "we protect management." (Matter D)

Our survey results emphasized the reliance on LERS and LEAS and the reduced role of the AHPC. Based on survey responses from individuals who are serving or have served in a supervisory role (20 percent of respondents), we found that a small percentage (18 percent) of supervisors worked with the AHPC regarding sexual harassment misconduct allegations. In contrast, survey data reveals that there were more respondents reporting that they worked with either LERS (62 percent) or LEAS (44 percent). Without having greater visibility and a functional role in program activities, the AHPC cannot execute the Directive's mandate to oversee the AHP. Further, without a central oversight body with the appropriate authority overseeing the program, the FDIC cannot ensure that activities for handling and addressing sexual harassment misconduct allegations are conducted as outlined in the Directive and that the program meets its intended goal of having a harassment-free workplace.

Finally, we noted that the FDIC included in its top 2024 Performance Goal to:

- Evaluate the structure and governance of the Anti-Harassment Program to determine if changes are needed to help employees and contractors feel safe raising concerns and feel there will be a fair and independent review of their concerns (Performance Goal 1.01.d).

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[44] LERS Specialists provide management advisory services on a broad range of employee and/or labor relations issues.

[45] According to the Disciplinary and Adverse Actions Directive, for discipline involving suspensions, reductions in grade and pay, and removal the employee is entitled to an advance written notice of the charge(s) and reason(s) for the proposed action. The employee has the opportunity to reply to the proposal. The FDIC has delegated authority to certain supervisors to be the proposing officials and other supervisors to make the final decision on the discipline.

We agree that this is a critically important undertaking and encourage the FDIC to also review the responsibilities assigned as described above as part of its review of the AHP organizational structure.

The FDIC Did Not Provide Sufficient Resources and Staff Time for the AHPC Role and LERS Specialists

The EEOC's 2017 *Promising Practices* provides that a senior leader’s commitment to an anti-harassment program can be demonstrated by allocating sufficient resources and sufficient staff time for harassment prevention efforts. That said, we determined that the AHPC was not performing all of the AHPC responsibilities because the role was not staffed appropriately with sufficient resources and staff time. Per the FDIC AHP Directive, the AHPC has numerous responsibilities to fulfill. The FDIC delegated the responsibility for the AHP to OMWI, OMWI thereafter assigned the AHPC role as a collateral duty to the Chief of the Affirmative Employment, Diversity, and Inclusion Branch (AEDI Branch). The Chief of the AEDI Branch is a full-time position responsible for the supervision of 15 employees who are charged with: implementing diversity, equity, inclusion, and accessibility initiatives; managing the FDIC’s Affirmative Employment Program; managing the Special Emphasis Programs, including the FDIC Disability Program; overseeing the Chairman’s Diversity Advisory Councils; and liaising with Employee Resource Groups. Given the breadth of responsibilities of the AEDI branch, it leaves little capacity for the Chief of that branch to accomplish the AHPC responsibilities considering the AHPC role well-exceeds that of a normal collateral duty.[46] Further, other than the AHPC, the FDIC did not assign any additional staffing resources to OMWI to help carry out these functions.

In addition, LERS has experienced employee turnover in the LERS Specialist positions and has not filled those vacancies. According to the LERS Specialists we interviewed, in addition to the increased workload that these LERS vacancies have created, the number of sexual harassment misconduct allegations has significantly increased since the series of articles were published beginning in November 2023. In addition, LERS Specialists stated that LERS management did not support their work and that they feared retaliation by their senior manager. Without dedicating sufficient, and supported, LERS resources or staff time to the AHP, FDIC senior leaders failed to demonstrate a commitment to the AHP and carrying out the responsibilities outlined in the AHP Directive.

The EEOC’s 2017 *Promising Practices* provides that senior leaders can demonstrate commitment to a harassment program by ensuring those who are tasked with creating, implementing, and managing harassment prevention strategies are provided appropriate

[46] A collateral duty is generally a task or tasks performed by an employee outside of their main responsibilities.

authority to do so, but the FDIC did not provide the AHPC with such authority or otherwise create a structure that allowed for the appropriate actions to be taken.

Recommendation 4

We recommend the **Chairman** reevaluate and implement an organizational structure to ensure the FDIC's Anti-Harassment Program Coordinator can meet the requirements of the program as outlined in the AHP Directive and that the structure eliminates any conflicts given Labor and Employee Relations Section and Labor Employment and Administration Section current roles and responsibilities.

Recommendation 5

We recommend the **Chairman** provide the appropriate authority for effective implementation of the FDIC's Anti-Harassment Program, including the authorities for the role of the Anti-Harassment Program Coordinator and for holding supervisors accountable for failing to fulfill their supervisory responsibilities under the AHP Directive.

Recommendation 6

We recommend the **Chairman** dedicate the necessary resources and staff time for effective implementation of the FDIC's Anti-Harassment Program.

Finding 3

The FDIC Has Not Developed an Effective Complaint Tracking System

We found that the FDIC does not have an effective complaint tracking system to ensure allegations of sexual harassment misconduct are tracked, addressed, and documented consistently. In addition, we found that complaint data in the complaint tracking system was incomplete and inaccurate. The EEOC emphasizes that an AHP should ensure that reports of harassment are well documented through a complaint tracking system from initial intake to investigation to resolution. GAO Internal Control Standards emphasizes the need for management to maintain quality information that is appropriate, current, complete, accurate, accessible, and provided on a timely basis. The lack of an effective complaint tracking system occurred because the FDIC did not sustain the 2020 OIG-recommended corrective actions for developing and implementing a tracking system. Ineffective tracking of sexual harassment misconduct allegations and disciplinary actions limits the FDIC's ability to ensure it has properly handled allegations in a prompt manner and to assess program effectiveness. Without retaining complete and accurate data, the FDIC is limited in its ability to conduct trend analysis and identify patterns of harassment by individuals or within offices over time, and the FDIC is unable to provide the Chairman and the Board with the information necessary to provide effective oversight.

The FDIC Does Not Have an Effective Complaint Tracking System

GAO Internal Control Standards identifies the need for quality information that management uses to make informed decisions about the entity's performance and to address risks.[47] The FDIC could not provide a comprehensive listing of all sexual harassment misconduct allegations for the period April 20, 2019 – January 19, 2024. We attempted to reconcile sexual harassment misconduct allegations tracked by LERS, LEAS, and OMWI and identified that the listings were inconsistent, with allegations omitted from each listing. Accordingly, we were unable to gain assurance that we obtained a complete universe of sexual harassment misconduct allegations at the FDIC during that period. Based on a lack of assurance over the sexual harassment misconduct allegation population, our scope and results are limited to the allegations reported to or identified by us during the course of this evaluation.[48]

The FDIC did not have a master tracking tool for allegations of sexual harassment misconduct. We found that each FDIC Division involved in handling misconduct cases used different tools to track allegations from initial intake through resolution and provided differing numbers of sexual harassment misconduct allegations. We also identified at least one other sexual harassment-related allegation generated through an EEO complaint that was sent to LERS and investigated but not included in the list LERS provided to the OIG. (Matter L) In addition, we identified one allegation that was not tracked by LERS or LEAS even though LERS and LEAS officials were aware of the sexual harassment allegation. (Matter I)

GAO Internal Control Standards states that "quality information is appropriate, current, complete, accurate, accessible, and provided on a timely basis." The EEOC's 2023 *Promising Practices* states that an effective AHP should ensure that an agency's responses to harassment allegations are regularly evaluated and documented through an electronic tracking system, and should engage in trend analysis of harassment complaints data and conduct. Further, FDIC Directive 1210.01, *Records and Information Management Program*,[49] states that the FDIC ensures proper documentation of its operations to promote, amongst others, providing FDIC

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[47] GAO Publication, *Standards for Internal Control in the Federal Government*, Section 13.05 (GAO-14-704G) (September 2014).

[48] We identified additional allegations of sexual harassment misconduct during our review of the documentation included in the sample of case files that we referred to the OIG assignment team conducting the Special Inquiry.

[49] FDIC Directive 1210.01, *Records and Information Management Program*, August 8, 2023. This Directive supersedes FDIC Directive 1210.01, *Records and Information Management Program*, December 14, 2020. The prior Directive contained the same requirement to ensure proper documentation of FDIC operations.

employees with timely and reliable access to needed records and information, to inform decision making by FDIC officials and their successors through the use of historical data.[50]

Multiple and Continuous Updates to Complaint Tracking Tools

Since our last evaluation in 2020, the FDIC has used three different official harassment complaint tracking tools and informal Excel Spreadsheets, each of which utilized different data fields. In response to our 2020 evaluation, the FDIC contracted with a third party for a harassment complaint management tracking system that included all of the data fields recommended in our report. However, the FDIC did not exercise the option period to renew the contract for this system and formally terminated the contract in July 2023. According to FDIC officials, the FDIC terminated this contract due to the system being time-consuming, cumbersome to use, and due to difficulties with the vendor to get adequate software support. As a result, the FDIC began creating its own tracking tools using SharePoint. However, we found that the most recent tracking tool (Labor Employee Relations Case Tracking (LERCT))[51] does not include pertinent data fields specifically recommended in our prior report and agreed to by the FDIC, as detailed in Table 6.

[50] According to the FDIC's Records Retention Schedule for 2024, DOA still had the previous third-party system listed as the system used by LERS to provide case management tracking and reporting capabilities in support of labor management relations and employment-related matters, to include disciplinary actions, performance evaluations, agreements/negotiations, and anti-harassment complaints. DOA implemented LERCT in October 2022.

[51] According to FDIC officials, the FDIC internally developed and began using the LERCT tracking tool in 2022 to track misconduct allegations and disciplinary actions.

Table 6: Prior OIG Recommended Tracking Fields for Sexual Harassment Misconduct Allegations

Recommended Tracking Fields from 2020 OIG Report	Tracked in LERCT
Original Allegation Date	No
Misconduct Classification	Yes
Date Investigation Concluded	Yes
Name of Investigator	Yes
Name of Complainants	Yes
Alleged Harasser	Yes
Names of Witnesses	No
Substantiated or Unsubstantiated	No
Date of Written Notification to Complainant and Alleged Harasser Regarding Completion of Investigation	No

Source: OIG Analysis of LERCT Tracking Fields.

We noted that some of the data fields that are not included in the tracking tool are manually keyed into the status summaries, but this is entirely at the discretion of the LERS Specialists and not done consistently. In addition, FDIC officials told us that some of this data may be listed in the Report of Investigation (ROI); however, an ROI is not completed for each misconduct case because there is no clear requirement to prepare an ROI, as detailed in Finding 4. Also, DOA does not assign a unique identifier that tracks each allegation from investigation through disciplinary action although this was also identified previously in our 2020 evaluation.[52] A unique identifier would allow the FDIC to accurately track the allegation from origination to resolution. As a result of the missing fields, for the allegations we reviewed, we were not able to identify all of the pertinent information.

According to FDIC officials, the latest tracking tool is a temporary solution. Specifically, the FDIC is looking for solutions for a centralized tracking system for sexual harassment complaints. The FDIC indicated that it is looking for both shorter term and longer term solutions and is cognizant of privacy concerns regarding the sensitivity of the information and the need for access restrictions. Further, officials stated that they need to categorize data better to identify sexual harassment allegations and limit who and what information can be accessed.

[52] LERCT automatically assigns a number to each entry, but the number does not carry forward to the discipline entry in LERCT. Further, LERS has used different versions within the LERCT tool to track allegations, and each version restarts the numbering.

Acknowledging the need for better tracking, the FDIC created an action item in the December 2023, *Action Plan for a Safe, Fair, and Inclusive Work Environment*. Specifically, the project summary states: "enhance the centralized tracking system for monitoring sexual harassment claims to provide the Agency with better data on the scope and nature of sexual harassment claims and improve decision making around how to best prevent and address sexual harassment." As a result of the Action Plan, the FDIC stated that the Human Resources Branch approached the Division of Finance and the Chief Information Officer Organization (CIOO) to request initiation of market research and planning for the development of a cloud-based case management system to support tracking and reporting of employee relations cases, to include those involving sexual harassment claims.[53] The FDIC expects to implement a solution in 2025.

The FDIC does not have an adequate and comprehensive complaint tracking system because the FDIC did not sustain the corrective actions used to close the OIG's prior recommendations related to implementing a tracking system to ensure that relevant information is centralized, complete, accurate, and timely updated.[54]

The FDIC's Data is Incomplete, Inaccurate, and Not Properly Retained

We conducted testing of 15 sexual harassment misconduct allegations made during the period October 1, 2021 – December 31, 2023 and found that there was incomplete and inaccurate information in the tracking tool. At the time of our review, 8 of the 15 investigations were completed, and the remaining 7 were ongoing.[55] GAO Internal Control Standards states that reliable internal sources provide data that are reasonably free from error and bias and faithfully represent what they purport to represent. The EEOC's 2017 *Promising Practices* states than an effective AHP should ensure that reports of harassment are well documented through a complaint tracking system from initial intake to investigation to resolution.

We found minimal documentation to support the steps taken throughout the fact finding investigations in LERCT for a majority of the cases we reviewed. Further, we found inaccurate information, including inconsistent dates when compared against source documentation, incorrect allegation types, and one instance of multiple records with different information for the same allegation. Specifically for the incorrect allegation types, we found instances where the FDIC did not correctly categorize allegations as sexual harassment in LERCT but instead

[53] We obtained the plan for the new system submitted on February 29, 2024, to the Leadership Accountability Steering Committee. The document outlined the rationale for the system, which stated in broad terms, "the FDIC needs a centralized system to track harassment complaints corporate-wide, identify hotspots, trends or specific concerns, support corporate efforts to respond appropriately to complaints and track progress; and provide transparency to employees about complaints and how they are being addressed."

[54] *Supra* note 36.

[55] *See* Appendix 1, Objective, Scope and Methodology, for more details on our methodology for the sample testing of sexual harassment misconduct allegations.

classified the allegations with various other identifiers such as poor performance, hostile work environment, or investigation.

> FDIC officials informed us that they do not maintain complete records in LERCT or the case files of all communications related to investigations and discipline, including conversations between LERS, LEAS, and Management Officials regarding final determination. Further, FDIC officials told us that they do not have a process for capturing these conversations and only retain finalized documents.

Moreover, we found multiple instances where LERCT and the Excel tracking tool used by LERS contained different data regarding the date LERS received sexual harassment misconduct allegations. We also found that in numerous cases, pertinent data fields were empty, such as the LEAS attorney assigned to the case, the date LEAS received the case, or applicability of the AHP Directive to the sexual harassment allegation. We also found that we were not always able to obtain comprehensive details related to disciplinary actions, if taken, based on our review of the information retained in the tracking tool (LERCT). During our review, we found limited records of the coordination between LEAS and LERS. FDIC officials also informed us that they do not conduct any monitoring or quality checks of the data entered into LERCT.

In addition, the LERCT system has incomplete historical information about sexual harassment misconduct allegations that were imported from one of the previous tracking systems.[56] LERS officials told us that some data were missing because LERCT did not track all of the same fields as the previous system. We determined that the earliest record of a harassment allegation in the "Historical Cases" from the previous system is from February 2020. According to the FDIC's records retention schedule, LERS administrative files should be maintained for 7 years.

FDIC officials told us that any detailed records prior to 2020 should be on the LERS Specialists' hard drives, if they are still employed at the FDIC. According to the FDIC officials, some records might also still be available in hard copy; however, the FDIC had trouble locating those records. FDIC Directive 1210.01, *Records and Information Management Program*, states that records should be stored and centrally managed in official recordkeeping systems, which allows for search, retrieval, access, and destruction. According to Directive 1210.01, FDIC records may not be stored on local drives or removable media. Due to the incomplete and improper storage of records, we also question the accuracy and completeness of records for any misconduct allegations dated prior to February 2020.

The incomplete and inaccurate data from intake, investigation, and through resolution occurred because the FDIC relies on the experience of employees to guide their actions for handling,

[56] According to FDIC officials, the FDIC used the previous system to track allegations made under the Anti-Harassment Program beginning in March 2021 until 2022.

addressing, and documenting sexual harassment allegations, rather than having established procedures, as discussed later in this report. The FDIC also did not sustain the corrective actions used to close the OIG's prior recommendations related to developing and implementing a tracking system to ensure that relevant information is centralized, complete, accurate, and updated timely.[57]

Without centralized, complete, and accurate data on sexual harassment allegations, the FDIC cannot ensure it is addressing allegations in a prompt and effective manner, which could lower FDIC employees' and the public's confidence in the sexual harassment prevention program to effectuate comprehensive compliance at the Agency. Without complete and accurate data, the FDIC is limited in its ability to conduct trend analysis and identify patterns of harassment by individuals or within offices over time to help identify and respond to systemic concerns. The FDIC is also limited in identifying process improvements and developing any necessary targeted training based on trends. Finally, without accurate data, the FDIC is unable to provide the Chairman and the Board with the information necessary to provide effective oversight and ensure that resource investments are achieving the intended goals.

Recommendation 7

We recommend the **Director, Division of Administration,** develop and implement quality control procedures to ensure the FDIC maintains an accurate and complete population of sexual harassment misconduct allegations and related records.

Recommendation 8

We recommend the **Director, Division of Administration,** conduct a review of prior allegations to ensure that it has an accurate and complete population of sexual harassment allegations and that it has maintained all allegation records in accordance with the FDIC record retention schedule, which requires that all records be maintained for 7 years.

Recommendation 9

We recommend the **Director, Division of Administration,** implement an effective system for tracking, securing, documenting, and reporting sexual harassment misconduct allegations. Include the following: original allegation date, names of witnesses, whether allegations are substantiated or unsubstantiated, date of written notification to complainant and alleged harasser regarding completion of the investigation, written reports, misconduct type, and a unique identification code that follows the allegation through disciplinary action.

[57] *Supra* note 36.

Finding 4

The FDIC Has Not Developed Effective Complaint Procedures for the Anti-Harassment Program

We found that the FDIC does not have effective complaint procedures to ensure allegations of sexual harassment misconduct are tracked, addressed, and documented consistently. The EEOC emphasizes that an AHP must be accompanied by reporting and complaint procedures to ensure the agency properly responds to harassment allegations. The lack of effective complaint procedures occurred because the FDIC relies on the experience of employees, rather than established standard operating procedures (SOP). Further, the FDIC did not sustain the OIG-recommended corrective actions related to developing and implementing SOPs for investigating sexual harassment misconduct allegations. Without clear procedures for handling and documenting sexual harassment misconduct allegations, the FDIC cannot ensure that all allegations of sexual harassment are handled consistently and addressed and documented appropriately.

The FDIC Has Not Established and Implemented Effective Complaint Procedures

The FDIC has not established and implemented effective complaint procedures to guide all key activities related to processing sexual harassment misconduct allegations, including those for the AHPC, the investigations process, and disciplinary actions. In response to our prior report, in December 2020, the FDIC finalized and implemented the *Conducting Management-Initiated Investigations* SOP (Investigations SOP), and in January 2021, finalized and implemented an SOP for Disciplinary and Adverse Actions. However, there was no SOP for the AHPC. Further, we found that the SOP for investigating allegations of sexual harassment misconduct is ineffective and is not followed, and the SOP for disciplinary and adverse actions needs improvement.

GAO Standards for Internal Control states that policies, procedures, techniques, and mechanisms enforce management's directives to achieve an entity's objectives and address related risks. The EEOC's 2023 *Promising Practices* states that to be effective, agency anti-harassment policies must be accompanied by reporting and complaint procedures to ensure the agency properly responds to harassment allegations. However, the FDIC has not developed pertinent procedures to guide its process for receiving and documenting allegations of sexual harassment.

AHPC Procedures

In response to our prior evaluation, the FDIC updated the AHP Directive with roles and responsibilities for the AHPC. Such responsibilities include receiving allegations of sexual harassment, conducting intake, tracking allegations, and maintaining documentation. The FDIC, however has not developed and implemented any related SOPs to assist the AHPC in meeting these responsibilities and many of the responsibilities were not consistently completed. For example, we found that some sexual harassment misconduct allegation records did not include evidence that the AHPC conducted intake with employees. In other records, including LERCT and the investigative case files, we could not find evidence that the AHPC was even informed of the sexual harassment allegation. The AHPC also did not have access to the LERCT tracking tool to assist with tracking allegations.

Further, the AHP Directive indicates that the AHPC should maintain relevant documents collected in the fact-finding inquiry in accordance with Directive 1210.01, *Records and Information Management Program*. We found that not only did the AHPC retain minimal fact-finding inquiry documents, but there was also no central location where the files were being maintained.

Investigations Procedures

The Investigations SOP delineates roles and responsibilities for FDIC offices conducting investigations into allegations of misconduct, including sexual harassment and sets forth procedures to be followed during an investigation.[58] The Investigations SOP provides guidance on investigation methods for different types of investigations - simple/expedited investigation, intermediate, and complex - and resources for each, including guidance for preparing and conducting interviews and on the content of an ROI. However, we found that the Investigations SOP is not effective and lacks clear procedures to guide investigations. For example, we found that the SOP is unclear or silent in the following areas:

- <u>Intake Process</u>: Intake process for all sexual harassment misconduct allegations. The SOP does not provide any guidance on the roles and responsibilities related to how intakes should be handled, documented, and retained by LEAS, LERS, the AHPC, or any other official involved in the intake process. As a result, we found that the intake

[58] The FDIC defines investigation in its Investigations SOP as a review of any matter that management, LEAS, and LERS reasonably believe may result in disciplinary or adverse action being taken against an employee. Inquiries regarding matters that do not fall under this definition (e.g., routine, informal inquiries involving managers and employees) are not required to follow the formal procedures stated in the SOP. However, if information is discovered during the course of such an informal inquiry that leads management to reasonably believe that disciplinary or adverse action may be taken, management should consult with LEAS and LERS to determine if a more formal investigation is warranted.

process was handled inconsistently throughout our sample of sexual harassment misconduct allegations.

- Notification of Rights: Procedures for informing alleged victims of the EEO complaint process and that retaliation of any form is not tolerated. The SOP does not provide any guidance on how the FDIC informs complainants of the EEO process involving allegations of unlawful sexual harassment or state the FDIC's prohibition against retaliation. An FDIC senior official told us that some FDIC employees have complained that they were unaware of the EEO process when filing a sexual harassment complaint directly with LERS. Further, as addressed earlier in this report, our evaluation survey reflects that the proportion of employees who experienced or observed sexual harassment, yet did not report it for fear of retaliation, rose as compared to the prior OIG evaluation survey results.

- Addressing Misconduct Allegations: Handling and documenting any misconduct allegations that are outside the scope of an investigation that management, LEAS, and LERS reasonably believe may result in disciplinary or adverse action being taken against an employee. The SOP is limited to the procedures for allegations that the FDIC determines warrant an investigation, and provides no guidance on the procedures or documentation requirements for allegations that are not investigated. We identified a sexual harassment misconduct allegation that was not investigated under the AHP, nor had the FDIC documented its decision to forgo a harassment investigation until approximately 2 months after the decision was made.[59] (Matter I) Further in another case mentioned in this report, we found that there was no action taken to investigate additional sexual harassment misconduct allegations that arose during the investigation, and there was no documentation to support the determination not to investigate the newly revealed allegations. (Matter E, F, G)

- Conflicts: As discussed later in this report, according to LERS Specialists, while they do their best to recuse themselves from investigations where they cannot be impartial, the recusal is self-initiated and is not outlined in procedures. In addition, we found that in one sexual harassment misconduct allegation, a very high-level FDIC official was accused of sexual harassment misconduct and LEAS consulted with LERS (subordinate employees) to make the decision not to conduct a sexual harassment misconduct investigation under the AHP.[60] The employee's supervisor was neither informed of the allegation nor notified of the decision not to conduct an investigation. (Matter I)

[59] LEAS made the determination that a separate investigation was not necessary as it was determined that the matter could be adequately addressed through the EEO process.

[60] As previously noted, LEAS made the determination that a separate investigation was not necessary as the matter could be adequately addressed through the EEO process.

Examples such as these could create the perception that conflicts interfere in the effective administration of the AHP.

- Case File Documentation: We found that extensive files were kept on individual hard drives of LERS Specialists or in one region on a shared drive,[61] rather than a centralized location. The different locations and varying levels of documentation sometimes made it difficult to conduct a complete overview of each case in a timely manner. If a LERS Specialist with pertinent case file information stored on their hard drive vacated the position, there may not be a complete record of the misconduct case. Further, having this information stored on hard drives also raises privacy concerns given the sensitivity of the data related to sexual harassment allegations.

- ROI Preparation: We found that there were not clear requirements on when to develop an ROI. Our review of LERCT and case files found that three out of the eight completed investigations in our sample did not contain an ROI. FDIC officials explained that completion of an ROI is left to the discretion of the LERS Specialists.

We also found that FDIC officials did not consistently follow the Investigations SOP when investigating sexual harassment misconduct allegations, including rarely using the optional templates for an investigation plan and request for management-initiated investigations. In addition, we found that the Investigations SOP conflicted with the AHP Directive. According to LERS Specialists, the procedures are high-level and do not provide enough guidance. Other LERS Specialists indicated that they do not follow the procedures because they do not align with the work they do and they had no input in writing the SOP. According to these LERS Specialists, the procedures were predominately developed by LEAS.

For example, we identified that the SOP requirement to promptly initiate an investigation was not always followed and conflicted with the AHP Directive. The Investigations SOP states that investigations should begin promptly, typically within *5 business* days of receipt of the request for investigation, and investigations of complaints of harassment should begin as soon as practicable after the complaining employee reports the allegations to management. However, the AHP Directive states that investigations are initiated no later than *10 calendar days* of receiving the report of harassment. We asked FDIC officials about the discrepancy and they told us that they follow the SOP's 5-day requirement when initiating investigations and plan to update both the Directive and the SOP. Nevertheless, we found that for at least 4 of the 15 sexual harassment allegations we reviewed, the FDIC did not timely initiate the investigation.

[61] This shared drive was only accessible to the LERS Specialists in one FDIC region.

For these four allegations, it took between 10 and 63 days after receiving the allegation for the FDIC to initiate an investigation.[62]

In another example, the SOP conflicted with the Directive related to notifications after completion of the investigation. Specifically, the FDIC AHP Directive requires that "within five business days of the conclusion of an investigation, the Fact Finder notifies the person reporting the harassment and the alleged harasser that the investigation has been completed." According to the AHP Directive, such notifications are to be retained in the official investigative file. The Investigations SOP, however, states that the investigator "may" notify parties of the investigation if required or otherwise appropriate. FDIC officials told us that they do not strictly follow or track the requirement and timeframe in the AHP Directive. In our review of LERCT and a sample of case files, we found that these notifications were not always provided to the noted parties to the investigation or retained in the file if they were completed. Throughout our engagement, we heard from FDIC officials with oversight of the sexual harassment prevention program and learned through the series of published news articles that some FDIC employees are frustrated with the process and the lack of communication and transparency throughout the investigation process. Specifically, individuals reported that when they submit an allegation, they often are not informed if there will be an investigation, and if they are informed of an investigation, communication throughout the process is minimal. The MSPB states that the complainant should be notified during the investigation (i.e., acknowledge receipt, whether deemed suitable for the AHP, and completion and outcome to the extent permitted under the Privacy Act/or other applicable law).

According to LERS officials, they worked in 2022 to revise their SOP to better align with the work they do in practice. However, we found that the FDIC had not finalized and implemented these updated investigation procedures at the time of our evaluation. Based on the evidence provided throughout this section of the report, including unclear procedures for: intake, notification of rights, addressing misconduct allegations, dealing with conflicts, case file documentation, ROI preparation; conflicts between the SOP and the AHP Directive; LERS officials not following the SOP; and the FDIC not taking initiative to implement updated, clearer procedures and guidance, we determined the FDIC has not sustained our prior recommendation in this area.[63]

Finally, in addition to the lack of effective procedures to guide sexual harassment misconduct investigations, we found that there is no required or formalized training for investigating sexual harassment misconduct allegations, or specialized investigative training. GAO Internal Control Standards states that management should demonstrate a commitment to recruit, develop, and

[62] For some of the sexual harassment misconduct allegations in our sample, we were unable to determine how long the FDIC took to initiate the investigation because the records in the tracking tools and supporting documentation did not reconcile.

[63] *Supra* note 36.

retain competent individuals, and should enable individuals to develop competencies appropriate for key roles, reinforce standards of conduct, and tailor training based on the needs of the role. In addition, under an Effective and Accessible Harassment Complaint System, the EEOC's 2017 *Promising Practices* recommend that organizations ensure that employees responsible for receiving, investigating, and resolving complaints are well-trained. Some LERS Specialists responsible for handling sexual harassment misconduct cases told us that they have received some investigative training, including on-the-job training. However, those Specialists noted that additional training would be beneficial. More specialized training for LERS Specialists on the updated investigation procedures and current investigative processes is warranted.

Disciplinary and Adverse Actions

The FDIC has a *Disciplinary and Adverse Action* Directive and a *Disciplinary and Adverse Action* SOP with guidelines for administering discipline and adverse actions, but there is no clear structure or process in place to ensure consistency in discipline. The EEOC's 2023 *Promising Practices* states that agency leaders should consider undertaking the following actions, among other things, to increase accountability in their anti-harassment efforts among managers, supervisors, EEO officials, and employees in general:

- Implement agency-wide, consistent penalties or recommended penalty ranges to be used in disciplinary actions for harassing conduct, in accordance with applicable laws and regulations. Ensure that anti-harassment policies and training include the range of penalties that may be imposed on any employee who engages in harassing conduct or harassment.

In response to our prior evaluation, in 2021, the FDIC updated its Directive, *Disciplinary and Adverse Actions*, which established the authority and responsibility for taking appropriate corrective action for disciplinary and adverse actions. The FDIC also developed an SOP for *Disciplinary and Adverse Actions* to establish procedures for taking disciplinary and adverse actions. The SOP defines responsibilities for LERS, LEAS, and management; includes disciplinary options as well as the factors to consider for each; and the procedures for issuing each type of discipline. Even so, the disciplinary policy and procedures need improvement to guide the FDIC's consistent handling of sexual harassment misconduct disciplinary actions. For example, the *Disciplinary and Adverse Action* Directive does not provide clear guidance or associate the discipline with conduct or examples of conduct. The *Disciplinary and Adverse Action* Directive also does not provide a clear policy on maintaining documentation to support the disciplinary decisions. The FDIC's SOP for *Disciplinary and Adverse Actions* does not establish procedures for tracking and documenting disciplinary actions, including the type of information to maintain as well as where to maintain it. The SOP also does not provide any guidance for the FDIC on the types of discipline appropriate for the varying degrees of sexual harassment misconduct (i.e., a table of penalties).

The FDIC reported that it uses LERCT as the tracking tool for discipline. Based on our review of the tracking tool (LERCT) for our sample of sexual harassment allegations, we could not always obtain a full account of the surrounding facts related to the disciplinary action taken. For instance, in one case involving an allegation of sexual harassment by a senior-level manager, there was no record of the misconduct in LERCT and, therefore, the disciplinary action was not centrally tracked. (Matter A) In other cases, we could not determine if proportionate corrective action was taken when appropriate because of the lack of supporting documentation included in LERCT.

We noted similar concerns in our prior evaluation on *Preventing and Addressing Sexual Harassment*.[64] Specifically, the OIG stated that, "although the FDIC maintained discipline files for the two disciplinary actions we reviewed, the FDIC had not clearly documented the process that it followed to make the discipline decisions." The previous evaluation also noted that there were three examples of other Federal departments or agencies that established written procedures for administering appropriate discipline. In those examples, the agencies included a list of penalties for first-time and repeat offenders and described the steps to be completed prior to taking disciplinary actions. While not required, neither of the FDIC's disciplinary guidance policies has a table of penalties, which could assist in administering disciplinary and adverse actions in a fair and consistent manner.

The FDIC acknowledged this as an area for improvement in its 2023 Action Plan: Repercussions for the Harasser, Table of Penalties, "consider expanding the use of tables of penalties or other tools or framework to ensure that disciplinary action is consistently applied for like or similar misconduct." This could help eliminate the perception of bias and partiality in management's decisions on disciplinary actions. For example, we identified three instances where LERS Specialists recommended removal based on what they had found but management either delayed action or imposed lesser discipline. (Matter D, M, N)

- In one of the three cases, LERS immediately proposed removal within days of the harassing behavior based on the accused making incriminating statements, acknowledging the unwanted sexual misconduct behavior, and being in a probationary period. (Matter M) Instead, the alleged harasser was on administrative leave for approximately 47 days. Management ultimately proposed removal and the employee resigned from the FDIC.

- In another case, LERS Specialists recommended removal for supervisors whom they found clearly retaliated against an employee who reported sexual harassment. According to the LERS Specialists, they were removed as the fact finders for the case because they were "too emotional." According to the LERS Specialists, instead, LEAS

[64] *Supra* note 1.

worked with management in the case to propose and implement an alternative and lesser discipline referred to as a "last chance agreement." [65] (Matter N)

- In the third case, a LERS Specialist in coordination with LEAS recommended removal and, according to the LERS Specialist, multiple management officials declined to take action. According to the LERS Specialist, the manager "did not want to hurt" the alleged harasser. After many rounds of deliberation on this case, which took months, an FDIC Regional Director proposed removal of the harasser. The alleged harasser retired after the FDIC issued the proposed removal disciplinary action letter. (Matter D)

In two of the three examples above, indecision by management officials delayed the investigation and, in one example, the lesser discipline taken was perceived as improper bias of LEAS and management officials who were more lenient in discipline than recommended by the fact finder. (Matter D, M, N)

Although a table of penalties is not required, the FDIC has not established recommended penalty ranges, does not have an adequate tool to consistently track disciplinary actions, and does not have clear policy, standards, and procedures for documenting the process that it followed to make the discipline decisions. Without clear requirements for handling and documenting each allegation, the FDIC cannot ensure that allegations are handled appropriately and that disciplinary decisions are well supported. As such, the FDIC is limited in its ability to ensure that discipline is appropriate and consistent, and thereby exposes the Agency to the risk of litigation. Agency-wide consistent penalties or recommended penalty ranges could assist the FDIC in administering disciplinary and adverse actions in a fair and consistent manner.

Recommendation 10

We recommend the **Director, Office of Minority and Women Inclusion,** develop and implement standard operating procedures to guide the efforts of the Anti-Harassment Program Coordinator.

Recommendation 11

We recommend the **Directors, Office of Minority and Women Inclusion and Division of Administration,** develop and implement standard operating procedures for case file records management, including where to securely maintain files, what to maintain, and how long to retain records.

Recommendation 12

We recommend the **Director, Division of Administration,** update and implement investigation standard operating procedures to clearly guide investigations by ensuring

[65] Under a "last chance agreement," the Agency holds disciplinary action in abeyance pending successful completion of a requirement intended to correct inappropriate conduct. In such cases, if the employee does not meet the terms of the "last chance agreement," the Agency would then impose disciplinary action.

that investigations are: conducted appropriately and consistently; convey the outcome of the investigation, including a Report of Investigation; and are well-documented.

Recommendation 13

We recommend the **Director, Division of Administration,** provide regular investigation training to the LERS Specialists conducting investigations under the Anti-Harassment Program.

Recommendation 14

We recommend the **Director, Division of Administration,** develop a centralized disciplinary action tracking system or tool and related procedures for what information should be captured in the tool and in support of the disciplinary decision.

Recommendation 15

We recommend the **Chairman** consider developing and implementing Agency-wide, consistent penalties or recommended penalty ranges to be used in disciplinary actions for harassing conduct, in accordance with applicable laws and regulations, and, as necessary and appropriate, incorporate the consistent penalties and recommended penalty ranges into policy and procedures.

Finding 5

The FDIC Has Not Developed and Implemented a Comprehensive and Effective Anti-Harassment Policy

The EEOC's 2017 *Promising Practices* states that a comprehensive, clear harassment policy is an essential element of an effective harassment prevention strategy. The FDIC has not yet developed a comprehensive and effective anti-harassment policy. Specifically, the FDIC has not incorporated three significant aspects of the EEOC's 2017 *Promising Practices* into its anti-harassment policy, has not addressed parallel processing of EEO and AHP Misconduct Cases, and has not incorporated guidance regarding Conflicts of Interest. Additionally, while the FDIC is in the process of updating its AHP policy, it should incorporate enhancements based on the EEOC's 2023 *Promising Practices for Preventing Harassment in the Federal Sector.*

The FDIC also has not fully implemented its anti-harassment policy including providing sexual harassment training recommended by the EEOC, monitoring program effectiveness, formally recommending program changes, and developing preventive strategies based on identified trends. The policy may not have been fully implemented due to various competing priorities, including the

COVID-19 pandemic and the shift to remote work, which may have contributed to a lower number of sexual harassment cases reported during that period. However, without a comprehensive and effective anti-harassment policy that clearly defines sexual harassment, the FDIC risks not obtaining all reports of sexual harassment and therefore may not address misconduct before it rises to the level of being unlawful (i.e., impacting the workplace, creating a hostile work environment, etc.). Further, the lack of an effective and implemented AHP policy risks unfair and impartial investigations and disciplinary actions, which has resulted in employees distrusting the process and an environment and workplace that is not free from sexual harassment.

The FDIC Has Not Developed a Comprehensive and Effective Anti-Harassment Policy

In response to our prior report recommendations, the FDIC updated its *Anti-Harassment Program* (AHP) Directive (Directive 2710.03) in March 2021, to include among other things: terminology related to sexual harassment, the AHPC roles and responsibilities, and Legal Division roles and responsibilities. The FDIC also updated the AHP Directive to require notifying the person reporting the harassment and alleged harasser that the investigation is complete. However, the FDIC's AHP could benefit from incorporating three significant aspects of a comprehensive and effective policy, as laid out in the EEOC's 2017 *Promising Practices*, including:

- A statement that the policy applies to applicants, clients, customers, and other relevant individuals;
- A statement that employees are encouraged to report conduct that they believe may be prohibited harassment (or that, if left unchecked, may rise to the level of prohibited harassment), even if they are not sure that the conduct violates the policy; and
- A statement that the employer will provide a prompt, impartial, and thorough investigation.

AHP Policy Applicable to Applicants, Clients, Customers, and Other Relevant Individuals

The EEOC's 2017 *Promising Practices* states that a comprehensive harassment policy includes a statement that the policy applies to employees at every level of the organization, as well as applicants, clients, customers, and other relevant individuals. Furthermore, the EEOC's 2023 *Promising Practices* states that to make anti-harassment policies as comprehensive and effective as possible, there should be guidance on the processes and procedures for addressing harassment allegations involving non-employees, such as contractors, guests, volunteers, or customers. The FDIC AHP Directive states in its description of its scope that the Directive applies to all FDIC Divisions/Offices. However, it does not list applicants, clients, customers, and other relevant individuals to be within its scope.

We noted that the General Policy section of the AHP Directive states that the FDIC will not tolerate harassment by or against any applicant, employee, or contractor. However, the AHP Directive is limited, in that it provides that only FDIC management will take appropriate actions to address allegations of harassment made against non-employees such as staff at examination sites, contract workers, security guards, and delivery or maintenance staff. The policy does not provide clear guidance regarding management actions when allegations are made by non-FDIC employees. It appears that the FDIC intended to cover some external parties in the General Policy section of the AHP Directive. However, absent clarifying language in the Scope of the document, the FDIC may not always address allegations by or against outside entities appropriately. To ensure the FDIC appropriately handles allegations by or against non-FDIC employees, it should update the scope of its AHP Directive to include applicants, clients, customers, and other relevant individuals.

AHP Policy Encouraging Employees to Report All Misconduct

The EEOC's 2017 *Promising Practices* states that a comprehensive harassment policy includes a statement that employees are encouraged to report conduct that they believe may be prohibited harassment (or that, if left unchecked, may rise to the level of prohibited harassment), even if they are not sure that the conduct violates the policy. The AHP Directive states that the "FDIC expects anyone who witnesses or is the alleged victim of harassment to report it immediately, consistent with the Reporting Process provided." Further, the policy states that conduct need not rise to the level of illegal harassment to be prohibited by the directive.

The FDIC's AHP Directive, however, does not include any language encouraging employees to report conduct in the event they are unsure whether it violates the policy. Without this statement in the AHP Directive, employees may not report sexual harassment misconduct in instances when they are unsure if the behavior violates the policy. During our review of an investigative case file for a sexual harassment misconduct allegation at the FDIC, we found one example where an employee did not previously report sexual harassment because the employee was unsure if it met the definition. (Matter B) As such, the FDIC could further ensure it receives all allegations of sexual harassment misconduct by including in the AHP Directive an explicit statement encouraging employees to report any conduct that they believe may be prohibited harassment (or that, if left unchecked, may rise to the level of prohibited harassment), even if they are not sure that the conduct violates the policy.

AHP Policy on Providing a Prompt, Impartial, and Thorough Investigation

EEOC *Management Directive 715 (MD-715*) and the EEOC's 2017 *Promising Practices* state that a comprehensive harassment policy includes a statement that the employer *will provide* a prompt, impartial, and thorough investigation.[66] The AHP Directive does not include such a statement. Instead, the AHP Directive states that after reviewing the allegation and determining whether it is covered by the Directive and taking immediate corrective action if necessary to address the allegation, LERS and LEAS in consultation with the appropriate management official(s) determine whether additional investigation of the allegation is appropriate.

According to the AHP Directive, if LERS and LEAS determine an investigation is warranted, a fact finder is assigned and charged with conducting a prompt, independent, thorough, and impartial investigation into alleged harassment. As a result, the AHP Directive leaves it up to the discretion of LERS and LEAS in consultation with management to decide whether an investigation is conducted into alleged sexual harassment. While some level of discretion in the process is necessary, the AHP Directive does not provide any further policy guidance on when an investigation would not be appropriate and how this should be documented.

Leaving these decisions to the discretion of LERS and LEAS without requiring documentation to support the decision adds immediate judgement to the process, potential room for bias and favoritism, and increases the risk that allegations of sexual harassment will not be investigated and addressed as necessary. In a recent external report on the FDIC, it was noted that some LEAS attorneys acknowledged that following the recent press they are more willing to conduct investigations on cases they would have been less willing to in the past, and are giving more employees "the benefit of the doubt."[67] According to the EEOC's 2023 *Promising Practices*, agencies will be liable for harassment if they knew, or should have known about the harassment, unless they can show they took immediate, **and appropriate** (emphasis added) corrective action.

During this evaluation, we found at least four examples where LERS, LEAS, and management were aware of sexually harassing behavior by supervisors, managers, and at least one executive and did not conduct a sexual harassment investigation under the AHP. (Matter E, F, G, I)

In three of the four examples, when we inquired why an investigation was not opened because there was no related supporting documentation, we were told there was no appetite for the investigations because "basically all the supervisory examiners" were involved to some degree and it could open "Pandora's Box and dig a bigger hole" at the FDIC. (Matter E, F, G)

In the fourth example, we were told it was not investigated under the AHP because it was being reviewed under the EEO process, which we discuss further in the next section of this report. (Matter I)

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[66] We recognize that a full investigation may not be possible in all circumstances. However, we believe the intent of the EEOC's 2017 *Promising Practices* is for the agency to include a statement in its policy to provide assurance to all employees that it will undertake its best efforts to provide a prompt, impartial, and thorough "investigation." We do not intend the term investigation throughout this report to be misunderstood to mean a criminal or full administrative investigation.

[67] *Report for the Special Review Committee of the Board of Directors of the Federal Deposit Insurance Corporation*, Cleary Gottlieb Steen & Hamilton LLP (April 2024).

<u>The FDIC Does Not Have an Effective Policy to Ensure Parallel Processing of Sexual Harassment Allegations Under the EEO Complaint Process and AHP Misconduct Process, as Appropriate.</u>

The FDIC has not established an effective policy to ensure that while EEO allegations are being processed, misconduct aspects of the allegation are also being investigated and addressed. The FDIC's AHP Directive states that an individual who has alleged harassment in connection with an EEO complaint will be deemed to have reported alleged harassment under the AHP Directive. Further, according to the EEO procedures, the EEO Counselor will coordinate with the AHPC if the claim involves harassment.

During our evaluation, OMWI EEO provided six sexual harassment-related EEO allegations that fell within the scope of our review. In comparing the EEO sexual harassment-related allegations against the lists obtained from LERS, LEAS, and OMWI AHP, we found only one of these was included in the OMWI AHP list that we received, and none of the six were included in the lists received from LERS and LEAS. More importantly, we found that in only one instance of reported allegations of sexual harassment under the EEO program, was an investigation opened under the AHP as shown in the Table below.

Table 7: EEO Sexual Harassment-Related Allegations for the Period April 20, 2019 – January 19, 2024

No.	Reported to OMWI, LERS, and LEAS	Included in LERS or LEAS Universe	Included in OMWI AHP Universe	AHP Investigation
1	Yes	No	Yes	No
2	Yes[a]	No[a]	No[a]	Unknown[a]
3	Yes	No	No	Yes
4	Yes	No	No	No
5	Yes	No	No	No
6	Unknown[b]	No	No	No

[a] Table Note. OMWI EEO received this complaint on December 5, 2023 but did not send it to the AHPC until March 6, 2024. The AHPC sent the complaint to LERS on March 20, 2024. Therefore the timing delay explains why it was not included on LERS/LEAS list.

[b] Table Note. OMWI EEO was unable to provide any information and/or documentation on whether this was reported to AHP, LERS, or LEAS.

Source: OIG Analysis of LERCT Tracking Fields.

According to the December 2022 MSPB report, *Sexual Harassment in Federal Workplace: Understanding and Addressing the Problem*, agencies should not rely on the formal EEO complaint process before initiating management investigations or taking appropriate remedial actions. The report further states that EEO complaints can take considerable time to investigate and findings may be framed in terms of Title VII definitions and standards.[68]

In one example, we identified an allegation that involved a senior FDIC official; however, the FDIC reported it was not investigated under the AHP because it was being reviewed under the EEO process. (Matter I)

Upon reviewing the FDIC's EEO sexual harassment allegations against the sexual harassment misconduct allegations, and as shown in the table above, we identified examples of failures of the FDIC to initiate misconduct investigations when an EEO complaint was filed or, at a minimum, a failure to record the allegation and document why an investigation was not necessary. We believe this occurred because an effective policy does not exist to ensure all allegations of sexual harassment misconduct are reviewed.

During this review of sexual harassment-related EEO cases, we identified two examples in which there was a settlement in the case but no AHP investigation was opened into the alleged harasser. (Matter I, C) For one of these examples, we found that the alleged harasser in this case was the subject of another unrelated sexual harassment retaliation allegation under the AHP where the LERS Specialist recommended removal of the harasser, but management decided on a lesser penalty – a "last chance agreement." (Matter C/N) According to the MSPB, "the EEO process is designed to make individuals whole for discrimination that has already occurred and to prevent the recurrence of the unlawful discriminatory conduct." Further, MSPB Policy and Procedures states, "the anti-harassment process seeks to prevent harassment and address and resolve harassing conduct."[69] If the FDIC focuses solely on the EEO allegations, it may not adequately address the misconduct that also occurred, and may not hold alleged harassers accountable for the harassing misconduct.

The FDIC Does Not Have a Policy to Address Potential Personnel Conflicts to Ensure Neutral Fact Finders

FDIC Leadership has not established an effective policy or program structure to ensure that the staff who are responsible for promptly, thoroughly, and impartially investigating allegations of harassment and taking immediate and appropriate corrective action are neutral and free of conflicts or the appearance of a conflict. The EEOC's 2023 *Promising Practices* states that agency and senior leaders should have an anti-harassment program that has, among other things:

[68] Title VII of the Civil Rights Act of 1964 prohibits employment discrimination based on race, color, religion, sex, and national origin. 42 U.S.C. § 2000e-2(a)(1). Under this statute, sexual harassment may constitute unlawful sex-based discrimination.

[69] *Supra* note 10.

- neutral staff outside of the entity involved in the allegation who are responsible for promptly, thoroughly, and impartially investigating allegations of harassment and taking immediate and appropriate corrective action.

Similarly, MSPB guidance we identified as leading practices also suggests that fact finders who are assigned to conduct an investigation should not be subordinate to any official involved in the matter being investigated, be impartial and competent to perform fact-finding, and prepare a report that is given to the Anti-Harassment Officer.[70]

We found that there was no FDIC policy or process in place to ensure that employees were not assigned an investigation in which a superior employee in their chain of command was involved. For example, LERS officials report up through senior officials in DOA, and LEAS officials report up through senior officials in the Legal Division. Therefore, in the event of a complaint being reported against a senior official from DOA or Legal Division, there is a potential lack of neutrality as the fact finders (LERS and LEAS) are subordinate to the officials involved in the matter.

We identified two DOA personnel-related sexual harassment allegations that were either investigated by LERS or chosen not to be investigated under the AHP. (Matter I, N) This raises questions about the impartiality of the process for cases related to individuals in an oversight/leadership role over subordinates who administer the program. Further, it creates distrust in the process by FDIC employees and is not reflective of the FDIC's intended goal of having a harassment-free workplace.

We found that the FDIC's AHP Directive does not currently provide clear policy on eliminating conflicts or the appearance of a conflict in investigating harassment allegations and taking corrective action. The AHP Directive does not provide any policy on what would constitute a conflict, who is responsible for identifying and verifying whether a conflict exists, and who is responsible for assigning a fact finder in the event a conflict exists. Further, there is no recusal process or directive for employees to follow to avoid such a conflict when conducting an internal investigation. Without a clear policy on eliminating conflicts in investigations and taking corrective action as further called for in the EEOC's 2023 *Promising Practices*, the FDIC cannot ensure fair and impartial investigations always occur and that immediate and appropriate corrective action is implemented.

[70] The Anti-Harassment Officer role outlined in the MSPB's policy is similar to that of the FDIC's Anti-Harassment Program Coordinator.

The FDIC Should Update and Enhance Its AHP Directive Based on the EEOC's 2023 Guidance.

In order to make anti-harassment policies as comprehensive and effective as possible, the EEOC's 2023 *Promising Practices* states that the policy should include, among other things, the following:

- A clear, easy to understand explanation of prohibited conduct that includes the definition of prohibited harassment and practical examples tailored to the agency's workplace and workforce;
- An explanation of the agency's duty to investigate and correct harassment, even if alleged victims indicate they do not want the matter investigated or corrected; and
- A general time limit for concluding investigations and taking immediate and appropriate corrective actions.

Sexual Harassment Definition.

Currently, the FDIC AHP Directive includes examples of sexual harassment, under its broader harassment definition, which the FDIC incorporated in response to our prior report recommendation. Such examples include offensive jokes, comments, objects, or pictures; unwelcome touching or contact; unwelcome sexual advances; requests for sexual favors; other verbal or physical harassment of a sexual nature; and physical or sexual assault. However, as discussed in Finding 6 of this report, the FDIC's 2022 No FEAR Act training includes a broad definition of sexual harassment that is more detailed than the information provided in the AHP Directive. Further, based on recommendations from the 2023 *Promising Practices*, the FDIC could enhance its policy to include a clearer definition of sexual harassment and practical examples tailored to the workplace. Without a clear definition of sexual harassment, employees may have difficulty determining what actions and behaviors constitute sexual harassment. During our review of one sexual harassment allegation case file, an interviewee stated that they had not reported sexual harassment in the past because they were unclear if it met the definition. (Matter B)

Duty to Investigate and Correct Harassment.

The FDIC's AHP Directive does not currently provide a policy on the Agency's duty to investigate[71] and correct harassment, even if alleged victims indicate they do not want the matter investigated or corrected. Currently, the AHP Directive calls upon LERS and LEAS to

[71] According to the EEOC, the duty of an agency to promptly, thoroughly, and impartially investigate harassment and take immediate and appropriate corrective action through the anti-harassment program is triggered by agency awareness of alleged harassment. Therefore, according to the EEOC, the duty to undertake these actions exists even if the complainant or alleged victim does not want the agency to investigate or correct the alleged harassment.

review the allegations and determine whether they are covered by the AHP Directive. If LERS and LEAS have found the allegation is covered by the AHP Directive, it then calls upon LERS, LEAS, and management to decide whether an investigation is conducted into an allegation of sexual harassment. Without a clear statement in its policy explaining that the FDIC will investigate[72] all allegations of harassment (regardless of the alleged victim's request to not initiate an investigation), there is an increased risk that sexual harassment may continue to occur and also may rise to the level of being unlawful.

Time Limit for Conducting Investigations and Taking Action.

The FDIC's AHP Directive states that if LERS, LEAS, and management decide that an investigation is appropriate, they will:

- Initiate an investigation no later than 10 calendar days of receiving the report of harassment;[73]
- Take immediate, appropriate action if harassment has occurred; and
- Take action no later than 60 calendar days of receiving notice of a report of harassment, as appropriate.

We credit the FDIC for including in its policy a requirement to start an investigation within 10 days following receipt of the allegation, which is consistent with the EEOC's 2023 *Promising Practices*. However, the AHP Directive lacks any policy guidance on time limits for completion of investigations, and there is an opportunity to further clarify or provide a timeframe associated with the term "immediate." When we requested clarification on what the 60-calendar day requirement meant in the AHP Directive, (i.e., conclusion of the investigation, final action, etc.), FDIC officials explained that is only intended to mean some action must be taken, not necessarily a timeframe for completing the investigation, etc. Without goals and timeframes for completing investigations, the FDIC cannot measure its performance or ensure it conducts investigations in a timely manner.

[72] We use the EEOC's terminology "duty to investigate" throughout, but recognize that a full investigation may not be possible in all circumstances and may depend on the victim's willingness to share information. However, we believe the intent of the EEOC's 2023 *Promising Practices* is for the agency to undertake its best efforts to "investigate" and correct the behavior or make and document an appropriate determination that the allegation is not credible. We do not intend the term "investigate" throughout this report to be misunderstood to mean a criminal or full administrative investigation.

[73] We previously noted and addressed in Finding 4 that the AHP Directive and the Investigations SOP contradict the required timeframes for starting an investigation.

The FDIC Has Not Fully Implemented Its Anti-Harassment Policy

The FDIC still has not implemented many aspects of its AHP Directive, which was updated to close a 2020 OIG recommendation.[74] Specifically, the FDIC has not implemented the following requirements of the AHPC pursuant to the AHP Directive:

- Provide training for all employees about the anti-harassment policy and reporting procedures;
- Monitor program effectiveness by maintaining a system to track allegations and actions taken;
- Recommend program changes for enhancement; and
- Develop preventive strategies based on identified trends, and maintain relevant documents collected in the fact-finding inquiry in accordance with FDIC Directive 1210.01, *Records and Information Management Program* (August 2023).

The FDIC has not implemented these aspects of its policy because the FDIC AHP structure is ineffective, as discussed in Finding 2 and as evidenced by the lack of coordination between the AHPC, LERS, and LEAS. Specifically, for training, the FDIC developed an Anti-Harassment Program Briefing, and it was required for all employees beginning in 2021. However, as discussed further in Finding 6, this is a one-time training for each new employee and has not been entirely effective to ensure all employees are aware of the AHP and reporting procedures. Our survey results indicated that 37 percent of respondents either did not know, or were unsure, whether they received training focused on sexual harassment since April 20, 2019. Further, according to our survey results, 29 percent of respondents did not know, or were unsure, how to report sexual harassment, and 14 percent of respondents who experienced sexual harassment did not report it because they did not know how to report. In addition, while the AHP Directive states that managers and supervisors must immediately report all allegations of harassment to the AHPC, we learned that this was not always occurring. During our review of sexual harassment allegations, we identified at least three examples in which supervisors were aware of sexual harassment but did not immediately report it to the AHPC. (Matter B, D, H) Further, our survey results revealed that supervisors receiving reports of sexual harassment only reached out to the OMWI/AHPC in 6 of 34 instances.

In relation to the AHPC monitoring program effectiveness in order to identify enhancements and preventive strategies, we found these functions were not performed because the AHPC did not have access to the tracking tool used by LERS to track allegations and did not receive all of the information needed to do so. Further, the AHPC did not receive all reports of sexual harassment, was not always notified at the start of an investigation, and was not always

[74] *Supra* note 1.

informed at the conclusion of an investigation of the actions taken. Without access to this information, the AHPC cannot monitor the program effectiveness, recommend program changes, or develop strategies based on trends. This is discussed at length in Finding 2.

We recognize that the FDIC may not have completed work on its AHP in the last 4 years due to the dramatic change in the FDIC's work environment due to the COVID-19 Pandemic. Further, according to FDIC records, between January 2020 and December 2022, the FDIC only had six allegations of sexual harassment so there may have been a false sense that this was not an issue at the FDIC. We also recognize that the EEOC 2023 *Promising Practices* was not issued until April 2023 and implementing changes to Directives and Policy takes time. Finally, as previously mentioned, the FDIC is not required to follow the EEOC Promising Practices. These factors may help explain why some aspects of the policy were not implemented and perhaps why enhancements to the policy were not made based on the EEOC 2023 *Promising Practices*. However, the FDIC could benefit from updating its AHP policy based on the EEOC 2017 *Promising Practices* and further enhancements issued by the EEOC in 2023. Likewise, the FDIC needs to fully implement the 2021 version of the AHP Directive used to close our prior report recommendation. We recognize that the FDIC established an executive committee in 2023 to lead efforts to revise and refine the AHP Directive. The target completion date was February 2024 and is now scheduled for a draft by the end of July 2024. Therefore, the policy has not been finalized to date. As a result, we are making six recommendations to ensure the FDIC develops and implements a comprehensive and effective AHP policy and incorporates the proposed corrective actions from this report.

Until the FDIC fully implements the AHP Directive, including providing training, monitoring program effectiveness, formally recommending program changes, and developing preventive strategies based on identified trends, it is limited in its ability to advance the AHP and ensure a harassment-free work environment.

Recommendation 16

We recommend the **Chairman** update the AHP Directive to include: (1) a statement that the policy applies to applicants, clients, customers, and other relevant individuals; (2) a statement that employees are encouraged to report conduct that they believe may be prohibited harassment (or that, if left unchecked, may rise to the level of prohibited harassment), even if they are not sure that the conduct violates the policy; and (3) a statement that the employer will provide a prompt, impartial, and thorough investigation.

Recommendation 17

We recommend the **Chairman** develop and implement a policy to ensure that parallel processing of allegations of sexual harassment occur under the EEO and the AHP as necessary and appropriate.

Recommendation 18

We recommend the **Chairman** develop and implement policy to ensure that staff who are responsible for promptly, thoroughly, and impartially investigating allegations of harassment and taking immediate and appropriate corrective action are neutral and free of conflicts or the appearance of a conflict.

Recommendation 19

We recommend the **Chairman** establish and implement a policy for handling allegations against senior-level corporate managers and executives from intake to final determination, including the use of Memorandums of Understanding, as appropriate, to engage those outside of the FDIC chains of command.

Recommendation 20

We recommend the **Chairman** update the AHP Directive to include: (1) a clear definition of sexual harassment misconduct and practical examples tailored to the workplace, (2) an explanation of the Agency's duty to investigate and correct harassment even if alleged victims indicate they do not want the matter investigated or corrected, and (3) general time limits for concluding investigations.

Recommendation 21

We recommend the **Chairman** reassess and redesign, as needed, the roles and responsibilities within the AHP Directive to ensure all aspects of the Directive can be implemented. Further, we recommend the **Chairman** develop a plan for implementing all aspects of the AHP Directive.

Finding 6

The FDIC Has Not Developed and Implemented Adequate Sexual Harassment Training for All Employees

The EEOC's 2017 *Promising Practices* states that regular, interactive, comprehensive training of all employees may help ensure that the workforce understands organizational rules, policies, procedures, and expectations, as well as the consequences of misconduct. We found that the FDIC has not developed and implemented adequate sexual harassment training for all employees. Although sexual harassment training at the FDIC has been provided virtually through an AHP Briefing and through No FEAR Act training,[75] neither the AHP

[75] Mandatory and required training applies to all FDIC employees and/or contractors and subsets of employees in all Divisions and Offices (e.g., all supervisors, all new employees, etc.).

Briefing nor the No FEAR Act trainings are conducted regularly. Further, we found the AHP training can be improved with greater focus on sexual harassment misconduct. The EEOC states that successful, anti-harassment training should be conducted and reinforced on a regular basis for all employees and recommends that Federal agencies regularly revise and update training and routinely analyze it to measure the impact on reducing harassment and retaliation. According to our survey, FDIC employees believe that additional sexual harassment training should be provided by the FDIC. We believe that without requiring regular, comprehensive, and effective harassment training that includes more interactive specific information on sexual harassment misconduct, the FDIC cannot ensure that every employee is aware of and understands their sexual harassment misconduct-related prevention responsibilities.

Training Needs Improvement

The FDIC's AHP Briefing is not provided often enough and both the AHP Briefing and the No FEAR Act training should be routinely analyzed to measure the impact on reducing harassment and retaliation in the Agency. Further, the AHP Briefing could be enhanced to focus more on sexual harassment misconduct. According to our recent OIG Sexual Harassment Survey, FDIC employees believe that additional sexual harassment training should be provided by the FDIC. Specifically, almost 1,050 (or 37 percent) of respondents either answered "no" or were "unsure" whether they received sexual harassment training since April 20, 2019.[76] Further, 57 percent of the 2,812 that responded believed additional sexual harassment training should be provided by the FDIC. We note that this increased from 44 percent in our previous survey. (See Appendix 4 for more details on our Survey Results.)

FDIC AHP Briefing

In April 2021, in response to a recommendation from our prior report on *Preventing and Addressing Sexual Harassment*,[77] the FDIC established an AHP Briefing training that includes the FDIC's prohibition of sexual harassment, examples of sexual harassment, as well as employee responsibilities and avenues for reporting. The AHP Briefing training was offered and attendance was required by all FDIC employees after April 2021. The training was virtual and pre-recorded, with a length of approximately 30 minutes. Between April 2021 and January 2024, 98 percent of all employees completed the AHP Briefing training. However, as this was a one-time training for employees, it has not been updated since 2021. Further, as the training was pre-recorded and provided virtually, it did not allow for live discussions and questions and answers. Additionally, the training did not include real-world examples of sexual

[76] Based on a comparison to the prior survey results, we note that the percentage of respondents stating they received training on sexual harassment increased from 48 percent to 63 percent.

[77] *Supra* note 1.

harassment misconduct tailored to the FDIC, and was devoid of information on the range of consequences for harassing behavior. Further, the FDIC has not analyzed this training to measure its impact on reducing harassment and retaliation in the Agency.

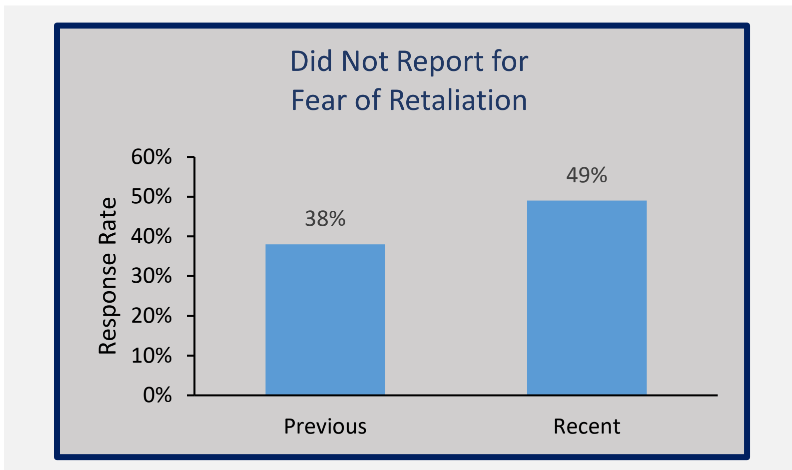
FDIC No FEAR Act Training

The FDIC's current iteration of the No FEAR Act Training, which is statutorily required for all FDIC employees and contractors to complete every 2 years, was last revised in 2021 to align with the Elijah E. Cummings Antidiscrimination Act requirements for a model EEO program.[78] The training is virtual and pre-recorded with a length of approximately 40 minutes. As of January 2024, the FDIC reported a 98-percent completion rate for the No FEAR Act Training. However, as this training is also pre-recorded and provided virtually, it does not allow for live discussions and questions and answers. The substance of the training focuses mostly on the FDIC's EEO program but does contain a broad definition of sexual harassment and explains when it would constitute being unlawful. The training further provides examples of a sexually hostile work environment, a sexual harassment case example, information on the FDIC AHP, and employee expectations for reporting when subjected to sexual harassment both on the EEO side and under the AHP. While this training is required every 2 years, we were provided no evidence to show that the FDIC routinely analyzes this training to keep it current or measure its impact on reducing harassment and retaliation in the Agency. For example, the current No FEAR Training (2022) is being offered in 2024 with the incorrect name and contact information for the AHPC.

Further, while we noted that both the AHP Briefing and the No FEAR Act Training discuss the FDIC's prohibition against retaliation of any kind, our survey found that 49 percent (93 of 191) of the respondents who said that they had experienced sexual harassment indicated that they did not report it for "fear of retaliation." This increased from 38 percent in our prior survey as shown in Figure 2.

[78] H.R.135 - 116th Congress (2019-2020): Elijah E. Cummings Federal Employee Antidiscrimination Act of 2019. The Act was created to ensure agencies establish and maintain a model EEO program.

Figure 2: Employees Not Reporting Sexual Harassment Due to Fear of Retaliation



Source: FDIC OIG Comparison of 2019 and 2024 Sexual Harassment Survey Results.

Based on these survey results, the FDIC should consider ways to improve training materials to ensure that Agency employees understand the policy and feel comfortable reporting allegations of sexual harassment. Such training should explain: the types of conduct that violate the Agency's anti-harassment policy; both the seriousness of the policy and not complying with the policy; the responsibilities of supervisors and managers when they learn of alleged harassment; and the prohibition against retaliation.

The EEOC's 2017 *Promising Practices* maintains that harassment training may be most effective if it is, among other things, repeated and reinforced regularly. While not formally adopted by the EEOC, the Task Force that conducted the Study of Harassment in the Workplace and developed these best practices reported that conducting anti-harassment trainings biennially, or even annually, does not set a tone that it is important. As such and as mentioned in our 2020 Evaluation report, the EEOC *Select Task Force on the Study of Harassment in the Workplace* (June 2016) stated that successful, anti-harassment training:

> [S]hould be conducted and reinforced on a regular basis for all employees....employees understand that an organization's devotion of time and resources to any effort reflects the organization's commitment to that effort. Training is no different. If anti-harassment trainings are held once a year (or once every other year), employees will not believe that preventing harassment is a high priority for the employer. Conversely, if anti-harassment trainings are regularly scheduled events in which key information is reinforced, that will send the message that the goal of the training is important.

Further, the EEOC's 2023 *Promising Practices* states that effective anti-harassment training can be enhanced by, among other things, regularly revising and updating the training and routinely analyzing the training to measure its impact on reducing harassment and retaliation in the agency. Also, according to the EEOC 2023 *Promising Practices,* effective anti-harassment training should contain certain content that is specifically focused on non-supervisory or non-managerial employees but that is relevant to all agency employees, including supervisors and managers. This content includes but is not limited to the following:

- Live, interactive discussions that allow attendees to participate, ask questions, and voice concerns to trainers.
- Multiple real-world examples and scenarios tailored to the agency's specific workplace and workforce, rather than excessive focus on legal definitions or case law.
- The range of consequences for engaging in harassing conduct or unwelcome conduct that violates anti-harassment policies.
- An emphasis on the agency's prohibition on retaliation for engaging in protected activity, such as reporting harassment or participating in investigations.

The lack of regularly updated, interactive, and robust sexual harassment training occurred because the FDIC did not put an emphasis on it, and as previously discussed in Finding 2, did not provide the AHP with the necessary resources to develop the training. Further, the AHPC, who is responsible for providing sexual harassment training, does not have an SOP to outline the training duties. The lack of dedicated training, coupled with the absence of an SOP to guide the AHPC in regularly analyzing the training, has precluded the FDIC from measuring the impact of training on reducing harassment and retaliation in the Agency.

Updates to FDIC's Sexual Harassment Training

In response to a series of media articles in November 2023 that highlighted a pervasive problem, including sexual harassment at the FDIC, the FDIC announced it had developed and is working toward implementing an Action Plan. Training for all employees is part of the plan, with harassment being the primary focus. Of note, the FDIC conducted three 2-day anti-harassment training sessions in February 2024 that specifically targeted Risk Management Supervision (RMS) and Division of Depositor and Consumer Protection (DCP) Field Supervisors and Supervisory Examiners. The trainings were comprehensive and facilitated by EEOC staff and included the following topics: a legal overview of unlawful conduct covered by the EEO process and misconduct under the FDIC's AHP; recognizing signs and signals of harassment; responsibilities on preventing and addressing retaliation and examples of creating a respectful workplace; legal aspects of the law on retaliation and actions managers can take; a presentation by the AHPC on the FDIC's AHP; and a knowledge check on all the topics covered.

Notably, in February 2024, the GAO issued a report that included a review of the FDIC's Sexual Harassment Prevention Training (which included a review of the AHP Briefing and the No FEAR Act training) and found that the FDIC should develop and implement a plan to evaluate the Agency's required sexual harassment prevention training to identify needed improvements. We support and will rely on the recommendation within the GAO report for the FDIC to develop and implement a plan to evaluate the sexual harassment prevention training to identify needed improvements.

More recently, in April 2024, the FDIC announced that it would be conducting in-person anti-harassment training required for the entire workforce. The training will be preceded by remarks from the Chairman and will cover similar topics imparted to the supervisory examination staff in February, which include: an overview of the complaint processes, relevant laws, signs and signals of harassment, prevention, the FDIC's anti-harassment policy, and retaliation. This training is also facilitated by the EEOC. The FDIC plans to complete the in-person anti-harassment training by December 2024. As of May 31, 2024, the FDIC reported that approximately 90 percent of Executive Managers, Corporate Experts, and Corporate Managers had completed the new in-person training on preventing and addressing sexual harassment. We have not evaluated the sufficiency of the in-person anti-harassment training. However, FDIC employees have raised concerns regarding the effectiveness of the FDIC-led portions of the training. Further, training participants commented that the FDIC portion of the training felt disjointed and rushed.

We recognize efforts are currently underway to enhance the FDIC's training content and its implementation. However, according to the EEOC's 2023 *Promising Practices*, to help prevent and properly address harassment, employees and management must be aware of what conduct is prohibited and how to prevent and correct it. As noted previously in this report, we identified several instances where managers did not timely report allegations of sexual harassment brought forward by other employees or that they witnessed themselves. We believe that regularly providing more effective training, which includes sexual harassment-specific content will help ensure managers and employees are aware of the reporting responsibilities and requirements. Based on our findings throughout this report and the current work environment at the FDIC, we believe that providing training one time or on a biennial basis may not be conveying a message for the employees to believe that preventing harassment is a high priority for the Agency.

Moreover, given the current environment, we believe the Agency can benefit from providing training more regularly to communicate a sense of urgency in preventing workplace harassment. Furthermore, this will give the FDIC the opportunity to regularly update and enhance the content, which will help ensure its workforce is kept up-to-date on requirements, policies, procedures, and reporting avenues, and more regularly provide relevant examples tailored to the Agency and workforce. This will also allow the FDIC to more timely assess the impact that the training is having on reducing harassment and retaliation in the Agency. Finally, while training is an essential component of an anti-harassment effort, to be effective in stopping harassment, such training cannot stand alone but rather must be part of a holistic effort undertaken by the employer to prevent harassment that includes the elements of leadership and accountability.

Recommendation 22

We recommend that the **Chairman** develop and implement regular, comprehensive, and effective required training on preventing and reporting sexual harassment for all non-supervisory employees that incorporates elements from the EEOC 2023 *Promising Practices*, including a larger emphasis on the Agency's prohibition for retaliation of any kind.

Recommendation 23

We recommend that the **Chairman** develop and implement regular, comprehensive, and effective required training for all supervisors and executives on preventing and reporting sexual harassment that incorporates elements from the EEOC's 2023 *Promising Practices*, including a larger emphasis on the Agency's prohibition for retaliation of any kind.

Recommendation 24

We recommend that the **Chairman** develop and implement a plan to routinely analyze the FDIC's sexual harassment training, ensure that it is current, and measure the impact that training is having on reducing harassment and retaliation in the Agency.

CONCLUSION

Sexual harassment can have profound effects and serious consequences for the harassed individual, fellow colleagues, and the agency as a whole. In July 2020, the OIG issued an evaluation report: *Preventing and Addressing Sexual Harassment,* which found that the FDIC had not established an adequate sexual harassment prevention program. The OIG made 15 recommendations across four broad areas: improving policies and procedures relating to FDIC actions in response to sexual harassment misconduct allegations; promoting a culture in which sexual harassment is not tolerated and such allegations are promptly investigated and resolved; ensuring consistent discipline; and enhancing training for employees and supervisors. We found the FDIC did not sustain 9 of the 15 recommendations from that report.

During this evaluation, we found that the FDIC still has not implemented an effective sexual harassment prevention program that facilitates the reporting of sexual harassment misconduct allegations and has not always investigated and addressed allegations of sexual harassment promptly and effectively. Specifically, we found that FDIC leadership has not demonstrated a sufficient commitment to, and accountability for, the AHP; the FDIC has not implemented an effective program structure or dedicated sufficient resources to the program; the FDIC does not have an effective system for tracking, addressing, and documenting allegations; the FDIC has not established adequate complaint procedures or an adequate AHP policy; and the FDIC has not provided sufficient training to its supervisors and staff. This occurred because the FDIC has not sustained many program improvements that were initiated as a result of our prior evaluation and in some cases has regressed on the progress that was made in response to our July 2020 recommendations. For example, the FDIC was not following the investigation procedures it developed in response to our prior report and had not updated the procedures since our last review. Further, the FDIC abandoned the tracking system and replaced it with one developed in-house which was no longer tracking the recommended data elements. The FDIC had also not fully implemented the AHP Oversight Plan it developed and implemented in 2021. As a result, the FDIC is experiencing an environment of distrust that its policies, processes, tracking system, and most importantly, its leadership are creating a harassment-free workplace. As such, many employees do not feel comfortable reporting sexual harassment at the FDIC and are afraid of reporting for fear of retaliation, as evidenced in our survey results.

Further, according to a recent review conducted by a third party of allegations of sexual harassment and interpersonal misconduct at the FDIC, including hostile, abusive, unprofessional, or inappropriate conduct, as well as management's response to these allegations; the FDIC has failed to provide a workplace safe from sexual harassment, discrimination, and other interpersonal misconduct. The third party also reviewed the FDIC's workplace culture, including any practices that might discourage or deter the reporting of misconduct. The third-party review found that a patriarchal, insular, and risk-averse culture at the FDIC has contributed to the conditions that allowed for this workplace misconduct to occur and persist, and that a widespread fear of retaliation, as well as a lack of clarity and credibility around internal reporting channels, has led to an underreporting of workplace misconduct over the years. According to the third-party review, management's responses to allegations of misconduct, as well as the culture and conditions that gave rise to them, have been insufficient and ineffective. The third party recommended, among other things, a cultural and structural transformation at the FDIC, leadership accountability, policy enhancements, improved procedures, and enhanced training.

We acknowledge that changing the culture of an organization takes time. The FDIC must make improvements to the intake, reporting, and investigative structure; must dedicate necessary resources and authority for the AHP; and must develop strong internal controls including strong policies, clear and implemented procedures, and a trusted complaint system as detailed in our 24 recommendations. Implementing and sustaining these improvements over time will assist the FDIC in creating a trusted environment for reporting allegations of sexual harassment. However, leadership's actions over a period of time is what will truly demonstrate a commitment to and accountability for the AHP.

FDIC COMMENTS AND OIG EVALUATION

On July 29, 2024, the FDIC's Deputy to the Chairman and Chief Operating Officer provided a written response to a draft of this report. In its response the FDIC stated that there is no higher priority at the FDIC than ensuring that every person at the agency feels safe, valued, and respected. The response stated that the Chairman and senior FDIC executives are committed to providing an effective sexual harassment prevention program and to addressing workplace culture issues. The Chairman and senior FDIC executives have established a number of initiatives for this purpose, and according to its response, the FDIC has made meaningful progress toward implementing these measures. The response is presented in its entirety in Appendix 5.

The FDIC concurred with the report's recommendations. The FDIC plans to complete corrective actions for these recommendations by March 31, 2025. We consider all 24 recommendations to be resolved. All of the recommendations in this report will remain open until we confirm that corrective actions have been completed and are responsive. A summary of the FDIC's corrective actions is contained in Appendix 6.

APPENDIX 1: OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

Our evaluation objective was to determine whether the FDIC implemented an effective Sexual Harassment Prevention program to facilitate the reporting of sexual harassment allegations and address reported allegations in a prompt and effective manner.

We performed our work from December 2023 through April 2024. We conducted our work in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*.

Scope and Methodology

In response to a request on November 17, 2023, from the Chairman, United States Senate, Committee on Banking, Housing, and Urban Affairs, our evaluation focused on reviewing the changes made to the FDIC's Sexual Harassment Prevention program since our July 2020 OIG report, *Preventing and Addressing Sexual Harassment* (EVAL-20-006) and determining whether the FDIC implemented an effective program. We conducted interviews with DOA Labor and Employee Relations Section (LERS) and Legal Division, Labor, Employment and Administration Section (LEAS) officials and reviewed the FDIC's processes for handling and addressing sexual harassment misconduct allegations. We did not review the FDIC's EEO processes for handling and addressing allegations of unlawful sexual harassment nor did we conduct testing on sexual harassment cases that fell under the EEO processes. Separately, the OIG is conducting a Special Inquiry of the FDIC's Workplace Culture with Respect to Harassment and Related Misconduct. The objectives of that inquiry are to determine (1) employee perceptions of the workplace culture with respect to harassment, related misconduct, and management actions; (2) FDIC management's actions to review, process, and address complaints of harassment and related misconduct, including the management of related litigation; (3) FDIC executives' knowledge of harassment and related misconduct and what actions (if any) were taken in response; and (4) factual findings regarding selected allegations that senior officials personally engaged in harassment or related misconduct. We will provide the results of that inquiry in a separate report.

To assess the updates to the Sexual Harassment Prevention program since our 2020 evaluation, we reviewed FDIC policies and procedures related to allegations, investigations, and discipline associated with sexual harassment misconduct:

- *Anti-Harassment Program*, (Directive 2710.03) (March 2021);
- *Disciplinary and Adverse Actions,* (Directive 2750.01) (March 2021);
- *Disciplinary and Adverse Actions* Standard Operating Procedures (January 2021);

- *Conducting Management-Initiated Investigations* Standard Operating Procedures (December 2020)

We also reviewed Federal regulations and best practices relevant to harassment complaints:

- 29 C.F.R. 1604.11, *Guidelines on Discrimination Because of Sex* (December 2023)
- Government Accountability Office (GAO), *Standards for Internal Control in the Federal Government* (GAO-14-704G) (September 2014)
- EEOC, *Promising Practices for Preventing Harassment in the Federal Sector* (April 2023)
- EEOC, *Promising Practices for Preventing Harassment* (November 2017);
- EEOC, *Management Directive 715* (October 2003)
- EEOC, *Select Task Force on the Study of Harassment in the Workplace* (June 2016)
- MSPB, *Sexual Harassment in Federal Workplaces: Understanding and Addressing the Problem* (December 2022)
- MSPB, *Anti-Harassment Policy and Procedures* (December 2023)

Additionally, we considered the recent GAO report, *Sexual Harassment: Actions Needed to Improve Prevention Training for Federal Civilian Employees* (GAO-24-106589) (February 2024).

To evaluate the current status of the Sexual Harassment Prevention program, we:

- Conducted a survey of all FDIC employees for the period April 20, 2019 through January 19, 2024 and analyzed and compared the current survey results to the results from the prior OIG survey conducted in 2019.
- Attempted to obtain a universe of sexual harassment allegations for the period April 20, 2019 through January 19, 2024.
- Completed testing of 15 sexual harassment misconduct allegations for the period October 1, 2021 (subsequent to the closure of our prior recommendations) through December 31, 2023.

We interviewed FDIC personnel, including:

- DOA Human Resources Senior Leaders to ascertain any process-related developments made to the AHP per our OIG-recommended changes such as new Standard Operating Procedures, tracking systems employed, and any related coordination and collaboration with OMWI and LEAS.

- OMWI Senior leaders to understand OMWI's role in EEO and AHP processes and any related collaboration and coordination with LERS and LEAS. We also obtained an understanding of their input into the revision of the AHP Directive.
- The Anti-Harassment Program Coordinator to obtain an understanding of the roles and responsibilities related to intake, investigation, and the reporting process for sexual harassment misconduct allegations. Further, we obtained an understanding of any oversight functions the AHPC performs over the AHP and any planned changes to the AHP Directive and training.
- DOA HR Performance, Compensation, & Systems Section personnel to understand how the FDIC incorporates harassment prevention into employee and supervisory performance standards, bonus criteria, and/or promotion criteria.
- DOA Labor and Employee Relations Section (LERS) Specialists to understand the procedures followed and the processes implemented to investigate sexual harassment misconduct allegations and any coordination and collaboration with OMWI and LEAS throughout the process. We also met with LERS Specialists to understand procedures used and the process for tracking sexual harassment misconduct allegations.
- Legal Division Labor, Employment, and Administration Section (LEAS) officials to obtain an understanding of their role in the AHP process when sexual harassment allegations are reported and any coordination and collaboration with OMWI and LERS throughout the process. We also met with LEAS to understand the process for tracking sexual harassment misconduct allegations.

Follow-up Review of Prior Evaluation (EVAL-20-006) Corrective Actions

In July 2020, the OIG issued an evaluation report: *Preventing and Addressing Sexual Harassment* (EVAL-20-006). We made 15 recommendations across four broad areas: improving policies and procedures relating to FDIC actions in response to sexual harassment misconduct allegations; promoting a culture in which sexual harassment is not tolerated and such allegations are promptly investigated and resolved; ensuring consistent discipline; and enhancing training for employees and supervisors. As of September 2021, all 15 recommendations were closed. To assess the status of the closed recommendations, we reviewed the FDIC corrective actions taken in response to each of the 15 recommendations. We also conducted interviews and obtained and reviewed documentation to learn of any changes specific to the recommendations, and whether the actions were sustained.

Employee Survey Methodology

In order to compare our prior evaluation survey results to the survey administered for this assignment, we utilized the same survey questions, with the exception of modifying the time period. We used the same survey software – Qualtrics - to ensure anonymity and privacy. We worked with the FDIC Division of Administration, Human Resources Branch (DOA, HRB) to obtain a complete list of FDIC employee email addresses to administer the survey. On December 15, 2023, we sent the voluntary survey to 6,210 FDIC employees, including OIG personnel. On January 19, 2024, the OIG closed the survey with responses received from 2,812 of 6,210 FDIC employees, reflecting a 45-percent response rate.[79] The survey respondents included: 43 percent female, 49 percent male, and 7 percent chose not to specify. The survey covered the period April 20, 2019 through January 19, 2024.

Data Reliability and Scope Limitation

The FDIC could not provide a comprehensive listing of all sexual harassment misconduct allegations for the period April 20, 2019 – January 19, 2024. We attempted to reconcile sexual harassment misconduct allegations tracked by LERS, LEAS, and OMWI and identified that the listings were inconsistent, with allegations omitted from each listing. According to LERS, the original list it provided was corrupted, and LERS acknowledged that the data was incorrect and incomplete. LERS provided a new universe of allegations and assured us that it was correct. However, in comparing it to the allegations provided from LEAS and OMWI, the information did not reconcile. We identified allegations on the list provided by LERS that were not captured in the LEAS or OMWI data. We also identified allegations on the list provided by LEAS that were not captured in LERS and OMWI data. Finally, we identified allegations that OMWI had that were not contained within the data provided from LERS or LEAS. As a result, we do not have assurance that we have a complete universe of sexual harassment allegations.

Consequently, based on a lack of assurance over the sexual harassment misconduct allegation population, our scope and results are limited to the process and the allegations reported to us or identified during the evaluation.

Sexual Harassment Population and Misconduct Allegations Testing

Based on the closure date of the final recommendation from our prior report, we obtained the universe of allegations for the period October 1, 2021 through December 31, 2023 in order to test allegations against the most current AHP Directive and FDIC-established policies and procedures. The FDIC provided 15 allegations of sexual harassment during the period. We

[79] We did not perform steps to assess the statistical reliability of the survey results. Throughout this report, we summarize the actual responses received and do not project the survey results to the total population of FDIC employees.

tested these allegations against the following FDIC policies and procedures: AHP Directive (March 2021); SOP *Conducting Management-Initiated Investigations* (December 2020); Directive 2750.01, *Disciplinary and Adverse Actions* (March 2021); and SOP, *Disciplinary and Adverse Actions* (January 2021).

Upon reviewing the details of each allegation in the FDIC's LERCT tracking tool, we developed a tiered methodology to select allegations for further testing. Our review methodology included the type of offense (physical, verbal, etc.), open versus closed investigations, and the level of associated disciplinary action for the closed investigations. In using this methodology, we selected five allegations, obtained the related case files, and met with the assigned LERS and LEAS Specialists on the specific cases to further evaluate the investigation process and corresponding documentation maintained. During this evaluation, we referred any concerns expressed or allegations that we identified to the OIG assignment team conducting the Special Inquiry.

Prior Office of Inspector General Reports

FDIC OIG Report, *Preventing and Addressing Sexual Harassment* (EVAL-20-006) (July 2020).

APPENDIX 2: ANALYSIS OF PRIOR OIG RECOMMENDATIONS AND RELATED FINDINGS

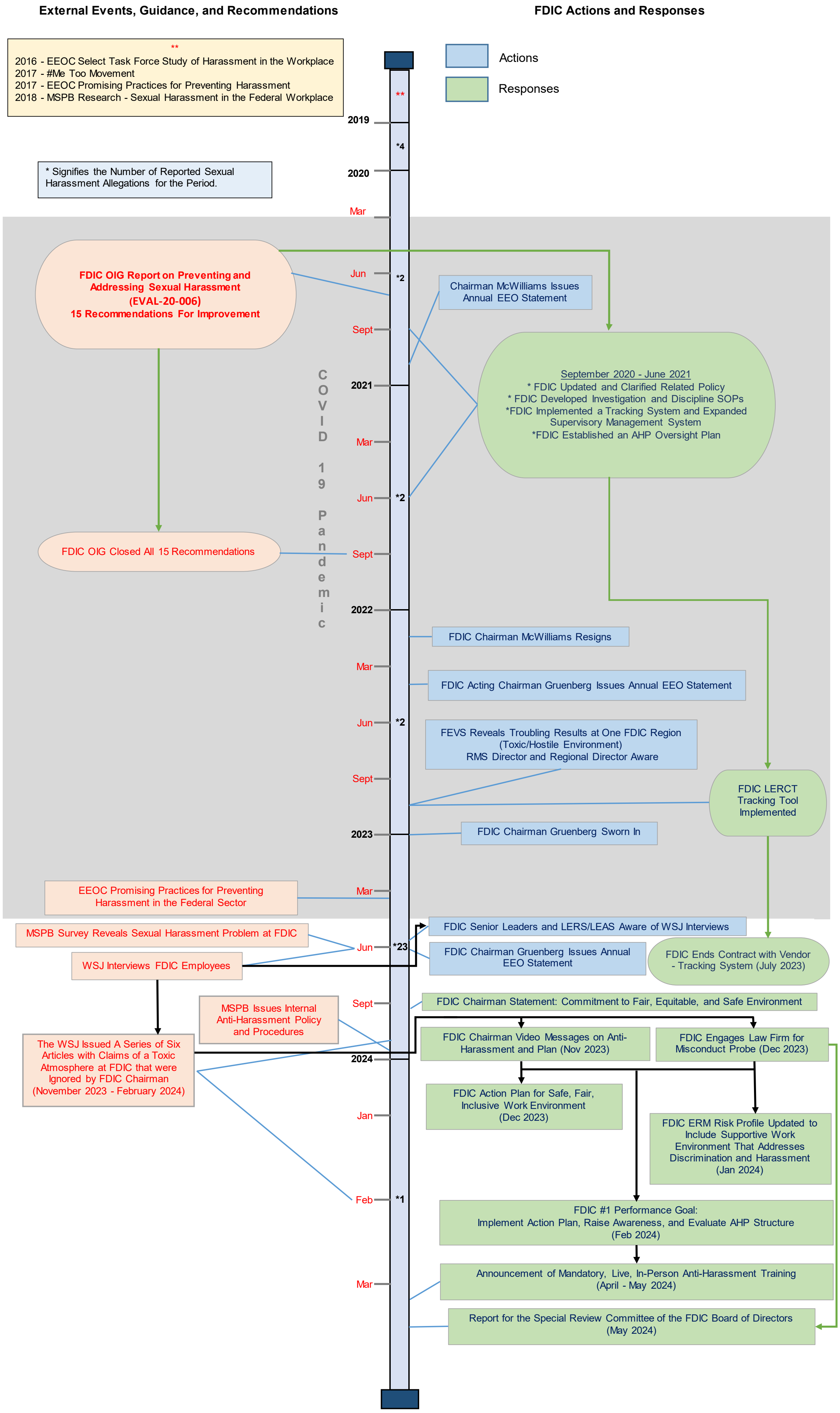
No.	Recommendation	Sustained[a]	Related Finding
1	Develop and implement a strategy for acknowledging employees, supervisors, and managers, as appropriate, for creating and maintaining a culture in which harassment is not tolerated and promptly reporting, investigating, and resolving harassment complaints.	No	1
2	Define in FDIC policy the terminology involving sexual harassment and ensure that it includes the EEOC definition.	Yes	
3	Specify within FDIC policy that HR Specialists (LERS) are avenues for employees to report sexual harassment and correct the contact information for the Anti-Harassment Program Coordinator.	Yes	
4	Clearly identify in FDIC policy the Anti-Harassment Program Coordinator roles and responsibilities with respect to sexual harassment allegations.	Yes	
5	Include requirements in FDIC policy for proportionate corrective action (discipline) when harassment is substantiated.	Yes	
6	Incorporate in FDIC policy options of alternative disciplinary action.	Yes	
7	Include in FDIC policy Legal Division responsibilities.	Yes	
8	Develop and implement a tracking system for sexual harassment misconduct allegations handled by the Anti-Harassment Program to ensure that relevant information is centralized, complete, accurate, and updated timely.	No	3
9	Track data elements for misconduct allegations, including original allegation date; misconduct classification; date investigation concluded; name of investigator; names of complainant, alleged harasser, and witnesses; whether the allegation was substantiated or unsubstantiated; and date of written notification to complainant and alleged harasser regarding completion of the investigation.	No	3
10	Develop and implement procedures for investigating sexual harassment misconduct allegations.	No	4

11	Ensure that appropriate officials notify both the complainant and alleged harasser in writing that the investigation has been completed, consistent with the Privacy Act and other legal requirements, and retain such written notifications within the official investigative file.	No	4
12	Develop and implement procedures to ensure that supervisors take consistent disciplinary actions for substantiated sexual harassment, in line with Federal government law on imposing disciplinary actions.	No	4
13	Develop and implement a comprehensive, centralized database of disciplinary actions, including those associated with sexual harassment.	No	4
14	Enhance employee and supervisor training on identifying and reporting sexual harassment, to include the training content recommended by the EEOC.	No	6
15	Develop oversight mechanisms to assess the effectiveness of the FDIC's sexual harassment prevention efforts and determine whether the FDIC is addressing sexual harassment allegations in a prompt and effective manner.	No	1

[a]Table Note. We determined that the FDIC sustained a recommendation if it implemented the recommendation as we confirmed through our test work; maintained the policy, procedure, or practice; or did not regress on the progress it had previously made in that area.

Source: OIG analysis of prior report recommendations and related findings.

APPENDIX 3: TIMELINE



APPENDIX 4: SURVEY RESULTS

FDIC OIG Sexual Harassment Survey Results			
Topic	**Prior Evaluation**	**Current Evaluation**	**% Point(s) +/-**
Survey Coverage Dates	1/1/15 - 4/19/19	4/20/19 - 1/19/24	
Survey Response Rate	40%	45%	+5
Employees Responding They Had Received Training on Sexual Harassment	48%	63%	+15
Employees Responding They Believe FDIC Should Provide Additional Sexual Harassment Training	44%	57%	+13
Employees Responding They Know How to Report Sexual Harassment at the FDIC	60%	71%	+11
Employees Responding They Had Experienced Sexual Harassment	8%	7%	-1
Responses on Reporting for Those Who Had Experienced Sexual Harassment			
The harasser, i.e., attempted to resolve the issue informally	25%	16%	-9
Immediate supervisor or management official	16%	27%	+11
Human Resources official	6%	4%	-2
Co-worker	29%	28%	-1
Internal Ombudsman	3%	5%	+2
Equal Employment Opportunity Counselor, Office of Minority and Women Inclusion (OMWI)	4%	6%	+2
Anti-Harassment Program Coordinator, OMWI	1%	4%	+3
Labor and Employee Relations (LERS), DOA	3%	4%	+1
Labor, Employment and Administration Section (LEAS), Legal Division	1%	3%	+2
Equal Employment Opportunity Commission (EEOC)	3%	2%	-1
Union Representative (if bargaining unit employee)	4%	6%	+2
Contract Project Manager (if harassment involves a contractor)	0%	1%	+1
FDIC Contract Oversight Manager (if harassment involves a contractor)	1%	1%	0
Other	6%	8%	+2
I did not report due to a missed reporting deadline	0%	2%	+2
I did not report because I did not know how to report the conduct	13%	14%	+1
Chose not to report for fear of retaliation	38%	49%	+11
Chose not to report for another reason	34%	28%	-6
Employees Responding They Had Observed Sexual Harassment	9%	11%	+2
Responses on Reporting for Those Who Had Observed Sexual Harassment			
The harasser, i.e., attempted to resolve the issue informally	13%	5%	-8

Immediate supervisor or management official	13%	13%	0
Human Resources official	4%	2%	-2
Co-worker	17%	14%	-3
Internal Ombudsman	1%	2%	+1
Equal Employment Opportunity Counselor, Office of Minority and Women Inclusion (OMWI)	1%	1%	0
Anti-Harassment Program Coordinator, OMWI	0%	0%	0
Labor and Employee Relations (LERS), DOA	1%	2%	+1
Labor, Employment and Administration Section (LEAS), Legal Division	0%	1%	+1
Equal Employment Opportunity Commission (EEOC)	1%	1%	0
Union Representative (if bargaining unit employee)	1%	2%	+1
Contract Project Manager (if harassment involves a contractor)	0%	0%	0
FDIC Contract Oversight Manager (if harassment involves a contractor)	0%	0%	0
Other	9%	7%	-2
I did not report because I did not know how to report the conduct	15%	17%	+2
Chose not to report for fear of retaliation	36%	51%	+15
Chose not to report for another reason	37%	35%	-2
Employees Responding They Had Personally Experienced Retaliation	2%	3%	+1
Employees Responding They Had Observed Retaliation	3%	6%	+3
Employees Responding They Had Been a Supervisor	18%	20%	+2
Supervisor Responses on Employee Reporting of Sexual Harassment			
No employees reported.	96%	94%	-2
One employee reported.	3%	5%	+2
More than one employee reported.	1%	1%	0
Responses on Seeking Assistance for Supervisors Who Had at Least One Employee Report			
Immediate supervisor or management official	68%	71%	+3
Human Resources official	32%	41%	+9
Office of Minority and Women Inclusion	21%	18%	-3
Labor and Employee Relations (LERS), DOA	53%	62%	+9
Labor, Employment and Administration Section (LEAS), Legal Division	11%	44%	+33
Contract Project Manager (if harassment involves a contractor)	5%	0%	-5
FDIC Contract Oversight Manager (if harassment involves a contractor)	5%	3%	-2
Other	0%	12%	+12
Employee Responses on Duty Location			
Headquarters (Virginia and Washington, DC)	32%	32%	0
Atlanta Regional Office	5%	4%	-1
Chicago Regional Office	6%	4%	-2

Dallas Regional Office	11%	11%	0
Kansas City Regional Office	7%	5%	-2
New York Regional Office	4%	5%	+1
San Francisco Regional Office	6%	5%	-1
Boston Area Office	2%	1%	-1
Memphis Area Office	1%	0%	-1
Field Office	28%	32%	+4
Employee Responses on Gender			
Female	48%	43%	-5
Male	46%	49%	+3
Non-binary	0%	0%	0
Do not wish to respond	6%	7%	+1

APPENDIX 5: FDIC COMMENTS

Federal Deposit Insurance Corporation

MEMO

TO: Terry L. Gibson
Assistant Inspector General, Audits, Evaluations & Cyber
Office of Inspector General

FROM: Daniel H. Bendler DANIEL BENDLER Digitally signed by DANIEL BENDLER Date: 2024.07.29 17:19:18 -04'00'
Deputy to the Chairman and Chief Operating Officer

DATE: July 29, 2024

RE: Management Response to the Draft Evaluation Report Entitled, *The FDIC's Sexual Harassment Prevention Program* (No. 2024-004)

Thank you for the opportunity to review and comment on the subject Office of Inspector General (OIG) draft evaluation report. The objective of the OIG's evaluation was to determine whether the FDIC implemented an effective sexual harassment prevention program to facilitate the reporting of sexual harassment misconduct allegations and address reported allegations in a prompt and effective manner.

There is no higher priority at the FDIC than ensuring that every person at the agency feels safe, valued, and respected. The Chairman and senior FDIC executives are committed to providing an effective sexual harassment prevention program and to addressing workplace culture issues that have been reported since November of last year. The Chairman and senior FDIC executives have established a number of initiatives for this purpose and have made meaningful progress toward implementing these measures.

In December 2023, FDIC senior leadership prepared an Action Plan for a Safe, Fair, and Inclusive Work Environment (Action Plan). The Action Plan describes how the FDIC will support accusers, victims, and survivors of harassment and discrimination and specifies action items related to identifying and correcting current problems, repercussions for those engaged in sexual harassment or other serious misconduct, leadership accountability, review of policies and procedures, training programs, communication and outreach strategies, and cultural transformation. The Action Plan includes eight broad action areas and 34 project initiatives that will make a meaningful impact on the FDIC's workplace environment and culture and are essential to restoring the confidence that FDIC employees have in leadership.

We continue to make substantial progress in completing Action Plan initiatives. For example, in early 2024, the FDIC established a toll-free 24-hour hotline staffed with trained professionals to discreetly intake reports of harassing behavior to ensure immediate assistance for employees in distress. At the same time, we provided free specialized counseling services with expertise in sexual harassment and discrimination to address employees' emotional and mental well-being. To ensure that all senior executives, managers, and employees received the same information related to sexual harassment and discrimination, the FDIC partnered with the Equal Employment Opportunity Commission (EEOC) to develop and deliver in-person training to every FDIC employee on how to prevent, recognize, and report sexual harassment. That training is ongoing and expected to be completed in 2024. To address reports of misbehavior related to FDIC's Student Residence Center, the FDIC developed a residence-specific Code of Conduct that guests must review and sign before being allowed to stay at the Student Residence Center.

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Many other important initiatives, several of which directly address recommendations in your report, are already underway and expected to be completed soon. For example, the FDIC is updating its Anti-Harassment Program Directive, developing new policies and procedures, creating a Code of Conduct and guide for modeling FDIC Values, developing a new harassment and discrimination case tracking system, and updating leadership performance standards to better support accountability for sexual harassment detection and prevention.

The FDIC Board of Directors also established a Special Review Committee (SRC) to provide direction to and oversee an independent third-party review of the agency's workplace culture. The committee appointed a law firm to conduct the independent review. In May 2024, the SRC publicly released the law firm's report (SRC Report). The SRC Report recommended fundamental change to the agency's structure and procedures for receiving and investigating complaints and taking disciplinary action against misconduct.

In response, in June 2024, the FDIC Board of Directors approved the creation of two new, independent offices, reporting directly to the Board. The FDIC's Office of Professional Conduct (OPC) will intake, investigate, and report on complaints of harassment, interpersonal misconduct, and retaliation, and determine and enforce discipline. The Office of Equal Employment Opportunity (OEEO) will intake, investigate, and report on complaints of discrimination and retaliation under the laws enforced by the EEOC. Both offices will utilize independent third-party investigators. The Board will appoint a director to each office following a competitive hiring process which is ongoing. Other structural changes are underway as well.

The SRC Report also recommended the FDIC appoint a Transformation Monitor and engage an independent third-party expert to support culture change efforts. In June, the FDIC issued requests for proposals (RFPs) to retain firms to provide crucial support and insight into our efforts. The Transformation Monitor will monitor and audit all recommendations to remediate our culture, policies, procedures, and structures. The independent third-party expert will advise on those efforts. We received numerous proposals in response to the RFPs, which are currently under review by our technical evaluation panels. The Board will make the final selections.

The SRC Report also recommended the FDIC develop an Anti-Retaliation Policy and Anti-Fraternization Policy. The FDIC has developed both draft policies and will be soliciting employee input on these and several other draft policies.

Management's Response to Recommendations in the Draft Report

The OIG made 24 recommendations in its report. The FDIC concurs with all recommendations. The following presents the FDIC's proposed corrective action for each recommendation and estimated completion dates. It is worth noting that while the FDIC fully intends to complete all corrective actions by the estimated completion dates, some actions and dates might change as the result of input from the Transformation Monitor and independent third-party expert once selected.

Recommendation 1:

The Chairman reevaluate and make further updates, as necessary and fully implement all provisions of the FDIC's Anti-Harassment Oversight Plan.

Management Decision: Concur

Corrective Action: In June 2024, the FDIC created a new Office of Professional Conduct (OPC) that will intake, investigate, and report on complaints of harassment and interpersonal misconduct, as well as claims of retaliation, and determine and enforce discipline against anyone violating the FDIC's anti-harassment or anti-retaliation policies. The OPC will consolidate responsibility for addressing harassment complaints that was

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previously divided between OMWI, LERS, and LEAS. In addition, the OPC will report directly to the FDIC's Board of Directors and will utilize independent third-party investigators. The FDIC will develop and fully implement a new Anti-Harassment Oversight Plan based on the new OPC structure and responsibilities.

Estimated Completion Date: December 31, 2024

Recommendation 2:

The Chairman/COO (a) incorporate a specific harassment-free culture standard into the Performance Management Program and Bonus Criteria for all staff; (b) incorporate harassment prevention into the bonus criteria for managers and executives; (c) develop and implement a process that considers violations of the anti-harassment policy when determining whether an employee should serve in a supervisory or managerial capacity; and (d) develop and implement a process that considers violations of the anti-harassment policy when determining whether an employee is eligible to receive a bonus.

Management Decision: Concur

Corrective Action: The Action Plan, developed in December 2023, included several relevant initiatives, including, (a) updating leadership performance standards to better support accountability for sexual harassment detection and prevention; (b) updating policies to prohibit the payment of bonuses to any individual found to have committed sexual harassment and to delay bonuses for any employee being investigated for sexual harassment or other serious misconduct until they are cleared of any wrongdoing; and (c) to the extent legally supportable and feasible, implementing policies to prohibit hiring those who have previously engaged in sexual harassment or other serious misconduct. The FDIC will continue to implement these relevant Action Plan initiatives. The FDIC will also include a harassment-free culture standard into the Performance Management Program and Bonus Criteria for all staff, incorporate harassment prevention into the bonus criteria for managers and executives, and establish a process to consider anti-harassment policy violations when determining whether an employee should serve in a supervisory or managerial capacity.

Estimated Completion Date: December 31, 2024

Recommendation 3:

The Chairman/COO develop and implement a mechanism to ensure that corrective actions used to close recommendations related to the sexual harassment prevention program are sustained.

Management Decision: Concur

The Action Plan includes an initiative to conduct regular reviews of Field, Region, and Headquarters offices to ensure compliance and consistency with FDIC directives related to sexual harassment, anti-harassment, and equal employment opportunity. Action Team representatives are developing internal review work plans to facilitate reviewing headquarters, regional and field office compliance with Equal Employment Opportunity and Anti-Harassment Program requirements.

The SRC Report recommended the FDIC Board appoint a single individual not currently employed by the FDIC to monitor and audit all recommendations and any other related work the FDIC undertakes. This Transformation Monitor will report to the Board monthly and make reports assessing FDIC's progress in implementing SRC Report recommendations available to all employees.

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Additionally, the FDIC's Office of Risk Management and Internal Controls (ORMIC) periodically facilitates retrospective reviews of audit recommendations by FDIC divisions and offices to ensure that agreed-upon corrective actions are still in place and effective. ORMIC is currently facilitating a retrospective review of recommendations made over the past three years, corresponding with the prior retrospective review effort. ORMIC will establish a requirement to periodically conduct retrospective reviews of all recommendations going forward.

Estimated Completion Date: December 31, 2024

Recommendation 4:

The Chairman reevaluate and implement an organizational structure to ensure the FDIC's Anti-Harassment Program Coordinator can meet the requirements of the program as outlined in the AHP Directive and that the structure eliminates any conflicts given Labor and Employee Relations Section and Labor Employment and Administration Section current roles and responsibilities.

Management Decision: Concur

Corrective Action:

In June 2024, the FDIC Board of Directors approved the creation of two new, independent offices, reporting directly to the Board. The FDIC's OPC will intake, investigate, and report on complaints of harassment, interpersonal misconduct, and retaliation, and determine and enforce discipline. The Anti-Harassment Program Coordinator role will be transferred to the OPC. The OEEO will intake, investigate, and report on complaints of discrimination and retaliation under the laws enforced by the EEOC. Both offices will utilize independent third-party investigators. The Board will appoint a director to each office following a competitive hiring process. The OPC structure will eliminate the fragmentation in responsibilities that currently exists and will be independent of Human Resources, which includes LERS, and the Legal Division, which includes LEAS. The OPC structure will also ensure that one executive level official is accountable for all phases of the anti-harassment program and process.

Estimated Completion Date: December 31, 2024

Recommendation 5:

The Chairman provide the appropriate authority for effective implementation of the FDIC's Anti-Harassment Program, including the authorities for the role of the Anti-Harassment Program Coordinator and for holding supervisors accountable for failing to fulfill their supervisory responsibilities under the AHP Directive.

Management Decision: Concur

Corrective Action:

As discussed in response to Recommendation 4, the FDIC has established the OPC which will be responsible for implementing the FDIC's Anti-Harassment Program and serving as the AHP Coordinator. The OPC Director will have full authority necessary to implement the Anti-Harassment Program. The OPC will intake, investigate, and report on complaints of harassment, interpersonal misconduct, and retaliation, and determine and enforce discipline. Consistent with the Action Plan, SRC Report recommendations, and OIG Recommendation 2, FDIC is updating leadership performance standards to better support accountability for sexual harassment detection

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and prevention. It is important to note that divisions and offices are responsible for assessing manager performance and holding their managers accountable for complying with the AHP Directive.

Estimated Completion Date: December 31, 2024

Recommendation 6:

The Chairman dedicate the necessary resources and staff time for effective implementation of the FDIC's Anti-Harassment Program.

Management Decision: Concur

As discussed in response to Recommendation 4, the FDIC has established the OPC which will be responsible for implementing the FDIC's Anti-Harassment Program and serving as program coordinator. The OPC will intake, investigate, and report on complaints of harassment, interpersonal misconduct, and retaliation, and determine and enforce discipline. The OPC Director will have full authority necessary to implement the Anti-Harassment Program. Once selected, the OPC Director will develop an organization structure, position descriptions, and staffing levels necessary to effectively implement and maintain the FDIC's Anti-Harassment Program. FDIC leadership is committed to providing the resources necessary to successfully manage the program. Unlike the prior organizational structure where harassment prevention responsibilities were divided among several organizations, the OPC will be singularly focused on addressing harassment and misconduct complaints. The FDIC will ensure that the OPC has adequate staffing, contractor resources, and funding to successfully carry out its mission.

Estimated Completion Date: December 31, 2024

Recommendation 7:

The Director, Division of Administration, develop and implement quality control procedures to ensure the FDIC maintains an accurate and complete population of sexual harassment misconduct allegations and related records

Management Decision: Concur

Corrective Action:

The OPC Director will establish written procedures to facilitate quality control efforts to ensure that the FDIC maintains an accurate and complete population of sexual harassment and other misconduct allegations. Quality control procedures will also address ensuring that OPC maintains complete records supporting sexual harassment and other misconduct allegations. Further, as discussed in response to Recommendation 1, the FDIC will develop and implement a new Anti-Harassment Oversight Plan based on the new OPC structure and responsibilities. It is envisioned that this oversight plan will include procedures to verify that tracking systems and records supporting harassment and misconduct cases are complete and accurate.

Estimated Completion Date: December 31, 2024

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Recommendation 8:

The Director, Division of Administration, conduct a review of prior allegations to ensure that it has an accurate and complete population of sexual harassment allegations and that it has maintained all allegation records in accordance with the FDIC record retention schedule, which requires that all records be maintained for 7 years.

Management Decision: Concur

Corrective Action:

DOA will coordinate with OMWI and LEAS officials to ensure the FDIC has a complete listing of all sexual harassment allegations since 2017. As part of this review, DOA will identify any supporting records and consolidate records that may be stored in a central location or repository.

Estimated Completion Date: March 31, 2025

Recommendation 9:

The Director, Division of Administration, implement an effective system for tracking, securing, documenting, and reporting sexual harassment misconduct allegations. Include the following: original allegation date, names of witnesses, whether allegations are substantiated or unsubstantiated, date of written notification to complainant and alleged harasser regarding completion of the investigation, written reports, misconduct type, and a unique identification code that follows the allegation through disciplinary action.

Management Decision: Concur

The Action Plan included an initiative to enhance the centralized tracking system for monitoring sexual harassment claims to provide the FDIC with better data on the scope and nature of sexual harassment claims and improve decision making around how to best prevent and address sexual harassment. FDIC internally developed an interim complaint tracking system that includes a central electronic portal for ingesting complaints, an organized repository with expanded data fields for tracking case information and supporting documentation, and reporting and dashboarding capabilities to provide management reports and trend analysis. The new system includes the information fields detailed in the recommendation language. Each harassment or misconduct complaint will be assigned a unique case number. FDIC will begin using the new system in August 2024. In addition, the FDIC is conducting market research to explore commercially available tracking systems as a long-term solution.

Estimated Completion Date: Implementation of interim case tracking system, September 30, 2024

Recommendation 10:

The Director, Office of Minority and Women Inclusion, develop and implement standard operating procedures to guide the efforts of the Anti-Harassment Program Coordinator.

Management Decision: Concur

Corrective Action:

As discussed in response to Recommendation 4, the FDIC has established the OPC which will be responsible for implementing the FDIC's Anti-Harassment Program and serving as the AHP Coordinator. The OPC Director will

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have full authority necessary to implement the Anti-Harassment Program. Once selected, the OPC Director will develop standard operating procedures for implementing the Anti-Harassment Program, including procedures to intake, investigate, and report on complaints of harassment, interpersonal misconduct, and retaliation, and determine and enforce discipline

Estimated Completion Date: December 31, 2024

Recommendation 11:

The Directors, Office of Minority and Women Inclusion and Division of Administration, develop and implement standard operating procedures for case file records management, including where to securely maintain files, what to maintain, and how long to retain records.

Management Decision: Concur

Corrective Action:

As discussed in response to Recommendation 4, the FDIC has established the OPC which will be responsible for implementing the FDIC's Anti-Harassment Program and serving as the AHP Coordinator. The standard operating procedures discussed in Recommendation 10 will include procedures for maintaining case file documentation including records and case information that should be maintained, appropriate repositories for filing case records, and record retention requirements.

Estimated Completion Date: December 31, 2024

Recommendation 12:

The Director, Division of Administration, update and implement investigation standard operating procedures to clearly guide investigations by ensuring that investigations are: conducted appropriately and consistently, convey the outcome of the investigation, including a Report of Investigation, and are well-documented.

Management Decision: Concur

As discussed in response to Recommendation 4, the FDIC has established the OPC which will be responsible for implementing the FDIC's Anti-Harassment Program and serving as the AHP Coordinator. The standard operating procedures discussed in Recommendation 10 will include procedures for planning, conducting, documenting support for, and reporting the results of harassment or misconduct investigations.

Estimated Completion Date: December 31, 2024

Recommendation 13:

The Director, Division of Administration, provide regular investigation training to the LERS specialists conducting investigations under the Anti-Harassment Program.

Management Decision: Concur

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Corrective Action:

As discussed in response to Recommendation 4, the OPC will be responsible for implementing the FDIC's Anti-Harassment Program and ensuring that harassment and misconduct allegations are thoroughly investigated. The SRC Report recommended that investigations of complaints against FDIC executives be conducted by third-party firms. Accordingly, the OPC Director may decide to conduct investigations using internal OPC staff or external third-party investigators. The OPC Director, in conjunction with FDIC's Corporate University, will ensure that OPC staff conducting investigations under the Anti-Harassment Program periodically receive complaint investigation training.

Estimated Completion Date: March 31, 2025

Recommendation 14:

The Director, Division of Administration, develop a centralized disciplinary action tracking system or tool and related procedures for what information should be captured in the tool and in support of the disciplinary decision.

Management Decision: Concur

Corrective Action:

As discussed in response to Recommendation 4, the OPC will be responsible for implementing the FDIC's Anti-Harassment Program and will intake, investigate, and report on complaints of harassment, interpersonal misconduct, and retaliation, and determine and enforce discipline. As discussed in Recommendation 9, the FDIC developed an interim improved complaint tracking system with additional data fields and reporting functionality. The tracking system will also include information related to disciplinary action. The standard operating procedures discussed in Recommendation 10 will include procedures for maintaining information in the tracking system including disciplinary action information.

Estimated Completion Date: December 31, 2024

Recommendation 15:

The Chairman consider developing and implementing agency-wide, consistent penalties or recommended penalty ranges to be used in disciplinary actions for harassing conduct, in accordance with applicable laws and regulations and as necessary and appropriate, incorporate the consistent penalties and recommended penalty ranges into policy and procedures.

Management Decision: Concur

The Action Plan included an initiative to consider expanding the use of tables of penalties or other tools or frameworks to ensure that disciplinary action is consistently applied for like or similar misconduct. The action planning team has developed and proposed a draft table of penalties for management's use in determining appropriate ranges of consequences for varying situations involving sexual harassment and factors related to individuals found to have engaged in inappropriate conduct. The draft table of penalties is currently under review and consideration.

Estimated Completion Date: September 30, 2024

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Recommendation 16:

The Chairman update the AHP Directive to include: (1) A statement that the policy applies to applicants, clients, customers, and other relevant individuals; (2) A statement that employees are encouraged to report conduct that they believe may be prohibited harassment (or that, if left unchecked, may rise to the level of prohibited harassment), even if they are not sure that the conduct violates the policy; and (3) A statement that the employer will provide a prompt, impartial, and thorough investigation.

Management Decision: Concur

Corrective Action:

The Action Plan included an initiative to issue a revised Anti-Harassment Program directive to include a more detailed definition of sexual harassment and provide a plain language explanation of existing anti-retaliation protections for individuals who report cases of sexual harassment or otherwise expose discriminatory practices. The Action Plan team substantially revised the Anti-Harassment Program directive in May 2024. However, the FDIC determined it would be prudent to allow the independent Transformation Monitor and third-party expert (both recommended by the SRC Report), as well as the new OPC Director, an opportunity to review the draft directive before finalization. The revised directive will include the three statements detailed in this recommendation.

Estimated Completion Date: December 31, 2024

Recommendation 17:

The Chairman develop and implement a policy to ensure that parallel processing of allegations of sexual harassment occur under the EEO and the AHP as necessary and appropriate.

Management Decision: Concur

Corrective Action:

As discussed in Recommendation 16, the FDIC developed a revised Anti-Harassment Program directive as part of the Action Plan. The OPC will include a provision to the draft directive to ensure that allegations of sexual harassment that are processed under the EEO complaints process also receive parallel processing under the Anti-Harassment Program, as appropriate.

Estimated Completion Date: December 31, 2024

Recommendation 18:

The Chairman develop and implement policy to ensure that staff who are responsible for promptly, thoroughly, and impartially investigating allegations of harassment and taking immediate and appropriate corrective action are neutral and free of conflicts or the appearance of a conflict.

Management Decision: Concur

As discussed in response to Recommendation 4, in June 2024, the FDIC Board of Directors approved the creation of the OPC to manage the Anti-Harassment Program and serve as the program coordinator. The OPC structure is independent of all other FDIC divisions and offices, including OMWI; Human Resources, which includes LERS;

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and the Legal Division, which includes LEAS. The OPC's organizational independence will eliminate conflicts of interest for all FDIC divisions and offices. The FDIC will develop a process outside of OPC for investigating any harassment or misconduct allegations against OPC staff or managers. The Anti-Harassment Program directive will include provisions to ensure impartiality and independence in appearance and in fact.

Estimated Completion Date: December 31, 2024

Recommendation 19:

The Chairman establish and implement a policy for handling allegations against senior-level corporate managers and executives from intake to final determination, including the use of Memorandums of Understanding, as appropriate, to engage those outside of the FDIC chains of command.

Management Decision: Concur

The SRC Report recommended that investigations of harassment allegations against the Chairperson, individuals who directly report to the Chairperson, and Executive Managers should be conducted by third-party firms that have not previously completed significant work in conjunction with senior FDIC executives and that the reports of these investigations should be provided to the FDIC Board by the outside firm. The OPC will include provisions in the Anti-Harassment Program directive for using third-party firms for investigations involving the Chairperson, senior leaders, and executive managers. As an interim measure, the FDIC is soliciting external firms who specialize in conducting investigations of inappropriate conduct, including harassment, by executives and managers. Once a firm is selected, they will perform all investigative work involving allegations of harassment and inappropriate conduct against senior-level managers and executives.

Estimated Completion Date: September 30, 2024

Recommendation 20:

The Chairman update the AHP Directive to include: (1) a clear definition of sexual harassment misconduct and practical examples tailored to the workplace, (2) an explanation of the agency's duty to investigate and correct harassment even if alleged victims indicate they do not want the matter investigated or corrected, and (3) general time limits for concluding investigations.

Management Decision: Concur

Corrective Action:

As discussed in Recommendation 16, the FDIC developed a revised Anti-Harassment Program directive as part of the Action Plan. The revised draft directive includes a clear definition of harassing conduct supported by a number of illustrative examples. The revised draft directive also includes a section on management's responsibility to stop harassing conduct, and duty to report observations and allegations of harassing conduct immediately to the Anti-Harassment Program Coordinator. The revised draft directive describes the process for intake and investigation of alleged harassing conduct. The FDIC will include an explanation of the agency's duty to investigate and correct harassment even if alleged victims indicate they do not want the matter investigated or corrected and will develop and publish general time limits for concluding investigations. However, those time limits may be more appropriately documented in more detailed Standard Operating Procedures instead of the higher, policy-level Anti-Harassment Program directive.

Estimated Completion Date: December 31, 2024

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Federal Deposit Insurance Corporation

Recommendation 21:

The Chairman reassess and redesign, as needed, the roles and responsibilities within the AHP Directive to ensure all aspects of the Directive can be implemented. Further, we recommend the Chairman develop a plan for implementing all aspects of the AHP Directive.

Management Decision: Concur

Corrective Action:

As discussed in Recommendation 16, the FDIC is updating the Anti-Harassment Program directive as part of the Action Plan. The revised draft directive includes a section on roles and responsibilities for the Director, OPC, divisions and office directors, managers and supervisors, and employees. The OPC Director will have full authority necessary to implement the Anti-Harassment Program and will intake, investigate, and report on complaints of harassment, interpersonal misconduct, and retaliation, and determine and enforce discipline. The OPC will develop a plan for implementing all aspects of the Anti-Harassment Program. OPC development and Anti-Harassment Program implementation will also be reviewed by the independent third-party expert and Transformation Monitor recommended in the SRC Report. FDIC is pursuing a competitive procurement process to engage the third-party expert and Transformation Monitor.

Estimated Completion Date: December 31, 2024

Recommendation 22:

The Chairman develop and implement regular, comprehensive and effective required training on preventing and reporting sexual harassment for all non-supervisory employees that incorporates elements from the EEOC 2023 Promising Practices, including a larger emphasis on the agency's prohibition for retaliation of any kind.

Management Decision: Concur

The Action Plan included an initiative to conduct mandatory, live training on preventing and addressing sexual harassment for all FDIC employees, managers, and executives and to implement a process to regularly assess the effectiveness of trainings and revise as needed. The FDIC has engaged with the EEOC to develop and deliver training on preventing and addressing sexual harassment.

As of July 25, 2024, over 30 training sessions have been delivered for 2,500 employees, including substantially all managers, supervisors, and executives. We are working to schedule additional training sessions in August and September for examiners and non-examiners and expect to complete training for all employees by the end of the year. The FDIC will also establish expectations for regularly recurring training on preventing and addressing sexual harassment.

Estimated Completion Date: December 31, 2024

Recommendation 23:

The Chairman develop and implement regular, comprehensive and effective required training for all supervisors and executives on preventing and reporting sexual harassment that incorporates elements from the EEOC's 2023 Promising Practices, including a larger emphasis on the agency's prohibition for retaliation of any kind.

Management Decision: Concur

Corrective Action:

As discussed in Recommendation 22, the FDIC has engaged with the EEOC to develop and deliver training on preventing and addressing sexual harassment for all FDIC employees, managers, and executives. As of July 25, 2024, over 30 training sessions have been delivered for 2,500 employees, including substantially all managers, supervisors, and executives. We are working to schedule additional training sessions in August and September for examiners and non-examiners and expect to complete training for all employees by the end of the year. The FDIC will also establish expectations for regularly recurring training on preventing and addressing sexual harassment.

Estimated Completion Date: December 31, 2024

Recommendation 24:

The Chairman develop and implement a plan to routinely analyze the FDIC's sexual harassment training, ensure that it is current, and measure the impact that training is having on reducing harassment and retaliation in the Agency.

Management Decision: Concur

Corrective Action:

The FDIC's Corporate University evaluates course participant evaluations and makes changes to course content or delivery, where appropriate. Manager and employee feedback on preventing and addressing sexual harassment training has largely been favorable. Real time improvements to content delivery have already been made in response to helpful employee feedback. Corporate University and the OPC will develop and implement a plan to ensure the training sessions remain current and to measure training effectiveness. As discussed in response to Recommendation 9, the FDIC developed an interim complaint tracking system that includes reporting and dashboarding capabilities to provide management reports and trend analysis. Better data and analysis of the numbers and trends of harassment cases will help the FDIC gauge the effectiveness of training courses and other agency initiatives to create a safe, fair, and inclusive work environment.

Estimated Completion Date: December 31, 2024

APPENDIX 6: SUMMARY OF THE FDIC'S CORRECTIVE ACTIONS

This table presents management's response to the recommendations in the report and the status of the recommendations as of the date of report issuance.

Rec. No.	Corrective Action: Taken or Planned	Expected Completion Date	Monetary Benefits	Resolved:[a] Yes or No	Open or Closed[b]
1	In June 2024, the FDIC created a new Office of Professional Conduct (OPC) that will intake, investigate, and report on complaints of harassment and interpersonal misconduct, as well as claims of retaliation, and determine and enforce discipline against anyone violating the FDIC's anti-harassment or anti-retaliation policies. The FDIC will develop and fully implement a new Anti-Harassment Oversight Plan based on the new OPC structure and responsibilities.	December 31, 2024	$0	Yes	Open
2	The Action Plan, developed in December 2023, included several relevant initiatives, including, (a) updating leadership performance standards to better support accountability for sexual harassment detection and prevention; (b) updating policies to prohibit the payment of bonuses to any individual found to have committed sexual harassment and to delay bonuses for any employee being investigated for sexual harassment or other serious misconduct until they are cleared of any wrongdoing; and (c) to the extent legally supportable and feasible, implementing policies to prohibit hiring those who have previously engaged in sexual harassment or other serious misconduct. The FDIC will continue to implement these relevant Action Plan initiatives. The FDIC will also include a harassment-free culture standard into the Performance Management Program and Bonus Criteria for all staff, incorporate harassment prevention into the bonus criteria for managers and executives, and establish a process to consider anti-harassment policy violations when determining whether an employee	December 31, 2024	$0	Yes	Open

Rec. No.	Corrective Action: Taken or Planned	Expected Completion Date	Monetary Benefits	Resolved:[a] Yes or No	Open or Closed[b]
	should serve in a supervisory or managerial capacity.				
3	The Action Plan includes an initiative to conduct regular reviews of Field, Region, and Headquarters offices to ensure compliance and consistency with FDIC directives related to sexual harassment, anti-harassment, and equal employment opportunity. Action Team representatives are developing internal review work plans to facilitate reviewing headquarters, regional, and field office compliance with Equal Employment Opportunity (EEO) and Anti-Harassment Program (AHP) requirements. Additionally, the FDIC's Office of Risk Management and Internal Control will establish a requirement to periodically conduct retrospective reviews of all recommendations going forward.	December 31, 2024	$0	Yes	Open
4	In June 2024, the FDIC Board of Directors (FDIC Board) approved the creation of two new, independent offices, reporting directly to the FDIC Board. The OPC will intake, investigate, and report on complaints of harassment, interpersonal misconduct, and retaliation, and determine and enforce discipline. The Anti-Harassment Program Coordinator (AHPC) role will be transferred to the OPC. The Office of Equal Employment Opportunity (OEEO) will intake, investigate, and report on complaints of discrimination and retaliation under the laws enforced by the Equal Employment Opportunity Commission (EEOC). Both offices will utilize independent third-party investigators. The OPC structure will eliminate the fragmentation in responsibilities that currently exists and will be independent of Human Resources, which includes LERS, and the Legal Division, which includes LEAS. The OPC structure will also ensure that one executive level official is accountable for all phases of the AHP and process.	December 31, 2024	$0	Yes	Open

Rec. No.	Corrective Action: Taken or Planned	Expected Completion Date	Monetary Benefits	Resolved:[a] Yes or No	Open or Closed[b]
5	The FDIC established the OPC, which will be responsible for implementing the FDIC's AHP and serving as the AHPC. The OPC Director will have full authority necessary to implement the AHP. The OPC will intake, investigate, and report on complaints of harassment, interpersonal misconduct, and retaliation, and determine and enforce discipline. The FDIC is updating leadership performance standards to better support accountability for sexual harassment detection and prevention.	December 31, 2024	$0	Yes	Open
6	The FDIC has established the OPC, which will be responsible for implementing the FDIC's AHP and serving as program coordinator. The OPC Director will have full authority necessary to implement the AHP. Once selected, the OPC Director will develop an organization structure, position descriptions, and staffing levels necessary to effectively implement and maintain the FDIC's AHP. FDIC leadership is committed to providing the resources necessary to successfully manage the program. The FDIC will ensure that the OPC has adequate staffing, contractor resources, and funding to successfully carry out its mission.	December 31, 2024	$0	Yes	Open
7	The OPC Director will establish written procedures to facilitate quality control efforts to ensure that the FDIC maintains an accurate and complete population of sexual harassment and other misconduct allegations. Quality control procedures will also address ensuring that OPC maintains complete records supporting sexual harassment and other misconduct allegations. Further, as discussed in response to recommendation 1, the FDIC will develop and implement a new Anti-Harassment Oversight Plan based on the new OPC structure and responsibilities. It is envisioned that this oversight plan will include procedures to verify that tracking systems and records supporting	December 31, 2024	$0	Yes	Open

Rec. No.	Corrective Action: Taken or Planned	Expected Completion Date	Monetary Benefits	Resolved:[a] Yes or No	Open or Closed[b]
	harassment and misconduct cases are complete and accurate.				
8	DOA will coordinate with OMWI and LEAS officials to ensure the FDIC has a complete listing of all sexual harassment allegations since 2017. As part of this review, DOA will identify any supporting records and consolidate records that may be stored in a central location or repository.	March 31, 2025	$0	Yes	Open
9	The FDIC internally developed an interim complaint tracking system that includes a central electronic portal for ingesting complaints, an organized repository with expanded data fields for tracking case information and supporting documentation, and reporting and dashboard capabilities to provide management reports and trend analysis. The new system includes the information fields detailed in the recommendation language. Each harassment or misconduct complaint will be assigned a unique case number.	September 30, 2024	$0	Yes	Open
10	The FDIC has established the OPC, which will be responsible for implementing the FDIC's AHP and serving as the AHPC. The OPC Director will develop standard operating procedures for implementing the AHP, including procedures to intake, investigate, and report on complaints of harassment, interpersonal misconduct, and retaliation, and determine and enforce discipline.	December 31, 2024	$0	Yes	Open
11	The standard operating procedures discussed in Recommendation 10 will include procedures for maintaining case file documentation, including records and case information that should be maintained, appropriate repositories for filing case records, and record retention requirements.	December 31, 2024	$0	Yes	Open
12	The standard operating procedures discussed in Recommendation 10 will include procedures for planning,	December 31, 2024	$0	Yes	Open

Rec. No.	Corrective Action: Taken or Planned	Expected Completion Date	Monetary Benefits	Resolved:[a] Yes or No	Open or Closed[b]
	conducting, documenting support for, and reporting the results of harassment or misconduct investigations.				
13	The OPC will be responsible for implementing the FDIC's AHP and ensuring that harassment and misconduct allegations are thoroughly investigated. The OPC Director, in conjunction with the FDIC's Corporate University, will ensure that OPC staff conducting investigations under the AHP periodically receive complaint investigation training.	March 31, 2025	$0	Yes	Open
14	As discussed in Recommendation 9, the FDIC developed an interim improved complaint tracking system with additional data fields and reporting functionality. The tracking system will also include information related to disciplinary action. The standard operating procedures discussed in Recommendation 10 will include procedures for maintaining information in the tracking system, including disciplinary action information.	December 31, 2024	$0	Yes	Open
15	The Action Plan team developed and proposed a draft table of penalties for management's use in determining appropriate ranges of consequences for varying situations involving sexual harassment and factors related to individuals found to have engaged in inappropriate conduct. The draft table of penalties is currently under review and consideration.	September 30, 2024	$0	Yes	Open
16	The Action Plan team substantially revised the AHP directive in May 2024. However, the FDIC determined it would be prudent to allow the independent Transformational Monitor and third-party consultant (both recommended by the Cleary report), as well as the new OPC Director, an opportunity to review the draft directive before finalization. The revised directive will include the three	December 31, 2024	$0	Yes	Open

Rec. No.	Corrective Action: Taken or Planned	Expected Completion Date	Monetary Benefits	Resolved:[a] Yes or No	Open or Closed[b]
	statements detailed in this recommendation.				
17	The FDIC developed a revised AHP directive as part of the Action Plan. The OPC will include a provision to the draft directive to ensure that allegations of sexual harassment that are processed under the EEO complaints process also receive parallel processing under the AHP, as appropriate.	December 31, 2024	$0	Yes	Open
18	In June 2024, the FDIC Board approved the creation of the OPC to manage the AHP and serve as the program coordinator. The OPC structure is independent of all other FDIC divisions and offices, including OMWI, Human Resources which includes LERS, and the Legal Division which includes LEAS. The OPC's organizational independence will eliminate conflicts of interest for all FDIC divisions and offices. The FDIC will develop a process outside of OPC for investigating any harassment or misconduct allegations against OPC staff or managers. The AHP directive will include provisions to ensure impartiality and independence in appearance and in fact.	December 31, 2024	$0	Yes	Open
19	The OPC will include provisions in the AHP directive for using third-party firms for investigations involving the Chairperson, senior leaders, and executive managers. As an interim measure, the FDIC is soliciting external firms who specialize in conducting investigations of inappropriate conduct, including harassment, by executives and managers. Once a firm is selected, they will perform all investigative work involving allegations of harassment and inappropriate conduct against senior-level managers and executives.	September 30, 2024	$0	Yes	Open
20	The revised draft AHP directive includes a clear definition of harassing conduct supported by a number of illustrative examples. The revised draft directive also includes a section	December 31, 2024	$0	Yes	Open

Rec. No.	Corrective Action: Taken or Planned	Expected Completion Date	Monetary Benefits	Resolved:[a] Yes or No	Open or Closed[b]
	on management's responsibility to stop harassing conduct, and duty to report observations and allegations of harassing conduct immediately to the AHPC. The revised draft directive describes the process for intake and investigation of alleged harassing conduct. The FDIC will include an explanation of the agency's duty to investigate and correct harassment even if alleged victims indicate they do not want the matter investigated or corrected and will develop and publish general time limits for concluding investigations.				
21	The revised draft AHP directive includes a section on roles and responsibilities for the Director, OPC, division and office directors, managers and supervisors, and employees. The OPC Director will have full authority necessary to implement the AHP and will intake, investigate, and report on complaints of harassment, interpersonal misconduct, and retaliation, and determine and enforce discipline. The OPC will develop a plan for implementing all aspects of the AHP.	December 31, 2024	$0	Yes	Open
22	The FDIC has engaged with the EEOC to develop and deliver training on preventing and addressing sexual harassment. The FDIC expects to complete training for all employees by the end of the year. The FDIC will also establish expectations for regularly recurring training on preventing and addressing sexual harassment.	December 31, 2024	$0	Yes	Open
23	The FDIC has engaged with the EEOC to develop and deliver training on preventing and addressing sexual harassment for all FDIC employees, managers, and executives. The FDIC expects to complete training for all employees by the end of the year. The FDIC will also establish expectations for regularly recurring training on preventing and addressing sexual harassment.	December 31, 2024	$0	Yes	Open

Rec. No.	Corrective Action: Taken or Planned	Expected Completion Date	Monetary Benefits	Resolved:[a] Yes or No	Open or Closed[b]
24	The FDIC's Corporate University and the OPC will develop and implement a plan to ensure the training sessions remain current and to measure training effectiveness. As discussed in response to recommendation 9, the FDIC developed an interim complaint tracking system that includes reporting and dashboard capabilities to provide management reports and trend analysis. Better data and analysis of the numbers and trends of harassment cases will help the FDIC gauge the effectiveness of training courses and other agency initiatives to create a safe, fair, and inclusive work environment.	December 31, 2024	$0	Yes	Open

[a] Recommendations are resolved when —

1. Management concurs with the recommendation, and the OIG agrees the planned corrective action is consistent with the recommendation.

2. Management does not concur or partially concurs with the recommendation, but the OIG agrees that the proposed corrective action meets the intent of the recommendation.

3. For recommendations that include monetary benefits, management agrees to the full amount of OIG monetary benefits or provides an alternative amount and the OIG agrees with that amount.

[b] Recommendations will be closed when the OIG confirms that corrective actions have been completed and are responsive.

Federal Deposit Insurance Corporation

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