

Testimony

Director

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*U.S. Department of State*

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Good afternoon Mr. Chairman, Ranking Member Zeldin, and distinguished members of the subcommittee. Thank you for inviting me to appear before you today in my role as the Director of the Office of Civil Rights at the Department of State (“OCR”) and to be a part of this Diversity and Diplomacy conversation. The mission of the OCR is to propagate fairness, equity, and inclusion throughout the Department. We do this in four primary ways, by managing the Equal Employment Opportunity (“EEO”) administrative process for the State Department; working to prevent employment discrimination; managing the State Department’s Anti – Harassment program; and conducting outreach and training.

I, too, would like to take a moment to acknowledge the death of George Floyd and the impact his passing continues to have on our nation and our workforce. I recently shared my views on Mr. Floyd’s death and the resulting national movement with my colleagues at the Department. I told them I was deeply pained, but also hopeful. My hope is inspired not only by the sheer size of this movement, but also by the diversity of the

protestors, the grace of the Floyd family, and the opportunity to listen and seek to understand differing viewpoints. My very presence at this hearing exemplifies why I am hopeful: I have the opportunity to be heard, to listen, and to seek to understand your specific concerns.

With all of that in mind, I am more confident than ever before in our nation's continued progression toward a more just, diverse, and inclusive society. I know that the State Department, and my office, will continue to promote equity and inclusion, with the goal of fostering a diverse workplace, free from harassment and discrimination. Director General Perez spoke at length about the concrete steps the Department has taken and is taking to strengthen diversity and inclusion at the Department to better represent and serve the American people. She focused on recruitment, retention, and accountability. I'd like to focus my remarks on the Department's Anti-Harassment Program, the Department's EEO Program, and accountability as they relate to OCR.

## **The Anti-Harassment Program**

The Department's anti-harassment program is separate from the EEO program in that the program is based on an internal regulation, the Foreign Affairs Manual. It is housed in OCR. Its attorneys and investigators, led by a senior attorney, manage the program but it is not solely an OCR effort. Indeed, it is an agency approach. Simply put, r OCR investigates allegations of harassment, and drafts a report of investigation which it provides to offices with a need-to-know, who have authority to take disciplinary action and make other management determinations. For example, OCR provides reports of investigation to the Global Talent Management, Office of Conduct, Suitability, and Discipline to determine the merits of the allegation and what, if any, discipline action to take.

The defining attribute of the program is the affirmative obligation of supervisors and managers to report harassment to OCR if they hear

about, witness, or reasonably suspect harassment has occurred. While anyone, including U.S. Director Hires, locally employed staff, PSCs, and third party contractor employees, may report harassment to OCR 24 hours a day, 7 days a week, Department leaders have an obligation to do so - at least half of the allegations that come into OCR are reported by supervisors who are complying with this requirement. Most reports are made via an internal agency website. Additionally, all employees are made aware of the FAM policies and procedures at New Employee Orientation, in anti-harassment trainings throughout their careers, and via postings of EEO information. They are also required to participate in anti-harassment refresher training. Targeted trainings for supervisors and Department leadership include specific information about their responsibility to manage and encourage a professional, harassment-free workplace, their mandatory reporting requirements, and their obligation not to retaliate. We similarly train employees about the importance of bystander intervention, thus encouraging them to take a supportive and proactive approach to confronting these issues head on. Experience has taught us a couple of things, most victims of harassment just want the

inappropriate behavior to stop rather than become involved with a more formal EEO process; the more confidence in the Department's anti-harassment program, the more allegations are reported; and that we have seen a decrease in EEO complaints alleging sexual harassment but an increase in reports of the same under the anti-harassment program. We think more confidence in the program is success in our overall effort.

### **The EEO Process**

The Department's EEO program follows the process and procedures outlined in the regulations for Federal Sector programs. However, due to the Department's operating environment there are some distinctions from the practices of other federal agencies. For example, the Department's EEO Counselor program includes collateral duty counselors trained by OCR and located at embassies and consulates worldwide in order to ensure that employees around the world have EEO resources in their time zone. Additionally, in order to ensure that EEO protections are extended to Locally Employed Staff, the Department created an EEO Liaison Program for LE Staff as a policy under which

Locally Employed Staff assist their colleagues in navigating the informal EEO process . Of particular note, OCR typically resolves more than fifty percent of its informal complaints annually through informal counseling and alternative dispute resolution, which means that situations are often corrected quickly rather than through protracted litigation.

### **Accountability**

With respect to accountability, there are three levels or points of intersection with the work of OCR, namely, Departmental, personal, and programmatic.

Departmental accountability occurs in two areas. First, OCR provides training domestically and around the world at all embassies and consulates at all employee levels in order to ensure that all State Department employees, contractors, and locally employed staff understand their EEO rights, responsibilities, and the consequences for discriminatory behavior including harassment. Secondly, when the

Department receives “Finding of Discrimination” from the Equal Employment Opportunity Commission (“EEOC”) the Department is obligated to follow the “Order” that is a part of EEOC decision. Frequently, the order requires posting a notice that discrimination has occurred on the Department website and displaying the notice prominently in areas near where the discrimination occurred. The order also often require us to ensure that individuals found to have discriminated receive remedial training; and the orders requires us to refer the individuals for consideration for discipline. Further, the Department is obligated to report its compliance with the order to the EEOC. The Department imposes the same or similar orders on itself when a Final Agency Decision results in a Finding of Discrimination. The Department is required to report its compliance actions to the EEOC in those circumstances as well.

OCR plays a role in personal accountability by referring for discipline those individuals found to have engaged in discrimination. Also, the subject of a harassment investigation may face discipline as a result of



OCR's referral of the case to the Office of Conduct, Suitability, and Discipline, which upon review may determine that discipline should be imposed. Finally, personal accountability occurs during the Department's extensive vetting process. OCR is among the offices that vet employees scheduled for promotions, awards, senior assignments, and presidential appointments. If OCR is aware of an employee who has engaged in inappropriate behavior, OCR will flag that employee for closer scrutiny.

Lastly, there is programmatic accountability. OCR complies with all reporting requirements, including the annual Notification of Federal Employees Anti-Discrimination Report mandated by Congress; and the annual 462 and MD 715 reports mandated by the EEOC. Additionally, OCR is subject to EEOC review of its program and assist visits conducted by EEOC on all federal sector programs. OCR's most recent assist visit was June 2020.

Ostensibly, OCR's work is about preventing harassment and/or discrimination, but the bottom line is that our work is about leadership. I learned as a young naval officer that leaders create the culture and foster the environment where those that choose to engage in inappropriate, harassing or discriminatory conduct do not feel welcome. The State Department relies on leaders at all levels to exemplify professionalism, to promote diversity and inclusion, to report harassment, and to hold people accountable when their conduct falls short of the State Department's standards. OCR's role is to provide the tools and administer the programs to support an environment of fairness, equity, and inclusion. An environment that is free of harassment and discrimination.

Thank you for the opportunity to be a part of this conversation today. I look forward to your questions.



