

DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER
Oklahoma City, Oklahoma

Center Memorandum 00EEO- 8

March 15, 2013

00EEO/TD

PREVENTION OF WORKPLACE HARASSMENT/SEXUAL HARASSMENT

1. Summary: Center Memorandum 00EEO-8, dated February 1, 2011 is rescinded and reissued with changes.
2. Purpose: To define and implement the Prevention of Workplace Harassment Program and reporting allegations of harassment in this facility and Community Based Outpatient Clinics (CBOC's). NOTE: This policy applies to all employees and covers employees outside of the workplace while conducting government business; non-employees while conducting business at this facility, and any other associated VA workplace.
3. Policy: It is the policy of this medical center that all employees at all levels must maintain a work environment free from all forms of harassment and intimidation, and be in full compliance with VHA and VA policies and applicable Federal regulations; to include the requirement that employees must receive training on the Program for the Prevention of Workplace Harassment within 90 days of employment, and thereafter, refresher training every 2 years.
4. Definitions:
 - a. Harassment is any unwelcome verbal or physical conduct based on race, color, religion, national origin, sex (regardless of whether it is of a sexual nature), pregnancy, gender identity, parental status, marital status, sexual orientation, age, disability, or retaliation for opposing discriminatory practices or participating in the discrimination complaint process that is sufficiently offensive to alter the conditions of the victim's employment. This standard is met when the conduct culminates in a tangible employment action, or the conduct is sufficiently severe or pervasive as to create a hostile work environment.
 - b. Sexual Harassment is a violation of the Civil Rights Act of 1964, Title VII, Section 703, is a form of employee misconduct that seriously undermines the integrity of the employment relationship. Specifically, sexual harassment is unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature not only when the submission to advances is an expressed or implied condition for receiving job benefits and the refusal of advances results in tangible employment action, but also when the conduct creates an intimidating, hostile or offensive working environment.

(1) Sexual harassment is not limited to explicit demands for sexual favors. It also may include such actions as:

- (a) sexually-oriented verbal kidding, teasing, or jokes;
- (b) repeated sexual flirtations, advances or propositions;
- (c) continued or repeated verbal abuse of a sexual nature;

(2) Graphic or degrading comments about an individual or the individual's appearance; Jokes, remarks, teasing, or questions that contain sexual overtures can also be a form of sexual harassment and are not acceptable in a professional work environment and will not be condoned.

- (a) the display of sexually suggestive objects or pictures;
- (b) subtle pressure for sexual activity; and
- (c) physical contact such as hugging, pinching, brushing against another's body, or unwelcomed patting.

c. Hostile Work Environment Sexual Harassment

(1) Hostile work environment sexual harassment occurs when sexual comments or conduct unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive work environment. A supervisor or co-worker may be responsible for this type of conduct or a non-employee in certain circumstances. Jokes, remarks, teasing, rude or obnoxious behavior, pranks, non-sexual conduct or questions that contain sexual overtures can be a form of sexual harassment, and are not acceptable in the VA professional work environment, and are not condoned. Managers and supervisors who tolerate such behavior by failing to take immediate appropriate action, or who retaliate against an employee who reports incidents of sexual harassment, are subject to disciplinary action.

(2) Hostile work environment harassment can be established even if others do not find the conduct offensive. Hostile environment third-party sexual harassment occurs when employees, who are not themselves harassed, must work in an atmosphere where such harassment is pervasive. If preferential treatment is given to employees who grant sexual favors, the motivation and work performance of other employees may be negatively affected. VHA is liable for preventing a hostile work environment. In order to avoid liability, supervisors and managers must show:

(a) reasonable care exercised to prevent and correct promptly any sexually harassing behavior, and

(b) The victim of the harassment unreasonably failed to take advantage of any preventive or corrective opportunities that VHA provides.

5. Responsibility:

a. Medical Center Director is responsible for ensuring:

(1) workplace harassment is unacceptable conduct, and is not tolerated.

(2) There is a written facility policy designed to prevent workplace harassment; ensuring this policy is included in employee/supervisory orientations, manuals, newsletters; and regular personnel communications.

(3) Allegations of workplace harassment against a member of the senior leadership, GS-14 and above, are reported to the VISN 16 Director via the VISN 16 EEO Program Manager, within 24 hours of notification of the allegation.

(4) Facility employees receive training on the Prevention of Workplace Harassment Program within 90 days of employment, and thereafter, refresher training every 2 years.

(5) Facility employees are notified that:

(a) they are expected to refrain from all forms of workplace harassment;

(b) employees engaging in harassing activities are subject to appropriate disciplinary action; and

(c) persons who believe they are victims of workplace harassment should contact the EEO Program Manager at extension 63364 or an EEO Counselor in ORM by calling, 1-888-737-3361, or a union representative if the employee is a member of a bargaining unit; they may contact the Office of Inspector General.

b. Service chiefs, supervisors, and management officials will assure that the policies and procedures are carried out in a positive and effective manner. Additionally, they will:

(1) communicate with all employees in a fair and equitable manner and make it clear to all employees under their supervision that harassing behavior will not be condoned; and

(2) be responsible for their personal conduct in accordance with this policy at all times.

c. Employees are also responsible for their personal conduct at all times, in accordance with this policy, and should become thoroughly knowledgeable of what constitutes harassment and responsive to any form of improper behavior that could lead to such allegations.

6. Procedures: Harassment Complaint Procedures. Upon receiving a complaint regarding an incident involving harassment, it is imperative that a supervisor/manager immediately act on the complaint. The following steps are offered to assist a supervisor in his/her responsibilities.

a. Listen attentively, be supportive, and show concern to the individual. Reassure the employee that every effort will be made to ensure any harassment is immediately stopped.

b. Contact the EEO Manager immediately.

c. Advise the employee that counseling assistance is available through this facility's Employee Assistance Program (EAP).

d. Advise the employee of his/her right to contact the EEO Manager and/or an EEO Counselor, Office of Resolution Management, 1-888-737-3361, to file an informal complaint within 45 calendar days of the incident/event.

e. Discuss with the accused individual:

(1) it has been alleged that he/she has been responsible for creating a hostile work environment, unwelcome advances, sexual harassment, etc; and

(2) contact EEO Program Manager at extension 4788 to discuss and obtain procedures to be followed in discussion with the alleged harasser.

f. Under certain circumstances, victims of workplace harassment may seek assistance from the Merit Systems Protection Board, the Office of Special Counsel, the Negotiated Grievance Procedure, or VHA's Grievance Procedure. Persons who believe they are victims of workplace harassment on the basis of sexual orientation may not seek relief from the EEOC or file a discrimination complaint under the Civil Rights Act of


1964, Title VII, Section 703, as amended, because the Civil Rights Act of 1964, does not prohibit discrimination based upon sexual orientation.

7. References:

- a. VHA Directive 2009-071 (December 22, 2009.)
- b. The Civil Rights Act of 1964, Title VII, Section 703.
- c. Executive Order 12106 (Title 44 Code of Federal Regulations 1053, January 3, 1979).
- d. Title 29 United States Code Part 1604, Equal Employment Opportunity Commission
- e. Regulations and Guidelines on Discrimination Because of Sex at:
http://www.eeoc.gov/laws/types/sexual_harassment.cfm

8. Follow-up responsibility: EEO Program Manager.

9. Rescission date: March 15, 2017.


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Acting Director