

DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER
4801 East Linwood Boulevard
Kansas City, Missouri 64128

February 28, 2015

MEDICAL CENTER POLICY 00-00-050

EQUAL EMPLOYMENT OPPORTUNITY (EEO)

1. **PURPOSE:** This policy establishes the requirements and responsibilities for the EEO Program at the Kansas City VA Medical Center.
2. **POLICY:** It is the policy of the Kansas City VAMC to:
 - a. Provide equal opportunity to employees and applicants in all aspects of employment. This includes recruitment, hiring, promotion, transfer, reassignment, training, career development, benefits and separation.
 - b. Prohibit employment discrimination because of race, color, religion, sex (including gender identity, transgender status, sexual orientation, and pregnancy), national origin, age (40 years and over), physical or mental disability, genetic information, marital/parental status, political affiliation, and reprisal/retaliation for opposing discriminatory practices or for participating in the discrimination complaint process.
 - c. Promote a positive, continuing affirmative employment program designed to eradicate barriers to employment and to achieve a representative work force, with special emphasis on minorities, women, and persons with disabilities.
 - d. Provide a work environment free of both sexual and non-sexual harassment.
 - e. Provide for the prompt, fair and impartial consideration and disposition of complaints involving issues of discrimination.
 - f. Enforce zero tolerance for acts of discrimination directed against employees because of race, color, religion, sex (including gender identity, transgender status, sexual orientation, and pregnancy), national origin, age (40 years and over), physical or mental disability, genetic information, marital/parental status, political affiliation, and reprisal/retaliation.
 - g. Enforce zero tolerance for harassment and retaliation against persons for opposing discriminatory practices, for reporting concerns surrounding workplace discrimination and for participating in the discrimination complaint process.

3. DEFINITIONS:

- a. **Affirmative Employment** – Actions and processes designed to increase participation of women, minorities, and persons with disabilities in training initiatives and in overall employment to help correct the historical disadvantages faced in society, the workplace and higher education.
- b. **EEO Discrimination Complaint Process** – A series of steps taken to address an EEO complaint from the initial incident or discriminatory act to the final decision. The process is composed of the informal stage, which involves EEO counseling, mediation and attempts at early resolution, and the formal stage during which a formal EEO complaint is filed and fully investigated.
- c. **Harassment** – Unwelcome, offensive conduct that is based on race, color, religion, sex (including gender identity, transgender status, sexual orientation, and pregnancy), national origin, age (40 years and over), physical or mental disability, genetic information, marital/parental status, political affiliation, and reprisal/retaliation for opposing discriminatory practices or for participating in the discrimination complaint process. Offensive conduct may include offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance.
- d. **The Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act** - Legislation that is an official Act of Congress designed to inform federal employees of the antidiscrimination, anti-retaliation and whistleblower protection laws.
- e. **Office of Resolution Management (ORM)** - A separate, impartial entity established to provide EEO discrimination complaint processing services to VA employees, applicants for employment and former employees. Complaint processing services include EEO counseling and complaint investigation. Employees must contact ORM to file an EEO complaint. A person who files a complaint with ORM is called a “Complainant.” The management official named in the EEO complaint is called the “Responding Management Official” (RMO). (See the ORM posted at Attachment A.)
- f. **Reprisal** – Retaliation against someone for participating in protected activity. Protected activity includes filing an EEO complaint, raising a concern about workplace discrimination, and participating in the EEO complaint process as a witness in an EEO investigation or a witness in an EEO Hearing.
- g. **Table of Penalties** – A guide used in the administration of disciplinary and major adverse actions. The Table of Penalties contains disciplinary actions that may be levied against employees who violate federal laws. (See the Table of

Penalties at Attachment B)

- h. Zero Tolerance – Complete prohibition. It is completely prohibited to practice discrimination. Zero tolerance means incidents will be thoroughly reviewed and violators will be subject to disciplinary action.**

4. RESPONSIBILITIES:

- a. The Medical Center Director has the responsibility to:**

- 1) Communicate commitment to the principles of EEO to all staff.**
- 2) Ensure the EEO Program receives resources and support required by EEOC mandates.**
- 3) Ensure managers and supervisors support EEO and communicate support of EEO to their staff.**

- b. The EEO Program Manager has the responsibility to:**

- 1) Oversee the Medical Center's EEO Program and ensure its compliance with EEOC directives and guidance.**
- 2) Complete EEO reports mandated by the EEOC and VA Central Office.**
- 3) Serve as the Medical Center subject matter expert and the consultant to the leadership, managers and employees on matters concerning discrimination, harassment, reprisal, and the EEO complaint process.**
- 4) Provide education and training to Medical Center staff on EEO and the discrimination complaint process.**
- 5) Conduct a fact-finding inquiry into allegations of harassment to ensure a respectful work environment.**

- c. Managers and supervisors have the responsibility to:**

- 1) Model the principles of EEO by promoting a workplace free of discrimination and harassment, both sexual and non-sexual, and by supporting EEO programs and initiatives.**
- 2) Collaborate with EEO to accomplish facility goals and objectives designed to identify and eliminate employment barriers and address workforce employment concerns.**

- 3) Collaborate with EEO to ensure the work environment is free of reprisal against persons who report workplace concerns or file EEO complaints.
- 4) Refrain from retaliating against employees who raise workplace concerns or file EEO complaints.
- 5) Refrain from making negative statements about EEO, EEO complaints, and the EEO complaint process.
- 6) Cooperate fully with EEO counselors and investigators by providing information requested in connection with complaint processing during informal counseling, investigations and hearings.
- 7) Instruct their employees to cooperate fully with EEO officials, the Office of Resolution Management, EEO Counselors and EEO Investigators during the processing of EEO complaints.
- 8) Complete "EEO, Diversity, and Conflict Management Training for Managers and Supervisors" every 2 years. This training is available in the VA's Talent Management System (TMS).
- 9) Ensure new employees attend New Employee Orientation upon hire to be informed of their EEO rights and responsibilities as federal employees.
- 10) Support the EEO program by allocating time for employees participating in the EEO Special Emphasis Programs to work effectively with EEO to address concerns of the targeted group.
- 11) Ensure responsibilities such as vacancy and training selections, promotions, and other employment decisions are free of discrimination based on race, color, religion, sex (including gender identity, transgender status, sexual orientation, and pregnancy), national origin, age (40 years and over), physical or mental disability, genetic information, marital/parental status, political affiliation, and reprisal/retaliation for opposing discriminatory practices or for participating in the discrimination complaint process.
- 12) Consult with the EEO Program Manager to address employee requests for official duty time to work on EEO cases.
- 13) Promptly report EEO violations to the EEO Program Manager to ensure the workplace is free of discrimination, sexual and non-sexual harassment, and reprisal. Managers and supervisors are required to collaborate with the EEO Program Manager to address violations.
- 14) Ensure their employees complete Prevention of Workplace Harassment/No FEAR Act training within 90 days of hire, and complete refresher training

every 2 years.

d. All employees have the responsibility to:

- 1) Comply with the facility EEO program policy by maintaining the high standard of conduct expected of federal employees.
- 2) Support the EEO Program by providing equal respect, equal treatment and equal service to all.
- 3) Refrain from discriminatory behavior and harassment based on race, color, religion, sex (including gender identity, transgender status, sexual orientation, and pregnancy), national origin, age (40 years and over), physical or mental disability, genetic information, marital/parental status, political affiliation, and reprisal/retaliation for opposing discriminatory practices or for participating in the discrimination complaint process. Violators will be subject to disciplinary action which may include items listed in the Table of Penalties.
- 4) Cooperate fully with EEO Program staff, EEO counselors and EEO investigators. Employees are required to provide information requested in connection with EEO complaint processing during informal counseling, fact-finding reviews, EEO investigations, and EEO Hearings.
- 5) Complete Prevention of Workplace Harassment/No FEAR Act training within 90 days of hire, and complete refresher training every 2 years to ensure they are informed of their EEO rights and responsibilities as federal employees.

5. PROCEDURES:

- a. All employees should refrain from discriminatory and harassing behavior. Violations should be reported promptly to the supervisor. Supervisors should contact the EEO Program Manager to review and address violations.
- b. Allegations of harassment should be reported at an early stage to prevent its escalation. All employees should report harassment allegations to their immediate supervisor or to the EEO Program Manager. Harassment allegations will be promptly reviewed and addressed.
- c. Questions and concerns regarding EEO, the EEO discrimination complaint process, sexual and non-sexual harassment, and reprisal should be referred to the EEO Program Manager at extension 56050.
- d. Employees, former employees or applicants who wish to file an EEO complaint must contact an EEO Counselor in the Office of Resolution Management (ORM). Contact must be within 45 calendar days of the discriminatory event. ORM

Counselors can be reached by calling 1-888-737-3361.

- e. Employees are entitled to a reasonable amount of official duty time to work on an EEO complaint filed with the Office of Resolution Management and to prepare for an EEO case Hearing. Employees must first request official duty time from their immediate supervisor and gain approval before utilizing official duty time for EEO complaint processing. The request must state the exact date, time, and the amount of time needed. Questions concerning the use of official duty time for EEO complaints should be referred to the EEO Program Manager at extension 56050.

6. REFERENCES:

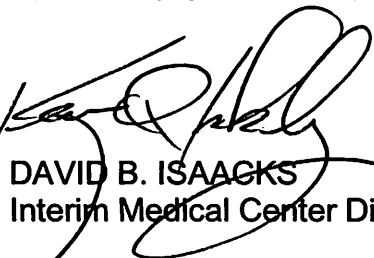
- a. EEOC Management Directive (MD) 110, (November 9, 1999), "Federal Sector Complaint Processing Manual." Retrieved from <http://www.eeoc.gov/federal/directives/md110.cfm>
- b. VA Directive 5977 (May 5, 2011), "Equal Employment Opportunity Discrimination Complaints Process." Retrieved from http://vaww.va.gov/vapubs/viewPublication.asp?Pub_ID=593&FType=2
- c. VHA Directive 1124, (February 6, 2015), "Equal Employment Opportunity Policy. " Retrieved from http://vaww.va.gov/vhapublications/ViewPublication.asp?pub_ID=3078

7. RESCISSION: Policy Memorandum 00-50, "Equal Employment Opportunity" dated February 20, 2008.

8. RESPONSIBLE SERVICE LINE/COMMITTEE: Director's Office - EEO Program Manager

9. CONCURRENCES: Medical Center Executive Leadership



10. REVISION DATE: February 28, 2018




DAVID B. ISAACKS
Interim Medical Center Director

Attachments: A – Office of Resolution Management EEO Complaint Poster
B – Table of Penalties

Office of Resolution Management
EEO Discrimination Complaint Process Poster

U.S. Department
of Veterans Affairs



Office of Resolution Management (ORM)

Equal Employment Opportunity Discrimination Complaint Process

In accordance with Equal Employment Opportunity Commission (EEOC) regulations, if you are a current employee, applicant for employment, or former employee and believe you have been discriminated against because of your race, color, religion, sex (including pregnancy, sexual orientation and gender identity), national origin, age (40 years and over), physical or mental disability, genetic information, and/or retaliation, you can use the Equal Employment Opportunity (EEO) discrimination complaint process.

<p>Alternative Dispute Resolution (ADR) is an option at every step of the EEO process.</p> <p>ADR affords you the opportunity to work with a neutral third party in an effort to find a mutually satisfactory outcome to the complaint.</p>	<div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"> <p>Contact an EEO counselor within 45 calendar days of the incident</p> </div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"> <p>EEO counseling completed within 30 calendar days, or up to 90 calendar days if ADR is elected</p> </div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"> <p>File a formal complaint within 15 calendar days of receipt of Notice of Right to File</p> </div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"> <p>Accepted claims are investigated if complaint is not amended within 180 calendar days of filing a formal complaint</p> </div> <div style="border: 1px solid black; padding: 5px;"> <p>You may elect an EEOC hearing or Final Agency Decision within 30 calendar days of receiving Advise ment of Rights Notice</p> </div>	<ul style="list-style-type: none"> ■ Contact can be anonymous. ■ The counselor will conduct an informal inquiry and attempt resolution. ■ If resolution is not achieved, you will be issued a Notice of Right to File a discrimination complaint. ■ Claims are investigated or dismissed based on EEOC regulations. ■ Claims which are dismissed may be appealed to EEOC once final action is taken on your complaint. ■ The investigator will obtain witness statements, other evidence, and prepare a report of investigation. ■ You will be issued an Advise ment of Rights Notice and provided a copy of the Report of Investigation on your complaint. ■ EEOC's Administrative Judge issues a decision which the agency may implement or appeal; or ■ VA's Office of Employment Discrimination Complaint Adjudication (OEDCA) issues a Final Agency Decision which may be appealed to EEOC. ■ If you do not agree with the final action issued on your complaint, you may file a civil action in Federal District Court.
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NOTE: Although EEOC does not have jurisdiction, the Department of Veterans Affairs prohibits discrimination based on parental status. ORM administratively processes this type of complaint and OEDCA renders the Final Agency Decision.

DEFINITIONS:

- ▶ **Gender Identity:** Refers to an individual's self-identification as a man or woman.
- ▶ **Genetic Information:** Genetic information includes information about an individual or family member's genetic tests, as well as family medical history.
- ▶ **Parental Status:** An individual who believes they are treated differently because of their status as a parent.
- ▶ **Sexual Orientation:** Is defined as homosexuality (gay, or lesbian), bisexuality, or heterosexuality, whether such orientation is real or perceived.

Toll Free Line: 1-888-737-3361
TDD: 1-888-626-9008
<http://www.va.gov/orm>

PH027
Revised April 2015

ATTACHMENT B

Table of Penalties Used to Take Personnel Actions
(In Relation to Discriminatory Behavior)

NOTE: 'Days' specified in this table refer to suspension.

NATURE OF OFFENSE	1ST OFFENSE	2ND OFFENSE	3RD OFFENSE
	Minimum/ Maximum	Minimum/ Maximum	Minimum/ Maximum
Sexual harassment.	Reprimand Removal	7 days Removal	14 days Removal
Discrimination based on race, color, sex, religion, national origin, age, marital status, political affiliation, or disability.	Reprimand Removal	7 days Removal	14 days Removal
Interference with an employee's exercise of, or reprisal against an employee for exercising, a right to grieve, appeal or file a complaint through established procedures.	Reprimand Removal	7 days Removal	Removal
Reprisal against an employee for providing information to an Office of Inspector General (or equivalent) or Office of Special Counsel, or to an EEO investigator, or for testifying in an official proceeding.	14 days Removal	Removal	