

August 7, 2008

ANTI-HARASSMENT POLICY

1. PURPOSE: This Veterans Health Administration (VHA) Directive establishes the VHA anti-harassment policy.

2. BACKGROUND

a. VHA is committed to ensuring that employees are not subjected to harassment. Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and the Age Discrimination in Employment Act of 1967.

b. **Definition.** Harassment is unwelcome conduct that is based on race, color, sex (including sexual orientation), religion, national origin, disability, and/or age when:

(1) The conduct is a condition of the individual's employment; or

(2) Employment decisions are based on whether the employee accepts or rejects such conduct; or

(3) The conduct can unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive work environment.

c. Harassment can occur in a variety of circumstances, including, but not limited to the following:

(1) The harasser can be an individual's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee.

(2) The person who alleges harassment does not have to be the person harassed, but can be anyone affected by the offensive conduct.

(3) Unlawful harassment may occur without economic injury to, or the discharge of, the person who is alleges the harassment.

d. Anti-harassment laws prohibit harassment against individuals in retaliation for filing a discrimination charge; testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

e. Offensive conduct may include, but is not limited to: offensive jokes, slurs, epithets or name calling; physical assaults or threats; intimidation; ridicule or mockery; insults or put-downs; and offensive objects or pictures that interfere with performance.

THIS VHA DIRECTIVE EXPIRES AUGUST 31, 2013

VHA DIRECTIVE 2008-045

August 7, 2008

f. Employees need to inform the alleged harasser directly that the conduct is unwelcome and that it must stop. *NOTE: Employees need to report harassment at an early stage to prevent its escalation.*

g. Persons believing themselves to have been subjected to harassment need to discuss concerns with their immediate supervisor, service line director, the Equal Employment Opportunity (EEO) Program Manager, Human Resources Management Service, or their union representative.

h. Complaints of harassment may also be brought to the attention of an Office of Resolution Management (ORM) EEO Counselor; this must be done within 45 calendar days of the date of the event or alleged act(s) occurred.

i. Efforts will be made to resolve harassment claims as early as possible and where appropriate, alternative dispute resolution is encouraged.

3. POLICY: It is VHA's policy to maintain a work environment free from harassment; unwelcome harassing conduct will not be tolerated and immediate, appropriate action is taken when management becomes aware of allegations.

4. ACTION: The Under Secretary for Health is responsible for taking appropriate action to enforce this Directive. Specifically, the VHA Chief Officers, Veterans Integrated Service Network (VISN) Directors, and facility Directors are responsible for ensuring:

a. The protection of Federal employees in the workplace through the procedures provided in the Equal Employment Opportunity Management Directive-715, Section II (A) and (C).

b. Training is provided to employees addressing their rights, this policy, and complaint procedures.

c. Training is provided to managers addressing their responsibilities.

d. Employees and applicants are notified that if they believe they have been subjective to discrimination based on harassment, they may seek:

(1) Assistance, under certain circumstances, from the Merit Systems Protection Board, the Office of Special Counsel, the Agency's Negotiated Grievance Procedure, or the Agency's Internal Grievance Procedure.

(2) Assistance from the Equal Employment Opportunity Commission or the ORM under title VII of the Civil Rights Act of 1964, as amended.

e. The EEO Manager, or other appropriate individual, is designated to conduct a prompt, thorough, and impartial inquiry of all harassment allegations (see Att. A).

- f. All information disclosed during the inquiry is held in the strictest confidence and is only be disclosed on a “need to know” basis in order to resolve the matter.
- g. An inquiry is conducted for all allegations, even if the employee asks that no action be taken, and, once on notice, ensuring employees and managers directly involved respond.
- h. Immediate, corrective action is taken, including discipline or removal of employees and managers, as deemed appropriate.
- i. Reprisal against anyone who engages in protected activity is not tolerated.
- j. All employees who exercise their rights under the civil rights statues, are supported.

5. REFERENCES

- a. Equal Employment Opportunity Commission Management Directive-715.
- b. Title VII of the Civil Rights Act of 1964.
- c. Age Discrimination in Employment Act of 1967.
- d. The Rehabilitation Act of 1973.
- e. The Privacy Act of 1974, 5 U.S.C. 552a.
- f. VA Directive 5975, Diversity and Equal Employment Opportunity Program Evaluation.
- g. VA Directive 5977, Equal Employment Opportunity Discrimination Complaints Process.

6. FOLLOW-UP RESPONSIBILITIES: The Chief Workforce Management and Consulting Officer and EEO/Affirmative Employment Team (10A2E) are responsible for the contents of this Directive. Questions may be referred to (202) 461-7273.

7. RESCISSIONS: None. This VHA Directive expires August 31, 2013.

Michael J. Kussman, MD, MS, MACP
Under Secretary for Health

Attachment

DISTRIBUTION: CO: E-mailed 8/8/08
FLD: VISN, MA, DO, OC, OCRO, and 200 E-mailed 8/8/08

ATTACHMENT A

**GUIDELINES ON REPORTING HARASSING CONDUCT
AND
MAKING INQUIRIES INTO ALLEGATIONS OF HARASSING CONDUCT**

1. REPORTING HARASSMENT

a. Any person who believes that an individual has been the subject of an incident of harassing conduct in violation of this Directive must report the matter to anyone in the complainant's supervisory chain, immediate supervisor, the Equal Employment Opportunity (EEO) Program Manager, Human Resources Management Service, or union representative.

b. All information must be maintained on a confidential basis to the greatest extent possible. The maintenance of records and any disclosure of information from these records must be in complete compliance with the Privacy Act, Title 5 United States Code (U.S.C.) 552a. Such information, however, may have to be disclosed on a "need to know" basis in order to carry the purpose and intent of this policy.

2. INQUIRY INTO ALLEGATIONS OF HARASSING CONDUCT

a. A supervisor or manager who receives an allegation or witnesses harassing conduct must immediately:

(1) Inform the EEO Manager and seek guidance as to further actions.

(2) In consultation with the EEO Manager, take action to stop any alleged harassing conduct and prevent further harassment while an inquiry into the allegation is being made, including granting of appropriate interim relief to the victim of the alleged harassing conduct.

(3) In consultation with the EEO Manager, document the allegation received and the efforts to address the allegation.

b. If a Senior Executive (i.e., VHA Chief Officer, Veterans Integrated Services Network (VISN) Director, Medical Center or Health Care System Director, etc.) receives an allegation of harassing conduct, the EEO Manager at the facility, VISN, or staff office is to be promptly notified of the person accused of the misconduct and this Executive needs to provide further assistance as requested by the EEO Manager.

c. When the EEO Manager receives an allegation of harassing conduct, either directly by the complainant or through a supervisor, manager, or other sources, the EEO Manager must:

(1) Ensure that the appropriate management official is notified and a prompt, thorough, impartial, and appropriate inquiry is conducted.

(2) Follow-up with the appropriate management official to ensure that action is taken to

VHA DIRECTIVE 2008-045

August 7, 2008

stop any alleged harassing conduct and to prevent further harassment.

(3) Advise employees of their right to contact the Office of Resolution Management; should the individual desire to file an EEO complaint, the individual must contact an EEO counselor within 45 calendar days of the date of the event or alleged act(s).