

December 9, 2009

**VETERANS HEALTH ADMINISTRATION'S (VHA) EQUAL EMPLOYMENT
OPPORTUNITY (EEO) PROGRAM MANAGER POSITION**

1. PURPOSE: This Veterans Health Administration (VHA) Directive provides VHA policy for the Equal Employment Opportunity Program at all VHA field facilities.

2. BACKGROUND

a. On November 21, 1997, Title 1 of Public Law 105-114, the Veterans Benefits Act of 1997, was enacted. This law entitled the Equal Opportunity Process in the Department of Veterans Affairs, and established the Office of Resolution Management (ORM) which became operational on February 22, 1998.

b. With the establishment of the ORM, medical center Directors were relieved of their responsibility for serving as EEO Officers for the specific purposes of processing locally filed complaints of discrimination. Medical center Directors retained accountability for eliminating discriminatory policies and practices, and maintaining a discrimination-free workplace by adhering to established Departmental policy. As past scrutiny by Congress has demonstrated, it is important that medical center Directors are aware of potential problems as soon as possible. With the removal of complaint processing, medical center Directors will often not know of problems until they go beyond the local level.

NOTE: Facilities should have someone designated as the principal advisor to the medical center Director and top management on potential problem areas.

c. It must be stressed that the only function which medical center Directors were relieved of in operating the EEO Program was the administrative component of EEO Discrimination Complaints processing.

3. POLICY: It is VHA policy to provide equal opportunity in all aspects of employment for all qualified persons, to maintain a work environment that is free of any form of unlawful discrimination, and to ensure that the EEO Manager is not an employee of the Human Resources Office.

4. ACTION

a. **Medical Center Director.** Each medical center Director is responsible for:

(1) Appointing one individual at the VHA facility to serve as the EEO Program Manager and the principal advisor to the facility Director regarding EEO matters. This Manager serves as liaison for the facility Director, VHA Central Office Staff, and ORM. *NOTE: It is strongly*

THIS VHA DIRECTIVE EXPIRES DECEMBER 31, 2014

VHA DIRECTIVE 2009-067

December 9, 2009

encouraged to have this position as full-time. However, the position may be filled on a part-time or collateral duty basis, as appropriate, consistent with the needs of the facility and the availability of resources.

(2) Ensuring the EEO Manager is trained in Federal EEO regulations and in mediation.

NOTE: An example of the expected duties and knowledge for EEO Program Managers is found in Attachment A.

(3) Ensuring VA Form 10-0409, EEO Program Manager Designation Form (see Attachment B), pertaining to the appointed EEO Manager, is completed and returned to the Workforce Management and Consulting Office, EEO and Affirmative Employment Team (10A2E), within 30 days of a new appointment.

(4) Administering the overall VHA EEO program by:

(a) Assisting in the complaint process in an effort to resolve allegations during the informal stage, and to resolve formal complaints of discrimination;

(b) Maintaining an effective diversity management program; and

(c) Providing assistance to the ORM Field Managers, ORM Intake Specialists, Investigators, EEO Counselors, Equal Employment Opportunity Commission (EEOC) Administrative Judges, Staff Attorneys from the Office of General Counsel, Regional Counsel and VHA Central Office EEO Staff.

NOTE: In accordance with EEOC Directive MD-110, the EEO Manager must not serve as the agency representative during EEOC hearings.

b. **EEO Program Manager.** The EEO Program Manager, in addition to the duties listed in Attachment A, is responsible for:

(1) Promoting a positive, continuing affirmative program designed to eradicate barriers to employment of minorities, women, individuals with disabilities, and disabled Veterans;

(2) Making the following programs an intergral parts of the total EEO Program: Federal Women's, the Hispanic Employment, the African Americans (Black Employment), the American Indians and Alaskan Natives, and the Asian American-Pacific Islanders Programs, and People with Disabilities Employment integral parts of the total EEO Program.

(3) Promoting the use of Alternative Dispute Resolution (ADR) to resolve EEO informal and formal complaints, as well as Non-EEO workplace disputes at the earliest possible stages.

5. REFERENCES

a. EEOC Management Directive MD-110.

- b . EEOC Management Directive MD-715.
- c. Title 29 CFR, Part 1614.
- d. MP-7, Part 1, Change 1, Chapter 2, Section H.

6. FOLLOW-UP RESPONSIBILITY: Director, Workforce Management and Consulting Office, EEO and Affirmative Employment Team (10A2E) is responsible for the contents of this Directive. Questions may be directed to (202) 461-5326.

7. RESCISSION: VHA Directive 2003-020, dated April 23, 2003, is rescinded. This VHA Directive expires December 31, 2014.

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Acting Under Secretary for Health

Attachments

DISTRIBUTION: E-mailed to the VHA Publication Distribution List 12/14/09

ATTACHMENT A

**EXPECTED DUTIES AND KNOWLEDGE FOR AN EQUAL EMPLOYMENT
OPPORTUNITY (EEO) MANAGER, GENERAL SCHEDULE (GS)-260**

The incumbent serves as the principal advisor in the area of Equal Employment Opportunity (EEO), Affirmative Employment, the Civil Rights External Programs, Alternative Dispute Resolution (ADR), and Diversity Management for the facility Director, service line executives, supervisors, and employees. The incumbent is responsible to the facility Director for program development, administration, evaluation and advisory functions. This position requires knowledge of Federal EEO regulations and principles, as well as personnel administration compliance and enforcement skills, administrative, management and consulting skills, and knowledge of Federal. *NOTE: This individual must not be an employee of the Human Resources Staff.*

1. MAJOR DUTIES AND RESPONSIBILITIES

a. The incumbent must exercise a high degree of judgment in analyzing and recommending solutions to problems that adversely affect EEO and Affirmative Employment. A high degree of judgment must be exercised in establishing priorities and direction for the program for maximum results. The incumbent advises management on specific actions in support of affirmative action, and strategies for processing discrimination complaints.

b. The incumbent assists the Office of Resolution Management (ORM) and Administrative Judges with investigations and hearings. In collaboration with the ORM Field Office, the incumbent serves as the local liaison for all aspects of the facility's complaint processing program. This includes assistance to ORM field office personnel (EEO Counselors, Investigators, and Intake Specialists) during both the counseling and investigative stages. Such involvement includes providing requested documentation ; locating and identifying employees involved in the complaint process; discussing resolution efforts, negotiating settlements, and drafting same on behalf of management. The incumbent also provides advice and assistance during the post-investigative stages (i.e., hearings, appeals, and compliance phases) for each formal complaint. This includes working with EEOC Administrative Judges, Regional Counsel staff, Office of General Counsel, Office of Employment Discrimination Complaint Adjudication, as well as local supervisors and managers.

c. The incumbent serves as technical expert for processing the following Federally-conducted external complaints in accordance with agency policy; these complaints are not processed by ORM:

(1) Section 504 of the Rehabilitation Act of 1973, prohibiting discrimination on the basis of handicap in federally conducted programs or activities and recipients receiving Federal financial assistance.

(2) Age Discrimination Act of 1975, prohibiting age discrimination to any program or activity.

VHA DIRECTIVE 2009-067
December 9, 2009

(3) Executive Order 13166, Limited English Proficiency, prohibiting access to services to individuals with limited English.

d. The incumbent assists VHA Central Office Staff with processing the following complaints:

(1) Title IX, prohibiting discrimination on the basis of sex in education programs or activities that receive Federal financial assistance.

(2) Title VI of Civil Rights Act of 1964, prohibiting discrimination on the basis of race, color, or national origin, under any program or activity receiving Federal financial assistance from the Department of Veterans Affairs.

(3) Executive Order 13160, prohibiting discrimination on the basis of race, sex, color, national origin, disability, religion, age, sexual orientation, and status as a parent in Federally-Assisted Education and Training Programs.

e. The incumbent develops an ADR Program, which is any procedure or combination of procedures voluntarily used to resolve issues in controversy without the need to resort to litigation. These procedures include, but are not limited to, assisted settlement negotiations, conciliation, facilitation, mediation, fact finding, mini-trials, and arbitration, that require an impartial advisor or neutral third party. The incumbent must ensure that the ADR Program meets the requirements as set forth in EEOC MD-110, Appendix H. These requirements are referred to as “core principles” and include the following: Fairness (which requires the following elements: Voluntariness, Neutrality, Confidentiality and Enforceability), Flexibility, Training and Evaluation.

f. The incumbent must become a trained and certified National Facilitator, for the EEO National Training Program for Managers and Supervisors, and must conduct EEO Training, including the prevention of workplace harassment (including sexual harassment), for all managers and supervisors. The incumbent must also conduct mandated “New Employee Orientation on the Prevention of Workplace Harassment” within 90-days of all newly hired employees’ employment, and must ensure that all employees receive refresher training on the Prevention of Workplace Harassment every 2 years.

g. The incumbent is responsible for maintaining an effective diversity management program which at the minimum includes:

(1) Workforce analysis;

(2) Identification of any underrepresentation in major occupations compared to the Relevant Civilian Labor Force;

(3) Identification of approaches for targeted recruitment;

- (4) Coordination with Human Resources and managers to incorporate these recruitment needs in the Human Capital and other strategic plans;
- (5) Coordination with Human Resources, managers, and other facilities to accomplish the needed recruitment;
- (6) An active intern program for underrepresented occupations;
- (7) Identification and solution of barriers to underrepresented groups;
- (8) Active training efforts to reach grade parity among groups in individual occupations; and
- (9) monitoring of employee work life satisfaction issues and developing solutions to the concerns within management control.

h. The incumbent conducts studies and analyses on the utilization of minorities and women in the workplace, identifying obstacles and outlining alternative solutions to identified problems. The incumbent compiles and analyzes statistical data in order to evaluate progress of the EEO Program. The incumbent identifies organizational or occupational areas that need improvement and develops alternatives in order to resolve problems. The incumbent also conducts analyses of the workforce by race, sex, grade, occupational series, and policies and practices affecting employment. The incumbent identifies program goals that may conflict with existing policies or practices, actions, reassignments, job training, sexual harassment, and reprisal, based on factors of race, religion, color, national origin, sex, age, and handicap.

i. The incumbent is responsible for developing, implementing, coordinating, reviewing, monitoring, evaluating, and updating all plans associated with the EEO Program. These include the Affirmative Employment Plan for Minorities and Women, Federal Employment Opportunity Recruitment Plan (FEORP) and People with Disabilities, Disabled Veterans Affirmative Action Plans, and plans to the White House on initiatives to support Historically Black Colleges and Universities (HBCU), Hispanic Serving Institutions (HSIs), Native American Tribal Colleges (NATCs), the Student Placement Program, and the Special Emphasis Programs (SEPs). Once these plans are developed, the incumbent must ensure that all levels of management, as well as employees and union officials, are aware of the plans and objectives and how these objectives are going to be measured. The incumbent conducts briefings to the facility Director and management officials making them aware of their responsibilities in relations to these plans, and to solicit their support for successful implementation. The incumbent must ensure that the plans are distributed to all levels of management and is understood by managers, as well as employees.

j. In administering the medical center's EEO Program, the incumbent must conduct periodic evaluations of the workforce to develop data that can be utilized in evaluating the effectiveness of the program. This data forms the basis for the various reports associated with the EEO Program. The incumbent must periodically meet with managers whose workforce profile indicates a need for improvement in the area of EEO, and assist them in evaluating the workforce by making recommendations on how minority and female representation may be increased. This assistance serves to improve the representation of minorities, the disabled, and women in the

VHA DIRECTIVE 2009-067

December 9, 2009

workforce, and reduces or eliminates potential complaints of discrimination. Such assistance may be provided in the form of training, recommendations for changes, reviewing local policies, and providing assistance in identifying minority candidates for vacancies.

k. The incumbent ensures the activities of the SEP Managers and their respective committees are carried out in accordance with departmental and local policy. The incumbent serves as representative for the facility in establishing and maintaining contact with local community groups, which are interested in civil rights or equal opportunity. The incumbent must establish relationships with (HBCUs), (HSIs), and (NATCs) to develop collaborative initiatives with these institutions.

l. The incumbent serves as technical advisor to the facility's EEO Committee; and establishes and implements an effective recognition program for those who make a significant contribution to members of the facility's Federal EEO Committee.

m. The incumbent must have the ability to provide sound technical advice to management and employees or applicants regarding human resources management program requirements and issues. The incumbent must establish and maintain effective relationships with, and gain the confidence and cooperation of employees, supervisors and managers on complex EEO and Affirmative Employment issues.

2. KNOWLEDGE AND ABILITIES REQUIRED

This position requires a high degree of judgment in analyzing and recommending solutions to problems that adversely affect EEO and Affirmative Employment. It requires judgment in establishing priorities and the direction that the program should take for maximum results. It requires advising management on specific actions in supporting affirmative action and devising strategies for handling EEO discrimination complaints. In order to perform these duties effectively, the individual must possess the following:

a. Knowledge of federal EEO laws, regulations and policies. Knowledge of the operating principles of the EEO Program to include the counseling process, the complaint process, the investigative process, the roles of the EEO Committee and Special Emphasis Programs, as well as all required plans and reports.

b. Knowledge of the principles of Personnel Management and of Federal Personnel Regulations that provide the basis for recommending changes in employment policies and practices.

c. Knowledge of the cause of barriers to Equal Employment opportunities and the cause and effects of discriminatory practices against protected classes of individuals.

d. Knowledge of and the ability to interpret Title VI and Title IX laws and regulations.

e. The ability to serve as an expert trainer in the area of EEO.

f. Ability to conduct analysis and evaluate work situations to effectively brief the medical center Director on workable solutions to systematic problems and methods to eliminate barriers.

g. Ability to communicate effectively both verbally and in writing, prepare a variety of reports, and brief supervisors, service chiefs, and management personnel concerning all aspects of the EEO Program.

h. Ability to provide leadership and guidance to committees and Special Emphasis Program Managers.

i. Ability to evaluate the EEO Program to ensure compliance with existing regulations.

ATTACHMENT B

VA FORM 10-0477
EQUAL EMPLOYMENT OPPORTUNITY (EEO) PROGRAM MANAGER
DESIGNATION FORM

This form is available on the VA intranet forms web site <http://vaww.va.gov/vaforms>.



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