

SUBJECT: Prevention of Harassment

1. PURPOSE:

The purpose of this policy is to establish procedures for addressing all forms of discriminatory harassment in accordance with the United States Equal Employment Opportunity Commission (EEOC), and to address the unique needs of the Research Service.

2. DEFINITIONS:

ACOS/R: Associate Chief of Staff for Research

WOC: Without Compensation Employee

R&D: Research and Development

EEOC: Equal Opportunity Employment Commission

Definitions of discriminatory harassment, sexual harassment, and retaliation are listed in Attachment A.

3. OVERVIEW:

It is the policy of the Department of Veterans Affairs and the MVAHCS to ensure every employee enjoys a non-hostile work environment free from discrimination of any kind. The goal of this policy is to stop harassing behavior before it becomes pervasive and rises to the level of a hostile work environment.

This policy is applicable to employees while they are on official VA duty or while present on VA premises. It also applies to non-employees who are conducting business and/or participating in research at the VA.

It further protects targets and bystanders against retaliation for reporting instances of harassment. Prevention and prompt, confidential, and impartial investigation assurance will foster an open work environment to prevent such abuses of power.

4. PROCEDURES:

Employees who believe they are being harassed, or who witness behavior that could constitute harassment, should follow these procedures:

- a) **If you are the target of harassment**, and you feel comfortable doing so, calmly and respectfully tell the individual harassing you that the behavior is inappropriate and ask them to stop. Your goal is to set clear, professional boundaries with your harasser before the behavior escalates. If you are able to, keep a record of any instances of harassment and any follow-up actions taken by either you or your harasser.
- b) **If directly confronting your harasser is not possible**, calmly, honestly, and using direct and to the point language, bring the harassing behavior to the attention of your supervisor. Use concrete examples of the inappropriate behavior and discuss any actions you have already taken.
- c) **If your harasser is your supervisor** or you do not feel comfortable discussing the harassing behavior with your supervisor, there other options available. You may contact any of the following to make a harassment complaint:
 - i) EEO Manager

- ii) Office of Resolution Management
 - iii) Union representative
 - iv) Director of Human Resources
 - v) Higher-level supervisor, including the ACOS/R
 - vi) Research Department neutral party
- d) **If you witness another employee targeting an individual or group** engaging in behavior that is considered harassment, it is your duty to intervene or report this behavior to your supervisor or others listed above.
- e) **If you feel comfortable intervening**, calmly and respectfully tell the individual engaging in harassment that their behavior is inappropriate and ask them to stop. Your goal as a bystander is to set clear, professional boundaries with the individual engaging in harassment before their behavior escalates. If you are able to, keep a record of any instances of harassment and any follow-up actions taken by either you or the individual engaging in harassment.
- f) **If you are a supervisor** and an individual you supervise comes to you with a complaint regarding harassment, it is your duty to ensure claims are kept as confidential as possible; the investigation process is prompt, thorough, and impartial; and immediate corrective action is taken. It is also your duty to ensure the target or bystander witnessing the harassment is protected from retaliation and that undue burden is not placed on the target or bystander for reporting the harassing behavior.
- g) **If the harasser is a patient, visitor, or other non-VA person**, collect the name of the offender (if known) or their physical description and the time and place of the incident, and report the behavior to your supervisor or the VA Police. The VA Police can pull security video of the location in question to aid in identifying an unknown harasser. A report should be filed with the Disruptive Behavior Committee to document the behavior.
- h) **If the incident occurs during the consenting process**, it is acceptable to request that another staff member be present during the consenting process and future visits. If another staff member is not available or if the behavior does not cease, the potential subject may be dropped from the study, or the consenting process may be terminated, without penalty or bias to the research staff member. Documented harassment-based terminations of the consenting process cannot be counted as a failure to recruit, nor can harassment-based discretionary terminations of a subject's participation be considered as evidence of insufficient progress on the study.

5. **RESPONSIBILITIES:**

- a) The **Associate Chief of Staff for Research (ACOS/R)** is responsible for ensuring all research employees, including WOCs, are aware of this policy and understand how it should be implemented. This includes, but is not limited to, additional training to address disruptive behavior, training on effective management strategies, preventing unmanaged power differentials between employees, etc. as necessary. In the case that an employee approaches the ACOS about an incident of harassment, the ACOS/R must be able to show that immediate and appropriate corrective action was taken including contact with the EEO Program Manager at the onset of receiving such allegations.

- b) **Supervisors and principal investigators** are responsible for implementing and informing their employees of the policies related to harassment. Supervisors must be able to show that immediate and appropriate corrective action was taken in instances where harassment may exist, including contact with the EEO Program Manager at the onset of receiving such allegations. Supervisors are responsible for making it clear to all employees under their supervision that harassing behavior will not be condoned. Supervisors are also responsible for identifying patterns of such behavior and addressing it before it reaches the level of a hostile work environment.
- c) **Employees** are responsible for becoming familiar with the policy expressed in this memorandum. They are also responsible for not participating or being complicit in any harassing behavior outlined in this policy. Employees are required to intervene on the behalf of targeted individuals and mandated to report any occurrences of harassment in accordance with the procedures defined in Attachment A of this memorandum.

6. REFERENCES:

Equal Pay Act of 1963; Age Discrimination in Employment Act of 1967; Sections 501 and 505 of the Rehabilitation Act of 1973; Titles I and V of the Americans with Disabilities Act of 1990; Title II of the Genetic Information Non-discrimination Act; Civil Rights Act of 1991; Executive Orders 13087, 13145, 13152, 13160; MVAHCS Policy # HR-03E; VA EEO Manual, MP-7, Part I: Chapters 1, 2, and 3; 29 CFR Part 1614; Section 703 of Title VII of the Civil Rights Act of 1964, as amended; U.S.C. 200e-16; MCM-00-021-LM, "Equal Employment Opportunity Program"; Title I, Public Law 105-114, dated November 21, 1997; Notification and Federal Employee Anti-Discrimination and Retaliation (NO FEAR) Act of 2002, 5 USC 230; Pregnancy Discrimination Act of 1978, Public Law Number 95-955

7. COORDINATION:

Human Resource Management Officer
EEO Manager

8. R&D COMMITTEE APPROVAL: 02 October 2018

9. RECISSIONS: None - This is a new SOP.

10. EXPIRATION DATE: N/A

11. FOLLOW-UP RESPONSIBILITY: Research and Development (R&D) Committee

ATTACHMENT A: Expanded Definitions

- a) **Discriminatory harassment** is any unwelcome behavior that can reasonably be considered to adversely affect the work environment. The following are examples of violations which are forbidden and subject to disciplinary action:
- i) Verbal harassment includes comments that are offensive or unwelcome regarding an individual or group's race, color, national origin, religion, sex, gender, gender identity, sexual orientation, age, body, disability, appearance, genetic information, marital or parental status, reprisal, political affiliation, or non-job-related conduct including epithets and negative stereotyping.
 - ii) Nonverbal harassment includes distribution, display, or discussion of any written or graphic material that ridicules, denigrates, insults, belittles, or shows hostility, aversion, or disrespect toward an individual or group because of race, color, national origin, religion, sex, gender, gender identity, sexual orientation, age, body, disability, appearance, genetic information, marital or parental status, reprisal, political affiliation, or non-job-related conduct including epithets and negative stereotyping.
- b) **Sexual harassment** is defined by the EEOC as harassment as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that: submission to is made either explicitly or implicitly a term of condition of employment; submission to or rejection of is used as a basis for employment decisions; or the behavior has the purpose or effect of unreasonably interfering with work performance or creating an intimidating, hostile, or offensive working environment. The following are examples of such predatory behavior which violate the policy and are forbidden and subject to disciplinary action:
- i) Verbal sexual harassment includes innuendoes, comments, jokes, propositions, remarks, threats, or requests that are suggestive, lewd, or of a sexual nature. This includes repeated, unwelcome requests for dates, behavior that is dismissed as "kidding", and suggestive or insulting sounds.
 - ii) Nonverbal sexual harassment includes the distribution, display, or discussion of any written or graphic material, including calendars, posters, cartoons, content in letters and notes, e-mails, photos, text messages, tweets, Internet postings, or other form of communication that is sexual in nature and offensive. This includes behavior in response to these graphic and written materials including leering, staring, whistling, or obscene gestures.
 - iii) Physical sexual harassment includes unwelcome, unwanted physical contact, including touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling, and forced sexual intercourse or assault.
- c) **Retaliation** is defined as any negative treatment or adverse action imposed upon an employee for engaging in rights protected by civil rights laws. It is unlawful to retaliate against employees for filing or being witness in an EEO charge, complaint, investigation, or lawsuit; communicating with a supervisor about employment discrimination, including harassment; answering questions during an employer investigation of alleged harassment; refusing to follow orders that would result in discrimination; resisting sexual advances, or intervening to protect others, requesting accommodation of a disability or for religious practice; or asking managers or co-workers about salary information to uncover potentially

discriminatory wages. The following are examples of violations which are forbidden and subject to disciplinary action:

- i) Verbal retaliation includes reprimand of employees, engaging in verbal abuse, threatening to make reports to the authorities, or spreading false rumors.
- ii) Nonverbal retaliation includes giving a performance evaluation that is lower than it should be, transferring employees to a less desirable position, engaging in physical abuse, increasing scrutiny, or making employee's work more difficult.