

November 2, 2009

PROHIBITING RETALIATION OR REPRISAL AGAINST EMPLOYEES

1. PURPOSE: This Veterans Health Administration (VHA) Directive issues policy prohibiting retaliation or reprisal against individuals who file an Equal Employment Opportunity (EEO) complaint of discrimination, who participate in the investigation of an EEO complaint, or who otherwise oppose discrimination.

2. BACKGROUND

a. Pursuant to Public Law 105-114 dated November 21, 1997, the Director of the Office of Employment Discrimination Complaint Adjudication (OEDCA) is required to notify the Secretary of Veterans Affairs, or the Deputy Secretary, whenever the Director of OEDCA has reason to believe that there has been retaliation or reprisal because of involvement in the Department of Veterans Affairs (VA) EEO discrimination complaint process. Retaliation and/or reprisal is a flagrant form of unlawful employment discrimination that creates a harmful and threatening atmosphere undermining the integrity of the employer-employee relationship. EEO laws prohibit retaliation or reprisal by an employer, employment agency, or labor organization because an individual has engaged in a protected activity. Protected activity consists of opposing a practice made unlawful by one of the EEO laws, filing a complaint, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under the applicable law.

b. VHA does not tolerate retaliation or reprisal against any employee who makes a complaint of discrimination on the basis of race, sex, national origin, age, disability, religion, or other protected status. An employee who provides testimony in the investigation of any such complaint is protected from any retaliatory action, harassment, or abusive behavior, as is an employee who opposes unlawful discrimination.

3. POLICY: It is VHA policy that VHA managers are responsible for ensuring that employees are provided with a working environment that is free from retaliation or reprisal.

4. ACTION

VHA Senior Executives, Chief Officers, and Veterans Integrated Service Network (VISN) Directors are responsible for:

a. Pursuing necessary follow-up action when the Director, OEDCA, issues a final agency decision finding retaliation for EEO activity.

b. Taking corrective action and appropriate disciplinary action immediately in all cases where there has been a finding of retaliation or reprisal.

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c. Ensuring follow-up action is taken when the Director, OEDCA, receives an appellate decision by the EEO Commission.

d. Ensuring any action taken by the individuals under their supervision is in full compliance with EEO laws, and with the spirit and intent of Administration and Department policy, as well as other applicable Federal regulations.

5. REFERENCES

- a. Title VII of the Civil Rights Act of 1964.
- b. The Age Discrimination in Employment Act of 1967.
- c. The Civil Rights Act of 1991.
- d. The Equal Pay Act of 1973.
- e. The Rehabilitation Act of 1973 Section 501.
- f. EEOC Compliance Manual on Retaliation, Section 8-I I.
- g. Web site: <http://www.eeoc.gov/policy/docs/retal.html> .

6. FOLLOW-UP RESPONSIBILITY: The Director, Workforce Management and Consulting Office, EEO/Affirmative Employment Team (10A2E), is responsible for the contents of this Directive. Questions may be addressed to 202-461-7287.

7. RESCISSIONS: VHA Directive 2004-033, dated July 8, 2004, is rescinded. This VHA Directive expires November 30, 2014.

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DISTRIBUTION: E-mailed to the VHA Publications Distribution List 11/12/2009