

PREVENTION OF SEXUAL HARASSMENT PROGRAM

Medical Center Policy 00-EEO-04

VA Health Care System
Birmingham, Alabama 35233

Signatory Authority:
Oladipo A. Kukoyi
Interim Health Care System Director

Responsible Owner:
The EEO Program Manager

Rescinded Document:
00-EEO-04, Prevention of Sexual Harassment Program, dated, September 8, 2017

Effective Date:
May 31, 2021

Recertification Date:
May 31, 2026

1. PURPOSE and POLICY:

a. This Medical Center Policy (MCP) states the medical center's Prevention of Sexual Harassment policy and program and defines sexual harassment.

b. This MCP outlines procedure to be followed in the handling of complaints involving allegations of hostile work environment and quid-pro-quo (tangible employment action) sexual harassment.

c. It is BVAHCS' policy to maintain a work environment that is free of any form of unlawful discrimination, including sexual harassment through proactive measures such as initial and refresher training, ready access to an onsite EEO Program Manager and the prompt, fair and impartial review and adjudication of complaints involving allegations of sexual harassment.

d. In those cases where sexual harassment is found, the medical center will take immediate and appropriate corrective action.

2. **JUSTIFICATION:** This policy exists due to the following policy mandates in Veterans Health Administration (VHA) Directive 2009-067, Veterans Health Administration's (VHA) Equal Employment Opportunity (EEO) Program Manager Position, VHA Directive 1124, Equal Employment Opportunity Policy, and undated DUSHOM (10N) Memorandum subj: Sexual Harassment Procedures released via email February 14, 2018.

3. ACTION:

a. The Health Care System Director (HCSD) is responsible for:

(1) Maintenance of an effective prevention of a sexual harassment program.

(2) Updating and communicating to employees annually, the Birmingham VA Health Care System Prevention of Sexual Harassment policy (Attachment A).

(3) Retaining a qualified full-time EEO Program Manager and sufficient additional medical center staffing/support to implement VA Central Office (VACO) and medical center Prevention of Sexual Harassment programs and initiatives.

b. The EEO Program Manager is responsible for:

(1) Providing overall management of the BVAHCS Prevention of Sexual Harassment Program includes monitoring to ensure all employees receive initial Prevention of Sexual Harassment training at new employee orientation and monitoring TMS to ensure employees remain current with bi-annual Prevent of Sexual Harassment TMS training.

c. Upon notification of an allegation of sexual harassment, the EEO Program Manager in collaboration with Human Resources Service, are responsible for:

(1) EEO: Obtain within one (1) business day through the Service of the person reporting the sexual harassment, a preferably written statement from the accuser of the specific unwelcome conduct of a sexual nature. Or in the alternative, a written account of verbal conversation from the supervisor/manager who received notification of allegations of sexual harassment. If the EEO Program Manager is on leave, HR will assume this responsibility.

(2) EEO: Provide the HCSD and/or designated representative with a summary of the accusations of sexual harassment. Requesting the HCSD to determine the type of investigation (Fact-Finding or AIB) to be conducted and make and assign the investigator(s). If the EEO Program Manager is on leave, HR will assume this responsibility.

(3) HR: Assess the need for and coordinate with the Service to provide as deemed necessary, interim relief such as temporary relocation of the accused or the person reporting the sexual harassment with their written statement volunteering to relocate temporarily, while an investigation into the allegations of sexual harassment is undertaken.

(4) HR: Draft a proposed "stay away" letter to be signed and issued to the accused by the accused's Service Chief.

(5) EEO: Conduct one-on-one refresher prevention of sexual harassment training with the accused within five (5) business days of management notification of sexual harassment claim. Upon completion, provide a memorandum documenting refresher training to Labor Relations for submission into the investigation file.

(6) HR: In coordination with Quality Resource Service, initiate and oversee a timely, impartial inquiry (fact-finding or Administrative Investigation Board (AIB)) as authorized by the HCSD into the allegations.

(a) Fact-Finding to begin within two business days and completed within 14-calendar days.

(b) AIB to begin within two business days and completed within 30-calendar days.

(7) HR as lead with the collaboration of Quality Resource: Upon completion of the inquiry into the allegation(s) of sexual harassment, review the evidence and make a recommendation(s) to the Service Chief of appropriate remedial action. Provide a copy of the report to the EEO Program Manager for close-out drafting of the VACO notification report.

(8) Joint EEO / HR / QR: Keep senior management informed of claims of sexual harassment via email and briefs.

d. EEO Program Manager is responsible for:

(1) Drafting and reporting on allegations of sexual harassment to the VISN-7 Network Director and Lead EEO Program Manager through the HCSD. The initial report shall be submitted within two (2) business days of the initial notification of a claim of sexual harassment. Initial and follow-up reporting shall be made utilizing Attachment B, VACO Allegation(s) of Sexual Harassment Form. If the EEO Program Manager is on leave, HR will assume this responsibility.

(2) The initial report shall be submitted within two (2) business days of the initial notification of a claim of sexual harassment. Initial and follow-up reporting shall be made utilizing Attachment B, VACO Allegation(s) of Sexual Harassment Form.

e. Service Chiefs, managers, and supervisors are responsible for:

(1) Remaining aware of and enforcing the medical center's Prevention of Sexual Harassment Medical Center Policy.

(2) Monitoring throughout the year and ensuring all staff complete mandatory bi-annual Prevention of Sexual Harassment related TMS and other associated training within established time frames.

(3) Understanding the legal definitions of sexual harassment and remaining vigilant in their daily routine, proactively monitoring their staff to ensure an environment free of sexual harassment.

(4) Upon notification of a claim of sexual harassment:

(a) Communicate to the person reporting the sexual harassment the importance of a written statement and immediately obtaining a written statement from the person reporting the sexual harassment delineating the who, what, where, when of the claim of sexual harassment as well as any corroborating witnesses. This initial written statement may be a summary of the claim of sexual harassment.

(b) Communicate to the person reporting the sexual harassment their right to file an EEO complaint regarding the alleged sexual harassment.

(c) Simultaneously, management receiving notification of an allegation(s) of sexual harassment must contact the EEO Program Manager, Labor Relations Supervisor and accuser's Service Chief via Outlook with the subject line "NOTIFICATION OF SEXUAL HARASSMENT ALLEGATION", providing the name of the person reporting the sexual harassment and accused and a brief explanation of what the accuser communicated.

(d) Follow up the initial notification to EEO, LR, and Service Chief with the accuser's statement, preferably within an hour or two of initial notification.

(e) Promptly comply with direction from EEO and LR throughout the inquiry process through to closure of the action.

(f) Meet with the person reporting the sexual harassment and update him/her on the outcome of the inquiry, i.e., what general action(s) the agency took to remedy the matter. Invite the EEO Program Manager to attend this meeting, as appropriate.

f. Employees, management, and non-management are responsible for:

(1) Remaining compliant with bi-annual Prevention of Sexual Harassment TMS training and all other associated training.

(2) Remaining aware of and complying with the medical center's Prevention of Sexual Harassment Medical Center Policy.

(3) Understanding the legal definitions of sexual harassment and remaining vigilant in their daily routine, conducting themselves and reminding others of unprofessional conduct to ensure an environment free of sexual harassment.

(a) Hostile work environment sexual harassment: The most common form of sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature that unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment. Sexual harassment is not limited to explicit demands for sexual favors. It may also include such conduct as: sexually-oriented verbal kidding, teasing, or jokes; repeated sexual flirtations, advances or propositions; continued or repeated verbal abuse of a sexual nature; graphic or degrading comments of a sexual

nature about an individual or the individual's appearance; the display of sexually suggestive objects or pictures; subtle pressure for sexual activity; and physical contact such as hugging, pinching, brushing against another's body or unwelcome patting.

(b) Quid-pro-quo / tangible employment action sexual harassment: Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature as described above in 3.f.(3)(a), made by a supervisor to a subordinate when the submission to sexual advances is an expressed or implied condition for receiving job benefits and the refusal of those advances would lead to unfavorable job repercussions.

(4) When subjected to sexual harassment, advise the person(s) behaving inappropriately that their conduct is unwelcome and ask them to stop. If the person(s) continue, promptly contact your supervisor, and advise your supervisor of the sexual harassment.

4. REFERENCES:

VHA Directive 2009-067, Veterans Health Administration's (VHA) Equal Employment Opportunity (EEO) Program Manager Position, VHA Directive 1124, Equal Employment Opportunity Policy, and undated DUSHOM (10N) Memorandum subj: Sexual Harassment Procedures released via email February 14, 2018

5. **RESPONSIBILITY:** The EEO Program Manager is responsible for the contents, update, and recertification of this MCP.

6. **REVIEW:** This MCP must be reviewed at minimum at recertification and including when there is a change to VHA Directive 2009-067, Veterans Health Administration's (VHA) Equal Employment Opportunity (EEO) Program Manager Position, VHA Directive 1124, Equal Employment Opportunity Policy, and undated DUSHOM (10N) Memorandum subj: Sexual Harassment Procedures released via email February 14, 2018.

7. **RECERTIFICATION:** This MCP is scheduled for recertification on or before the last working day of May 2026. This MCP will continue to serve as local policy until it is recertified or rescinded. In the event of contradiction with national policy, the national policy supersedes and controls.


Oladipo A. Kukoyi, MD, MS, VHA-CM
Interim Health Care System Director

Attachment A: Birmingham VA Medical Center Prevention of Sexual Harassment Policy Statement

Attachment B: VACO Allegation(s) of Sexual Harassment Form

<p style="text-align: center;">BIRMINGHAM VA HEALTH CARE SYSTEM PREVENTION OF SEXUAL HARASSMENT POLICY STATEMENT</p>

It is the policy of this Medical Center including its Community Based Outpatient Clinics that all employees enjoy a working environment free from all forms of discrimination, including sexual harassment and discrimination based upon one's sexual orientation. No employee, either male or female, should be subject to unsolicited and unwelcome sexual overtures or conduct, either verbal or physical. Sexual harassment lowers morale and is counterproductive to the work environment; it also is illegal. Therefore, this Medical Center will treat sexual harassment like any other form of employee misconduct - it will not be tolerated.

Specifically, it is illegal and against the policies of the VA for any employee, male or female, to sexually harass another employee by (1) making acceptance of unwelcome sexual advances or request for sexual favors or other verbal or physical conduct of a sexual nature, a condition of an employee's continued employment, or (2) making submission to or rejections of such conduct the basis for employment decisions affecting the employee, or (3) creating an intimidating, hostile, or offensive working environment through conduct, pictures, posters, calendars or comments of a sexual nature.

Management will enforce disciplinary action against any person who creates a hostile work environment as described above or who threatens or insinuates, either explicitly or implicitly that an employee's refusal to submit to sexual advances will adversely affect the employee's employment, evaluation, wages, advancement, assigned duties, shifts, or any condition of employment or career development. This discipline can include termination for a first offense. The VA recognizes that the question of whether a particular action or incident is a purely personal, social relationship without a discriminatory employment effect requires a factual determination based on all facts in each case. Therefore, this Medical Center will act positively to investigate alleged sexual harassment claims and to effectively remedy them when an allegation is determined to be valid. Given the nature of this type of discrimination, the VA also recognizes that false accusations of sexual harassment can have serious effects on innocent men and women.

Reprisal against one who engages in protected activity will not be tolerated, and this facility supports the rights of all employees to exercise their rights under the civil rights statutes.

Persons believing they have been subjected to sexual harassment are encouraged to promptly discuss their concerns with their immediate supervisor or first level supervisor not involved in the sexual harassment, service line director, AND the EEO Program Manager, or an Office of Resolution Management (ORM) EEO counselor. Managers and supervisors will email the EEO program manager within 1-hour of notification of allegations of sexual harassment. All information disclosed during the discussion will be held in the strictest confidence and will only be disclosed on a "need to know" basis in order to act upon, investigate and resolve the matter.

In accordance with VA EEO complaint processing timeframe policy, staff believing they have been sexually harassed must contact an ORM counselor within 45-days of the alleged discrimination at (888) 566-3982 in order to commence the EEO Complaint process in a timely manner.

VACO Allegation(s) of Sexual Harassment Form

VISN: _____

Program Office: _____

Facility: _____

Point of contact name: *(This person will be contacted to provide follow-up)*

Telephone: _____

Email Address: _____

Name and title of Senior Executive of the Organization informed: *(i.e. Chief Officer, Health Care System Director/VISN Director)*

Date Senior Executive was made aware of the allegation(s): _____

Grade of the employee making the allegation(s): _____

_____ Supervisor

_____ Non-Supervisor

Date of the alleged sexual harassment: _____

Has the person been advised of their rights to file an EEO complaint regarding this matter?

_____ No: The individual should be advised of their EEO rights no later than 2 business days after the allegation(s) are made.

_____ Yes: Date advised of their EEO rights: _____

Grade of the person accused: _____

_____ Supervisor

_____ Non-Supervisor

Action initiated:

Date fact-finding initiated: _____

Date Administrative Investigation Board initiated: _____

Action Completed:

Date fact-finding completed: _____

Date Administrative Investigation Board completed: _____

Date fact-finding or Administrative Investigation Board concluded: _____

_____ Allegations substantiated

_____ Allegations not substantiated

Comments: Limited to 150 words. *(Please do not place any identifying information on this report of contact).*

Medical Center: Submit this form to VISN-7 Director and VISN-7 Lead EEO Program Manager

For all emails pertaining to allegations of sexual harassment, please remember to place "SH Allegations" in the subject line.

Any questions related to this form should be addressed to (VACO WMC 10A2A5) David Groves at (202) 461-7117 or Tiffany Kibler at (202) 461-6778.