



THE SECRETARY OF VETERANS AFFAIRS
WASHINGTON

March 14, 2012

TO ALL EMPLOYEES

SUBJECT: The Secretary's EEO, Diversity, and No FEAR Policy Statement

I expect that each of us is familiar with and committed to our Department's equal employment opportunity (EEO), diversity and inclusion, and workplace conflict resolution goals in serving our Nation's Veterans.

VA emphasizes **Integrity, Commitment, Advocacy, Respect and Excellence (I CARE)** as our Core Values. Your embrace of I CARE is critical to ensure a VA environment that enables full participation, encourages diverse perspectives, and actively supports constructive conflict resolution. We must be vigilant and proactive in eliminating discrimination. It is our personal and professional responsibility to recognize, report, and help stop unlawful discrimination, workplace harassment, and retaliation. I CARE embraces diversity and inclusion, and empowers all of us who are privileged to work at VA to contribute our fullest potentials to VA's mission.

Supervisors and managers bear ultimate responsibility for promoting the complementary principles of equity, diversity, and inclusion in the workplace. They are obligated to enforce the standards for appropriate workplace behavior and must take prompt action on any conduct that is unlawful. To do this well, we must set the example. Veterans and their families deserve our unwavering leadership in promoting a fair, diverse, and inclusive environment.

The attached Policy Statement provides a summary of VA's workplace policies with respect to EEO, diversity, and inclusion. Review the Policy Statement with your staff and colleagues and encourage discussion of these expectations. Your leadership and participation remain crucial at this time.



Eric K. Shinseki

Attachment

Summary of VA's EEO, Diversity, and No FEAR Policies

The Department of Veterans Affairs (VA) is committed to ensuring equal employment opportunity (EEO), promoting diversity and inclusion, and constructively resolving workplace conflict in order to maintain a high performing workforce in service to our Nation's Veterans. To that end, the Department will vigorously enforce all applicable Federal EEO laws, regulations, executive orders, and management directives to ensure equal opportunity in the workplace for all VA employees. VA is strongly committed to reminding managers and supervisors of their obligations to maintain an environment free from discrimination, reprisal and retaliation actions. This document summarizes VA's EEO and diversity-related policies. For additional information, please consult the references listed at the end of this memorandum.

EEO and Prohibited Discrimination

VA will not tolerate discrimination or harassment on the basis of race, color, religion, national origin, sex, pregnancy, gender identity, parental status, marital status, sexual orientation, age, disability, genetic information, political affiliation, or retaliation for opposing discriminatory practices or participating in the discrimination complaint process. This applies to all terms and conditions of employment, including recruitment, hiring, promotions, transfers, reassignments, training, career development, benefits, and separation. In addition, VA will provide reasonable accommodation to qualified individuals with disabilities, and accommodations for religious practices, in accordance with applicable laws and procedures.

VA's Office of Resolution Management (ORM) is responsible for administering an impartial and effective complaints-management process to address and resolve complaints of employment discrimination at the earliest possible stage. Employees may report allegations of discrimination to ORM at (888) 737-3361. The regulations governing the Federal EEO complaint process are found in 29 CFR Part 1614. Employees seeking redress under this process must contact an EEO Counselor in person, by phone, or in writing within 45 calendar days of the date of the alleged incident. Employees may also report allegations to their immediate local facility EEO program manager, a management official in their chain of command, or they may raise discrimination issues through the Negotiated or Administrative Grievance Process, as appropriate. While a discrimination allegation may be raised through these additional avenues, it does not constitute initiation of an EEO complaint with an EEO Counselor through the Federal sector EEO complaint process and it does not extend the 45 calendar-day time limit to initiate an EEO complaint with ORM.

While sexual orientation, gender identity, genetic information, parental status, marital status, and political affiliation are not listed as protected bases in Title VII of the Civil Rights Act, discrimination on these bases is strictly prohibited by VA. Complaints of discrimination filed on these bases will be processed according to the aforementioned Federal EEO complaint process up to and through the investigation stage of the EEO process. The VA Office of Employment Discrimination Complaint Adjudication will issue a Final Agency Decision on the merits of the claim within 60 days of its receipt of the complaint file. Complaints filed solely on this basis will not proceed to the U.S. Equal Employment Opportunity Commission. Other avenues of redress available to raise a claim of discrimination based on sexual orientation, gender identity, genetic information, parental status, marital status, and political affiliation include the Negotiated or Administrative Grievance Process, both of which permit claims of discrimination, and if otherwise appealable, raising the matter with the U.S. Office of Special Counsel and/or the Merit Systems Protection Board if the claim of discrimination is coupled with adverse impact and/or prohibited personnel practices. While a discrimination allegation may be raised with these avenues, it does not constitute initiation of a complaint through this internal complaint process and it does not extend the 45 calendar-day time limit to initiate such complaint with the Office of Resolution Management.

Accommodations

VA is committed to providing reasonable accommodation to qualified individuals with disabilities in accordance with law, unless doing so poses an undue hardship as provided by the applicable law. For people with disabilities, a reasonable accommodation is any change in the work environment or in the manner work is accomplished that enables them to apply for a job, perform the essential functions of their jobs or enjoy equal benefits and privileges of employment. Individuals who believe they need such accommodation should request accommodation from anyone in their chain of command, human resources, or EEO. The procedures for requesting and processing requests for reasonable accommodation are contained in VA Directive 5975.1. Denials must be discussed with the VA Disability Program Manager or the local general counsel before conveying the denial to the employee. VA has also established a centralized reasonable accommodation fund to refund costs associated with some accommodations. For information on this, contact the Office of Diversity and Inclusion.

VA is also committed to providing religious accommodations to employees. Title VII of the Civil Rights Act of 1964 (Title VII) prohibits employers from discriminating against individuals because of their religion in hiring, firing, and other terms and conditions of employment. Title VII also requires employers to reasonably accommodate the religious practices of an employee or prospective employee, unless to do so would create an undue hardship upon the employer. Individuals who believe they need such accommodation should request accommodation from immediate supervisors.

Alternative Dispute Resolution

Conflict in the workplace is inevitable. Left unmanaged, it can lead to organizational disruption, high attrition, low productivity, and poor employee morale.

To maintain a respectful, productive, and harmonious work environment, it is the policy of VA to resolve workplace disputes at the earliest possible stage. VA offers Alternative Dispute Resolution (ADR) services such as mediation and facilitation to assist parties in resolving conflicts constructively. ADR involves a neutral third-party working with the employee, supervisor, or group to engage in constructive communication, identify issues and concerns, and develop collaborative solutions. I encourage all VA employees to consult with their Administration's ADR Coordinator or VA's Workplace ADR program for assistance in resolving workplace disputes quickly and informally.

Workplace Harassment

Harassment is a form of discrimination and will not be tolerated. Workplace harassment is defined as any unwelcome, hostile, or offensive conduct taken on the bases listed above under prohibited discrimination that interferes with an individual's performance or creates an intimidating, hostile, or offensive work environment. Harassment by or against VA employees, applicants, contract employees, clients, customers, and anyone doing business with VA is prohibited.

Sexual harassment is a form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when: (1) submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of one's employment, or (2) submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or (3) such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive work environment.

Both supervisors and employees bear responsibility in maintaining a work environment free from discrimination and harassment. Employees must not engage in harassing conduct and should immediately report such conduct to their supervisor, another management official, collective bargaining unit, Employee Relations Specialists, Labor Relations Specialists, or ORM, as appropriate. Harassment claims will be handled confidentially to the greatest extent possible. If an employee brings an issue of harassment to a supervisor's attention, the supervisor must promptly investigate the matter and take appropriate and effective corrective action, as necessary. Allegations of discrimination and harassment will be taken seriously and appropriate corrective action—up to and including termination—will be taken if allegations are substantiated. Supervisors are strongly encouraged to seek guidance from their local EEO Manager, ORM, Employee and Labor Relations staff, or the Office of the General Counsel when addressing issues of discrimination or harassment.

No FEAR/Whistleblower/Retaliation Protection

Retaliation and reprisal against Federal employees for opposition to discrimination, or participation in the discrimination-complaint process is unlawful and will not be tolerated. These protections are ensured by the Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act of 2002 - Public Law 107-174). VA prohibits retaliation and reprisal against Federal employees or applicants for employment who report violations of law, official wrongdoing, including gross waste,

fraud and abuse of authority. These protections are ensured by the Whistleblower Protection Act (5 U.S.C. § 2302 (b) 8). Additionally, the right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied (5 U.S.C. § 7211). Protected individuals include complainants, witnesses, and others who provide information concerning such claims. The U.S. Office of Special Counsel (OSC), an independent agency of the Federal government, is responsible for addressing such retaliation or reprisal complaints. OSC is responsible for investigating all prohibited personnel practices regardless of original contact.

Mandatory Prevention of Workplace Harassment, No FEAR, EEO, Diversity, and Conflict Management Training

The No FEAR Act of 2002 requires all employees to take No FEAR training within 90 days of their initial hire and every 2 years thereafter. VA also requires workplace harassment prevention training for all employees every 2 years. This training is available to all employees through the VA Talent Management System (TMS). Managers and supervisors are also required to take mandatory EEO, Diversity and Conflict Management Training for Managers and Supervisors every 2 years. This training is mandatory for all senior executives, managers, and supervisors and is available in face-to-face format and online via the TMS.

Toward Diversity and Inclusion

To be an exceptional Federal agency, we must cultivate an inclusive work environment that reflects the diversity of our global community. Diversity and inclusion in the workplace are more than legal imperatives; they are business imperatives in this millennium. This begins with eliminating barriers on the legally protected bases, yet does not end there. To be fully inclusive, we must define diversity broadly and leverage the diverse talents of all our human resources. Our Nation's Veterans are best served when we create an environment that is free of barriers to full participation, values diversity of perspectives, and empowers every individual to contribute to his or her fullest potential. Each one of us bears the responsibility to ensure that discrimination is not tolerated and that diversity is valued. We all share the responsibility to ensure we promote the complementary principles of equity, diversity, inclusion and respect in the VA workplace.



Secretary of Veterans Affairs

3/14/2012
Date

Related Laws, Executive Orders, and Resources:

Title VII of the Civil Rights Act of 1964: <http://www.eeoc.gov/laws/statutes/titlevii.cfm>

Rehabilitation Act of 1973, as amended: <http://www.eeoc.gov/laws/statutes/rehab.cfm>

Age Discrimination in Employment Act of 1975, as amended:
<http://www.eeoc.gov/laws/statutes/age.cfm>

Equal Pay Act of 1963 as amended: <http://www.eeoc.gov/laws/statutes/epa.cfm>

Discrimination Based on Sexual Orientation, Status as a Parent, Marital Status and Political Affiliation: http://www.eeoc.gov/facts/fs-orientation_parent_marital_political.html

Guidelines on Religious Exercise and Religious Expression in the Federal Workplace:
<http://clinton2.nara.gov/WH/New/html/19970819-3275.html>

Pregnancy Discrimination Act of 1978:
<http://www.eeoc.gov/laws/statutes/pregnancy.cfm>

Genetic Information Nondiscrimination Act:
<http://www.eeoc.gov/laws/statutes/gina.cfm>

Executive Order 13152, as amended by Executive Order 11478
<http://archive.eeoc.gov/federal/eo11478/eo13152.html>

Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act) of 2002: <http://www.diversity.va.gov/exec/hr169.htm>

H.R. 2981: Employment Non-Discrimination Act of 2009:
<http://www.govtrack.us/congress/bill.xpd?bill=h111-2981>

Whistleblower Protections: <http://www.diversity.va.gov/policy/whistleblower.aspx>

Filing Whistleblower Disclosures: <http://www.osc.gov/wbdisc.htm>

5 U.S.C. § 721: Employees Right to Petition Congress:
<http://uscode.house.gov/download/pls/05C72.txt>

Executive Order 11478, as amended by Executive Order 13087:
<http://www.archives.gov/federal-register/codification/executive-order/11478.html>

EEO Discrimination Complaints Process, VA Directive 5977, February 7, 2007:
http://www.diversity.va.gov/policy/files/Directive_5977.pdf

All Employees Memorandum entitled Processing Equal Employment Opportunity Complaints Based on Sexual Orientation dated May 13, 2010, signed by Secretary Shinseki.

Mandatory EEO, Diversity, and Conflict Management Training for Senior Executives, Managers and Supervisors Memorandum dated May 19, 2010, signed by Assistant Secretary for Human Resources and Administration.

Diversity Management and EEO, VA Directive 5975, March 6, 2007:
http://www.diversity.va.gov/policy/files/Directive_5975.pdf

VA Directive 5975.1, Processing Requests for Reasonable Accommodation by Employees and Applicants with Disabilities:
http://www.diversity.va.gov/docs/policies/Directive_5975-1.pdf

The Secretary's EEO, Diversity, and No FEAR Policy Statements
Office of Diversity and Inclusion: <http://www.diversity.va.gov>

VA Workplace Alternative Dispute Resolution:
<http://www1.va.gov/adr/workplaceADR.asp>

Office of Labor-Management Relations: (202) 461-4125

VA Policies on Employee and Management Relations: (202) 772-4169

Office of Resolution Management: <http://www.va.gov/orm/>

U.S. Office of Special Counsel: <http://www.osc.gov/>

Prohibited Personnel Practices: [http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t05t08+179+1++\(\)%20%20AND%20\(\(5\)%20ADJ%20USC\):CITE%20AND%20\(USC%20w/10%20\(2302\)\):CITE](http://uscode.house.gov/uscode-cgi/fastweb.exe?getdoc+uscview+t05t08+179+1++()%20%20AND%20((5)%20ADJ%20USC):CITE%20AND%20(USC%20w/10%20(2302)):CITE)