

Suggestions for Improving Anti-Harassment Policies and Procedures

http://www.eeoc.gov/federal/model_eeo_programs.cfm#education

1. In order to establish a model EEO program and avoid potential liability for harassment claims, federal agencies should establish an anti-harassment policy and complaint procedure which is in compliance with EEOC's *Enforcement Guidance: Vicarious Employer Liability for Unlawful Harassment by Supervisors, Notice 915.002, June 18, 1999*. For agencies with numerous sub-components, we recommend that the agency head ensure that each sub-component has an anti-harassment policy which complies with the *Enforcement Guidance* and is consistently enforced. For examples of model anti-harassment policies, we recommend that agencies review the policies developed by the Social Security Administration and the Department of Labor. See *App. 5*.

At a minimum, an agency's anti-harassment policy should contain the following elements:

- a. Clearly explain the prohibited conduct. In particular, the policy should cover all forms of harassment, including race, color, gender (both sexual and non-sexual), age, national origin, disability, and religion;
- b. Write the policy in a way that will be understood by all employees and implement it in a manner which ensures its effective dissemination to all employees. The policy needs to be posted in conspicuous locations throughout the facility, including the agency's website, and incorporated into employee orientation materials/handbooks;
- c. State that complainants, witnesses, and others who provide information concerning such claims will be protected from retaliation;
- d. Assure the confidentiality of individuals bringing claims of harassment to the extent possible;
- e. Describe the complaint process, particularly the agency officials who can receive harassment claims. It is advisable to designate at least one official outside the employee's chain of command to receive claims of harassment because a conflict of interest could occur if the alleged harasser is within the employee's chain of command;
- f. Ensure that the investigation process is prompt, thorough, and impartial. In this regard, agencies should develop complaint procedures that are separate from the EEO process and address all claims of harassment irrespective of whether the alleged victim files an EEO complaint in the same matter;
- g. Assure immediate and appropriate corrective action, including discipline or removal of employees and managers. Agencies, however, should not take action involving the alleged victim without their consent (i.e., transferring the victim to another office); rather, it is preferable to implement measures designed to achieve the same result without burdening the alleged victim; and
- h. Provide periodic training to all managers and supervisors regarding the terms of the anti-harassment policy and procedures, and their role in the complaint process. Additional training for employees would also be useful.²²

2. It is essential for the agency head to emphasize to managers and supervisors that harassment will not be tolerated in the agency. If the agency head makes management leadership an issue by holding management officials accountable for harassing conduct that occurs in their departments, the officials will have more incentive to discover and eliminate such conduct.
3. Agencies should take reasonable steps to prevent and correct harassment. For those agencies that currently limit the scope of their policy to only matters that are severe or pervasive, they should develop a more comprehensive anti-harassment policy which could prevent harassment before employees have been subject to actionable harm.
4. To aggressively resolve harassment claims as early as possible, we suggest that the agency head strongly encourage the use of alternative dispute resolution (ADR), when appropriate.
5. Agencies should train employees about the anti-harassment policy and complaint procedures. Since this training should also educate employees about the types of conduct that constitute harassment under the anti-discrimination laws, the training may also address the issue of over-reporting harassment claims. The training may also allow agencies to show that an employee's failure to utilize the harassment process was not the result of the agency failing to tell the employee about the process.
6. Agencies should ensure that non-sexual harassment is not used as a "catch all" category for complaints that should appropriately be categorized as "other" issues in the *EEOC Form 462*.
7. To assist with oversight of the anti-harassment program, agencies should utilize a centralized system for tracking and monitoring inquiries or allegations of harassment. In this regard, we advise instituting specific guidelines for monitoring allegations and inquiries, which will allow for the early identification and effective resolution of conflict situations that could otherwise escalate if left unchecked. Agencies have suggested conducting trend analysis, root cause analysis, and climate assessment to locate "hot spots" of harassment and to obtain feedback on the climate in the workplace.