



**DEPARTMENT OF VETERANS AFFAIRS**  
**Veterans Benefits Administration**  
**Washington, D.C. 20420**

May 11, 2020

VBA Letter 20-20-03

Director (00)

All VBA Services, Staff Offices, Regional Offices, and Centers

Subj: Prevention and Elimination of Harassment in the Workplace Policy

**VBA Letter 20-19-02, issued January 22, 2019, is rescinded.**

## **1. PURPOSE**

This policy reiterates the Veterans Benefits Administration's (VBA) continued commitment to the practice of promoting and maintaining a workplace that is free from harassment. Appendix A-D outlines definitions, responsibilities, complaint reporting procedures, intake form, resources and contacts.

## **2. BACKGROUND**

VBA is issuing its annual Prevention and Elimination Workplace Policy pursuant to the Equal Employment Opportunity (EEO) Management Directive 715. During February 2015, the Secretary established the Harassment Prevention Program (HPP) Office formally known as the "Anti-Harassment Office". The HPP office was established as an independent office under the Assistant Secretary of Human Resources in the Office of Resolution Management (ORM) to ensure allegations of harassment receive prompt, thorough and impartial investigation; and that the VA take immediate and appropriate corrective action when it determines harassment has occurred. This policy provides VBA managers, supervisors and employees guidance on managing harassment complaints and issues in support of the Secretary's initiative to review, monitor, collect data, and train all VA employees in accordance with Equal Employment Opportunity Commission (EEOC) guidelines.

## **3. POLICY**

VBA has a zero tolerance for harassment. VBA's policy is to maintain a work environment that is free from all types of harassment, whether it's considered unlawful, hostile, abusive or inappropriate/offensive conduct. VBA's anti-harassment

Page 2

VBA Letter 20-20-03

Director (00)

policy assures that all feasible steps will be taken to prevent and eliminate harassment from occurring by proactively addressing inappropriate conduct before it becomes severe or pervasive. The conduct covered by this policy is broader than the legal definition of unlawful harassment and based on a protected EEO category, because EEOC states that inappropriate/offensive conduct that is unaddressed can result in an allegation of discrimination.

VBA is committed to examining allegations of harassment that occurs in the workplace. Accordingly, VBA employees are responsible for ensuring their workplace is free from all types of harassment.

#### **4. CONTACT INFORMATION**

Questions should be directed to the ORM VBA EEO Liaison Office at (202) 632-8937. Additional information about harassment prevention can also be obtained on the Department's websites at: <https://vaww.va.gov/ORM/HPP.asp>

*/s/*

Paul R. Lawrence, Ph.D.  
Under Secretary for Benefits

## APPENDIX A:

### DEFINITIONS

1. Unlawful Harassment: Any unwelcome hostile, abusive, verbal or physical conduct based on race, color, religion, sex (with or without sexual contact): gender identity, transgender status, sexual orientation, and pregnancy), national origin, age, disability, genetic information (Genetic Information Non-Discrimination Act), parental status, or retaliation for opposing discriminatory practices or participating in the discrimination process. Additionally, an employee's acceptance or rejection of such above conduct explicitly or implicitly forms the basis for an employment decision affecting the employee; or the conduct is sufficiently severe or pervasive as to alter the terms, conditions or privileges of the employee's employment, or otherwise create an abusive work environment.

2. Sexual Harassment: Defined by Federal and state regulations as a form of sex discrimination. Sexual harassment is unwelcome sexual advances, requests for sexual favors, the display of derogatory posters, cartoons or drawings, or other physical or verbal conduct of a sexual nature engaged in by supervisors, employees or others (i.e. contractors) in the workplace. Sexual harassment is a flagrant form of illegal discrimination that can result in a hostile work environment for the victim and other employees. It undermines the integrity of the organization and interferes with the work we do to provide quality services to Veterans. Examples of sexual harassment include, but not limited to: Leering, i.e., staring in a sexually suggestive manner, making offensive remarks about someone's looks and appearance, clothing, body parts, offensive touching in a way that may make an employee feel uncomfortable, such as patting, pinching, or intentional brushing against another's body, telling sexual or lewd jokes, hanging sexual posters, making sexual gestures, and sending or soliciting sexually suggestive letters, notes, images, emails, texts, instant messages, or any type of social media communications.

3. Inappropriate/Offensive Conduct: May include, but not limited to; offensive jokes, obscene or lewd comments, slurs, epithets, gestures or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance, which results in a tangible change in employment status or benefits (i.e. demotion, termination, failure to promote, etc.).

4. Hostile Work Environment: A work environment created when an employee feels uncomfortable or scared to be in his or her workspace due to offensive conduct, intimidation or abuse by a coworker or superior. The conduct is severe or pervasive enough to create a work environment that a reasonable person in the same or similar circumstances would consider intimidating, hostile, or abusive.

**APPENDIX B:**

**ROLES AND RESPONSIBILITIES**

1. Under Secretary for Benefits: Ensure that an effective process for responding to reports of harassment exists and VBA compliance with the various laws prohibiting harassment.

2. District, Regional, and Program Directors:

- Provide timely support of the ORM Harassment Prevention Program (HPP) upon request of the ORM VBA EEO Liaison Office (08A2).
- Appoint a Harassment Prevention Coordinator (HPC) to coordinate with the ORM VBA EEO Liaison Office on all reports of harassment received within their jurisdiction.
- Report harassment complaints to the ORM VBA EEO Liaison Office or the ORM Harassment Prevention Program Office.
- Appoint two or more individuals, to serve your facility as a neutral factfinder for the HPP. The factfinders will receive training and remain available to conduct fact-findings as required by the program.
- Submit a copy of the completed fact-finding and/or outcome to the ORM VBA EEO Liaison Office within 30 days of the receipt of the report of harassment.

3. ORM VBA National HPP Lead Coordinator located in the ORM VBA EEO Liaison Office:

- Serve as the national point of contact (POC) for reports of harassment in VBA.
- Assign reports of harassment to the appropriate Harassment Prevention Coordinator (HPC).
- Work with the designated HPC to ensure a prompt inquiry into reports of harassment.
- Input, update and review information and records in the ORM Harassment Prevention Program Intake System HPPIS.

**APPENDIX B:**

**ROLES AND RESPONSIBILITIES**

- Provide the ORM HPP Office with quarterly reports on harassment prevention activities.

**4. ORM VBA District HPP Lead Coordinators located in the ORM VBA EEO Liaison Office:**

- Receive, assess, and educate customers who contact HPP.
- Document reports of harassment into the Harassment Prevention Program Intake System (HPPIS).
- Notify Staff Office Directors upon receipt of reports of harassment and when offices fail to respond within 30 days.
- Timely monitor and track case assignments to include following up with allegers to ensure their allegations are handled in accordance with the HPP procedures.
- Coordinate with management and the HPCs to ensure that all allegations of harassment are addressed in accordance with EEOC regulations.
- Work closely with management to monitor compliance on corrective actions taken.

**5. VBA Harassment Prevention Coordinators:**

- Serve as the point of contact to work with the ORM VBA National and District HPP Leads as a coordinator for allegations of harassing behavior for their respective facilities and staff offices.
- Coordinate with the ORM VBA National and/or District HPP Leads to ensure management is aware and timely addresses all allegations assigned to them throughout the process.
- Review, update, and input all required information and records related to reports of harassment to the ORM VBA National and/or District HPP Lead.
- Communicates with all parties involved (i.e. allegger, accused, management) of the facility's receipt of the report of harassment and next steps in the process.

**APPENDIX B:**

**ROLES AND RESPONSIBILITIES**

- Coordinate with the ORM HPP office on providing HPP awareness training to the workforce.

- Serve as a POC for staff to report allegations of harassment. Upon receipt of a report of harassment, HPC will notify management and educate staff on the HPP process.

**6. VBA Managers and Supervisors**

- Work to prevent harassment in the workplace.
- Ensure that their subordinates are aware of this policy letter and its Requirements.
- Ensure that all employees receive EEO/harassment prevention training during their new employee orientation and every 2 years.
- Immediately begin to address (within 5 days) any incident of inappropriate and harassing behavior.
- Ensure allegations of inappropriate and harassing behavior are kept confidential, to the fullest extent possible.
- Assist the VBA Directors with submissions of the completed fact-finding and/or outcome to the ORM VBA EEO Liaison Office within 30 days of the receipt of the report of harassment.
- Take prompt and appropriate corrective and disciplinary action against personnel who have engaged in harassing conduct or who have not carried out their responsibilities under this policy.
- Notify the local HPC of all reports of internal harassment (sexual and workplace) complaints. Submit documentation outlining efforts to address issues and the outcome.
- Follow up with the employee who reported the harassing behavior.

**APPENDIX B:**

**ROLES AND RESPONSIBILITIES**

7. All VBA Employees:

- Act professionally and refrain from inappropriate and harassing conduct.
- Inform the alleged harasser that the behavior is unwelcome.
- Immediately report inappropriate and harassing behavior to management official, HPC and/or the ORM HPP, if subjected to unwelcome hostile or abusive conduct.
- Immediately report inappropriate and harassing behavior to a management official, HPC and/or the ORM HPP, if you are a bystander and witness the conduct.
- Become familiar and comply with the provisions of this policy letter.

**APPENDIX C:**

**HARASSMENT COMPLAINT REPORTING PROCEDURES**

If an individual believes s/he is being subjected to unlawful harassment, sexual harassment, offensive conduct or hostile work environment, this person should first discuss the occurrence(s) with his/her supervisor. If the immediate supervisor is viewed as the harasser, this individual should notify the supervisor's manager or a member of management with whom s/he feels comfortable discussing the problem. Employees who observe or are made aware of possible harassment in the workplace have an obligation to immediately report the incident to their immediate supervisor or any member of management. Information will be kept confidential, except for individuals who have a need to know. When a supervisor or manager is notified of alleged harassment, s/he must take prompt and immediate action. Other options for reporting harassment include:

- An employee can choose to initiate an HPP case by contacting the Office of Resolution Management (ORM) Harassment Prevention Team by calling (888) 566-3982, Option 2.; or

- An employee can choose to contact the ORM and speak with an EEO Counselor within 45 calendar days of the date of the alleged incident to file an EEO complaint by calling (888) 566-3982 or visiting an ORM Office.

A complaint alleging harassment, whether written or oral, should include the specific nature of the incident, date and place of the incident, names of all parties involved, as well as a detailed report of all pertinent facts. The supervisor of the work unit where the alleged harassment occurred must promptly and judiciously initiate a fact-finding inquiry regarding the alleged complaint. When allegations of sexual harassment occur, the supervisor should undertake intermediate measures to ensure further harassment does not occur, even if the fact-finding inquiry has not started or completed. Such measures may include issuing stay-away letters; schedule changes to avoid any additional contact between the parties; transferring the alleged harasser; placing the alleged harasser on non-disciplinary leave with pay pending the completion of the fact-finding inquiry, or take other actions deemed necessary to mitigate further harm.

All harassment complaints must be reported to the Office of Resolution Management (ORM) Harassment Prevention Program Office. VBA Form 20-10205 "Harassment Intake Form" must be utilized at local facilities and staff offices to ensure accurate recording of the complaint. For example:

- The employee reports the matter to his/her immediate supervisor (or second-line supervisor in the event the first-line supervisor is the alleged harasser); or



**APPENDIX C:**

**HARASSMENT COMPLAINT REPORTING PROCEDURES**

- The employee reports the matter to his or her local Harassment Prevention Coordinator (HPC).
  
- Special note: Use of VBA Form 20-10205 is not necessary when the employee opts to call the ORM Harassment Prevention Team direct at 1-888-566-3982, option 2.

Once complete, local and staff HPCs will forward all VBA Form 20-10205s to their respective ORM VBA HPP District Lead for input into the ORM Harassment Prevention Program Intake System (HPPIS).

When the harassment complaint is officially on file and uploaded into the ORM HPPIS, the ORM VBA EEO Liaison Office will coordinate the following actions:

Step 1. The ORM VBA District HPP Lead will contact the alleged via telephone or email to verify the accuracy of their allegations documented in the ORM HPPIS.

Step 2. The ORM VBA District HPP Lead will contact/inform the employee's supervisor via telephone or email to discuss claims/basis/issues regarding HPP case. Special Note: If the supervisor is the alleged harasser, contact will be made with the next level supervisor/management. If the allegation is against a senior manager, the complaint will be referred to the Office of Accountability Whistleblower Protection (OAWP) for review and adjudication.

Step 3. The ORM VBA District HPP Lead will contact the local facility/staff HPC via telephone and mail with the following information/guidance:

- a. Notification Letter to the District/Regional Office Director to conduct a fact-finding or inquiry; and
- b. Supporting documentation to assist with responding to the complaint (i.e. HPP interview tips, fact finding report template, fact finding inquiry questions to ask, and follow-up memorandum template).

**All ORM VBA HPP District Lead notifications to District/Regional Director offices will be assigned a 25-calendar day suspense in order to meet the 30-calendar day ORM HPP process completion date.**

**APPENDIX C:**

**HARASSMENT COMPLAINT REPORTING PROCEDURES**

Fact Finding

Directors will appoint two or more individuals to serve their facility as neutral factfinders for the HPP. The factfinders must complete required training prior to initiating fact findings and remain available to conduct fact-findings as required by the program. If Directors are unable to meet this standard, the fact-finding will typically then be conducted by a supervisor, an appropriate management official or designee. If the allegation is against the supervisor, the management official in charge must oversee the investigation or appoint a designee.

Outcome

An appropriate management official, usually the supervisor of the alleged harasser, will determine in consultation with subject matter experts (i.e. HR, General Counsel, EEO Office) the necessary action to take, if any. Whether the allegations are substantiated or unsubstantiated based on the results of the fact-finding investigation, the District/Regional Office Director must notify the employee, who reported harassment, the completion and outcome of the process. Additionally, the District/Regional/Program Office Director must ensure that the ORM VBA EEO Liaison Office is provided a copy of a follow-up memorandum to the employee to include, an unredacted copy of the fact-finding report with supporting documentation. **Special Note:** District and Regional Offices are not obligated to provide the employee with a copy of the fact-finding investigation report. If the employee wishes to obtain a copy of the fact-finding report, s/he must file a Freedom of Information Act (FOIA) request with the ORM Privacy Officer.

Quality Review

The District/Regional Office HPC follows up with employees to ensure that management notified them about the outcome, the situation was resolved, and any concerns about the process are addressed. The ORM VBA EEO Liaison Office will provide support to assist with process concerns and administrative oversight. The ORM Harassment Prevention Team reviews outcomes for appropriateness, timeliness and trends.

**APPENDIX C:**

**HARASSMENT COMPLAINT REPORTING PROCEDURES**

Disciplinary Actions

Employees who engage in harassment could be subject to immediate disciplinary/adverse action. Supervisors or managers who either condone or fail to act promptly to correct inappropriate conduct brought to their attention could also be subject to disciplinary/ adverse action. When disciplinary/adverse actions are initiated, these actions should be in accordance with VA Handbook 5021/15, Part II, Appendix A, Table of Penalties for Title 5 and Title 38 employees.

APPENDIX D:

VBA HARASSMENT INTAKE FORM

The VBA Harassment Intake Form; [VA Form 20-10205](#) can be retrieved at downloadable and fillable VA Forms:

VA U.S. Department of Veterans Affairs		HARASSMENT COMPLAINT INTAKE REPORT	
1. NAME OF EMPLOYEE (ALLEGOR)		2. DISTRICT/REGIONAL OFFICE/SERVICE	
3. EMPLOYEE (ALLEGOR) OR REPRESENTATIVE'S PHONE NUMBER		4. EMPLOYEE (ALLEGOR) E-MAIL ADDRESS	5. DATE EMPLOYEE (ALLEGOR) CONTACTED THE HPC
6. DID EMPLOYEE (ALLEGOR) FILE AN EEO COMPLAINT? <input type="checkbox"/> YES <input type="checkbox"/> NO		7. EMPLOYEE (ALLEGOR) POSITION TITLE	8. EMPLOYEE (ALLEGOR) IN A BARGAINING UNIT POSITION <input type="checkbox"/> YES <input type="checkbox"/> NO
9. ALLEGATION TYPE (Check all that apply) <input type="checkbox"/> WORKPLACE HARASSMENT (NON-SEXUAL) <input type="checkbox"/> SEXUAL HARASSMENT			
10. BASIS(ES) (Check all that apply) <input type="checkbox"/> NONE <input type="checkbox"/> AGE <input type="checkbox"/> COLOR <input type="checkbox"/> DISABILITY <input type="checkbox"/> RACE <input type="checkbox"/> NATIONAL ORIGIN <input type="checkbox"/> RELIGION <input type="checkbox"/> SEX <input type="checkbox"/> REPRISAL			
11. SUMMARY OF DETAILS (Provide a brief explanation of the allegations presented by employee - for additional space see page 2)			
12. INDIVIDUAL ALLEGATION IS AGAINST?		13. IS INDIVIDUAL A SUPERVISOR? <input type="checkbox"/> YES <input type="checkbox"/> NO	14. INDIVIDUAL POSITION TITLE
15. IS INDIVIDUAL A SENIOR MANAGER? <input type="checkbox"/> YES <input type="checkbox"/> NO		16. DID ALLEGOR REPORT THE HARASSMENT TO MANAGEMENT <input type="checkbox"/> YES <input type="checkbox"/> NO	17. DATE(S) REPORTED (Enter all dates if more than one)
18. NAME AND TITLE OF (ALLEGOR'S) IMMEDIATE SUPERVISOR			
19. SIGNATURE OF REGIONAL OFFICE HP COORDINATOR OR INDIVIDUAL DOCUMENTING THE CONTACT		20. DATE	21. DATE SUBMITTED TO DISTRICT/HPP OFFICE