



DATE: September 30, 2008

TO: All Employees

FROM: Kerry Weems /s/
Acting Administrator

Herb Kuhn /s/
Deputy Administrator

SUBJECT: Policy Statement on Workplace Harassment, Offensive, and Inappropriate Conduct

The Centers for Medicare & Medicaid Services (CMS) is committed to maintaining a high standard of conduct in the work place and to providing a work environment free from harassing, offensive or inappropriate activity. Such activities are adverse to the overall accomplishment of our mission and the efficient operation of the Federal service. Accordingly, all CMS employees are responsible for maintaining a high standard of conduct in the work place and must refrain from engaging in harassing, offensive, or inappropriate activities.

Sexual harassment is a form of sex discrimination prohibited by Title VII of the Civil Rights Act of 1964, as amended. It involves unwanted and unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- they are made explicitly or implicitly a condition of an individual's employment; or
- employment decisions (promotions, hiring employees, work assignments, etc.) are based on whether the victim submits to or rejects these sexual advances; or
- they unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive work environment.

Moreover, CMS has a zero tolerance for any conduct or comments by employees or contractors that disparages, denigrates or demonstrates hostility or aversion towards any person (including applicants for employment) that could reasonably be interpreted as harassing, offensive or inappropriate in the work place, if based upon race, color, religion, sex, national origin, age, disability, or sexual orientation. Thus, in addition to the Title VII standard cited above, any physical contact, comments, jokes, gestures, written documents, photocopies, e-mails, pictures, images or other items or behavior in a work or work-related environment based upon the above factors constitutes harassing, offensive and inappropriate conduct and will not be tolerated. Examples of prohibited conduct include, but are not limited to, the use of epithets, slurs, negative stereotypes, threats, intimidation, hostile acts, and the use, display or dissemination of offensive written or pictorial material (such as posters, calendars, flyers, memoranda, messages, etc.) on walls, bulletin boards, or elsewhere in the workplace, including copy rooms and on an electronic mail system (e-mail). Such activities are adverse to the overall accomplishment of our mission and the efficient operation of the service our Agency provides.

Any employee who has been subjected to, witnessed or observed harassment, offensive or inappropriate conduct based on race, color, religion, sex, national origin, age, disability, or sexual orientation should immediately report this to a manager or supervisor for corrective action. If the employee's supervisor is the source of the harassment, the employee should speak to the next highest level of management. Employees may also report this conduct to the CMS Office of Equal Opportunity and Civil Rights (OEOCR). Contact information for OEOCR is set forth at the end of this policy statement. If the employee wishes to pursue a complaint of discrimination, the employee must contact OEOCR within 45 calendar days of the incident about which she or he is complaining. Employees are free to report incidents of harassment without fear of reprisal. The Agency will protect the confidentiality of harassment allegations to the extent possible.

All managers and supervisors bear the responsibility for ensuring that the workplace is free from harassment and for responding to complaints of harassment, when they become aware of, or should have been aware of the harassing comments or conduct, regardless of whether any employee complains to the manager that such activities are unwelcome. Managers and supervisors are required to take action even when the employee asks the manager to keep the matter confidential and not to report it. Doing nothing raises issues of liability for the Agency.

The Agency will conduct a prompt, thorough, and impartial investigation into allegations of harassment and, as appropriate, corrective action will be taken. Depending on the severity of the circumstances, effective action may entail removing the harasser/offender from the work environment and imposing some form of discipline ranging from a written reprimand to removal from the Federal service. Managers who tolerate such harassment or fail to take immediate action when aware of such activities may receive a reduced rating in their EEO performance element and may be subject to disciplinary action.

This policy also applies to incidents of harassment, offensive or inappropriate activities as described above committed at any CMS facility by employees of private contractors against CMS employees and anywhere by CMS employees against employees of private contractors. Victims of such harassment, offensive or inappropriate conduct should immediately report these incidents to their immediate supervisor/manager who in turn must immediately report the incident to the alleged harasser/offender's supervisor.

Additional important information matters is contained in the CMS "Equal Employment Opportunity Policy Statement" at <http://cmsnet.cms.hhs.gov/hpages/oecr/PolicyStatements.htm>.

OEOCR contact information

Centers for Medicare & Medicaid Services
Office of Equal Opportunity and Civil Rights
7500 Security Blvd., Room N2-22-17
Baltimore, MD 21244-1850
Phone: (410) 786-5110
Fax: (410) 786-9549
TTY: (410) 786-2456
http://cmsnet.cms.hhs.gov/hpages/oecr/about_oecr.htm