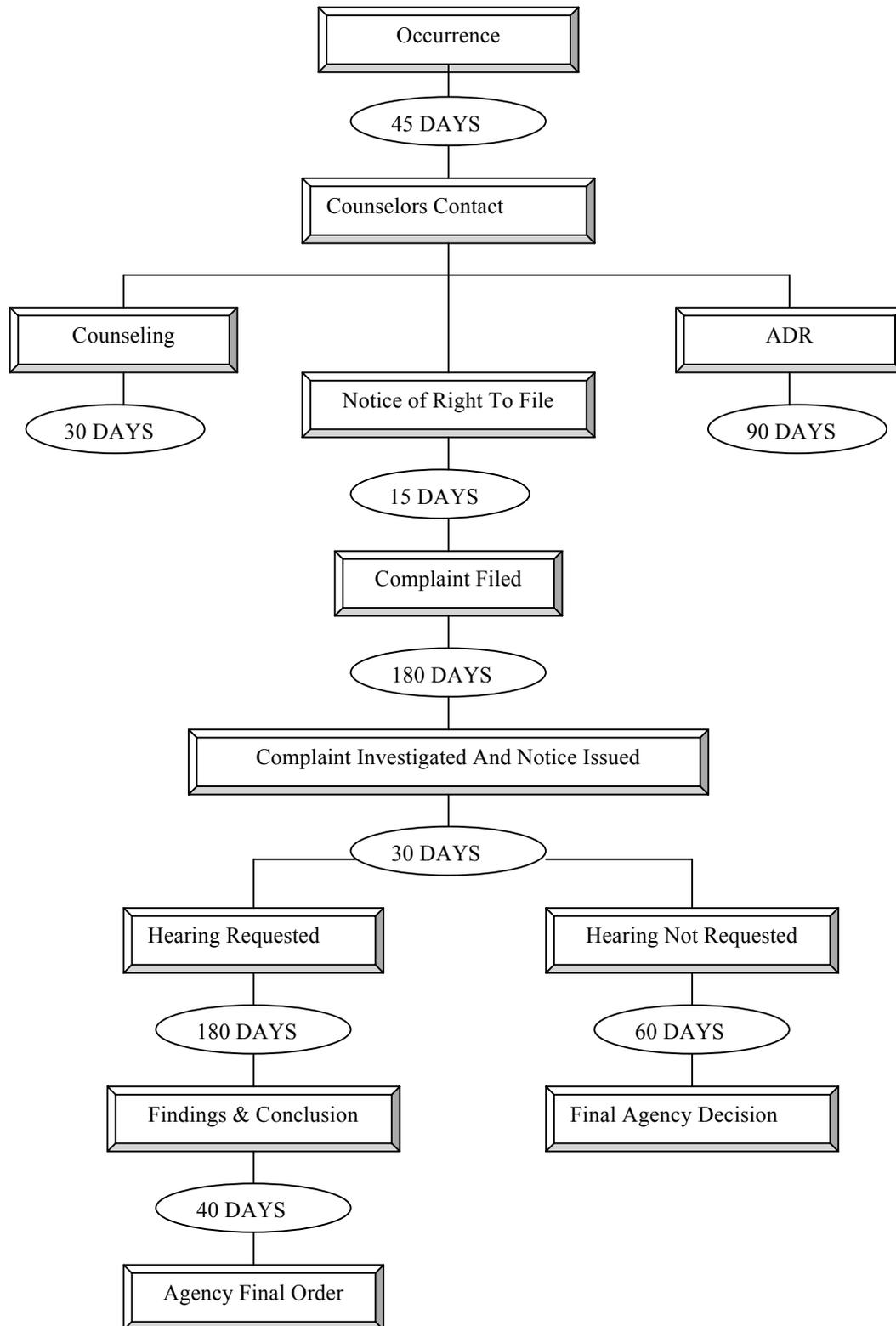


**Diversity Management & Equal
Opportunity (DMEO)
Spiff Notes**

**A Quick Reference Guide
for Managers Relating to
Discrimination and
Workplace Harassment
Allegations**



Overview of Federal Sector Complaint Processing Under 29 C.F.R. Part 1614



RELIGION

ACCOMMODATE RELIGIOUS BELIEFS

Be careful not to schedule activities for an employee, or even a prospective employee, that is in conflict with his or her stated religious needs, unless of course, taking that action create an undue hardship for your organization.

Examples of Accommodations

- Flexible scheduling
- Voluntary substitutions or swaps
- Job reassignments
- Lateral articles in a document. The links do not have to occur in a forward direction.

Be Careful Not to

- schedule activities in conflict with an employee's religious needs.
- inquire about an applicant's future availability at certain times.
- maintain an unnecessary restrictive dress code
- refuse to allow observance of a Sabbath or religious holiday, unless the employer can prove that not doing so would cause an undue hardship.
- display materials and publications involving matters of religion, politics, or other ideological matters where material may be construed as being endorsed by DoDEA, when in fact it is not.
- use the term Agency's Christmas party or Easter vacation - instead use the generic term of holiday.

What Constitutes Undue Hardship?

- More than just administrative or marginal costs.

WHEN A RELIGIOUS ACCOMMODATION IS REQUESTED, MANAGER SHOULD DO THE FOLLOWING:

- Inquire as to the nature of the employee's beliefs.
- Consider the sincerity with which the employee holds those beliefs.
- Consider the nature of the conflict between the employee's religious beliefs and his or her job obligation.

We all have equal rights, but we are NOT all the same.

HOLIDAY SEASON GUIDELINES FOR SCHOOLS AND THE WORKPLACE

SCHOOLS -

Schools can display holiday-themed religious symbols during the holiday season but only so long as the display of those symbols is part of some legitimate instructional plan by the school. The display of the symbols for the purpose of endorsement, favoritism or proselytization is, of course, excluded.

Schools can hold holiday programs which include the singing of explicitly religious songs and the use of explicitly religious themes, for example singing "Silent Night, Holy Night" in front of a nativity display. However, this can be done only if the program is part of an educational curriculum which is designed to explain to students the religious and cultural heritage of the date in a "prudent and objective manner." *Florey v. Sioux Falls School District*, 49-5, 619 F.2d 1311 (8th Cir.), *cert. denied*, 449 U.S. 987 (1980)

Schools may include specifically religious aspects to the observance of or teaching about religious holidays. Thus, teaching about the history of Christmas or Hanukah can be accompanied by Christian or Jewish symbols, for instance. As District Judge Irenas noted in *Clever v. Cherry Hill Township*, F.Supp. 929 (D. N.J. 1993), it would be very difficult to teach such subjects without religious symbols ever appearing in any fashion.

FEDERAL BUILDINGS

If the religious symbols are displayed alone, it is an unconstitutional violation of the separation of church and state. The decision in *Allegheny v. ACLU*, 492 U.S. 573, July 3, 1989, the Supreme Court found that creche (nativity scene) standing on the grand staircase of the Allegheny County Courthouse in Pittsburgh was impermissible. On the other hand, if there are enough secular symbols displayed in conjunction with the religious symbols, then the display is constitutional. In the decision of *Lynch V. Donnelly*, 465 U.S. 668 (March 5, 1984), the Supreme Court has ruled (known as the "plastic reindeer rule") that the addition of plastic Santas, reindeer, and other such decorations suddenly make a plastic nativity "acceptable." If a privately sponsored religious display is placed in a public/government building, then the display must be temporary and be accompanied by a disclaimer from the government. In addition, the public/government building must also be open to all forms of speech with no regulation of content. Thus, if the government permits a Christian church to erect a nativity display, it must also allow a Jewish synagogue to put up a menorah, a freethinking group to display a sign opposing violations of the separation of church and state, and the KKK to erect a large cross [*Capitol Square Review Board v. Pinette*. (94-780). 515 U.S. 753 (1995).

DISABILITY

[We are temporarily able. We could be disabled at any moment.]

WHO QUALIFIES AS AN EMPLOYEE WITH A DISABILITY?

An **employee or an applicant** with a disability is one who has a physical or mental impairment that substantially limits one or more major life activities.

Examples of major life activities include caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. Also, sitting, standing, lifting, and mental and emotional processes such as thinking, concentrating, and interacting with others.

Requesting Reasonable Accommodations

Take advantage of CAP (Contact the Disabilities Program Manager for assistance.)

Contact the Job Accommodations Network (JAN) for recommendations. Their web site is great!

Job Accommodation Network

1-800-526-7234 (V/TTY)

<http://www.jan.wvu.edu>

A service of the U.S. DOL Office of Disability Employment Policy

Examples of Reasonable Accommodations

- Making existing facilities used by employees readily accessible to and usable by persons with disabilities
- Job restructuring
- Modification of work schedule
- Providing additional unpaid leave
- Reassignment to a vacant position (last resort)
- Acquiring or modifying equipment or devices
- Adjusting or modifying examinations, training materials or policies
- Providing qualified readers or interpreters
- Think outside the box!
- If accommodation is possible by adjustment, then do so!

WHAT CONSTITUTES UNDUE HARDSHIP?

- Undue hardship is based on the net cost.
- Based on assessment of current circumstances that show that a specific reasonable accommodation would cause significant difficulty or expense.
- Not based on fears or prejudices or that the accommodation might have a negative impact on the morale of other employees.
- Cannot claim an undue hardship because an individual can provide only an approximate date of return. (Get periodic updates.)
- Cannot claim hardship due to a collective bargaining agreement.
- Cannot be based on pure speculation.

BOTTOM LINE: In reality, in the Federal Government, it will be very difficult to justify an undue hardship!

Be Careful Not to

- ask job applicants about the existence, nature, or severity of a disability.
- ask if applicant has ever filed for workers' compensation insurance.
- ask how many days an applicant was absent from work because of illness last year.
- ask for medication documentation when (1) both the disability and the need for reasonable accommodation are obvious, or (2) the individual has already provided sufficient information to substantiate the disability and needs the reasonable accommodation requested.

Any Questions? Call Your Local DMEO Office for Assistance or your DPM.

Disabilities Program Manager (DPM)
(703) 588-3233

Use the attached forms, starting at page 10, in granting or denying reasonable accommodations.

RACE AND COLOR

- All people are protected on the basis of race or color, regardless of their race.
- Persons of mixed racial backgrounds are protected from discrimination and do not need to prove their exact heritage to make out a Title VII claim.
- It is possible that people will discriminate against persons of their own racial group or against persons perceived to be of a different skin color.

Disparate Treatment

Show disfavor to one individual over another due to his or her race or color.

Disparate Impact

Use of facially neutral practices or criteria that disproportionately affected members of a particular protected group, and the practices or criteria could not be justified by business necessity. (e.g., use of selection procedures such as written tests, oral examinations, and interviews.)

Harassment

Hostile environment harassment includes unwelcome comments or conduct unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive work environment. An harasser can be the victim's supervisor, co-worker, or a non-employee.

Ethnic slurs, racial "jokes," offensive or derogatory comments, or other verbal or physical conduct based on an individual's race/color constitutes unlawful harassment.

Prejudice is an aversion or dislike based upon a faulty and inflexible generalization or stereotype. It is an attitude or belief, while discrimination is action taken as a result of the attitude or belief.

We all have prejudices. It's how we deal with them that can make a difference. One can be prejudice and not discriminate. Only when you act on the prejudice is it a problem.

STAY OUT OF TROUBLE:

- Guard against challenges to recruitment practices by using a variety of methods to reach a diverse pool of qualified applicants.
- Avoid nepotism. The preference of family members is another recruitment practice that may have an adverse impact on groups that differ from the racial group of the management official.
- In establishing objective selection criteria, a selecting official should take care to use criteria that are relevant, if not essential, to job performance and consistently applied.
- In establishing subjective criteria, the selecting officials should take care to limit, as much as possible, the discretion of individual decision-makers.
- Management has an affirmative duty to maintain a work environment free from race-based insult, intimidation, or ridicule.
- Have an anti-harassment policy.
- Conduct thorough and conscientious investigations in response to complaints of racial harassment (Call your EEO office immediately.)

Any Questions? Call Your Local DMEO Office for Assistance.

Headquarters EEO Office

Alina Doreste-Johnson, Chief DMEO 703-588-3232
Deborah W. Cannon, Deputy DMEO 703-588-3238
Allison Kennedy, Complaints Manager 703-588-3234
Ted Turner, Diversity Manager 703-588-3236
Vacant, ADR Manager 703-588-3237
Vacant, Disabilities Program Manager 703-588-3231

DoDDS-Europe DMEO Office

William Suddeth, DoDDS-E DMEO Program Manager
DSN 314-334-2490
Luis Agosto, DoDDS-E DMEO Counselor
DSN: 314-334-2809

DoDDS-Pacific DMEO Office

Steven Vojtecky, DoDDS-P DMEO Program Manager
DSN
Ferdinand Carlos, DoDDS-P DMEO Counselor
DNS 315-644-5661

DDESS

Albert Ware, DDESS DMEO Program Manager
678-364-6655
Carolyn Richards, DDESS DMEO Counselor
678-364-8013

NATIONAL ORIGIN

Includes:

- birthplace, ancestry, culture or linguistic characteristics common to a specific ethnic group
- membership or association with specific ethnic promotion groups
- attendance or participation in schools, churches, temples or mosques generally associated with a national origin group
- a surname associated with a national origin group

Are English-Only Rules Legal?

If an employer shows it is necessary for conducting business, the rule would be legal. If it is determined that the English-only rule is critical for business purposes, employees have to be told when they must speak English and the consequences for violating the rule.

Can a Person's Accent Inhibit Him or Her from Performing the Job?

An employer must show a legitimate nondiscriminatory reason for the denial of employment opportunity because of an individual's accent or manner of speaking. Requiring employees or applicants to be fluent in English may violate Title VII if the rule is adopted to exclude individuals of a particular national origin and is not related to job performance.

Same rules apply as those listed under Race & Color

- **No disparate treatment.**
- **No disparate impact.**
- **No harassment.**

Any Questions? Call Your Local DMEO Office for Assistance.

Headquarters EEO Office

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678-364-8013

The Platinum Rule

**"Do Unto Others as They
Would Have You Do Unto
Them"**

**Treat People Equitably vs.
Equally**

- Stay away from jargon.
- Stay away from mixed messages.
- Understand the culture as much as possible.

SEX

It is illegal to label jobs as a man's job or a woman's job, and likewise illegal to base promotions or work assignments based on those labels. Assumptions cannot be made about a person's personality or job commitment based on his or her gender. (e.g., coaching a boy's team or a girl's team)

Equal Work for Equal Pay

Both jobs must entail:

- Equal levels of skill
- Equal effort and responsibility
- Be performed under similar conditions

Management:

- Do not make assumptions about a woman's long-term commitment to her job as compared to a man's long-term commitment. For example, a woman will leave the workforce early to care for a family while a man won't.
- Do not make assumptions about personality stereotypes based on sex. For example, men are dominant while women are passive; therefore a man would make a better administrator. Men are less caring, women are more caring, and therefore a woman would be a better kindergarten teacher.

Agency Liability

- **Management is liable for harassment resulting in a tangible employment action regardless of whether higher management knew or should have known of the conduct.**
- **Management is liable for co-worker harassment if it knew or should have known of the harassment and failed to take immediate and appropriate corrective action.**
- **Nothing is off the record or unofficial.**

Sexual Harassment

- **Is Sexual Discrimination**
- **The harasser as well as the target can be a man or a woman.**
- **The conduct must be unwelcome to the target of the harassment.**
- **Harassment can be verbal, physical, or pictorial.**
- **Claimant does not have to be the person at whom the offensive conduct is directed but can be anyone affected by the conduct.**

CATEGORIES OF SEXUAL HARASSMENT

- **Harassment Resulting in a Tangible Employment Action**
 - **Only a supervisor or manager can undertake a tangible action.**
 - **The demand for sexual favors in return for job benefits can be explicit or implicit.**
 - **One instance of harassment resulting in a tangible employment action is sufficient to constitute a violation.**
- **Hostile Environment Harassment**
 - **Sexual comments or conduct that unreasonably interferes with a person's work performance or creates an intimidating, hostile or offensive working environment.**
 - **Supervisor, co-worker, or non-employee can commit this type of harassment.**
 - **More frequent the conduct, the less severe it need be to create a hostile environment.**
 - **Severe psychological harm is not necessary to establish violation.**

Cost of Sexual Harassment

- **Lost Productivity**
- **Absenteeism**
- **Lost Time and Resources**
- **Negative Impact on**
 - **Unit Cohesion/Morale**
 - **Individual Performance**
 - **Mission Accomplishment**

INVESTIGATING SEXUAL HARASSMENT CHARGES

1. IMMEDIATELY contact the EEO office, either your local EEO Site Manager or Headquarters.
2. Even if you are told by the victim not to take action, you are obligated to investigate the matter. Nothing is off the record.
3. Respond immediately. Facts can normally be gathered within 3 or 4 days.
4. Hold meetings in a quiet, private location. Avoid distractions such as the telephone.
5. Obtain relevant information from the complainant.
6. Be objective when asking questions; don't make assumptions. Also, questions should be asked in a non-threatening way, and the complainant should be assured that the allegations will be taken seriously. Questions should be open-ended and non-leading.
7. Let all people you talk to, especially the alleged victim and accused harasser, know you are serious about eliminating sexual harassment. Set a proper tone for your discussions.
8. Management is far better off eliminating behavior that constitutes sexual harassment before a problem arises or a complaint is brought to its attention through some other channel.
9. **Document** all conversations you have with the alleged victim, harasser, and witnesses.
10. Take each person seriously. Listen carefully to what is said, how it is said, and watch body language or reaction to your questions. Do not judge anyone until you have gathered all the facts.
11. Keep the chain of command informed. Follow established procedures.

Most people do not want to deal with the issue because they feel uncomfortable. However, you must deal with the issue because it's a cost to the agency!

THE INVESTIGATION

Questions to Ask the Alleged Victim

1. Tell the alleged victim that confidentiality will be maintained as much as possible, and that a true, accurate, and complete account of the incident(s) is needed.
2. Who? What? When? Where? Get details. Pin down times, places, and events as precisely as possible.
3. How did the conduct affect you?
4. How did you react? What was your response? Did you let the person know his/her behavior was unwelcome? (This could be verbal or the way the alleged victim reacted.)
5. How frequent was the conduct? Is it still ongoing?
6. Were there witnesses? Did you tell anybody about it? Did anyone see you visibly upset after episodes of alleged harassment?
7. Has this happened to others? Are there current or former employees who you believe were harassed by the same person?
8. Is there any documentation regarding the incident(s)?
9. Do you know of any other relevant information?
10. How would you like to see the situation resolved? [Although you cannot commit at this point to a particular solution, find out what relief the complainant wants.] **DO NOT TELL THE ALLEGED VICTIM TO "JUST LET IT GO THIS TIME" IN THE HOPE THAT THE BEHAVIOR WILL NOT HAPPEN AGAIN.**
11. Repeat what you've been told to ensure you understand the situation.
12. Set a date/time and place to meet again after gathering the facts concerning the allegations.
13. **Document! Document! Document!**

Questions to Ask the Alleged Harasser

1. Maintain the anonymity of the alleged victim. If the employee tries to identify the victim, let him/her know who is making the accusation is not important. What is important is the situation that has been described to you.
2. Inform the alleged harasser that a complaint has been made against him/her. Take care in describing the incident(s). To the extent possible, the name of the alleged victim should not be revealed. If the person's identify is known, it should be made clear to the alleged harasser that no retaliatory action will be tolerated. The accused employee should also be told not to discuss the matter either with co-workers or with the alleged victim.
3. What is your response to the allegation?
4. If the harasser claims that the allegation is false, ask why the complainant might lie.
5. Are there other persons who have relevant information?
6. Is there any documentation regarding the incident(s)?
7. Do you know of any other relevant information?
8. Let the accused harasser know you take the allegations seriously. Do not make jokes or otherwise indicate you consider the incident to be inconsequential.
9. Keep to the point and focus on the harasser's behavior. It is normal for the harasser to try to shift the blame to the person he/she thinks initiated the complaint. If the harasser tries to put the blame on the victim, let him/her know you are concerned only with his/her (the harasser's) behavior.
10. Remain neutral. Stay away from committing yourself to either side.
11. If there is an indication that the harasser did behave as accused, let him/her know that type of behavior must stop and will not be tolerated. The supervisor may suggest informal remedies and proceed with them.

12. If necessary, take the appropriate corrective action. Avoid transferring the victim because this will be seen as retaliation. Consider administrative leave with pay until the investigation is complete.
13. Warn the alleged harasser about retaliating against the victim, regardless of the outcome of the investigation.
14. If no corrective action is warranted, follow-up with the harasser to let him/her know the outcome of the inquiry on the matter.
15. **Document! Document! Document!**
16. Contact the EEO office for advice on corrective action.

Interviewing Witnesses

People who can help you assess the credibility of the allegations are not just eyewitnesses, but can be also people with whom the complainant discussed the harassment, and people who saw her soon after the alleged harassment, who could attest to whether she displayed any reactions.

1. Do not identify the alleged victim or harasser to witnesses.
2. Describe the incident in as much detail as possible. For example, "Did you hear a co-worker talk about another person's physical appearance when you were at the copy machine?" or, "Did you see an employee put his arms around an employee earlier this week while you were at the copier. What did you see or hear?"
3. What did the alleged victim tell you?
4. Are there other persons who have relevant information?
5. Do you know of any other relevant information?
6. Stick with the situation at hand and ask about the witness's observations, not opinions.
7. Advise the witness that confidentiality will be maintained as much as possible. Many times the witness will be reluctant to admit he/she saw something because of possible repercussions from you, the harasser, or management personnel.
8. **Document! Document! Document!**

Check Personnel Records

- Have there been other complaints about the same alleged harasser?
- Has there been a high turnover of the alleged harasser's female/male subordinates? If so, this could identify other witnesses, targets.

Make Credibility Determinations

Often there are no witnesses to the actual conduct, so making a credibility determination is often the crux of the case. Factors to consider in determining the credibility of either party (all are relevant):

- Inherent plausibility: Is the testimony believable on its face?
- Demeanor: Did the person seem to be telling the truth or lying?
- Motive to falsify: Did the person have a reason to lie?
- Corroboration: Is there witness testimony or physical documentation that corroborates the person's testimony?
- Past Record: Did the alleged harasser have a history of similar behavior in the past?

Ensure That Retaliation Does Not Occur

- Retaliation can be overt or subtle: increased workload, not recommending person for promotion, reduced performance evaluation, inequitable assignments.
- If it's necessary to separate the alleged victim from the alleged harasser, **don't make the alleged victim move--that can be perceived as retaliation.**

Take Immediate and Appropriate Action

- Designed to end the harassment and ensure that it does not recur.
- Severity of discipline will depend on severity and frequency of the misconduct, the impact on the complainant, and whether the harasser previously engaged in similar misconduct.
- Requires more than a request to refrain from harassment.
- Continue to monitor the situation.

PREVENTING WORKPLACE HARASSMENT

- **Training**
- **Anti-Harassment Policy**

Pointers on Developing a Policy Against Harassment

- **Prohibit all forms of unlawful harassment**

Make it clear management will not tolerate unwelcome verbal or physical conduct based on sex (with or without sexual conduct), race, color, religion, national origin, age, disability, or protected activity under the EEO statutes.

- **Establish an effective complaint procedure**

Employees should be encouraged to report harassment *before* it becomes severe or pervasive.

- **Create multiple paths in the complaint process**

Employees must be able to bypass their supervisors and complain to other officials. This is critical. Also, if the supervisor is the alleged harasser, he or she should be removed from the investigative process.

- **Make clear that management will act quickly in responding to complaints**

- **Make clear that appropriate disciplinary action will be taken**

- **Ensure confidentiality to the extent possible**

- **Protect against retaliation**

- **Disseminate policy**

A policy against harassment is **worthless** unless employees are aware of it. Including a tear-off sheet with a signature line attesting to receipt of the policy is one method of ensuring that the policy is distributed to every employee. Incorporate the policy into employee handbooks and guidelines for supervisors. Post the policy on bulletin boards. Distribute it at training sessions, and redistribute it periodically to all employees.

REPRISAL

An individual is protected from retaliation for engaging in protected activity, which includes:

- Opposition - Opposing a practice made unlawful by one of the EEO statutes
- Participation - Filing a charge, testifying, assisting, or participating in any manner in an investigation, proceeding, or hearing under the applicable statute (regardless of the validity or reasonableness of the original allegation of discrimination)

-- individuals testifying or presenting evidence as part of an internal investigation

-- individuals not members of the protected class subjected to discrimination (e.g., a white individual may allege that he was retaliated against for opposing discrimination against African-Americans)

-- individuals associated with a protected individual

-- The American with Disabilities Act prohibits retaliation against an individual for opposition to any violation of the statute, not just employment discrimination, including state and local government services, public accommodations, commercial facilities, and telecommunications.

The anti-retaliation provisions prohibit ANY adverse treatment that is based on a retaliatory motive and is reasonably likely to deter the charging party or others from engaging in protected activity.

Complaints of reprisal are not at all uncommon and any manager that makes a decision adverse to an employee subsequent to some protected activity by that employee runs the risk that a complaint of reprisal will follow.

To prove reprisal, a complainant only needs to show:

- 1. that he/she opposed unlawful employment practices or participated in Title VII proceedings;**
- 2. that his/her employer was aware of her protected activity;**
- 3. that subsequently his/her employer took adverse action against him/her; and**
- 4. the adverse action followed his/her protected activity within such period of time that retaliatory motive can be inferred.**

Three Essential Elements:

1. protected activity - opposition to discrimination or participation in the statutory complaint process
2. adverse action
3. causal connection between the protected activity and the adverse action

Management

It does not matter how an employee participates in the EEO process; it is the participation itself that is protected.

The fact that an employee has previously filed an EEO complaint DOES NOT prevent management from legitimately dealing with the employee on conduct-related matters.

Employees are allowed official time to participate in the EEO process, including those who are serving as a representative for the complainant. Denial of official time may be considered reprisal and EEO HQ will request a denial in writing.

Harassment

When an agency fails to take prompt and effective action in response to a complaint of sexual harassment, it may be liable for the resulting hostile environment. **That same failure may also form the basis of a reprisal complaint.**

When in doubt, call your local DMEOP Program Manager or Counselor.

PROCEDURES FOR REQUESTING REASONABLE ACCOMMODATION

FOLLOW THESE STEPS WHEN AN EMPLOYEE RAISES MEDICAL OR ENVIRONMENTAL FACTORS AS A CONCERN IN JOB PERFORMANCE OR CONDUCT

STEP 1 – The employee/applicant completes Part I, Employee’s Statement of Disability. The requesting employee’s supervisor, or in the case of an applicant, the Personnel Director will review the form to determine if further action is necessary. Instruct the employee/applicant to use an additional piece of paper or the back of the form, if necessary, to completely answer the questions.

STEP 2 – The supervisor/Personnel Director completes Part II, Supervisor’s Statement, to identify those performance, conduct or attendance problems the employee/applicant is experiencing.

STEP 3 – The employee/applicant provides acceptable medical evidence to support his/her claim to the employee’s supervisor or Personnel Director, as appropriate. The supervisor/Personnel Director will provide Part III, Physicians Statement to the employee/applicant with a copy of the appropriate position/job description, performance elements and standards, and the physical and environmental factors identified for the position. Provide copies of Parts I and II to the physician, if appropriate.

STEP 4 – Provided the medical evidence is sufficient, the appropriate supervisor/Personnel Director will complete Part IV, Agency Certification of Accommodation Efforts. If any accommodation is granted or denied, a copy of Part IV should be mailed to the DoDEA Equal Employment Opportunity Office, ATTN: Disabilities Program Manager, 4040 North Fairfax Drive, Arlington, VA 22203-1634, or sent by facsimile to (703) 588-3706.

PART I - EMPLOYEE'S STATEMENT OF DISABILITY

[In Connection with Requests for Reasonable Accommodation for Health Reasons.]

1. Name of Applicant (last/first/middle): _____
2. Date of Birth (month/day/year): _____
3. Social Security Number: _____
4. Position Title: _____
5. Grade/Series/Step: _____
6. Office/Department: _____
7. Work Phone Number: _____
8. DoDEA School District: _____
9. Immediate Supervisor's Name: _____
10. Immediate Supervisor's Phone Number: _____
11. Describe what your position requires you to do:

12. Describe the difficulties you are having in your position with respect to performance, attendance, or conduct.

13. Describe your medical condition(s) (i.e., disease or injury) and how (it/they) interfere(s) with the performance of your duties or your attendance or conduct:

14. Describe any other restrictions of your activities imposed by your medical condition(s) (i.e., disease or injury) which you believe should be considered in determining your ability to perform in other positions in your activity for which you may otherwise be qualified.

15. Give the approximate date (month/year) your medical condition began to affect your performance or conduct.

16. Have you been hospitalized for your medical condition (i.e., disease or injury) as described in item 11? Check one: No _____ Yes _____

17. Describe specifically what accommodation(s) you think could be made so that you would be able to perform the essential duties of your position.

18. Have you previously applied for a limited duty assignment or special placement for health reasons?

No _____ Yes (If Yes, give reason and dates.) _____

19. Have you had a limited duty assignment or a special placement for health reasons?

No _____ Yes (If yes, give reasons and dates.) _____

20. I request [Check one.]:

a. Limited duty not to exceed () 30 () 60 () 120 days.

b. Special accommodation for health reasons. My disability is expected to last beyond 120 days.

c. Special accommodation for health reasons. My disability is expected to be permanent.

CERTIFICATION AND CONSENT BY EMPLOYEE

I hereby certify that all statements made above are true to the best of my knowledge and belief. I hereby give my permission for the release of information about my service and medical condition(s) (i.e., disease and injury) to authorized agency officials.

SIGNATURE (Do not print)

Date Office Telephone Number

PART II – SUPERVISOR’S STATEMENT

In Connection with Employee’s Request for Reasonable Accommodation for Health Reasons

SECTION A – Information about Employee’s Performance/Conduct (if applicable).

Are there any performance and conduct issues that would be relevant to the issue of accommodation for this employee?

SECTION B – Accommodations.

What efforts have you made to accommodate employee (including temporary accommodations, e.g., light duty)?

SECTION C – Supervisor’s Certification.

1. How long have you supervised employee? _____ Years _____ Months

2. Telephone Number: _____

I certify that all the statements made on this Supervisor’s Statement are true to the best of my knowledge and belief.

SIGNATURE

(Typed Name)

Date

PART III – PHYSICIAN’S STATEMENT

In Connection with Employee’s Request for Reasonable Accommodation for Health Reasons

SECTION A – Identifying Information and Consent (to be completed by employee).

1. *Applicant’s Name (Last, First, Middle):* _____

2. Date of Birth (Month Day, Year): _____

3. Social Security Number: _____

4. Enter exact Name and Address (including Zip Code) of your employing agency.
(Address to which physician sends statement).

APPLICANT’S CONSENT TO RELEASE MEDICAL INFORMATION

I authorize the release to my employing activity of any and all information or records connected with my disease or injury.

SIGNATURE

DATE

SECTION B – Medical Documentation (To be completed by Physician)

PATIENT'S NAME: _____

ADDRESS: _____

INSTRUCTIONS

The individual identified above is requesting medical documentation that will be evaluated, along with other information, in connection with his or her request for reasonable accommodation. The reasonable accommodation, if found to be medically warranted, could include one of several options (if possible), including restructuring of the current position or reassignment to a position which the employee is medically able to perform. A copy of the employee's position description and the critical elements and performance standards for the position are attached for your information. If the physical and environmental requirements identified for the position are also attached, these must specifically be addressed in your report.

The applicant is responsible for any cost incurred in connection with providing this documentation unless the Agency has specifically authorized payment.

A new medical examination is not necessary if you can provide current (not more than 3 months) information from your records.

Please provide the medical documentation requested under 'MEDICAL DOCUMENTATION REQUIREMENTS' on your letterhead stationary. It is important that you respond to every item marked. Enter the item number of the information requested and provide your response. If an item is not applicable to the applicant's medical condition, enter "Not Applicable."

Enclose your report and any attachments in a sealed envelope marked "DISABILITY – PRIVILEGED – PRIVATE." Send it to the address shown in Section A, Item 4. You may, if you wish, give it directly to the applicant for delivery to the employing office.

Please complete this statement within 2 weeks. Be sure to sign the report and include your telephone number.

MEDICAL DOCUMENTATION REQUIREMENTS

PLEASE PROVIDE THE FOLLOWING INFORMATION:

1. The history of the specific medical condition(s), including references to findings from previous examinations, treatments, and responses to treatment.

2. Clinical findings from the most recent medical evaluation including any of the following which have been obtained: findings of physical examination, results of laboratory tests, X-rays, EKGs and other special evaluations or diagnostic procedures and, in the case of psychiatric diseases, the findings of mental status examinations and the results of psychological tests.

3. Assessment of the current clinical status and plans for future treatment.

4. Diagnosis.

5. An estimate of the expected date of full or partial recovery.

6. An explanation of the impact of the medical condition on life activities, both on and off the job.

7. Assessment of the degree to which the medical condition has or has not become static or well stabilized and an explanation of the medical basis for the conclusion.

8. The likelihood that the individual will suffer sudden or subtle incapacitation associated with the medical condition. Explain the medical basis for your conclusions.

9. The probability that the individual will suffer injury or harm if he or she is not restricted or accommodated. Explain the medical basis for your conclusion.

10. The medical basis for your decision to recommend or not to recommend restrictions that prohibit the individual from attending work altogether or performing specific duties of the position. If you have recommended any work-related restrictions or accommodations, explain the therapeutic or risk-avoiding value of the restrictions and whether you have recommended any similar restrictions on non-work-related activities.

PART IV – REASONABLE ACCOMMODATION REPORTING FORM

In Connection with Employee’s Request for Reasonable Accommodation for Health Reasons

SECTION A – GRANTING A REASONABLE ACCOMMODATION REQUEST

Name of Individual requesting reasonable accommodation: _____

Office of Requesting Individual: _____

1. Reasonable accommodation: (check one)

_____ Approved

_____ Denied (*If denied, attach SECTION B – DENIAL OF REASONABLE ACCOMMODATION REQUEST, page Appendix A-11*).

2. Date reasonable accommodation requested: _____

Request received by _____

3. Date reasonable accommodation request referred to decision-maker (*i.e., supervisor, Personnel Director*) _____

Name of decision-maker: _____

4. Date reasonable accommodation approved or denied: _____

5. Date reasonable accommodation provided: _____

6. If time frames outlined in the Procedures to Facilitate the Reasonable Accommodation were not met, please explain why *(use additional sheets, if necessary)*.

7. Job held or desired by individual requesting reasonable accommodation *(including occupational series, grade level, and office)*:

8. Reasonable accommodation needed for: *(check one)*

- Application process
- Performing Job Functions or Accessing the Work Environment
- Accessing a Benefit or Privilege of Employment *(e.g., attending a training program or social event)*

9. Type(s) of reasonable accommodation requested *(e.g., adaptive equipment, staff assistant, and removal of architectural barrier)*:

10. Type(s) of reasonable accommodation provided (if different from what was requested):

11. Was medical information required to process this request? If yes, explain why (*use additional sheets, if necessary*).

12. Sources of technical assistance, if any, consulted in trying to identify possible reasonable accommodation (e.g., Job Accommodation Network, disability organization, CAP):

13. Comments:

Submitted by: _____

Phone: _____

Attach copies of all documents obtained or developed in processing this request.

SECTION B – DENIAL OF A REASONABLE ACCOMMODATION REQUEST

Complete Numbers 1-4, Complete Number 5, if applicable.

1. Name of Individual requesting reasonable accommodation:

2. Type(s) of reasonable accommodation requested:

3. Request for reasonable accommodation denied because (*may check more than one box*):

- Accommodation Ineffective
- Accommodation Would Cause Undue Hardship
- Medical Documentation Inadequate
- Accommodation Would Require Removal of an Essential Function
- Accommodation Would Require Lowering of Performance or Production Standard
- Other (Please identify)

4. Detailed Reason(s) for the denial of reasonable accommodation (*Must be specific, e.g., why accommodation is ineffective or causes undue hardship*):

5. If the individual proposed one type of reasonable accommodation, which is being denied, but rejected an offer of a different type of reasonable accommodation, explain both the reasons for denial of the requested accommodation and why you believe the chosen accommodation would be effective.

6. If an individual wishes to request reconsideration of this decision, s/he may take the following steps:

Ask the decision-maker to reconsider his/her denial in writing. Additional information may be presented to support this request.

If the decision-maker does not reverse the denial, and the decision-maker was the individual's supervisor, the individual may pursue the reconsideration through their chain of command.

Typed Name of Deciding Official

Signature of Deciding Official

Date reasonable accommodation denied: _____

