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**DEPARTMENT OF ADMINISTRATION ORGANIZATIONAL CIRCULAR NO. 08-016**

TO: All Heads of Line and Autonomous Department/Agencies, Instrumentality, Authority and Corporation covered by the EEO Program

FROM: Director of Administration

SUBJECT: **SEXUAL HARASSMENT**

*Hafa Adai!* The Department of Administration reiterates the severity of harassment on the basis of sex and reminds all employees that sexual harassment in the workplace is a prohibited personnel practice under the GovGuam EEO Program, Title VII of the Federal Civil Rights Act, as amended, and the guidelines of the Federal Equal Employment Opportunity Commission.

As department and agency heads, preventive measures should be taken to explicitly state that sexual harassment is an unacceptable conduct in the workplace and will not be condoned. This is not to mean the regulating of social interaction or relationship freely entered into by employees. An internal Sexual Harassment Policy should be established and disseminated informing employees of their rights to raise the issue. The policy should also state the proper steps to take in rectifying the problem. Sexual Harassment is processed under the Department of Administration's EEO Discrimination Complaint Procedure.

Sexual Harassment is a form of sex discrimination in violation of Title VII. Unwelcome verbal, visual, or physical conduct of a sexual nature constitutes unlawful sexual harassment when submission to such conduct is made a term or condition of employment; submission to or rejection of such conduct is used as a basis for employment decision; or such conduct unreasonably interferes with job performance or creates an intimidating, hostile, or offensive work environment.

There are two categories of sexual harassment – harassment that results in *Tangible Employment Action* and *Hostile Work Environment* harassment.

- **Tangible Employment Action** is defined as tangible job benefits that are granted or denied based on the submission to or rejection of unwelcome sexual conduct.
  - An example is a demand for sexual favors in return for a job promotion. Only a supervisor or manager can undertake a tangible employment action.

- **Hostile Environment Harassment** is defined as sexual comments or conducts that have the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. To create a sexual hostile environment, the conduct must be subjectively perceived as abusive by the person(s) affected, and it must be objectively severe or pervasive enough to create a hostile work environment.
  - Examples include sexually suggestive objects, books, magazines, cartoons, pictures on screen savers of computers, photographs, etc... A supervisor, co-worker or non-employee can commit this type of harassment.

There are three forms of harassment. Harassment can be *verbal, physical, or visual*.

- Examples include sexual comments, jokes, innuendo; pressure for dates; sexual touching; sexual gestures, sexual graffiti, displaying sexual pictures or posters.

A supervisor who uses implicit or explicit coercive sexual behavior to control, influence or affect the career, salary, or job of an employee is engaging in sexual harassment. Similarly, an employee who does likewise and behaves in this manner in the process of conducting department/agency business is engaging in sexual harassment.


Please note that any employee who participates in deliberate or repeated unsolicited verbal comments, gestures, or physical contact of a sexual nature which are *unwelcome* and interfere in work productivity is also engaging in sexual harassment.

Finally, retaliation against any employee who reports sexual harassment or who cooperates when the department/agency official investigating a claim of sexual harassment is prohibited.

If, after investigating any complaint of harassment the department/agency learns that the complaint is not bona fide or that an employee has provided false information regarding the complaint, disciplinary action may be taken against the individual who provided the false information.

Please be guided accordingly. Attached for your reference is a copy of the Department of Administration Policy on the Prevention of Sexual Harassment. *Si Yu'us Ma'ase!*

*Senseramente,*

  
LOURDES M. PEREZ