



UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D.C. 20555-0001

May 25, 1994

The Honorable Robert C. Byrd, Chairman
Committee on Appropriations
United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

By letter of February 1, 1994, from the Director, Office of Management and Budget (OMB), federal departments and agencies were informed of a new government-wide appropriations provision and steps necessary to comply with the requirement.

Specifically, OMB referred to Section 629 of the Treasury, Postal Service, and General Government Appropriations Act for Fiscal Year 1994 (Public Law 103-123) that provides that no department or agency shall obligate or expend funds for Fiscal Year 1994 unless there is in place by July 1, 1994, a written policy designed to ensure that all of the agency's workplaces are free from discrimination and sexual harassment, and not in violation of certain non-discrimination statutes.

Agencies were further advised that the accompanying Senate report 103-106 to H.R. 2403 directs each agency to issue a report that certifies with particularity the agency's policy for preventing workplace discrimination and sexual harassment, and enforcing these statutory prohibitions. The Senate report further required that agencies file the report by July 1, 1994 with the Committees on Appropriations of the House and the Senate, the Senate Committee on Governmental Affairs, and the House Committee on Post Office and Civil Service.

In accordance with these requirements, enclosed is the report of the U.S. Nuclear Regulatory Commission and its published policy statements.

A copy of this material has been forwarded to the other Congressional committees cited above and to the Office of Management and Budget.

If there are any questions regarding this matter, please let me know.

Sincerely,

A handwritten signature in dark ink, appearing to read "Dennis K. Rathbun".

Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

cc w/enclosure:
Senator Mark O. Hatfield

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PDR DRG NRCCO
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UNITED STATES
NUCLEAR REGULATORY COMMISSION

WASHINGTON, D. C. 20555-0001

May 25, 1994

The Honorable William L. Clay, Chairman
Committee on Post Office and Civil Service
United States House of Representatives
Washington, D.C. 20515

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Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

cc w/enclosure:
Rep. John T. Myers



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 25, 1994

The Honorable John Glenn, Chairman
Committee on Governmental Affairs
United States Senate
Washington, D.C. 20510

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Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

cc w/enclosure:
Senator William V. Roth, Jr.



UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

May 25, 1994

The Honorable David Obey, Chairman
Committee on Appropriations
United States House of Representatives
Washington, D.C. 20515

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Dennis K. Rathbun, Director
Office of Congressional Affairs

Enclosure:
As stated

cc w/enclosure:
Rep. Joseph M. McDade



UNITED STATES
NUCLEAR REGULATORY COMMISSION

ANNOUNCEMENT NO. 105

DATE: December 10, 1993

TO: All NRC Employees

SUBJECT: SEXUAL HARASSMENT PREVENTION BROCHURE

Sexual harassment is a particularly offensive form of discrimination that undermines professional and cooperative working relationships, destroys personal privacy, and violates the law. It is the policy of the Nuclear Regulatory Commission that sexual harassment is unacceptable conduct in the workplace and will not be condoned.

To ensure that the agency's current policy and procedures concerning the prevention of sexual harassment are communicated to all employees, we have revised our brochure, Preventing Sexual Harassment in the Workplace. An advance copy of this brochure is attached. The revisions to this brochure reflect input from my colleagues on the Commission, the EEO Advisory Committees, bargaining unit representatives, and several Offices, as well as the agency's experience over the last several months in dealing with incidents of sexual harassment. Although reaching consensus was a long and laborious process, the time will have been well spent if it contributes to better understanding of this serious subject.

A handwritten signature in cursive script, appearing to read "Ivan Selin".

Ivan Selin
Chairman

Attachment:
As stated

PREFACE

The Nuclear Regulatory Commission's (NRC) Office of Small and Disadvantaged Business Utilization and Civil Rights, Federal Women's Program staff, has prepared this booklet for distribution to all NRC employees in compliance with Title 29 of the Code of Federal Regulations (29 CFR), Part 1604.11, which states:

Prevention is the best tool for the elimination of sexual harassment. An employer should take all steps necessary to prevent sexual harassment from occurring, such as affirmatively raising the subject, expressing strong disapproval, developing appropriate sanctions, informing employees of their right to raise and how to raise the issue of harassment under Title VII and developing methods to sensitize all concerned.

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POLICY

Federal employees have a grave responsibility under the Federal code of conduct and ethics for maintaining high standards of honesty, integrity, impartiality and conduct to assure proper performance of the Government's business and the maintenance of confidence of the American people. Any employee conduct which violates this code cannot be condoned.

Sexual harassment is a form of employee misconduct which undermines the integrity of the employment relationship. All employees must be allowed to work in an environment free from unsolicited and unwelcome sexual overtures. Sexual harassment debilitates morale and interferes with the work productivity of its victims and co-workers.

It is the policy of the Nuclear Regulatory Commission (NRC) that sexual harassment is unacceptable conduct in the workplace and will not be condoned. Employees who engage in sexual harassment will be disciplined according to the severity and circumstances of the particular case.

DEFINITION OF SEXUAL HARASSMENT

Sexual harassment is any unwelcome sexual advance, request for sexual favors, or other verbal or physical conduct of a sexual nature occurring when:

- submission to such conduct is made explicitly or implicitly a term or condition of employment
- submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual
- such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.¹

Sexual harassment is prohibited by Title VII of the Civil Rights Act of 1964, as amended, and the Civil Service Reform Act of 1978. Sexual harassment is discrimination² based on sex, regardless of whether it is a man against a woman, a woman against a man, a man

¹From the EEOC Guidelines on Sexual Harassment (29 CFR 1604.11)

²Intimidation may be a factor in all three of the bullets above, although it is explicitly mentioned only in the third. All three sets of circumstances are defined as sexual harassment, and all such sexual harassment is held to be discriminatory under Title VII.

against a man, or a woman against a woman. Sexual harassment may exist as a result of a pattern of events/occurrences or as a result of a single isolated instance.

IDENTIFICATION OF SEXUAL HARASSMENT

Sexual harassment can be manifested in a variety of ways. The following are examples of sexual harassment:

- PHYSICAL: Unwelcome touching, pinching, grabbing, gesturing, stares, blocking of an entrance, etc.
- VERBAL: Unwelcome requests for sexual favors and/or suggestive remarks, scunds, comments, jokes, etc.
- VISUAL: Unwelcome exposure to sexual photographs, graphic drawings, cartoons, graffiti, etc.
- INDIRECT: A qualified employee is rejected for employment benefits in favor of another employee who is providing sexual favors to a person in a position of authority. Such sexual favoritism is not only a violation of merit principles; it is also considered a form of unlawful sex discrimination.

Sexual harassment encompasses a broad range of behavior, comments, and actions. Actions and remarks become harassment when they are unwelcome. Conduct is deemed unwelcome if the victim has made it clear to the perpetrator that the conduct is unwelcome, or if the circumstances are such that any reasonable person would deem the conduct unwelcome. It is difficult to state how many times an action such as a stare, a touch, or a request for a date would have to be repeated before it could accurately be called sexual harassment. There is no rule of thumb here other than to respect and treat co-workers as you would expect and want to be treated yourself, or would want your spouse or son or daughter treated in a work environment.

SEXUAL HARASSMENT AND THE LAW

As a form of sex discrimination, sexual harassment violates Title VII of the Civil Rights Act of 1964, as amended. Therefore, a victim of sexual harassment has the right to file a formal complaint through the NRC Equal Employment Opportunity (EEO) complaint system. Bargaining unit employees may also opt to pursue the matter under the Collective Bargaining Agreement (CBA) after they first seek counseling from an EEO counselor as required by EEOC regulations.

Aggrieved employees may seek appropriate remedial relief such as back pay, retroactive promotions, and attorney fees. Pursuant to the Civil Rights Act of 1991, complainants may also seek compensatory damages from the agency for intentional EEO discrimination, including sexual harassment. This statute allows complainants to seek recovery from the agency for pecuniary losses

(such as inability to work and medical expenses), emotional pain, suffering, and the like.

It is in the best interest of all concerned to resolve sexual harassment problems as expeditiously as possible, preferably in an informal manner. A number of ways of doing this are described below, including your right to contact an EEO counselor immediately for assistance. Initially, this contact can be informal and confidential. You should be aware, however, that you must contact an EEO counselor within 45 days of the incident or most recent of a series of related incidents if you wish subsequently to pursue the formal EEO complaint process.

AGENCY RESPONSIBILITIES

The agency is responsible for taking the steps necessary to prevent and eliminate sexual harassment. These steps include affirmatively raising the subject, expressing strong disapproval, training of staff, developing appropriate sanctions, informing employees of their right to raise the issue of harassment under established Title VII procedures, and developing methods to sensitize all concerned.

Management will take reasonable precautions to protect the well-being of its employees. This may include establishing physically separate working areas for the alleged perpetrator and the alleged victim and/or separate organizational placements. It may also include not assigning individuals to work together on a project, task or inspection while the matter is being resolved.

The agency will comply with all applicable time frames provided by law or a collective bargaining agreement for addressing complaints of sexual harassment.

The NRC is responsible for acts of sexual harassment by its agents, or supervisory employees, in the workplace. Under certain circumstances, however, the agency may not be liable if it demonstrates that it took immediate and appropriate corrective action upon learning of the problem.

SUPERVISORS' RESPONSIBILITIES

Supervisors have many responsibilities; included among them is the responsibility to create and maintain a work environment that is free from sexual harassment. In order for managers and supervisors to accomplish their job in this area, they are expected to:

- Inform employees that offensive or inappropriate behavior of a sexual nature will not be tolerated.
- Make employees aware of the laws, policies, and regulations prohibiting sexual harassment.

- Notify employees that supervisors are concerned about and wish to be informed of complaints of sexual harassment.
- Inform employees that they may seek help from their supervisors and managers, EEO counselors, union representatives, the Federal Women's Program Manager or Regional Federal Women's Program Coordinator, Office of Personnel, Employee Assistance Program Specialist, and/or Office of the Inspector General.
- Recognize the kind of remarks, jokes, and other behavior that may embarrass or cause others to be uncomfortable.
- Set high standards by monitoring their own behavior and language.
- Assume an active role in eliminating sexual harassment. Intervene in situations where individuals appear to be offended, hurt, or embarrassed by the behavior of others. This may include stopping the offensive behavior of the offending individual(s) even if it is exhibited by someone outside their immediate supervision.
- Upon learning of sexual harassment or similar inappropriate behavior: obtain as much information as possible from the individual bringing this matter to their attention; seek guidance from the Director, Deputy Director, or Chief, Policy and Labor Relations, Office of Personnel.
- Take appropriate measures to deal with offending employees to include counseling or disciplinary action. Disciplinary actions resulting from investigations of sexual harassment allegations will be placed in the official personnel file of the offending employee, to the extent allowed by the applicable collective bargaining agreement and OPM regulations/policy.

EMPLOYEES' RESPONSIBILITIES

Each employee is responsible for making sure that his or her behavior is appropriate to the workplace. Distinct boundaries between acceptable and unacceptable behavior are more easily maintained by awareness and concern for the feelings of others. Employees must be aware that, even if certain conduct does not amount to sexual harassment in the legal sense, it may nonetheless be conduct that is inappropriate in the workplace. Such conduct is subject to disciplinary action if it adversely affects the

efficiency of agency operations. Employees should recognize the behavior, language, and interpersonal exchanges that are appropriate for work and avoid those that might be taken as inappropriate or offensive to others.

To help avoid sexual harassment, use the following checklist to examine your behavior in the work environment. Ask yourself:

- Does my behavior hinder or contribute to the accomplishment of the work and/or mission?
- Could my behavior offend or hurt other members of the work group who are exposed to it or be misinterpreted as harmful or harassing?
- Could my behavior be misinterpreted as inviting behavior or a response of a sexual nature on the part of others?

The rule of thumb is - when in doubt, DON'T!!!

Each employee needs to be actively involved in assuming some responsibility for eliminating harassment. Without the combined vigilance of employees and agency managers, little will be accomplished. Each employee must play a role in preventing sexual harassment in the workplace by:

- examining his/her behavior on the job
- supporting the agency's policy against sexual harassment
- identifying and taking individual actions to stop inappropriate behavior by communicating directly and immediately with the person(s) whose behavior is inappropriate or offensive or by informing his/her supervisor or other management official, or by seeking assistance from EEO counselors, union representatives, the Federal Women's Program Manager or Regional Federal Women's Program Coordinator, Office of Personnel, Employee Assistance Program Specialist, or Office of the Inspector General.

OPTIONS FOR TAKING ACTION

- o Consider talking directly with the person who is offending you.

Directly confronting the offending person can be a quick, effective way of resolving a sexual harassment concern, particularly if the offensive behavior is not egregious. It is possible that the offending person may not know he or she is making someone else uncomfortable. The agency would not want to restrict an offended person from dealing directly with the offender in this manner, but this does not mean that the offended person has any obligation to address the situation by direct

confrontation before, or instead of, choosing the options described below.

- o Talk to a supervisor or manager.

Employees who seek immediate action to stop the offensive behavior are encouraged to bring the matter to the attention of a supervisor or manager. This is the quickest way to resolve the problem. Management is required to take appropriate action when advised of sexually offensive or harassing conduct in the workplace. In some cases, this will require no more than the supervisor talking to the offending person informally. The supervisor may even be able to resolve the problem without disclosing the identity of the person who raised the issue.

- o Talk to someone else who can help.

Although employees are encouraged to solicit the assistance of management in resolving sexual harassment issues, employees may bring such matters to the attention of others in the agency. Below is a list of such organizations/individuals and a brief description of the service each provides.

CONFIDENTIALITY

Confidentiality is often a matter of great concern to some or all of the individuals who may find themselves involved in a sexual harassment complaint. NRC will make every effort to limit the extent to which sensitive information is divulged. Any individuals who become involved in resolving a complaint are expected to act with the greatest possible discretion, discussing the matter only with those who have a need to know.

Some of the contacts listed in the next section can discuss sexual harassment complaints or concerns anonymously or in confidence. The general extent to which this may be possible is indicated in the case of each contact; to avoid any misunderstanding, employees may wish to clarify at the outset of any contact the degree of confidentiality that may be maintained. Employees should at the same time recognize that, while some of the process of resolving complaints can be handled confidentially, it is very difficult to remedy a situation on the basis of anonymous information. Finally, employees must recognize that, despite intentions on the part of the agency or any of the contacts listed below to ensure confidentiality, Court orders may require some degree of disclosure of the facts relevant to a particular case.

SEXUAL HARASSMENT PREVENTION CONTACTS

HEADQUARTERS:

Office of Personnel (OP)

Tel. 492-9500

Type of contact: Formal, not confidential

This is the number of the Policy and Labor Relations component within OP. Employees calling should ask for a Labor Relations Specialist who can discuss the substantive nature of the alleged misconduct and advise the employee of procedures available for addressing the problem. OP will also assure the person making the allegation that his or her call has brought the matter to the agency's attention and that the agency will take appropriate action. Although an individual may contact OP anonymously, OP is a management entity and will not receive or maintain the information in confidence.

National Treasury Employees Union (NTEU) (For Bargaining Unit Employees)

Tel. 504-2815

Type of contact: Informal, confidential

NTEU is an employee union available to provide advice and guidance to bargaining unit employees on these matters as well as representational services, as appropriate. NTEU can treat these matters in confidence.

Office of Small and Disadvantaged Business Utilization/Civil Rights (SBCR)

Tel. 492-7082

Type of contact: Formal, not confidential

SBCR EEO specialists, including the Agency's Federal Women's Program Manager (FWPM), regularly serve as conduits between employees and management in resolution of problems. They can play an effective role in resolving allegations of sexual harassment. As agency managers, the FWPM and other SBCR staff will not receive or maintain the information in confidence if an allegation of sexual harassment is involved.

Employee Assistance Program Specialist

Tel. 492-4639

Type of contact: Informal, confidential

The Employee Assistance Program (EAP), located in the Office of Personnel, provides confidential, short-term counseling and support to employees. Some are under the impression that the EAP is designed exclusively to work with those experiencing substance abuse problems. This is not the case. The EAP serves as a resource for those experiencing personal or job-related difficulties of any

sort -- including sexual harassment. EAP services are available to all NRC employees, including victims, accused offenders, witnesses, and managers. Communications with the EAP staff are in complete confidence. Regional and field employees who are unfamiliar with the provider in their area may contact their Regional Personnel Officer or the Headquarters EAP Specialist for information.

EEO Counselors

See EEO Counselor Posters or NRC telephone directory.

Type of contact: Informal, confidential; can become formal, not confidential

The EEO Counselors regularly receive training in the informal resolution of allegations of discrimination. This training includes interaction with management in resolving allegations of sexual harassment. If informal resolution fails, the EEO Counselor is the first step in the filing of a formal complaint. EEO Counselors can provide confidentiality, if it is requested, up to the point of the filing of a formal complaint.

Office of the Inspector General
Tel. 800-233-3497

The Office of the Inspector General (OIG) conducts investigations of violations of law and misconduct by NRC employees and contractors and allegations of irregularities or abuse in NRC programs and operations. Employees report incidents of misconduct, including sexual harassment, to the OIG or their management. The Inspector General Act states that the OIG will not disclose the identity of an alleged without the consent of the alleged, "unless the IG determines such disclosure is unavoidable during the course of the investigation." Further information on the role of the OIG is contained in NUREG/BR-0146, THE IG AT THE NRC.

REGIONS

Regional Federal Women's Program Coordinators

Regional EEO Counselors

These individuals are listed in the NRC telephone directory.

RESPONDING TO SEXUAL HARASSMENT COMPLAINTS

In responding to sexual harassment complaints, the agency has several goals:

- Stopping the offensive behavior;
- Treating the allegations as discreetly as possible, thereby minimizing adverse effects on the person aggrieved;

- Treating the accused fairly; taking corrective or disciplinary action against the offending person if necessary and appropriate;
- Incorporation of lessons learned from sexual harassment incidents into agency practices and procedures.

The manner in which the agency seeks to achieve these goals depends in part on the manner chosen by an employee to raise the issue. For example, Agency management is not advised of sexual harassment concerns raised through the Employee Assistance Program and, therefore, cannot be expected to act to resolve those concerns.

For each concern brought to management's attention relating to sexual harassment or similar offensive conduct, it is important to determine the facts. In situations that are not egregious and do not involve a pattern or history of offensive conduct, determining the facts is not difficult and will occur quickly. In more serious situations, determining the facts may involve interviews with parties or witnesses to the offensive conduct. NRC officials who perform factfinding in these matters are committed to performing their duties with discretion and sensitivity to all concerned.

DISCIPLINARY ACTION

Sexual harassment is a particularly offensive form of misconduct as well as discrimination. If substantiated, it will result in prompt, appropriate disciplinary action against the employee committing the harassment. Behavior that is found to be sexual harassment in the precise legal sense is likely to result in disciplinary action as severe as suspension, demotion, or removal. Disciplinary actions for misconduct of a related nature but not technically sexual harassment will range from reprimand to removal, depending on the seriousness of the misconduct. In either case, the penalty will be proportionate to the act.

REPRISAL

NRC has a strict policy against any form of reprisal. Strong prohibitions exist against any form of retaliation or retribution taken against individuals who raise EEO concerns. The agency will not tolerate any retaliation or harassment of any sort against those who come forward with allegations of sexual harassment. If you believe you are a victim of reprisal because you filed a sexual harassment complaint or because you participated in the discrimination complaint process, you have the right to file a charge of reprisal using the EEO complaint system or the grievance procedure. Likewise, you may bring it to the attention of agency management or the Inspector General.

PREVENTION OF SEXUAL HARASSMENT: AN ONGOING EFFORT

Change can be effected in the workplace only if the policy and guidance outlined in this booklet become ingrained in the work attitudes of all NRC employees. The agency reinforces this effort

by offering a course on sexual harassment prevention on a regular basis. All employees are urged to attend this training, to adhere to the policy and follow the guidance in this brochure, and to support their coworkers in maintaining an NRC work environment that is free of discrimination and intimidation.



UNITED STATES
NUCLEAR REGULATORY COMMISSION

ANNOUNCEMENT NO. 37

DATE: April 15, 1994

TO: All NRC Employees
SUBJECT: DISCRIMINATION-FREE WORKPLACE

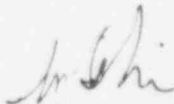
Section 629 of Public Law 103-123 (October 23, 1993) provides that no Federal agency may spend appropriated funds beyond July 1, 1994, unless it has in place, and continues to administer in good faith, a written policy designed to ensure that its workplaces are free from discrimination and sexual harassment and are not in violation of applicable EEO laws. Although the NRC is currently in compliance with P.L. 103-123 requirements and is actively monitoring their implementation, I nevertheless want to remind each of you the NRC is committed to providing a work environment free from sexual harassment or other conduct that violates Title VII of the Civil Rights Act of 1964, as amended, the Age Discrimination Act of 1967, as amended, and the Rehabilitation Act of 1973, as amended. These statutes prohibit employment discrimination based on race, color, religion, national origin, sex, age, or handicapping condition. Our commitment to the concept of a discrimination-free work environment means that at this agency, discrimination, harassment, or intimidation in any of the specified areas will not be tolerated.

Agency policies designed to prevent discrimination are found in Management Directive 10.161, the Agency's Five Year Plan, and the NRC/NEU Collective Bargaining Agreement. Procedures for processing employee complaints of EEO discrimination are found either at 29 C.F.R. Part 1614 or the collective bargaining agreement, as appropriate. The procedures for identifying and handling sexual harassment matters are more fully discussed in an NRC brochure entitled Preventing Sexual Harassment in the Workplace, which was issued to all employees (announcement number 105, December 10, 1993).

Moreover, through a number of programs, the NRC engages in a continuing self-monitoring and educational process to ensure that its workplaces remain free of discrimination. For example, the agency continues to provide EEO training to staff and management and to schedule semi-annual public briefings of the Commission concerning the status of the EEO program. Seven NRC Employee EEO Advisory Committees continuously review agency personnel

practices and report to management on suggestions for improvement. Thirty trained EEO counselors are available throughout the agency to assist employees in resolving EEO concerns that may arise.

I am proud of the progress NRC has made in the EEO area and invite the support of all employees for the agency's continuing EEO initiatives.



Ivan Selin
Chairman