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Governor



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**Matt Snead**  
Director

## PERSONNEL

ADVAP 2-9

February 4, 2016

### **Sexual Harassment**

1. **GENERAL:** This policy is established to encourage employees to discuss problems of sexual harassment with appropriate supervisors, to explain, to reach resolution, to make adjustments, if necessary, and to foster better understanding between employees and supervisors. Such discussion will lead to better employee/supervisor understanding of policies, procedures and practices.
2. **POLICY:** Sexual harassment, as defined in the Federal Guidelines (29 C.F.R. Chapter XIV, Subsection 1604.11), Section 703 of Title VII of the Civil Rights Act of 1964, as amended, and Arkansas Act 563 of 1985, which amends Subsection (8) of Section 1801 of Act 280 of 1975 in the Arkansas Criminal Code, is intolerable and unconscionable.
3. **CRITERIA:** Sexual harassment, as specified by the Federal Guidelines is:
  - a. Submission to the conduct is either an explicit or implicit term or condition of employment and/or;
  - b. Submission to or rejection of the conduct is used as a basis for employment decisions affecting the person who did the submitting or rejecting and/or;
  - c. The conduct has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

4. SEXUAL HARASSMENT DEFINED:

- a. Actions that may be defined as sexual harassment are not limited to the “supervisor to employee” situation, but may include actions of co-workers, actions of the same or opposite sex and actions of individuals external to the agency, but who have contact with employees in the work environment.
- b. Such unwelcome behavior may be either physical or verbal in nature. Examples include, but are not limited to the following:
  - 1) Overt Actions - actual rape or sexual contact, though it is a one time occurrence.
  - 2) Continuing Actions - a pattern of behavior or practice conducted on a continuing basis, i.e. including, but not limited to: abusive language, demeaning language, derogatory remarks, and questions regarding sexual preferences or activities, and/or explicit/implicit materials.
  - 3) Covert Actions - may include any or all of the actions listed under continuing actions.
- c. Examples of sexual harassment as defined by Act 563 of 1985 to amend Subsection (8) of Act 280 of 1975 (Arkansas Criminal Code) include:

“Sexual Contact” means any act of sexual gratification involving the touching directly or through clothing the sex organs, or buttocks, or anus of a person or the breast(s) of a female.

5. ADVA employees, while in official capacity, are expected to demonstrate respect and professional behavior towards other co-workers, residents, clients, and the general public. ADVA employees have a role to play in eliminating inappropriate behavior by:
- Refusing to participate in this behavior;
  - Report any experiences of the behavior; and
  - Support colleagues in saying no to this behavior.

All reports of inappropriate behavior will be treated seriously and investigated in a prompt, confidential and impartial manner. Employees are encouraged to report inappropriate behavior; retaliation will not be tolerated.

Examples of inappropriate workplace behavior include, but are not limited to;

- Inappropriate physical contact
- Making sexually suggestive remarks
- Viewing pornography on any device (public or personal)
- Inappropriate physical gestures
- Rude or vulgar behavior that others may find offensive

6. PROCEDURE:

- a. Employees believing themselves to be victims of sexual harassment are encouraged to come forward in order to effect resolution of the complaint. Employees are encouraged to contact the sexual harassment grievance officer to begin the process of resolution.
- b. Employees should submit complaints made in good faith, expressed in reasonable terms, containing cause for the complaint, corrective action desired and sufficient information upon which to base decisions.
- c. This agency's grievance procedure authorizes the sexual harassment grievance officer to modify, waive, or otherwise change the grievance procedures in order to fulfill the intent of the procedure, provided the agency director and employee agree to the waiver, modification or change. To this effect, no employee, in order to effect resolution, shall be required to solely or independently confront the person allegedly conducting or causing the action believed to be sexual harassment.
- d. It also is the policy of this agency that all employees be given the opportunity through established steps and processes as specified in the agency's grievance procedure, to resolve sexual harassment complaints. This policy does not reflect any change in the agency's grievance procedure.

7. TRAINING:

Within 30 days of the date of this policy, all ADVA Divisions are required to distribute a copy of ADVA's Sexual Harassment Policy to each employee with their division. Divisions are required to explicitly discuss ADVA's requirement that employees report conduct or transactions that violate these provisions and the options of how to communicate these matters. To verify that employees have received a copy of the Sexual Harassment Policy, employees must sign and date the Sexual Harassment Policy Annual Acknowledgement Statement (ADVAP 2-9 ATCH A). The original signed

Sexual Harassment Policy Annual Acknowledgement Statement is required to be maintained in the employee personnel files maintained by ADVA Human Resources. Employees shall be provided a copy for their records.

ADVA Human Resources shall create procedures to include an introduction to the Sexual Harassment Policy in new employee orientation sessions within 30 days of implementation of this policy. All employees receiving orientation shall sign and date the Sexual Harassment Policy Annual Acknowledgement Statement signifying that they have been provided a copy of the Sexual Harassment Policy. The original signed Sexual Harassment Policy Annual Acknowledgement Statement is required to be maintained in the employee personnel files maintained by ADVA Human Resources.

On, or about, July 1<sup>st</sup> each year, each ADVA department must hold an annual Sexual Harassment training. Each employee must reaffirm that he or she has been made aware of the Sexual Harassment Policy by signing a Sexual Harassment Policy Annual Acknowledgement Statement. This statement shall be sent to ADVA Human Resources upon completion of the training.

8. SUPERSESSION: This procedure supersedes ADVAP 2-9, July 1, 2015, in its entirety.
9. FORMS PRESCRIBED:
  1. Sexual Harassment Policy Annual Acknowledgement Statement, ATCH A

By:

Matt Snead  
Director

DISTRIBUTION:  
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