



ARMY MEDICINE
Serving To Heal...Honored To Serve

U.S. ARMY MEDICAL COMMAND
Office of Equal Employment Opportunity Programs

EEO

An EEO Desk-side Guide for Managers and Supervisors



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FOREWORD

Supervisors have many challenges and responsibilities. One major responsibility is practicing and embracing Equal Employment Opportunity (EEO). Accepting EEO as an essential component of a supervisor's work culture is critical in developing a high-performance organization. Understanding and implementing EEO principles is integral towards developing a leadership style and personnel system that incorporate performance management, synergy and emotional intelligence. Employing EEO principles are paramount to high-employee morale and mission accomplishment.

We believe that understanding your role and responsibilities under the law as supervisors can significantly benefit you, your employees, and the agency. Supervisors can avoid EEO-related problems by ensuring a good working environment for all employees in compliance with Federal EEO laws and by contacting the servicing EEO office for guidance and assistance.



It is our hope that this guide provides you with a desk-side reference on how best to follow the spirit and letter of Federal EEO laws to develop and maintain a high performance organization.

INTRODUCTION

The purpose of the desk-side guide is to provide essential information on the EEO program and to address misconceptions about EEO. We have included information on legal authorities and helpful resources within our shared areas of responsibilities. The desk-side guide is NOT a substitute for professional EEO advice. After reviewing the relevant sections of this guide, we recommend contacting your servicing EEO office for further guidance.

Together we can build model EEO programs for the Department of the Army and US Army Medical Command.

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INTRODUCTION/TABLE OF CONTENTS & MISSION/GOALS/OBJECTIVES

PROGRAM MISSION, GOALS AND OBJECTIVES

EEO Vision

Army - the model employer with a diverse and effective workforce founded upon equality of opportunity.

EEO Mission

To provide EEO advice and guidance (relative to civilians) to MEDCOM commanders and leaders at all levels regarding the components of the EEO program that provide coverage to applicants for employment, employees, former employees, some contract (contingent) employees, and individuals with disabilities (non-employees). The components of the program include affirmative employment, discrimination complaints processing, and special emphasis programs.

EEO Goals

- A work environment free of unlawful discrimination.
- A workforce reflective of our nation's diversity.
- EEO institutionalized as an integral part of the Army mission.
- Army EEO professionals who are experts in their field.

EEO Objectives

- Civilian Workforce Reflective of Nation's Diversity.
 1. Monitor Workforce Profile.
 2. Identify Applicant Pools and Resources.
 3. Conduct Timely Staff Assistance Visits.
- Civilian Work Environment Free of Unlawful Discrimination.
 1. Reduce EEO Complaint Processing Time.
 2. Train Managers and Employees.
- Equitable Treatment of Civilian Employees and Military Families.
 1. Ensure Access to Services and Programs.
 2. Monitor IT Accessibility for Individuals with Disabilities.

Overview of the US Army Medical Command (MEDCOM) EEO Program

The MEDCOM civilian population is dispersed throughout the continental United States (CONUS) and outside CONUS (OCONUS) at MEDCOM Major Subordinate Commands. The servicing EEO offices are available to assist MEDCOM commanders in implementing a comprehensive EEO Program at MEDCOM organizations that consist of:

- Affirmative Employment Program (AEP)
- Special Emphasis Programs
- EEO Discrimination Complaints Process



The Department of Army defines Affirmative Action as:

“A tool to achieve equal opportunity. A program of self-analysis, problem identification, data collection, policy statements, reporting systems, and elimination of discriminatory policies and practices, past and present.”



Servicing EEO officers, with the support of organization management officials, EEO specialists and counselors, Special Emphasis Program (SEP) managers and committee members, are responsible for the preparation of the **ANNUAL EEO PROGRAM STATUS REPORT** (Equal Employment Opportunity Commission [EEOC] Management Directive [MD] 715) on affirmative employment. A Command-wide report is also prepared by the MEDCOM Office of EEO Programs. Specific questions on any aspect of the AEP and workforce statistics as they relate to an individual organization or work unit should be directed to your servicing EEO office located at your installation or activity.

EEO - AN OVERVIEW & GOVERNING LAWS

5.

EEO and Federal, State, and Local Governments

Applicants to and employees of Federal, state, and local governments are protected under the following Federal laws:

1. **Title VII of the Civil Rights Act of 1964**, as amended, prohibits discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral, and other aspects of employment on the basis of race, color, religion, sex, and national origin. Also prohibited is reprisal for participation in previous EEO-protected activities such as filing a prior EEO complaint, participating in an investigation, or attempting to protect an individual or group from unlawful employment practices.

2. The **Rehabilitation Act of 1973** charges Federal agencies with becoming model employers of individuals with disabilities. Agencies shall give full consideration to the hiring, placement, and advancement of qualified individuals with mental and physical disabilities. An agency shall not discriminate against a qualified individual with physical or mental disabilities.

3. The **Americans with Disabilities Act of 1990**, as amended, protects qualified applicants and em-

ployees from discrimination in hiring, promotion, discharge, pay, job training, fringe benefits, classification, referral, and other aspects of employment on the basis of disability. The law also requires that covered entities provide qualified applicants and employees with disabilities with reasonable accommodations that do not impose undue hardship on the organization.

4. The **Age Discrimination in Employment Act of 1967**, as amended, protects applicants and employees (40 years or older) from discrimination on the basis of age in hiring, promotion, discharge, compensation, terms and conditions, and privileges of employment.

5. In addition to sex discrimination prohibited by Title VII of Civil Rights Act of 1964, as amended, the **Equal Pay Act of 1963**, as amended, prohibits discrimination based on sex in payment of wages to women and men performing substantially equal work in the same establishment.

6. The **Genetic Information Nondiscrimination Act of 2008** protects applicants and employees from discrimination on the basis of genetic information.

FEDERAL CODE AND DIRECTIVES

- ◆ Title 29, Code of Federal Regulation, Chapter XIV (Equal Employment Opportunity Commission), Part 1614 (Federal Sector Equal Employment Opportunity)
- ◆ EEOC MD 715, Equal Employment Opportunity
- ◆ EEOC MD 110, Federal Sector Complaints Processing Manual
- ◆ Department of Defense Directive 1440.1, Civilian Equal Employment Opportunity Program
- ◆ Department of Defense Directive 1020.1, Nondiscrimination on the Basis of Handicap in Programs and Activities Conducted by the Department of Defense

DEPARTMENT OF ARMY REGULATIONS

- ◆ Army Regulation 690-12, Equal Employment Opportunity and Affirmative Action
- ◆ Army Regulation 690-600, Equal Employment Opportunity Discrimination Complaints
- ◆ Army Regulation 600-7, Nondiscrimination on the Basis of Handicap in Programs Assisted or Conducted by the Department of Army
- ◆ Army Regulation 690-200, Chapter 254, Civilian Personnel Administration and Equal Employment Opportunity Support

*“Morality cannot be legislated,
but behavior can be regulated.
The law may not change the
heart, but it restrains the
heartless.”*

LEGAL FRAMEWORK & AFFIRMATIVE EMPLOYMENT (MD 715)

AFFIRMATIVE EMPLOYMENT PROGRAM

The Equal Employment Opportunity Commission (EEOC) requires Federal agencies with 500 or more employees to develop an Affirmative Employment Program (AEP) to ensure fair and equitable treatment for all women, minorities and individuals with disabilities who are employees, applicants for employment, former employees and some contract employees.

A goal of affirmative employment is to develop a workforce reflective of our nation's diversity. A low participation rate is determined to exist when representation of minorities, women and individuals with disabilities in the organization's overall population (by occupational category or grade level) is lower than the respective group's percentage in a comparative Civilian Labor Force (CLF). The CLF is based on data collected by the US Census Bureau and published by the EEOC. It is the EEOC's responsibility to monitor Federal agency compliance with the laws and regulations by way of various reports.

It is highly recommended that supervisors meet regularly with their servicing EEO Officer on developing action items for their respective organization's affirmative employment program in order to improve and/or demonstrate accomplishments.

Management Directive (MD) 715

In 2003, the EEOC published MD 715 to assist Federal agencies in building a model EEO Program and identify how and where the program can become more effective. An agency should review its EEO and personnel programs, policies, and performance standards against all six elements of the MD 715 on an annual basis. An MD 715 report documents the progress agencies have made each year in achieving their objectives and action items.

Six Elements



Demonstrated Commitment from Leadership

Integration of EEO into Agency's Strategic Mission

Management and Program Accountability

Proactive Prevention of Unlawful Discrimination

Efficiency

Responsiveness and Legal Compliance

EEO AND OTHER PROGRAMS

	EEO	Affirmative Employment	Diversity
Purpose	To protect employees and applicants from employment discrimination	To correct the past effects of past discrimination and to achieve the goal of a work force that represents our nation's diverse population	To develop an environment that works for all employees
Coverage	All employees, former employees, applicants and some contingent employees	Some groups such as minorities, women and individuals with disabilities	All employees
Nature	Defines discriminatory practices and tell employers what not to do	Defines what must be done and develops plans to achieve specific goals	Defines inclusion and not groups; a workforce that reflects population
Violation	When discriminatory acts are committed by employers, managers, supervisors, and/or employees	When employers do not make efforts to achieve affirmative action goals	When agency does not capitalize on differences (ethnicity or culture) as an asset
Remedy	Agencies must stop the discrimination and "make whole" the individual discriminated against. They must also assure that the act doesn't happen again.	Organizations could be required to implement action items, and, in extreme cases could have hiring quotas imposed by court order.	Organizations are encouraged to enable all employees to work to their potential unhindered by prejudice and discrimination.

Many supervisors and employees often associate or combine characteristics of the EEO program with Affirmative Employment and Diversity. The laws and regulations are very specific concerning what is required to implement effective EEO programs and effective affirmative action plans. This chart is an excellent reference for illustrating the distinct differences of each program.

EEO AND OTHER PROGRAMS & DISCRIMINATION COMPLAINTS

EEO — Discrimination Complaints

Discrimination in general terms may be defined as showing a difference or favoritism in treatment. For purposes of the EEO program, discrimination is defined as any act or failure to act, impermissible based in whole or in part on a person's race, color, religion, sex, national origin, age, physical or mental disability, genetic information, and/or reprisal, that adversely affects privileges, benefits, working conditions, results in disparate treatment, or has a disparate impact on employees, former employees, or applicants for employment.

No matter how discrimination is defined in the workplace, individuals are to be treated fairly and equitably without regard to their race, color, religion, sex, national origin, age, physical/mental disability, and genetic information. Disparate treatment is unlawful or illegal and violates the following laws: Title VII of the Civil Rights Acts of 1964 and 1991; the Age in Discrimination Employment Act of 1967; the Rehabilitation Act of 1973, Section 501; the Equal Pay Act of 1963; Americans with Disabilities Act of 1990, and the Genetic Information Nondiscrimination Act of 2008. These laws were covered in the section titled Legal Framework.

Complaints of discrimination may be filed by individuals who fall within the following categories:

1. Applicants for employment, current employees, former employees, and some contract employees for employment-related issues.

These complaints are usually referred to as Title VII complaints. The majority of EEO complaints are filed in this category.

2. Disabled members of the general public for lack of access or accommodation as related to Army facilities or services.

This category is covered by Section 508 of the Rehabilitation Act of 1973 (Electronic and Information Technology Accessibility) or AR 600-7, Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army.

Servicing EEO personnel are available to provide needed assistance and advice in all EEO-related matters and should be regarded as members of the Special Staff.

An individual who files an informal complaint is referred to as the Aggrieved. The Aggrieved must identify a basis along with an issue relating to a term, condition, or benefit of employment when initiating a complaint of discrimination. The following chart contains the bases and their definitions:

BASES of EEO COMPLAINTS	
RACE	Group or class with common characteristics, interests, appearance, or habits derived from a common ancestor
COLOR	Separate identifiable type of discrimination because of the color of an individual's skin; can occur in conjunction with race discrimination
RELIGION	Violation of fundamental precept of individual's religion; adverse treatment due to religious belief that can be traditional, non-traditional, or non-belief
SEX *	An individual's gender; sexual harassment is a form of sex discrimination
NATIONAL ORIGIN	An individual's or their ancestor's country of origin; possessing the physical, cultural, or linguistic characteristics of a particular national origin group
AGE	Individuals age 40 and over
DISABILITY	An individual who has a physical or mental impairment that substantially limits one or more major life activities or is regarded as having such an impairment
GENETIC INFORMATION	An individual's genetic tests, the genetic test of family members of such individual, and the manifestation of a disease or disorder in family members of such individual.
REPRISAL	An individual who has previously engaged in EEO-protected activity or opposed an unlawful discriminatory practice.

**Sex discrimination includes pregnancy. Claims of discrimination based on transgender status, gender identity and gender stereotyping are covered under Title VII 's prohibition against sex discrimination.*

Note: Make time to address any specific concerns with the aggrieved early in the process. Later, when asked, "What did you do about it?", you will be able to show the issue was not ignored.

BASES OF EEO COMPLAINTS & COMPLAINTS PROCESS

EEO Discrimination Complaints Process

Pre-Complaint

Individual contacts servicing EEO office to file a pre-complaint within 45 days of the alleged discriminatory incident, the date that the individual became aware of discriminatory act, or the effective date of the personnel action.	0 - 45 calendar days
EEO specialist conducts an intake interview and assigns an EEO counselor or schedules mediation based on the offer made by the EEO Officer and Aggrieved's election.	Traditional counseling 30 days; mediation 90 days
If the pre-complaint is resolved, a Negotiated Settlement Agreement (NSA) is prepared and signed identifying the terms to which both parties have agreed. The NSA must be reviewed by the servicing Labor Counselor and/or Civilian Personnel official for legal and civilian personnel sufficiency prior to affixing any signatures on the NSA.	
If the pre-complaint is not resolved upon completion of either traditional counseling or mediation, a Final Interview is conducted with the Aggrieved and s/he is informed of the right to file a formal complaint.	15 days from receipt of Notice of Right to File a Formal Complaint of Discrimination

Formal Complaint and Investigation

The Aggrieved is now referred to as the Complainant. Investigations are usually conducted as fact-finding conferences. Alternative Dispute Resolution (mediation) is also available during the formal process.	180 days
In the event the formal complaint is resolved, an NSA is prepared and signed. If no resolution is reached, the Complainant will be given a Report of Investigation along with the Notice of Post-investigative Options and will be given the option of electing to: <ul style="list-style-type: none"> • Pursue a hearing with the EEOC, if applicable. An EEOC Administrative Judge will conduct the hearing and issue a recommended decision; • Elect to have the Agency issue a Final Army Decision based on the record; or • The Agency will request a FAD if the Complainant fails to respond. 	30 days

Post-complaint

If the complaint is unresolved, the Complainant may appeal to the EEOC Office of Federal Operations or file a civil action with the US District Court where s/he resides.	30 days 90 days
Reconsideration Decision to Filing of Civil Action	90 days



Points of Interest

- Procedural requirements vary for age, disability, and sexual harassment complaints
- Aggrieved can elect anonymity only during the pre-complaint stage
- Complaint can be resolved at any step in the process
- Mediation is voluntary for management officials
- Always check with the servicing Labor Counselor
- Compensatory damages may be sought at the formal stage

Remember to contact, communicate, and coordinate all actions with your servicing EEO Office.

Discrimination Complaint Process -- Pre-complaints

Traditional Counseling

- The EEO counselor is a neutral party responsible for:
Conducting an inquiry within 30 calendar days; interviewing witnesses; facilitating resolution, if possible; and preparing and submitting and EEO Counselor's Report.
- Management officials identified as witnesses are notified and presented with their rights and responsibilities and are provided with the opportunity to respond to the allegations of discrimination.
- An NSA is prepared if complaint is resolved.
- If there is no resolution, the Aggrieved is issued a Notice of Right to File a Formal Complaint of Discrimination.

Mediation

- Army's preferred method of dispute resolution.
- Mediation is voluntary for both the Aggrieved and the Commander's designee.
- Mediators are neutral parties.
- Normally scheduled within two weeks, but can take up to 90 days to be completed.
- Mediation is a confidential process -- all notes are destroyed and information disclosed is confidential.
- An NSA is prepared if complaint is resolved.
- If there is no resolution, the Aggrieved is issued a Notice of Right to File a Formal Complaint of Discrimination.

N
S
A



What is an NSA?

A Negotiated Settlement Agreement (NSA) is a legal instrument that identifies in writing the terms for resolution of the issue(s) at hand. The Agency is bound to comply with the NSA once all parties have signed. An NSA may be prepared at any stage of the complaint action. When the NSA has been signed by all parties, the Agency is responsible for:

- Addressing and processing terms of the NSA in a reasonable, timely manner; and
- Providing a status report/documentation of the identified terms.

Remember to Contact, Communicate, and Coordinate all actions with your servicing EEO Office.

PROCESSING PRE-COMPLAINT INQUIRIES & FORMAL INVESTIGATIONS

Guidelines for Preparing for a Fact Finding Conference

The Fact Finding Conference (FFC) is Army's preferred method for investigating formal complaints of discrimination. Investigations are conducted by the DoD Civilian Personnel Management Service Investigations and Resolutions Division (IRD). The FFC is an administrative proceeding where both parties may present evidence in support of their position on the complaint and reply to the position of the other. The FFC is conducted by an IRD investigator who is not an advocate for either party. The investigator is responsible for gathering information and documentation from both parties. An additional effort to resolve the complaint may be attempted prior to the FFC.

The following guidelines may help in preparing for the FFC:

1. Schedule time to meet with your servicing EEO Officer, Labor Counselor and CPAC Representative.
2. Ensure legible documentation is submitted by the established suspense.
3. Cooperate with the EEO Office in the processing of the complaint.
4. Respond promptly to interview requests for witnesses and identify what testimony each will provide.
5. Document previous efforts for resolving the complaint or prepare recommendations for resolution.
6. Take your time in responding to questions. If you don't know the answer, say so—do not attempt to guess. Remember that what you say will become part of the record.
7. Ensure the relevant facts are part of the record. The investigator is interested in the facts, not opinions.
8. Look over everything carefully before signing and keep a copy of everything you provide to the investigator.
9. Do not volunteer information and do not argue with the investigator, complainant or complainant's representative.
10. Help make the FFC a professional experience.

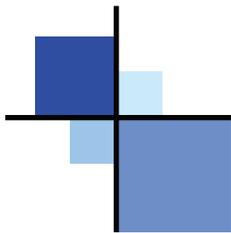


EEOC regulations generally require employers to retain personnel documents for at least one year after the effective date of an action or one year from the date of closure, if an EEO complaint is filed.

Key Points

- Improper destruction of relevant paperwork may lead to an adverse inference of discrimination; or
- Lack of documentation on personnel actions may contribute to a less-than-credible testimony; or
- Insufficient documentation can prove hurtful if you cannot recall the circumstances leading to a decision.

Remember to Contact, Communicate and Coordinate all actions with your servicing EEO Office.



Army's Policy: Zero Tolerance for Sexual Harassment

Complaint

The nature of sexual harassment complaints has warranted mandatory training, separate set of procedures, and implementation of designated points of contact. It is not to say that the other complaints are less important; it's simply that situations arising from these complaints are potentially invasive and the liability incurred by the agency may be greater as a result of the imposed timelines if not dealt with in an appropriate and expeditious manner.

Forms of Sexual Harassment

- Tangible Employment Actions
- Hostile Work Environment
- Third-Party Harassment

Definition

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

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

Checklist

1. Is the behavior inappropriate for the workplace?
2. Is the behavior unwelcome and sexual in nature?
3. Do the elements of power, control, or influence exist?
4. Does the situation indicate a quid-pro-quo relationship?
5. Does the behavior create a hostile or offensive work environment?
6. How would a "reasonable person" be affected?

When in doubt, don't do it.

SEXUAL HARASSMENT COMPLAINTS & SPECIAL EMPHASIS PROGRAMS

EEO Special Emphasis Programs

An important part of the AEP is the establishment of Special Emphasis Programs (SEPs).

The purpose of SEPs is to:

- Ensure equal opportunity in the hiring, advancement, training and treatment of all employees and applicants for employment
- Strive to achieve a diverse civilian work force with representation at every major organizational element, occupational category, and grade level commensurate with the relevant census data
- Integrate the goals and objectives of the SEP into all aspects of civilian personnel management

Goals and objectives are established locally for each of the SEPs listed depending on the various issues affecting the employment of respective constituent groups. Through SEP program managers and with the assistance of SEP committee members, problems and/or barriers to equal opportunity are identified for inclusion in the organization's AEP. Specific recommendations for the removal of barriers should be identified as part of the MD 715 Report.

American Indian/Alaskan Native Employment Program

Asian American/Pacific Islander Employment Program

African American/Black Employment Program

Federal Women's Program



Hispanic Employment Program

Individuals with Disabilities Program

Minority College Relations Program

Contact your servicing EEO Office for additional information on each SEP.



Individuals with Disabilities Program

Individuals with Disabilities Program

The Individuals with Disabilities Program (IWDP) takes proactive steps to prevent discrimination and provide equal opportunity for individuals with disabilities. Proactive steps may include changes to policies and practices that may help minimize complaints, increase performance, and improve morale.

The IWDP is obligated to meet the requirements prescribed under the Rehabilitation Act of 1973. Additionally, this program oversees the provision of reasonable accommodations for employees and applicants with disabilities.

Key terms associated with the IWDP are as follows:

- **Individual with a Disability.** An individual who has a physical or mental impairment that substantially limits one or more major life activities, a record of such an impairment, or being regarded as having such an impairment.
- **Qualified Individual with a Disability.** An individual who with or without reasonable accommodation can perform the essential functions of the job in question.
- **Undue Hardship.** An action requiring significant difficulty or expense in providing reasonable accommodation for an individual with a disability when considered in light of factors such as an employer's size, limited resources, and the nature and structure of its operations.

Other Legal Authorities:

The Americans with Disabilities Act (ADA) of 1990
The ADA Amendments Act of 2008

Reasonable Accommodation

The EEOC defines reasonable accommodation as any change in the work environment or in the way things are customarily done that enables an individual with a disability to enjoy equal employment opportunities.

Reasonable accommodation includes modifications or adjustments to:

- A job application process
- The work environment
- The manner or circumstances under which the position held or desired is customarily performed
- Benefits or privileges of employment as are enjoyed by other similarly situated employees without disabilities.

A number of possible reasonable accommodations include:

- Making existing facilities accessible
- Restructuring a job
- Establishing part-time or modified work schedules
- Acquiring or modifying equipment
- Changing testing procedures
- Providing training materials in alternate forms.

Disability-related Hiring Authorities:

- The Schedule A (5 C.F.R. 213.3102[u]) appointing authority provides agencies the opportunity to appoint on a permanent, time-limited, or temporary basis, persons with intellectual disabilities, severe physical disabilities, or psychiatric disabilities according to the provisions of the authority. Servicing EEO and local CPAC personnel are available to provide more information and assistance.

IWDP Related Programs:

- Workforce Recruitment Program (WRP) for College Students with Disabilities— DoD-funded 14-week summer employment program that provides college students the opportunity to experience working for DoD, Army, and MEDCOM.
- Computer/Electronic Accommodations Program (CAP) — a DoD-funded program that provides computer assistive technology and services to people with disabilities, Federal managers, supervisors, and IT professionals.

Remember to contact your servicing EEO Office (IWD Program Manager) for more information.

INDIVIDUALS WITH DISABILITIES PROGRAM & COMMON MISTAKES

COMMON MISTAKES

1. **EEO not contacted.** Supervisors more often do not contact their EEO office for guidance until it is too late.
2. **Inconsistency.** No favoritism; just fairness. This is significant when disciplining or recording/tracking the mistakes of only one employee, or interviewing select applicants.
3. **Avoidance/Denial.** Conflict needs to be addressed. An environment for non-tolerance of unlawful discrimination must be created.
4. **Ignoring Collateral Damage or Micro-Inequities.** If not handled immediately, subtle discrimination can limit both personal and organizational success.
5. **Exclusiveness.** Favoritism toward one group/category of employees in terms of positive employment is unacceptable.
6. **Lack of Clarity.** Employees must understand supervisor's expectations and their policies for promotions, training, leave, etc.
7. **Pre-judging.** Listen to the complaint without editorializing. Accept feedback. Do not comment on the potential consequences of filing an EEO complaint.
8. **Promises.** Do not promise anything you cannot deliver.
9. **Public Humiliation.** Avoid addressing issues in an open forum. This extends to ensuring that morale boosters are "appropriate" and do not include offensive language.
10. **Tolerating an Unhealthy Work Environment.** Do not send mixed message to the organization on where management stands.
11. **Timeliness.** Address concerns in a timely manner, i.e., requests associated with reasonable accommodation, work-related injuries, performance appraisals, leave or tour of duty.
12. **Ignoring Deadlines.** Agencies risk admonishment from the EEOC when deadlines for data requests associated with processing complaints are ignored. This includes failing to meet the terms of Negotiated Settlement Agreements.
13. **Inadequate Records.** Documentation of actions that could lead to an EEO complaint should be kept from the start (see page 14).
14. **Assumptions of Sexual Harassment Complaints.** Do not assume anything when an allegation of sexual harassment is brought to your attention. Conduct your own inquiry. You represent the agency and your efforts can minimize the agency's liability.
15. **Abandoning Responsibility for Resolution.** The supervisor has the authority and responsibility of making every effort to resolve work place issues whenever possible.
16. **Taking Complaints Personally.** Issues that are brought to your attention should be dealt with in the same way as other operational business actions. This ensures the issue is processed on its merits and not personal feelings. This improves understanding and creates a favorable basis for resolution.
17. **It is not EEO.** Determining that it is not an EEO issue does not dismiss the agency's obligation to address the issue. Even non-EEO issues can harm an organization's effectiveness and its employees' morale.

OOPS!

1. **Applicability.** I am not a woman, a minority or an individual with a disability. Do I need EEO? EEO was established for everyone. Everyone has the right to a workplace free from discrimination based on race, sex, religion, color, national origin, age, disability (physical or mental), genetic information, and reprisal. These are protected groups or classes.
2. **Processing.** Do I have an EEO complaint? EEO professionals administratively process EEO complaints. They can provide you with your rights and responsibilities; however, they are not authorized to provide personal opinions.
3. **Sexual Harassment.** If a relationship on the job is mutual, can a sexual harassment complaint be filed? Romance in the workplace between a supervisor and a subordinate is inappropriate. If an employee rejects the supervisor's advances, the potential for a complaint of discrimination and agency liability is greater. Other employees may perceive special treatment and in turn file a complaint of sexual harassment by observation.
4. Would exposure to web-based sexually explicit material constitute sexual harassment? This activity is inappropriate in a work environment. On the whole, sexual harassment depends on whether the act or practice is severe and pervasive enough that any reasonable person would find it offensive.
5. If an employee reports sexual harassment and asks that I not investigate, do I have to investigate? Managers and supervisors are required to inform the employee of their obligation to conduct an expeditious inquiry/investigation. They are never to tell the employee they will not act on the matter.
6. **English Only Rule.** Can I order that English only be spoken at the workplace? An important rule of thumb is to ask, "Is speaking only English a business necessity?" For additional guidance recommend checking with your local servicing EEO Office.
7. **ADR.** If I am involved in mediation, can I take notes? You may take notes; however, once mediation is closed all notes will be shredded. This is to further ensure mediation remains confidential.
8. **Merits.** Does the EEO Counselor determine if discrimination is found? EEO officers, specialists and counselors do not have the authority to make this determination.
9. **Contract Employees.** I am a contractor and believe I have been discriminated against. With whom do I file my complaint? Recommend contacting your Contract company or the servicing EEO Office for information.
10. **Reasonable Accommodation (RA).** Am I obligated to provide RA? Check with the IWD Program Manager first before saying "No." An interactive process to discuss options may assist in identifying ways to respond to requests. An undue hardship, however, may prevent RA.
11. When requesting RA, does an employee need to mention RA? An employee merely needs to convey s/he needs an adjustment or change at work in regards to a medical condition. Your IWD Program Manager can assist you with this matter.
12. **Official Time.** Is time spent at the EEO Office official time? Contact your servicing EEO Office for guidance. This may depend on the person's status.
13. Must an employee use personal leave to attend complaint-related meetings? An employee is entitled to a reasonable amount of official time to present their complaint; however, s/he needs to request this time from the supervisor before the meeting or appointment.
14. **Diversity.** Why do I have to deal with diversity issues? Building a positive and inclusive workforce is good business. This type of environment benefits morale, productivity, recruitment, and retention.
15. **Affirmative Employment.** Does affirmative action mean hiring a less qualified person simply because the individual belongs to a group with a low participation rate in the workforce? The goal is always to hire the most qualified individual. Low participation rate may be considered in addition to other qualifications, but cannot be the sole reason for selection.
16. **EEO and EO.** What is the difference between EEO and EO? Both programs (EEO/civilian and EO/military) have the same common goals of providing the Commander and the community with guidance for a work environment free from unlawful discrimination. Each program, however, is governed by different laws and regulations.



EEO TRAINING

Notification and Federal Employee Anti-discrimination and Retaliation (No Fear) Act of 2002 (on-line)*

1. New employees must complete training within 90 calendar days of their start date.
2. Refresher training must be completed every two years.

Supervisor Development Course (on-line)*

The Supervisor Development Course is mandatory for all military and civilian supervisors of Army civilian employees within one year of appointment and as refresher training every three years thereafter. Applicants register for this course through the Civilian Human Resources Training Application System at <https://www.atrrs.army.mil/channels/chrtas/default.asp>. Check with your servicing civilian personnel office for information on other available supervisory training courses.

Prevention of Sexual Harassment Training (face-to-face)*

All personnel (military and civilian) are required to attend Sexual Harassment/Assault Response and Prevention (SHARP) Program training each year. Trained SHARP Coordinators are responsible for presenting the Senior Leader Training and the annual Refresher Training.

* MEDCOM training completion data is captured in the Digital Training Management System (DTMS).

Servicing EEO personnel are available to provide EEO training, information and guidance.

EEO-RELATED TRAINING

Management Directive 715 and Affirmative Employment— building a model EEO program that includes a workforce reflective of our nation's diversity

Equal Employment Opportunity Complaint Procedure— the complaint process to include basis, issue, steps, time-lines, etc.

Army Regulation 600-7 Complaint Procedure— the process used by members of the general public to file discrimination complaints on the basis of their disability in programs and activities assisted or conducted by the Department of the Army

10 U.S. Code, Section 1561 Complaint Procedure— the right of military and civilian employees to file sexual harassment complaints directly with the Commander of the organization

Alternative Dispute Resolution (ADR)— the introduction of mediation at the pre-complaint and formal stages of the EEO complaints process that could assist in the early resolution of complaints

Reasonable Accommodation (RA)— policies and procedures that support the prompt, fair, and efficient processing of requests for RA; increase awareness of the responsibility to provide for the expansion of opportunities for individuals with disabilities; and ensure that civilian and military managers and supervisors comply with the provisions of the Rehabilitation Act of 1973, as amended



Helpful Resources

EEO

www.eeoc.gov—EEOC information on all aspects of the Federal complaints process including a thorough *Enforcement Guidance on Reasonable Accommodation and Undue Hardship*.

www.eoa.army.pentagon.mil—Department of the Army EEO/Civil Rights Office website that provides an overview on all facets of the Army's EEO Program.

eoa.amedd.army.mil—US Army Medical Command EEO website that includes all MEDCOM policies and EEO program-related information.

Civilian Personnel/Human Resource Management

www.opm.gov—US Office of Personnel Management, the agency that manages the civil service program of the Federal government.

www.cpms.osd.mil/ird—Civilian Personnel Management Service Investigations and Resolutions Division serves as the DoD agency that provides investigative and mediation services during the EEO complaint process.

www.cpol.army.mil—US Army Civilian Personnel Online provides a variety of information related to civilian personnel management. The Labor & Management/Employee Relations section offers guidance and information on Merit Principles, the Douglas Factors, and other related disciplinary actions.

Individuals with Disabilities Program

www.tricare.osd.mil/cap—Computer/Electronics Accommodations Program (CAP) is an excellent program to assist managers and supervisors in addressing reasonable accommodation issues.

www.jan.vvu.edu—A free consulting, comprehensive job accommodations service of the Office of Disability Employment Policy, US Department of Labor.

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