Equal Employment Opportunity (EEO) and Anti-Harassment Training

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Agenda

- **EEO Program**
- **Complaint Process**
- **EEO is LAW**
- **Disability & Reasonable Accommodation**
- **Anti-Workplace Harassment**
Mission

Educate, evaluate, and advise customers in order to ensure fair and equitable treatment and prevent unlawful employment practices; while enhancing partnerships with the USAG–Humphreys community.

Vision:

Spearheading a model EEO program; the premiere resource for ensuring equality, dignity, and respect throughout the greater USAG Humphreys Community.
Equal Employment Opportunity

- The Commander’s Program

- The responsibility of managers and supervisors to ensure all employees have an equal employment opportunity

- The EEO Staff has no authority - To Hire, Promote, Advance, Fire, or Stop Disciplinary Actions etc.
Organization

Garrison Commander

Equal Employment Opportunity Manager

Special Emphasis Program
Affirmative Employment Program
Complaints Program

EEO Counselors Collateral Duty
Special Emphasis Programs

• Promote equal employment opportunity in the hiring, advancement, training, and treatment of each targeted group.

• Advocate necessary change to overcome barriers that restrict equal employment opportunity for women, minorities, and individuals with disabilities.
**Special Emphasis Program Objectives**

• Analyze agency workforce data, identify potential employment barriers in areas of recruitment, hiring, promotion, career development, reasonable accommodation and retention that affects representation of protected groups and develop viable solutions to help eliminate identified barriers to employment.

• Compile, develop and disseminate information to managers, supervisors, and employees to increase knowledge and sensitivity in all facts or issues of accessibility and reasonable accommodation.

• Develop and conduct EEO and diversity-related programs to provide awareness, sensitivity and understanding of the special issues affecting employment of these diverse groups.
Affirmative Employment Program

Designed to *identify ways to remove barriers and overcome any workforce imbalances* toward the employment and advancement of *women, minorities, individuals with disabilities, and disabled veterans*.

Click on the below link for “EEO and Affirmative Employment Program Policy”

It is the Department of the Army's policy that any individual wishing to initiate a pre-complaint be allowed to do so.


**Affirmative Employment Program #14**

**DEPARTMENT OF THE ARMY**
**US ARMY INSTALLATION MANAGEMENT COMMAND**
**HEADQUARTERS, UNITED STATES ARMY GARRISON HUMPHREYS**
**UNIT 95328**
**AFO AP 05271-9220**

**MEMORANDUM FOR SEE DISTRIBUTION**

**SUBJECT:** United States Army Garrison Humphreys Policy Letter #14, Equal Employment Opportunity (EEO) and Affirmative Employment Program

1. The purpose of this policy is the Equal Employment Opportunity Office.
2. This policy is effective immediately. It remains in effect until rescinded or superseded.
3. This policy applies to all US civilian employees, applicants for employment, and managers/supervisors of US civilians of United States Army Garrison Humphreys.
4. EEO is the policy of the US Government and the Department of the Army, and is in accordance with the basic American principles of human dignity and fair treatment. I express my personal support for the commitment to ensuring that EEO is an operational management process that is a practical reality in United States Army Garrison Humphreys and tenant units.
5. I expect all Commanders, Directors, managers, and supervisors to demonstrate proactive support for EEO. Good management practices will result in a work place atmosphere that is conducive to upward mobility and professional growth regardless of race, color, sex (including pregnancy), religion, national origin, age (40+), equal pay compensation, genetic information, disability (mental or physical impairments), or reprisal for involvement in equal employment opportunity activity. It is the policy of this command to provide equal employment for all employees as well as applicants for employment.
6. The realization of equal opportunity in employment can be achieved through continuing programs of affirmative employment at every management level within this command. This requires leaders to examine their workforce to ensure equitable representation of women, minorities, and individuals with disabilities. Leaders will identify inequities in workforce composition and work toward providing a balance.
7. Management Directive 715 (MD 715) requires agencies to take appropriate steps to ensure that all employment decisions are free from discrimination. The MD 715 sets standards for Title VII and the Rehabilitation Act Program, also known as a Model EEO Program. A Model EEO Program consists of six essential elements:

   a. Integration of EEO into the strategic mission.
   b. Management and program accountability.
   c. Proactive prevention of unlawful discrimination.
   d. Efficiency.
   e. Responsive and legal compliance.

All commanders, managers, and supervisors are responsible and held accountable for demonstrating a firm commitment to all six essential elements of MD 715, Title VII of Civil Rights Act of 1964 and the Rehabilitation Act program. I am totally committed to United States Army Garrison Humphreys having a Model EEO Program.

8. I hold all managers and supervisors (military and civilian) within your area of responsibility for leadership and implementation of EEO as required by law and to undertake the goals of affirmative employment with the same leadership and zeal as other organizational responsibilities. Adherence to the principles of EEO exemplifies prudent leadership and is the right thing to do. I expect performance evaluations of military and civilian supervisors to reflect the level of success in compliance with this policy. I also expect leaders to coordinate EEO compliance issues and policy matters with my EEO manager.

9. Point of contact is USAG Humphreys EEO Manager, DSN 753-6753.

**DARIN S. CONKRIST**
COL, SF
Commanding

**DISTRIBUTION:**
A&B
It is the Department of the Army’s policy that any individual wishing to initiate a pre-complaint be allowed to do so.

Click on the link for the “EEO Complaint Procedures for Civilians and Applicants”
http://humphreys.korea.army.mil/EEO/Downloads
MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: United States Army Garrison Humphreys and Area III Policy Letter # 75, Discrimination Complaint Procedures for Civilian Employees, Former Employees, and Applicants for Employment

1. The proponent for this policy is the Equal Employment Opportunity Office.

2. This policy is effective immediately. It remains in effect until rescinded or superseded.

3. References.

4. This policy applies to U.S. Army Installation Management Command, U.S. Army Garrison Humphreys and Area III Korea activities employing U.S. civilian employees.

5. Individuals who believe they have been discriminated against because of race, color, sex (including pregnancy), religion, national origin, age (40+), equal pay/compensation, genetic information, disability (mental or physical impairments), or reprisal for involvement in equal employment opportunity activity may participate in the EEO complaint process.

Time Limits: Individuals who wish to file a complaint must initiate contact with an EEO official (EEO Manager, EEO Specialist) to begin pre-complaint processing. This initial contact must occur within 45 CALENDAR DAYS of the matter alleged to be discriminatory or in the case of a personnel action within 45 CALENDAR DAYS of effective date of the action or, when the aggrieved individual became aware, or reasonably should have known, of the alleged discriminatory action.
Where can I get information about the EEO complaint process?

- AR 690-600 Equal Employment Opportunity Discrimination Complaints
- *Equal Employment Opportunity Commission – eeo.c.gov*
- Management Directive (MD 110)
- Department of Defense Civilian Personnel Management Service – Investigations and Resolutions Division
  www.cpms.osd.mil
Complaint Process

1. **Alleged Act or Action**
   - EEO Counselor
   - 30 days

2. **Final Interview**
   - 45 days

3. **Formal EEO Complaint Filed**
   - 15 days

4. **Investigation Completed**

   - Decision by AJ
     - 40 days
     - 180 days
     - OR
   - Final Action by Agency
     - 30 days

5. **Alternate Dispute Resolution (ADR) Process**
   - 30 days + 60 days

6. **Civil Action**
   - Agency or Complainant
   - Appeal to OFO
   - Final Action by the Army
   - Complainant Only
Informal Phase

- Aggrieved must present claim(s) to the EEO Office within 45 calendar days of action

- Traditional Counseling:
  An EEO Counselor is assigned to conduct an informal inquiry within 30 calendar days

- Mediation
  A mediator will be assigned to conduct a mediation within 90 calendar days.

Primary Goal: To resolve the issues at the lowest level.
ADR (Mediation)

A preferred Dept of the Army alternative method, in which a third party neutral assists disputants in focusing on issues brought forth, reviewing common interests towards reaching a mutually satisfactory settlement.

Not the people, personalities or fault
Unresolved Informal Complaints

- A Final interview will be conducted
  
  *(After completion of counseling or mediation)*

- Issued a Notice of Right to File a Formal Complaint of Discrimination

- Aggrieved has 15 calendar days to file a Formal complaint
Formal

- Complaint is sent to Investigations and Resolution Division (IRD) in CA
- Hearing before an Administrative Judge
- Civil Court
MEMORANDUM FOR ALL US ARMY INSTALLATION MANAGEMENT COMMAND PERSONNEL

SUBJECT: Command Policy #2 — Equal Employment Opportunity (EEO)


2. I am responsible for ensuring EEO practices and principles are adhered. I strongly promote the full realization of equal opportunity in employment. I require all members of the IMCOM team to strive for, achieve, and maintain a positive work environment. Military and Civilian supervisors and managers must ensure a workplace where every employee is valued, treated with respect and dignity, and has an opportunity to contribute fully to the mission. These commitments must be exemplified in all of our management practices and decisions, including recruitment and hiring practices, appraisal systems, promotions, and training and career development programs. Therefore, we will share an unequivocal commitment to promoting diversity. Adherence to the principles of EEO protects and preserves human dignity and makes all of us better team members.

3. EEO is a mandatory performance standard for all supervisors. IMCOM leaders, managers, and supervisors will exhibit commitment to EEO through their efforts to resolve conflicts and address concerns in the workplace. IMCOM's ability to accomplish the mission is impacted, opportunities for achievement are lost, and the ability for our employees to reach their full potential is jeopardized when an employee or job applicant is discriminated against. We must eliminate all barriers to EEO to ensure fair competition and workforce development without regard to race, color, religion, sex, (including sexual harassment), national origin, age, genetics, disability or reprisal for prior EEO activity.

4. Individuals who perceive that they are victims of discrimination, including sexual harassment, must contact an EEO Official within 45 days of the incident. Complaints of discrimination will receive immediate attention and processed in accordance with Army Regulation 690-600. Additionally, any individuals who believe that he or she has been subjected to unlawful discrimination based on non merit factors (such as sexual orientation, marital status, parental status or political affiliation) may file a complaint with the Office of Special Counsel and/or use appropriate grievance procedures.

IMCG
SUBJECT: Command Policy #2 — Equal Employment Opportunity (EEO)

5. A workplace free from discrimination is vital to developing and maintaining a mission-ready workforce. Managers, supervisors, and employees must understand and identify unlawful conduct and be proactive in their obligation to prevent prohibited discrimination. Our continuing efforts will maintain IMCOM's posture as a model employer of choice.

MICHAEL FERRITER
Lieutenant General, USA
Commanding
Title VII of the Civil Rights Act of 1964

“It shall be an unlawful employment practice for an employer...to discriminate against any individual with respect to his/her compensation, terms and conditions, or privileges of employment, because of such individual’s Race, Color, Age (40+), Sex (including Pregnancy), Religion, National Origin, Disability (Mental or Physical), Equal Pay/Compensation, Genetic Information and/or Reprisal (Engaging Protected Activity).”
Equal Pay Act of 1963

Protects men and women who perform substantially equal work from sex-based wage discrimination.

- This law requires that men and women in the same workplace be given equal pay for equal work.

- Supported by the Lilly Ledbetter Act
An Act to **amend** Title VII of the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967, and to **modify** the operation of the Americans with Disabilities Act of 1990 and the Rehabilitation Act of 1973, to **clarify** that a **discriminatory compensation decision** or other unlawful practice under such Acts occurs each time compensation is paid pursuant to (in accordance with) **discriminatory compensation decisions** or practices for other purposes.
Case: Ledbetter v. Goodyear Tire & Rubber Co.

Ledbetter was a production supervisor at a Goodyear tire plant in Alabama, who filed an equal-pay lawsuit regarding pay discrimination under Title VII of the Civil Rights Act of 1964, six months before her early retirement in 1998.

The courts gave opposite verdicts, first supporting the complaint and later opposing; in conclusion the complaint was brought to the attention of the Supreme Court.
Case: Ledbetter v. Goodyear Tire & Rubber Co.

In 2007, the Supreme Court ruled by a 5-4 majority vote that the complaint was time-barred because the discriminatory decisions relating to pay was more than 180 days prior to the date Ms. Ledbetter filed the complaint.

The interpretation: The law runs from the date of any paycheck that contains an amount affected by a prior discriminatory pay decision. The Ledbetter decision was cited by federal judges in 300 cases before the LLFPA was passed in 2009.
The Change:

In 2007, Congress proposed the LLFPA to amend the 180-day statute of limitations for filing an equal-pay law suit regarding pay discrimination resets with each new paycheck affected by that discriminatory action. After two years, the bill finally passed and was signed into law by President Obama in 2010.
Prohibits genetic information discrimination in employment (became effective 21 Nov 2009).

This law makes it illegal to discriminate against employees or applicants because of genetic information.
The new hire was the best candidate for the job. During the first month of employment, they completed a health screening for insurance purposes. The screening revealed the individual had diabetes. The insurer passed the information to the employer and the employer fired the new hire (fearing additional cost to the organization).
Age Discrimination Act of 1967

Protects those **40 years or older** by prohibiting **age** discrimination in hiring, discharge, pay, promotions, and other terms and/or conditions of employment.
Can 6 ½ years make a difference?

The ADEA protects older workers and applicants, including those older than others within the over-50 group. However, the courts also recognize “approximately the same age”.

Thus, a 60-year-old cannot effectively claim it was age discrimination to hire a 58-year-old, because they are approximately equal in age.
The 6th Circuit has adopted a six-year range...

A 57 year-old tech college employee was fired and replaced by a 51 year-old. The employer argued that the case should be dismissed under the six-year “approximately the same age” rule. However, the court found a six-and-a-half year age difference and ruled that there was enough difference in age to allow a prima facie ADEA case.

Blizzard v. Marion Tech College (6th Cir., 2012)
Pregnancy Discrimination Act of 1978

Amended Title VII of the Civil Rights Act of 1964

Prohibits sex discrimination on the basis of pregnancy.

-This law involves treating a woman (an applicant or employee) unfavorably because of pregnancy, childbirth, or a medical condition related to pregnancy or childbirth.
Sex Discrimination

An employer allows a male employee to use unpaid leave for a court appearance in a criminal assault, but does not do the same for a female employee to testify in domestic violence case.

Employer says male’s assault was a “real crime”, but in a woman’s case it’s “just a marital problem.”
Aren’t we the same?

Employer doesn’t hire a male applicant after learning he had filed a restraining order against a male domestic partner.

Employer says only women can be victims of domestic violence.
Reprisal/Retaliation

It is illegal to fire, demote, harass, or otherwise “retaliate” against individuals (applicants or employees) because they complained about discrimination, or because they participated in employment discrimination proceedings.
Rehabilitation Act of 1973

Makes it illegal to discriminate against federal employees and applicants for employment based on disability.
Reasonable Accommodation for Individuals with Disabilities #9

IMHM-EE
SUBJECT: United States Army Garrison Humphreys Policy Letter #9, Reasonable Accommodation for Individuals with Disabilities

1. The proponent for this policy is the Equal Employment Opportunity Office.

2. This policy is effective immediately. It remains in effect until rescinded or superseded.

3. References.
   a. The Rehabilitation Act of 1973, as amended
   b. EEOC Policy Guidance on Executive Order 13164; Establishing Procedures to Facilitate the Provision of Accommodations, 20 Oct 00
   c. EEOC Management Directive 715, 1 Oct 03
   d. US Army, Procedures for Providing Reasonable Accommodation for Individuals with Disabilities, 17 Mar 09

4. This policy applies to United States Army Garrison Humphreys activities employing US civilian employees.

5. I am committed to the fair and equal employment of individuals with disabilities. Reasonable accommodation is the key to this non-discrimination policy. While many individuals with disabilities can work without an accommodation, other qualified applicants and employees may face barriers to employment without the accommodation process.

6. The Rehabilitation Act of 1973, as amended requires employers to provide reasonable accommodation to qualified individuals with disabilities who are employees or applicants for employment, unless to do so would cause undue hardship. An accommodation is 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. The Equal Employment Opportunity Commission identifies the following as “reasonable accommodations”:

IMHM-EE
Disability discrimination occurs when an employer treats a **qualified individual with a disability** who is an employee or applicant **unfavorably** because he/she has a **disability**.
Disability Discrimination

Disability discrimination also occurs when an employer treats an applicant or employee less favorably because he/she has a history of a disability (such as cancer that is controlled or in remission) or;
Disability Discrimination

Because he/she is believed to have a physical or mental impairment that is not lasting or expected to last six months or less, even if he/she does not have such an impairment.
Disability Discrimination & Harassment

It is illegal to harass an applicant or employee because he has a disability, had a disability in the past, or is believed to have a physical or mental impairment that is not lasting or expected to last six months or less, and even if he/she does not have such an impairment;
Disability Discrimination & Harassment

The law requires an employer to provide reasonable accommodation to an employee or job applicant with a disability, unless doing so would cause significant difficulty or expense for the employer.

dare to be different
Definition of a “Disability”

Not everyone with a medical condition is protected by law. In order to be protected, a person must be **qualified** for the job and **have a disability** as defined by law.

A person can **show** that he or she has a **disability in one of three** ways...
Qualified Person

1. A person may be disabled if he or she... has a physical or mental condition that substantially limits a major life activity (such as walking, talking, seeing, hearing or learning).
Qualified Person (Cont’d)

2. A person may be disabled if he or she has a history of a disability (such as cancer that is in remission).
3. A person may be disabled if he or she... is believed to have a physical or mental impairment that is not transitory (lasting or expected to last six months or less) and minor (even if he does not have such an impairment).
A reasonable accommodation is any change in the work environment (or in the way things are usually done) to help a person with a disability apply for a job, perform the duties of a job, or enjoy the benefits and privileges of employment.

Click on the link for the “Reasonable Accommodations for Individuals with Disabilities Policy”
http://humphreys.korea.army.mil/EEO/Downloads
Reasonable Accommodation Requests

- Employee must specify the change or modification the individual believes necessary
- Employee must submit the request for accommodation to Management or the Individual with Disability Program Manager (EEO)
Reasonable Accommodation Requests

• If the individual with a disability is qualified to perform the essential functions of the job.

• The employer should work with the servicing EEO Office/Disability Program Manager to process the request for reasonable accommodation.

• The employer should approve the request for accommodation, unless the employer can prove that making the accommodation would cause an undue hardship.
Anti-Harassment in the Workplace #57

DEPARTMENT OF THE ARMY
US ARMY INSTALLATION MANAGEMENT COMMAND
HEADQUARTERS, UNITED STATES ARMY GARRISON HUMPHREYS
UNIT #15228
APO AP 96271-5228

1 August 2012

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: United States Army Garrison Humphreys Policy Letter #57,
Anti-Harassment in the Workplace for DA Civilians

1. The proponent for this policy is the Equal Employment Opportunity Office.
2. This policy is effective immediately. It remains in effect until rescinded or superseded.
3. This policy applies to all United States Army Garrison Humphreys activities employing US civilian employees.
4. References.
   a. Title VII of Civil Rights Act of 1964, as amended
   b. Anti-discrimination laws
   c. United States Code, Title 10, Section 1561
   d. Code of Federal Regulations, Title 29, Part 1614
   e. AR 690-600, EEO Discrimination Complaints, 9 Feb 04
5. I am personally committed to providing all personnel a work environment free of sexual harassment. Exemplary professionalism and appropriate behavior is the standard at every level. Workplace harassment is a violation of the law and can adversely affect morale, diminish self-esteem, decrease productivity, and/or interfere with the mission. Workplace harassment is unacceptable conduct and it will not be tolerated.
6. Workplace harassment is defined as unwelcome verbal or physical conduct based on race, color, sex (including pregnancy), religion, national origin, age (40+), equal pay/compensation, genetic information, disability (mental or physical impairments), or reprisal for involvement in equal employment opportunity activity when:
   • The conduct culminates a tangible employment action, or
   • The conduct was sufficiently severe or pervasive to create a hostile work environment.
7. Reporting of workplace harassment is everyone’s responsibility. Individuals who believe they have been subjected to workplace harassment should report incidents to Prevention of Sexual Harassment is everyone’s responsibility. Individuals who believe they have been subjected to sexual harassment should report incidents to an appropriate management official and/or servicing EEO Officer IAW AR 690-600. It is my responsibility to address allegations of sexual harassment immediately to ensure the unwelcome behavior stops. DA requires POSH training for newly appointed managers/supervisors, new employees, and annual refresher training. Contact your servicing EEO Office for training schedules.
8. Point of contact is USAG Humphreys EEO Manager, DSN 753-6753.

DARRIN S. CONKRIGHT
COL, SF
Commanding

IMHM-EE
SUBJECT: United States Army Garrison Humphreys Policy Letter #57,
Anti-Harassment in the Workplace for DA Civilians

• The conduct was sufficiently severe or pervasive to create a hostile work environment.

7. Reporting of workplace harassment is everyone’s responsibility. Individuals who believe they have been subjected to workplace harassment should report incidents to Prevention of Sexual Harassment is everyone’s responsibility. Individuals who believe they have been subjected to sexual harassment should report incidents to an appropriate management official and/or servicing EEO Officer IAW AR 690-600. It is my responsibility to address allegations of sexual harassment immediately to ensure the unwelcome behavior stops. DA requires POSH training for newly appointed managers/ supervisors, new employees, and annual refresher training. Contact your servicing EEO Office for training schedules.

8. Point of contact is USAG Humphreys EEO Manager, DSN 753-6753.
…Workplace harassment is defined as unwelcome verbal or physical conduct based on Race, Color, Sex (including pregnancy), Religion, National Origin, Age (40+), Equal Pay/Compensation, Genetic Information, Disability (Mental or Physical), or Reprisal for involvement in EEO Activity when:

…The conduct culminates a tangible employment action; or

…The conduct was sufficiently severe or pervasive to create a hostile work environment.
Who’s Responsible?

Reporting of workplace harassment is everyone’s responsibility. Individuals who believe they have been subjected to harassment should report incidents to an appropriate management official and/or servicing EEO Officer IAW AR 690-600.

It is the Commanders responsibility to address allegations of “Sexual Harassment” immediately to ensure unwelcome behavior stops.

Department of the Army requires training for newly appointed managers/supervisors and new employees, which includes annual refresher training. Contact your servicing EEO office for training schedule.

Click on the below link for Army Anti-Harassment Policy:

http://humphreys.korea.army.mil/EEO/Downloads
Harassment

... An employer who creates or tolerates a work environment which is permeated with "discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the conditions of the victim's employment and creates an abusive working environment" is in violation of Title VII.

Perception vs. Intention

People have different ways of looking at the same situation because of many factors, such as upbringing, education and experiences.

These different perceptions can benefit an organization, but they can also cause conflict in the workplace.
Perception vs. Intention

Often in a court of law, more emphasis is placed on the victim’s perception rather than the offender’s intention.

This means that employees should take responsibility for how their behavior affects others.
In order to prevent employees from being unfairly accused of harassment, the “Reasonable Person Standard” was created, which asks…

“Would a “reasonable person” find the behavior offensive?”
Bullying

Employees who are *bullied* often experience a high level of *stress and emotional anguish*.

However, unless an employee falls into a *protected class*, there are no laws that prohibit an employee from being bullied in the workplace.

The good news is that people are becoming more aware of the *damaging effects of bullying*. In fact, several states are considering anti-bullying legislation.
Examples of Bullying Behavior

- Yelling
- Throwing objects
- Making offensive remarks or insults
- Sabotaging someone’s work
- Constantly criticizing
- Spreading gossip
- Withholding important information
- Vandalizing personal property
- Excluding employees from meetings or other office activities.
Bully vs Tough Manager

**Bullies:**

- Tend to treat employees *inconsistently* or *unfairly*
- Often use *humiliation* or *intimidation* to control others
- Can be emotionally *unpredictable* or have *frequent emotional outbursts*
- Often intend to *negatively affect* employees’ performance
- Act in their own *self-interest*.

**Tough Managers:**

- Treat employees *consistently* and *fairly*
- Set *reasonable standards* and expect employees to *meet* them
- Are generally *predictable* in their *actions* and *reactions*
- Aim to *positively affect* employees’ performance
- Act in the *interest of the organization*. 
Digital Harassment

Digital harassment is a growing issue because technologies develop faster than some organizations’ policies can keep up. Although new technologies have helped workers become more productive, they also present challenges. Unfortunately, when it comes to technology, people often act more casually and with less restraint than they would in person – things they would not say or do face-to-face are done in the virtual world without a second thought.
Use Technology with Care

Remember that anti-workplace harassment and discrimination policies apply to all types of technologies, even if they aren’t company owned. For instance, sending an offensive text message from your personal mobile phone or computer can still be considered harassment.
If you are Being Harassed…

- **You have the responsibility to take reasonable action.**
- Inform the offender that the behavior is unwelcome and needs to stop. (Often, this action alone will resolve the problem).
- If you are too uncomfortable with talking to the offending person or if the behavior is severe and ongoing, talk to your supervisor or an EEO staff member.
- Remember it is illegal for someone to retaliate against you for making a harassment claim. If you experience retaliation report it immediately.
If You Think You Have Harassed Someone…

- If someone appears to be offended by something you have said or done…
- Apologize to the person you have offended
- Be careful not to repeat the behavior
Harassment – Example 1

Richard, an employee constantly lurks outside of the ladies restroom. Several ladies have complained to his supervisor that this makes them uncomfortable.

but Richard continues.
Harassment – Example 2

Susan asks Paul about his sexual orientation. Paul tells Susan he doesn’t want to discuss it.

Susan continues to make comments and remarks to other employees about her suspicions.
A “Hostile Work Environment” harassment claim involves a pervasive atmosphere of discriminatorily severe or unwelcome working conditions that have the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile or offensive working environment.

29 C.F.R. § 1604.11(a) EEOC Guidelines)
Hostile Work Environment

- What is a “Hostile Work Environment”
- How to recognize harassment that rises to this level
- How can we prevent Harassment that creates a Hostile Work Environment.
The phrase “Hostile Work Environment" generally accompanies a discrimination complaint when an individual feels unlawful harassment rises to a level that creates an environment in which the employee cannot work, due to unreasonable and undue hostility. Harassment on the part of employees, supervisors, managers or even customers can become unlawful if the bases includes those covered by Title VII of the Civil Rights Act of 1964 -- Race, Color, Sex, National Origin or Religion.

Let’s look at what types of behavior and actions are covered under Title VII...
Dorothy, a manager of an organization continuously makes unwelcome remarks, and gestures towards Marco, an 57 year old male employee. Other employees heard and saw Dorothy’s behavior in the workplace, and are also offended because they recognize that Dorothy’s behavior was inappropriate, but are afraid to report the managers actions for fear she will retaliate.

As a result many employees can claim they are being subjected to a hostile work environment.
Company XYZ had a very racially diverse section. After several minorities left the organization, George, the supervisor, told the hiring official that he did not want to see that many of them in the section again.
Hostile Work Environment – Example 3

Bill is Carol’s supervisor. When he learns that Carol has recently been a victim of domestic violence, he demotes her and reduces her work hours.

When Carol asks why, Bill tells her that he fears the potential “drama” she may bring into the workplace.
Recognizing a Hostile Work Environment

To determine if harassment is pervasive and continual. The Harassment has to go beyond off-handed comments, an occasional misstep or embarrassing remarks as easily recognizable. An employer can be held liable for supervisors and managers who ignore, encourage or refuse to put a stop to unlawful harassment.

EEOC reiterated its position on employer liability when it stated: "The Commission's long-standing guidance on employer liability for harassment by co-workers remains in effect -- an employer is liable if it knew or should have known of the misconduct, unless it can show that it took immediate and appropriate corrective action."
Recognizing a Hostile Work Environment (Cont’d)

A hostile work environment is created when anyone in a workplace commits this type of harassment, including a co-worker, a supervisor or manager, a contractor, client, vendor, or visitor. In addition to the person who was directly harassed, other employees who are impacted by the harassment (by hearing or viewing it) are also considered victims.
Hostile Work Environment

Other factors that dictate a hostile work environment include:

✔ If the employee feels threatened or intimidated by discriminatory actions;
✔ There is a frequency or pervasiveness of unfair treatment; and, if comments or actions are unduly offensive and degrading.
Remedies for Victims of a Hostile Work Environment

Victims of a hostile work environment (sexual harassment) may include recovery of compensatory damages such as medical expenses, future economic loss and loss of enjoyment of life.

Punitive damages may also be awarded to successful claimants.

Such damages are awarded only if the alleged victim establishes that the employer acted with malice or reckless indifference to his or her rights.
Preventing Unlawful Harassment

• The underlying cause for a hostile work environment is unlawful harassment; therefore attending training about anti-discrimination laws and statutes can help prevent it;

• Implementation and adherence to workplace policies that spell out consequences for those who engage in prohibited discriminatory behavior;
Preventing Unlawful Harassment (Cont’d)

• **Professional behavior** in the workplace is another way to prevent unlawful harassment;

• **Maintaining** a workplace free from discrimination;

• **Commitment to treating all individuals equally with dignity and respect** boosts self-esteem, builds morale of workers and eliminates harassment in our workplaces.

*Respect*
Harassment takes a big toll on its victim, as well as the organization as a whole. To prevent harassment in your workplace…

- Become familiar with the organizational policies
- Learn how to recognize the harassment
- Be aware of how your behavior affects others
- If you think a comment or action could be taken the wrong way, don’t do it or say it
- Avoid joking about sensitive topics in the workplace
- Use technology with care
- Speak up when you are harassed or if you witness harassment.
"I've learned that people will forget what you said, people will forget what you did, but people will NEVER forget how YOU made them feel."

–Maya Angelou