USAG Humphreys

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 <u>managers and supervisors</u> to ensure all employees have an equal employment opportunity
- ▶ The <u>EEO Staff</u> 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 <u>equal employment opportunity</u> in the hiring, advancement, training, and treatment of each targeted group.
- •Advocate necessary change to <u>overcome barriers</u> that <u>restrict</u> equal employment opportunity for *women*, *minorities*, *and individuals with disabilities*.

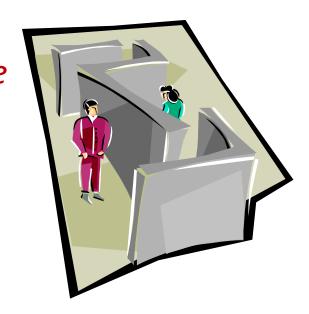


Special Emphasis Program Objectives

- •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 <u>awareness</u>, <u>sensitivity</u> and <u>understanding</u> of the <u>special issues</u> 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"

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

Affirmative Employment Program #14



REPLY TO

DEPARTMENT OF THE ARMY

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

IMHM-EE 1 August 2012

MEMORANDUM FOR SEE DISTRIBUTION

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

- 1. The proponency for this policy is the Equal Employment Opportunity Office.
- 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 inequalities 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:

IMKO-ACH-EEO

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

- a. Integration of EEO into the strategic mission.
- b. Management and program accountability.
- c. Proactive prevention of unlawful discrimination.
- d. Efficiency.
- e. Responsiveness 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 matter with my EEO manager.
- 9. Point of contact is USAG Humphreys EEO Manager, DSN 753-6753.

DARIN S. CONKRIGH

COL, SF Commanding

DISTRIBUTION: A&B

Complaints Program

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

EEO Complaints Procedures #75



DEPARTMENT OF THE ARMY

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

IMHM-EE

1 August 2012

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 proponency for this policy is the Equal Employment Opportunity Office.
- This policy is effective immediately. It remains in effect until rescinded or superseded.
- References.
 - a. Title VII of the Civil Rights Act of 1964, as amended in 1991.
- AR 690-600, Equal Employment Opportunity Discrimination Complaints, 9 Feb.
 04.
 - Title 29, Code of Federal Regulations, Part 1614.
 - d. EEOC Management Directive 110, 9 Nov 99.
- 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.
- 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.

IMHM-EE

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

Individuals who wish to pursue pre-complaint processing should contact the following servicing EEO office:

Equal Employment Opportunity Office
U.S. Army Installation Management Command
HQ, USAG Humphreys
IMHM-EE
ATTN: EEO Manager
Unit 15228, Bldg 753
APO AP 96271-5228

DSN: 753-6753 or 753-6482

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

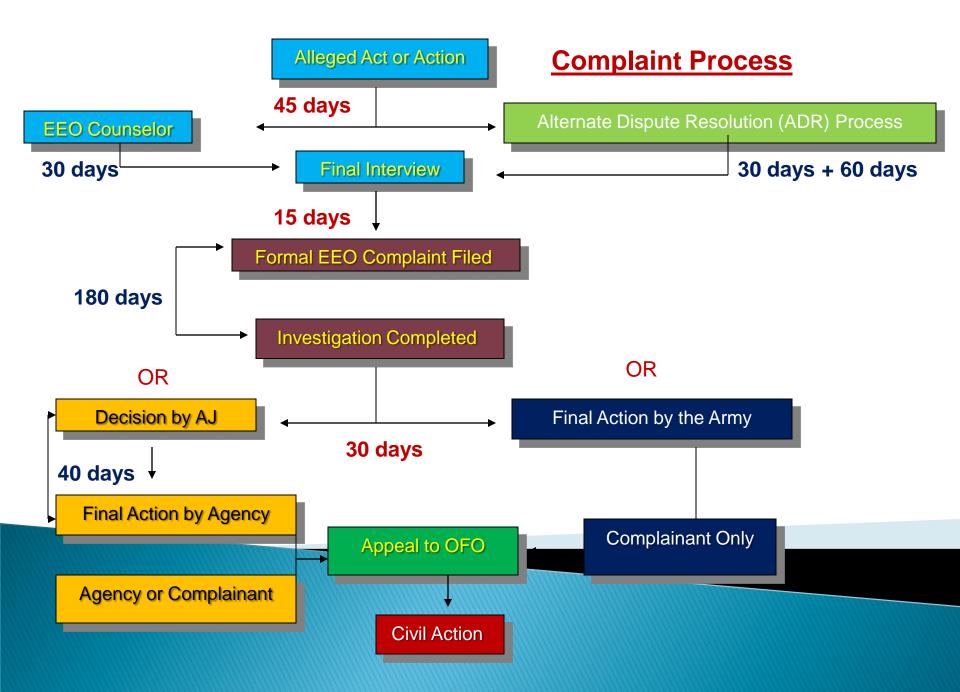
COL, SF

Commanding

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Where can I get information about the EEO complaint process?

- AR 690-600 Equal Employment Opportunity Discrimination Complaints
- Equal Employment Opportunity Commission eeoc.gov
- Code of Federal Regulations 29 CFR Part 1614
- Management Directive (MD 110)
- Department of Defense Civilian Personnel Management Service – Investigations and Resolutions Division www.cpms.osd.mil



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 with 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
- <u>Hearing</u> before an Administrative Judge
- Civil Court



Command Policy #2 - EEO



DEPARTMENT OF THE ARMY
US ARMY INSTALLATION MANAGEMENT COMMAND
2405 GUN SHED ROAD
FORT SAM HOUSTON, TEXAS 78234-1223

IMCG

MAY 30 2012

MEMORANDUM FOR ALL US ARMY INSTALLATION MANAGEMENT COMMAND PERSONNEL

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

- 1. REFERENCE. AR 690-12, Equal Employment Opportunity and Affirmative Action.
- 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 tearmnates.
- 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 <u>men and women</u> who perform substantially equal work from sex-based wage discrimination.

- -This law requires that <u>men</u> and <u>women</u> in the <u>same</u> workplace be given equal pay for equal work.
- -Supported by the Lilly Ledbetter Act



Lilly Ledbetter Fair Pay Act 2009

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.

Lilly Ledbetter Fair Pay Act 2009

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.

Lilly Ledbetter Fair Pay Act 2009 (Cont'd)

Case: Ledbetter v. Goodyear Tire & Rubber Co.

In 2007, the <u>Supreme Court ruled</u> 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 <u>any</u> 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.

Lilly Ledbetter Fair Pay Act (2009) - Change

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.

Genetic Information Non-Discrimination Act of 2008 (GINA)

Prohibits <u>genetic information</u> <u>discrimination</u> in employment (became effective 21 Nov 2009).

This law makes it illegal to discriminate against employees or applicants because of genetic information.



Example of Genetic Information Discrimination

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, <u>including</u> those <u>older than others</u> within the <u>over-50 group</u>. However, the courts also recognize <u>"approximately the same age"</u>.

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.

6th Circuit Adoption

The 6th Circuit has adopted a six-year range...

A <u>57 year-old</u> tech college employee was fired and replaced by a <u>51 year-old</u>. 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 <u>sex discrimination</u> on the basis of <u>pregnancy</u>.

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

Sex Discrimination

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

Employer says <u>male's assault</u>
was a "real crime",
but in a <u>woman's case</u>
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 <u>only women</u> can be <u>victims</u> of domestic violence.



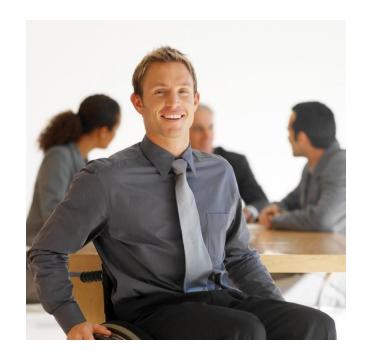
Reprisal/Retaliation

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



DEPARTMENT OF THE ARMY

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

IMHM-EE

1 August 2012

MEMORANDUM FOR DISTRIBUTION

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

- 1. The proponency for this policy is the Equal Employment Opportunity Office.
- This policy is effective immediately. It remains in effect until rescinded or superseded.
- References.
 - The Rehabilitation Act of 1973, as amended
- EEOC Policy Guidance on Executive Order 13164; Establishing Procedures to Facilitate the Provision of Accommodations, 20 Oct 00
 - EEOC Management Directive 715, 1 Oct 03
- US Army, Procedures for Providing Reasonable Accommodation for Individuals with Disabilities, 17 Mar 09
- 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

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

- Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or
- Modifications or adjustments to the work environment, or the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or
- Modifications or adjustments that enable a covered entity's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees with disabilities.
- 7. An employee or applicant with a disability who requires a reasonable accommodation should begin the process by submitting a request to management that outlines the change or modification that is necessary. Managers will document the request for reasonable accommodation and engage in an interactive process with the employee to determine what modifications or changes are required.
- 8. Reasonable accommodation allows an employee with a disability an equal opportunity to enjoy the benefits and privileges of employment that employees without disabilities enjoy and meet the needs of the individual. The Equal Employment Opportunity Office and the Civilian Personnel Advisory Center are prepared to advise employees, applicants, and managers concerning internal guidance on the reasonable accommodation process.
- This policy memorandum will be issued to new employees during New Employee Orientation training, newly appointed supervisors, and permanently posted on all official bulletin boards.
- Point of contact is USAG Humphreys EEO Manager, DSN 753-6753.

COL, SF Commanding

DISTRIBUTION: A&B

Disability Discrimination

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 <u>qualified</u> for the job and have a disability as defined by law.

A person can <u>show</u> that he or she has a <u>disability</u> in <u>one</u> of <u>three</u> 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)

A person may be disabled if he or she has a history of a disability (such as cancer that is in remission).

Qualified Person (Cont'd)

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).

Reasonable Accommodation

A reasonable accommodation is any change <u>in</u> the work environment (or in the way things are usually done) <u>to help a person</u> 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

 <u>Employee</u> must <u>specify</u> the <u>change</u> or <u>modification</u> 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 <u>individual</u> with a <u>disability</u> is <u>qualified</u> to perform the essential functions of the job.
- The employer <u>should work with the servicing EEO</u>
 <u>Office/Disability Program Manager</u> 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 #1528
APO AP 96271-5228

IMHM-EE

1 August 2012

MEMORANDUM FOR SEE DISTRIBUTION

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

- The proponency for this policy is the Equal Employment Opportunity Office.
- This policy is effective immediately. It remains in effect until rescinded or superseded.
- This policy applies to all United States Army Garrison Humphreys activities employing US civilian employees.
- References.
 - 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

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.

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

DARIN S. CONKRIGE COL, SF Commanding

DISTRIBUTION: A&B

Workplace Harassment

...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 <u>Commanders</u> responsibility to address allegations of "Sexual Harassment" immediately to ensure unwelcome behavior stops.

<u>Department of the Army</u> requires <u>training</u> 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 <u>creates or tolerates</u> a work environment which is permeated with "discriminatory intimidation, ridicule, and insult that is sufficiently severe or pervasive to alter the conditions of the <u>victim's employment</u> and creates an abusive working environment" is in violation of Title VII.

Harris v. Forklift Systems, Inc., 510 U.S. 17,21, 114 S. Ct. 367, 371 (1993) (Citing Meritor Savings Band, FSB v. Vinson, 477 U.S. 57 (1986)

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 <u>perceptions</u> can benefit an organization, but they can also <u>cause conflict</u> 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.



Reasonable Person Standard

In order to *prevent* employees from being <u>unfairly</u> 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 <u>protected class</u>, 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 <u>treat employees</u> 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 <u>restraint</u> than <u>they would in person</u> – *things they* would not say or do face-to-face are done in the virtual world without a second thought.



Use Technology with Care

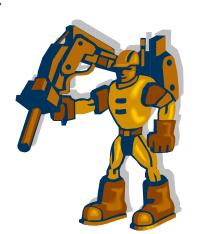
Remember that <u>anti-workplace harassment</u> and <u>discrimination policies</u> apply to all types of technologies, even if they aren't company owned. For instance, sending an offensive text message from your personal mobile phone or computer can still be considered harassment.



Responsibilities Regarding Harassment

If you are Being Harassed...

- You have the responsibility to <u>take</u> reasonable <u>action</u>.
- <u>Inform</u> the <u>offender</u> that the <u>behavior</u> is <u>unwelcome</u> and <u>needs to stop</u>.
 (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 <u>retaliate</u> <u>against you</u> for making a harassment claim. <u>If you experience</u> <u>retaliation report it immediately.</u>



Responsibilities Regarding Harassment

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 <u>lurks</u> 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 <u>continues</u> to make comments and remarks to other employees about her suspicions.



Harassment (Hostile Work Environment)

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.



Hostile Work Environment - Definition

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...

Hostile Work Environment – Example 1

<u>Dorothy</u>, a manager of an organization continuously makes unwelcome remarks, and gestures towards <u>Marco</u>, an 57 year old male employee. <u>Other employees</u> heard and saw <u>Dorothy's behavior in the workplace</u>, and are also offended because they recognize that <u>Dorothy's behavior was inappropriate</u>, but are afraid to report the managers actions for fear she will retaliate.

As a result <u>many employees can</u> claim they are being subjected to a hostile work environment.



Hostile Work Environment – Example 2

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 coworkers remains in effect -- an employer is <u>liable</u> if it knew or should have known of the misconduct, unless it can <u>show</u> that it took immediate and appropriate corrective action."

Recognizing a Hostile Work Environment (Cont'd)

A <u>hostile work environment</u> is <u>created</u> when <u>anyone</u> in a workplace commits this type of harassment, including a co-worker, a supervisor or manager, a contractor, client, vendor, or visitor.

<u>In addition to the person who was directly harassed</u>, <u>other employees</u> 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 <u>unduly</u> 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 <u>medical expenses</u>, <u>future economic loss</u> and <u>loss of enjoyment of life</u>.

<u>Punitive damages</u> may also be <u>awarded</u> to successful claimants.

Such damages are awarded only if the <u>alleged victim</u> 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 <u>unlawful</u> <u>harassment</u>; therefore attending training about <u>anti-discrimination</u> <u>laws and statutes</u> can help <u>prevent</u> it;

•Implementation and adherence to workplace policies that <u>spell</u> 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 <u>treating all individuals equally</u> with dignity and respect boosts self-esteem, builds morale of workers and eliminates harassment in our workplaces.

Summary

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 <u>harassment</u>
- ✓ Be aware of how your behavior affects others
- If you think a <u>comment or action</u> could be taken the wrong way, don't do it or say it
- Avoid joking about sensitive topics in the workplace
- ✓ Use <u>technology</u> with care
- ✓ Speak up when you are harassed or if you witness harassment.

