

***USAG Baden-Wuerttemberg
EEO Office***

***Equal Employment
Opportunity***



Mandatory Training

Laws & Regulations Governing EEO

- **Equal Pay Act of 1963**
- **Title VII of the Civil Rights Act of 1964**, as amended
- **Age Discrimination in Employment Act of 1967**
- **Rehabilitation Act of 1973**
- **Pregnancy Discrimination Act of 1978**
- **Civil Service Reform Act of 1978**
- **Americans with Disabilities Act of 1990**



Laws & Regulations Governing EEO

- **Civil Rights Act of 1991**
- **No FEAR Act of 2002**
- **Genetic Information
Nondiscrimination Act of 2008**
- **29 Code of Federal Regulation (CFR) 1614**
- **Equal Employment Opportunity Commission
(EEOC) Management Directives 110 and 715**
- **AR 690-600**



Laws & Regulations Governing EEO

- **The Equal Pay Act (EPA) of 1963, as amended, prohibits discrimination in wage differences between men and women performing substantially equal work and prohibits reprisal or retaliation for opposing sex-based wage discrimination or participating in EPA complaints or lawsuits.**

“Substantially equal work” means that the jobs do not need to be identical, but they must be of equal skill, effort and responsibility, in the same establishment and under similar working conditions.

- **Employees who believe they have been subjected to sex-based wage discrimination under the EPA can choose to:**
 - 1) Contact EEO to initiate the administrative complaint process, or**
 - 2) File a civil action in the appropriate US District Court within 2 years of the date of discrimination or 3 years if discrimination was willful.**
- **Attorney fees and costs are not recoverable in EPA claims filed under the administrative process and compensatory damages are never an available form of relief.**

Laws & Regulations Governing EEO

- **Title VII of the Civil Rights Act (CRA) of 1964, as amended, prohibits employers from discrimination with respect to compensation, terms, conditions, or privileges of employment, based on race, color, religion, sex, national origin, mental or physical disability,**
- **And from limiting, segregating, or classifying employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect the status of an employee.**
- **Employees who believe they have been discriminated against under the CRA can contact EEO to initiate the administrative complaint process.**
- **Attorney fees and costs may be recoverable under CRA claims, as well as, compensatory and punitive damages in cases of intentional violation.**

Laws & Regulations Governing EEO

- **The Age Discrimination in Employment Act (ADEA) of 1967, as amended prohibits employers from discrimination with respect to compensation, terms, conditions, or privileges of employment based on age (40+).**
- **Employees who believe they have been subjected to age-based wage discrimination under the ADEA can choose to:**
 - 1) **Contact EEO to initiate the administrative complaint process, or**
 - 2) **File a civil action directly in the appropriate US District Court after first filing a written notice of intent to file a civil action with the EEOC within 180 calendar days of the date of the alleged discriminatory action. Once a timely notice of intent to sue is filed with the EEOC, you must wait at least 30 calendar days before filing a civil action.**
- **Attorney fees and costs are not recoverable in ADEA claims filed under the administrative process and compensatory damages are never an available form of relief.**

Laws & Regulations Governing EEO

The Genetic Information Nondiscrimination Act of 2008 (GINA)

- **Effective November 21, 2009, prohibits employment discrimination on the basis of genetic information of employees or applicants for employment. It strictly limits employers from requesting genetic information from and disclosing genetic information of employees and applicants. It also prohibits harassment of individuals on the basis of genetic information and retaliation against individuals who have initiated discrimination complaints on the basis of genetics.**
- **“Genetic Information” includes information about diseases, conditions and disorders from genetic testing of individuals and their family members, as well as family medical history. The use of genetic information in employment decisions is prohibited because it bears no relation to an individual’s current ability to work.**

Prohibited Personnel Practices

- **The Civil Service Reform Act (CSRA) of 1978 is a Federal Law created to promote overall fairness in Federal personnel actions.**
- **This law states that a federal employee who is authorized to take, direct others to take, recommend or approve any personnel action may not take certain types of personnel actions, referred to as prohibited personnel practices.**

Prohibited Personnel Practices

There are 12 types of prohibited personnel practices listed in the CSRA:

- 1. Discriminating against an employee or applicant based on race, color, religion, sex, age, national origin, mental or physical disability, genetic information, marital status, political affiliation, and/or sexual preference.**
- 2. Asking for or considering employment recommendations based on factors other than personal knowledge or records of job-related abilities or characteristics.**

Prohibited Personnel Practices

- 3. Coercing the political activity of any person.**
- 4. Deceiving or willfully obstructing anyone from competing for employment.**
- 5. Influencing anyone to withdraw from competing for a job to help or hurt the employment prospects of another person.**
- 6. Giving an unauthorized preference or advantage to anyone that helps or hurts the employment prospects of another employee or applicant.**

Prohibited Personnel Practices

- 7. Hiring, promoting or advocating the hiring or promotion of relatives (nepotism).**
- 8. Engaging in reprisal or retaliation against an individual for whistle blowing.**
- 9. Taking, failing to take or threatening to take or not take a personnel action against an employee for:**
 - Filing an appeal, complaint or grievance**
 - Testifying for or assisting another in the above**
 - Cooperating with or providing info to the OSC, IG; or refusing to obey an order that would require the individual to violate the law.**

Prohibited Personnel Practices

- 10. Discriminating based on personal conduct which is not adverse to the on-the-job performance of an employee, applicant or others.**
- 11. Taking or failing to take, recommend or approve a personnel action that would violate a veterans' preference requirement.**
- 12. Taking or failing to take a personnel action that violates any law, rule or regulation implementing or directly concerning merit system principles.**

Notification and Federal Employee Antidiscrimination and Retaliation (No FEAR) Act, 15 May 2002

The No FEAR Act (Public Law (PL) 107-174)

- **Requires that all Federal employees receive training regarding their rights and remedies under Federal antidiscrimination and whistleblower protection laws.**
- **Requires Federal agencies to report annual antidiscrimination complaint data to Congress, and to publicly post the data on agency web sites.**

No FEAR Act Purpose

The No FEAR Act was enacted by Congress to ensure that Federal agencies:

- **NOTIFY** all Federal employees of their rights and remedies under Federal antidiscrimination and whistleblower protection laws.
- **COMPLY** with these laws by requiring agencies to report antidiscrimination complaint data to Congress each year, and publicly post that data.
- **ACCOUNTABILITY** for violations of these laws by requiring agencies to pay back the Department of Treasury Judgment Fund for awards, judgments and settlements in lawsuits involving discrimination and whistleblower retaliation.

Forums for Redress

- **Chain of Command**
- **Alternative Dispute Resolution (ADR)**
- **Classification Appeal**
- **Administrative Grievance Procedures**
- **Inspector General (IG)**
- **Equal Employment Opportunity (EEO)**
- **Office of Special Counsel (OSC)**
- **Merit Systems Protection Board (MSPB)**

Avenues of Redress

- **The Office of Special Counsel:** Investigates complaints of prohibited personnel practices that do not fall under the authority of the EEOC, including discrimination on the basis of: marital status, political affiliation, conduct that does not adversely affect employee performance, whistleblower retaliation.
- **Merit Systems Protection Board (MSPB):** is an independent Federal agency established to protect Federal merit systems against partisan political and other prohibited personnel practices and to protect Federal employees against abuses by management. The MSPB has the authority, in part, to review and issue rulings on: appeals of adverse actions such as removals, suspensions of more than 14 days, furloughs and demotions (list not all inclusive).

Avenues of Redress

- **Administrative Grievance Procedures:** Appropriated Fund (AF) employees may be able to file administrative grievances with their servicing CPAC to resolve employment issues.

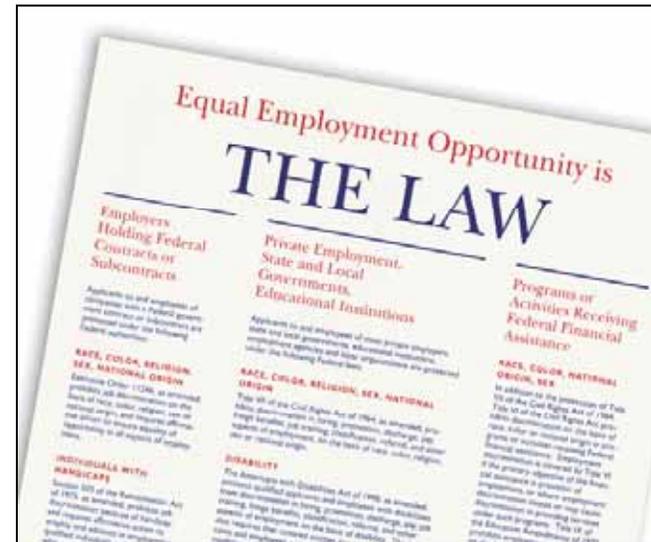
Certain employment issues cannot be grieved through this procedure, including any matter covered by a negotiated grievance procedure or subject to a formal review and adjudication by the MSPB or the EEOC.

For more information with respect to employment issues that can be administratively grieved or to submit a grievance, contact your servicing CPAC.

Equal Employment Opportunity

*Your right to employment free from discrimination based on **race, color, religion, sex, age, national origin, disability, genetic information and reprisal.***

- Antidiscrimination laws protect EEO
- Your employer must be committed to EEO
- All employees must adhere to EEO policies



USAREUR COMMANDING GENERAL

**Army in Europe Command Policy Letter 6, 31 Mar 11,
SUBJECT: Equal Employment Opportunity (reads in part)**

- **Our employees are critical to our Army's mission readiness, and the way we treat them directly affects their performance.**
- **For our employees to achieve excellence and reach their full potential, their workplace must be an environment of mutual respect, dignity, and fair treatment.**
- **Leaders all levels must ensure that employment decisions are based solely on merit.**
- **I will not condone unlawful discrimination and harassment in any form, and I will not allow discriminatory factors to be part of the decision making process.**

Prejudice and Discrimination

Prejudice and Discrimination
What is it?

Prejudice Defined

- **Injury or damage resulting from some judgment or action of another in disregard of one's rights;**
- **An irrational attitude and a negative bias or distortion in an individual's perceptions of and beliefs about a racial, ethnic, gender, religious, etc., group; or to prejudge.**

Prejudice Further Defined

Dr. Gordon Allport [Ph.D. in Psychology – Harvard University] theorized that prejudice has the following “Levels of Intensity”:

- **Antilocution (Bad Mouthing)**
- **Avoidance**
- **Active Discrimination**
- **Physical Attack (Violence – Homicide)**
- **Extermination – Genocide**

Discrimination Defined

- **Making a distinction in favor of or against a person based on the group or class to which the person belongs, rather than according to merit;**
- **Using power and/or position to establish unjust policies and to administer unfair treatment to a person or group on the basis of prejudice.**

Discrimination Further Defined

*Employment decisions that are based on personal characteristics protected by law that have **nothing** to do with a person's ability to do the job*

Personal characteristics include:

- * **Race**
- * **Color**
- * **Religion**
- * **Sex**
- * **Age (40+)**
- * **Genetics**
- * **National Origin**
- * **Disability**

Types of Discrimination

Any attitude, action (conscious or unconscious), or institutional structure, that subordinates an individual or group because of race, sex, color, national origin, religion, age, disability, genetics.

- **Personal/Individual Discrimination** – Refers to prejudicial beliefs and discriminatory behavior of a person against an individual or group.
- **Institutional Discrimination** – Refers to policies, practices, actions, or procedures of military communities, schools, businesses, and other groups/organizations that restrict the opportunities of an individual or group. The policies may or may not have been intentionally written to discriminate.

Reasonable Accommodation

There are 2 types of Reasonable Accommodation:

- 1. Reasonable Accommodation for Individual with Disabilities** – refers to any modification or adjustment to a job task, an employment practice, or the work environment that makes it possible for an individual with a disability to enjoy equal employment opportunities.
- 2. Reasonable Accommodation for Religious Practices** – refers to any modification or adjustment to work schedule or dress code that makes it possible for an individual to practice their religious beliefs.

Disability

Reasonable Accommodation

- **The Rehabilitation Act** – was the first “rights” legislation to prohibit discrimination against individuals with disabilities. It requires affirmative action and mandates that government contractors, colleges and universities receiving Federal funds of \$10,000 or more must make jobs and/or programs accessible to IWD.
- **The Americans with Disabilities Act** – mandates that all private sector employers (for profit and non-profit, religious entities, state and local governments, etc.) with 15 or more employees must provide equal employment opportunities to IWD.



Disability

Reasonable Accommodation Terms

- **Individual with a Disability** – a person with a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is generally regarded as having such an impairment.
- **Qualified Individual with a Disability** – a person who is capable of performing the essential functions of a particular job, with or without reasonable accommodation for his/her disability.
- **Major Life Activities** – functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

Religious Reasonable Accommodation

- **Title VII of the Civil Rights Act** – requires an employer to reasonably accommodate an employee's religious beliefs or practices, unless doing so would be an undue hardship on the employer's operation of its business.
- Common religious accommodations include flexible scheduling, voluntary shift substitutions or swaps, job reassignments, and modifications of workplace policies or practices.
- Allowing dress and grooming practices that an employee has for religious reasons; for example, wearing particular head coverings or other religious dress, wearing certain hairstyles or facial hair, uncut hair and beard, and the employee's religious prohibition against wearing certain garments.

Religion Defined

- **The definition of religion** – includes organized religions such as Christianity, Judaism, Islam, Hinduism, and Buddhism, and religious beliefs that are new, uncommon, not part of a formal church or sect, only subscribed to by a small number of people, or that seems illogical or unreasonable to others,
- And affiliation with a religious group that does not espouse or recognize that individual's belief or practice, or if few - or no - other people adhere to it. Protections also extends to those who need accommodation because they profess no religious beliefs.
- Religious beliefs include theistic beliefs (i.e. those that include a belief in God) as well as non-theistic “moral or ethical beliefs as to what is right and wrong which are sincerely held with the strength of traditional religious views.”

Reasonable Accommodation Steps

- **Be Prepared** – have a process in place for facilitating accommodation requests; ensure employees understand it.
- **Facilitate Requests** – the employee must inform the employer of the need verbally or in writing. The employee only has to indicate that they have difficulty carrying out their tasks due to a disability or a personal conflict due to their religious beliefs.
- **Analyze Job and Identify Functional Limitations** – review the essential functions of the job; discuss the employee's limitations. Determine where the intersection occurs with the duties.
- **Determine Reasonable Solutions** – this step requires creative and collaborative thinking. When cost is a concern, an employer should explore if funding is available from an outside source.

Computer/Electronic Accommodations Program (CAP)

- **CAP** – is a Department of Defense centrally funded program that provides IWD's equal access to employment.
 - Provides assistive technology and services
 - Conducts needs assessments
 - Purchases needed technology and services
 - Trains employees on use
 - Conducts follow-ups with updates
- For information and assistance concerning CAP visit their web site at <http://cap.mil> or contact the EEO Office



EEO Complaint Process

[As governed by AR 690-600]

Any employee, former employee or applicant for employment (AF, NAF, and certain contract employees) who believes that he/she has been discriminated against may file a pre-complaint of discrimination.

EEO Complaint Process

No one is above the law.

All employees must be held accountable for their actions.

Managers have the right and responsibility to supervise, reward, as well as discipline their employees.

EEO Timelines

Must file NLT **45 Calendar Days** from the date of the alleged act or action

Appeals Process – Civil Action

Decision Rendered by AJ or Final Decision by the Army

Investigations and Resolutions Division (IRD)

Decision to Accept/Dismiss Rendered

15 Calendar Days to File a Formal EEO Complaint



An EEO Counselor is Assigned to Process the Pre-complaint

30 Calendar Days to Conduct an Inquiry

{Or elect}

Alternative Dispute Resolution (ADR)

30 days + 60 days

Final Interview Conducted – Notice of Right to File Issued

Alternative Dispute Resolution (ADR)

- **The Alternative Dispute Resolution (ADR) Act of 1990, as amended**
- **29 Code of Federal Regulations 1614 – All agencies must have an ADR program for EEO complaints. Agencies can decide case by case whether to offer ADR. If offered, complainants can choose to participate. All parties can have representation.**

Alternative Dispute Resolution (ADR)

- **A concept that offers various methods to resolve issues in lieu of administrative or judicial processes**
- **Defines and clarifies issues**
- **Starts dialog between parties**
- **Clarifies options/choices**
- **Facilitates cooperation between management and employees**

Why Use Alternative Dispute Resolution (ADR)?

- **Decisions are reached faster**
- **Less expensive**
- **Less contentious and can improve morale**
- **More creative, efficient and sensible outcomes**
- **Management/Employee maintain control over the outcome**

Army's ADR – Mediation

Principles of Mediation

- **Issues, not people, personalities or faults**
- **Issues at hand, not the past**
- **Making interests understood**
- **Understanding other's interests**
- **Recognizing the *real* problem**
- **Facilitating resolution**



Manager Involvement in EEO Complaints

- **Should always work to resolve the issue at the lowest level possible**
- **Must articulate non-discriminatory reasons for your actions & provide appropriate documentation**
- **Must ensure the individual is not reprimed against for filing an EEO complaint**
- **Must communicate with the agency's attorney and cooperate with EEO officials in regard to the complaint**

Antidiscrimination Laws and EEO

- **Antidiscrimination laws protect employees from discrimination in the terms, conditions and benefits of their employment, such as:**

hiring

promotion

reassignment

pay

awards

time & attendance

training

classification

performance evals

- **And adverse actions such as reprimands, suspensions and terminations.**
- **These laws also protect employees from unlawful harassment (sexual and non-sexual), hostile work environment and reprisal.**

How to Prevent Discrimination

- **Treat everyone with dignity and respect**
- **Report discrimination to management if it occurs**
- **Support your agency's zero tolerance policy of discrimination**



Special Emphasis Programs

- **Federal Women's Program**
- **Hispanic Employment Program**
- **Black Employment Program**
- **Individuals with Disabilities Employment Program**
- **Asian Employment Program**
- **Native Hawaiian/Pacific Islander Employment Program**
- **American Indian/Alaskan Native Employment Program**

The Bottom Line

Discrimination hurts everyone
and it has a negative effect on:

- **Morale**
- **Productivity**
- **Employee Retention**

Our success depends
on mutual respect.



Certification of Completion

I, _____, certify that I have reviewed the EEO, No FEAR Act and Reasonable Accommodation training slides, to complete the IMCOM annual training requirement.

Signature

Date

Employing activity:

Please provide a copy of this certificate to your supervisor.
Retain the original for your records.

