

Equal Employment Opportunity Office



NEWCOMER'S WELCOME PACKET

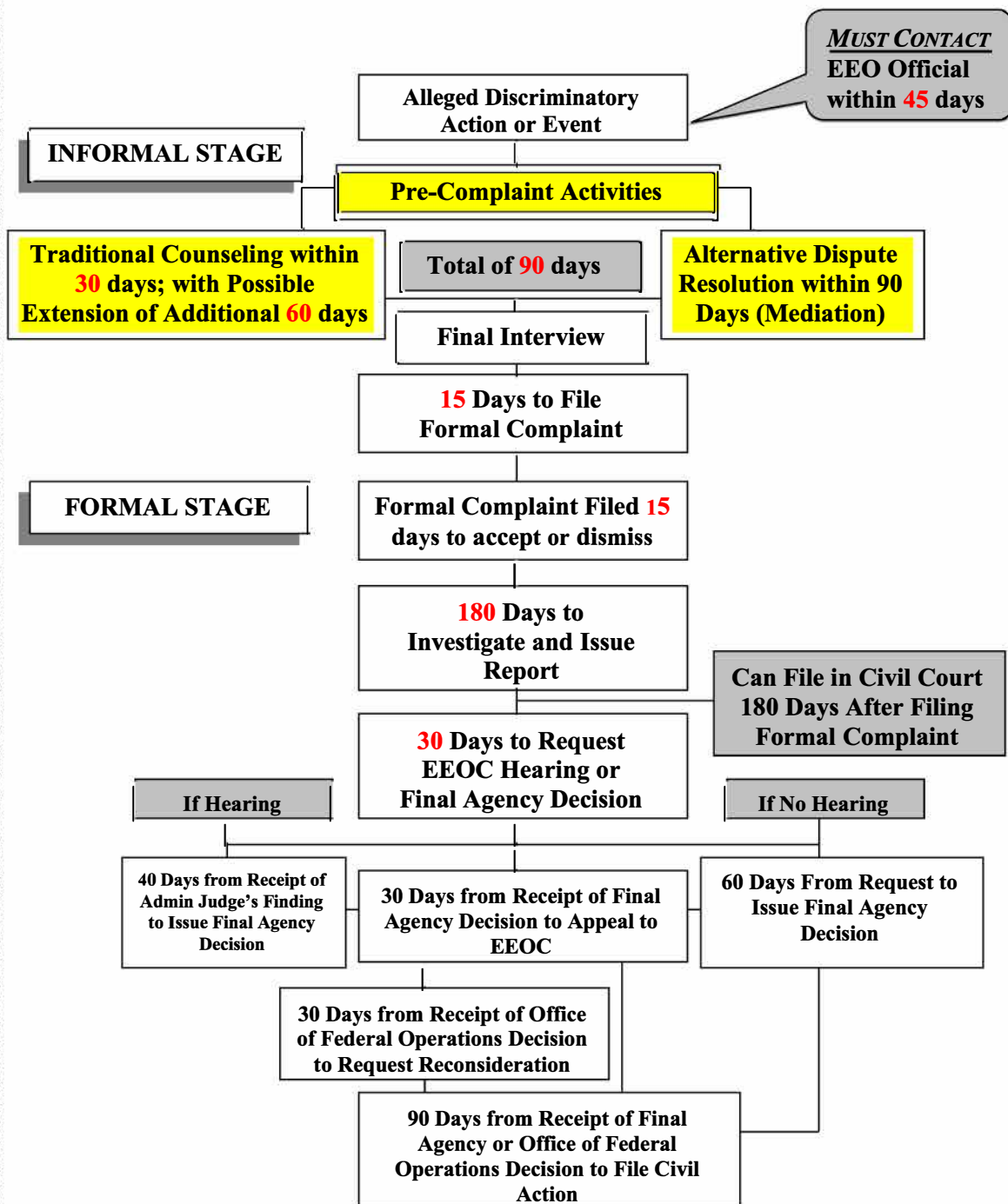


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[HTTPS://HOME.ARMY.MIL/APG/INDEX.PHP/ABOUT/GARRISON/EEO](https://home.army.mil/apg/index.php/about/garrison/eoo)

EEO COMPLAINT PROCESS FLOWCHART

**FEDERAL SECTOR PROCEDURES FOR PROCESSING
INDIVIDUAL COMPLAINTS OF DISCRIMINATION BASED ON RACE,
COLOR, RELIGION, SEX, NATIONAL ORIGIN, AGE, DISABILITY, GENETICS,
OR REPRISAL UNDER 29 C.F.R. PART 1614**
For further information contact your servicing EEO Office



The EEO process is outlined here for informational purpose only

Equal Employment Opportunity Complaint Process

Discrimination is the treatment of consideration of, or making a distinction in favor of or against, a person or thing based on a group, class, or category to which that person or thing is perceived to belong to rather than on individual merit.

Who May File A Complaint?

Any employee, former employee or applicant, including all non-appropriated fund employees, who believe he or she has been discriminated against based on a protected basis in an employment matter subject to the control of the Army, may file a complaint of discrimination.

How do I file a complaint?

The Employee must first contact the EEO office **within 45 calendar days** of the action which caused them to perceive that they have been discriminated against. The employee has the right to be accompanied, represented and advised by a person of their choosing.

Claim(s): What action/incident was taken, who took the action, when did the action take place

What is the basis for the alleged discrimination?

- Sex (Gender)
- Color
- Genetic Information
- Sexual harassment;
- National Origin
- Disability
- Pregnancy
- Age
- Retaliation
- Sexual orientation
- Race
- Religion

EEO Complaint Process:

- ❖ The EEO complaint process starts with the Informal Complaint
- ❖ Initial intake is conducted with the individual
 - ✓ During the intake initial questions: What is the basis? What is the claim?
- ❖ EEO staff processes the complaint, but does not make a determination as to whether discrimination occurred, or did not occur
- ❖ Aggrieved may determine:
 - ✓ Traditional EEO counseling (30 days to complete)
 - ✓ Alternative Dispute Resolution (ADR) or mediation (90 days to complete)

The role of the **EEO counselor** is to conduct a limited inquiry into the allegation and resolve disputes between aggrieved persons and management. The counselor is a neutral participant in this process, and is not an advocate for either side. The counselor will inquire into the facts and circumstances and attempt to find a resolution that is satisfactory to both parties.

The counseling process should not exceed 30 days. If no resolution is achieved during that time, the counselor will provide you with a Notice of Right to File a Formal Complaint. The formal complaint **MUST** be filed with the appropriate office within 15 days of receipt of that notice.

Once a formal complaint has been filed, and accepted an investigation will be conducted. Upon completion of the investigation, you may be entitled to a hearing before an Equal Employment Opportunity Commission administrative judge, or a Final Agency Decision.

Note:

Employees are encouraged to bring workplace issues to the attention of their immediate supervisor, prior to pursuing resources outside the organization. If after meeting with the supervisor, the employee believes the issue has not been satisfactorily addressed, the employee should consider raising the issue in another avenue.

Alternate Dispute Resolution (ADR)

Army's preferred method of ADR is Mediation.

ADR is a process in which a third party neutral assists the disputants in reaching an amicable resolution through the use of various techniques. ADR describes a variety of approaches to resolve conflict which avoid the cost, delay, and unpredictability of the traditional adjudicatory processes while at the same time improving workplace communication and morale." Per U.S. Equal Employment Opportunity Commission

Mediation embodies the 4 core principles of ADR:

- Voluntariness - No party comes to the table against his/her will
- Neutrality - Third party mediator with no connection to the aggrieved, management, or installation
- Confidentiality - No one present during an ADR session may disclose any information discussed
- Enforceability - Any solution agreed upon by the parties will be written down in a legally binding settlement agreement (NSA)

Goals of Mediation

- Foster clear communication between the parties
- Clear up misunderstandings
- Allow for emotional venting and reduce stress
- Uncover underlying interest and needs
- Find zones of mutual interests
- Build or enhance relationship between parties
- Build a resolution that meets both parties concerns
- Avoid litigation and other lengthy and expensive adjudication processes

If ADR/Mediation is offered:

- 30 calendar day processing time can be extended up to 90 calendar days
- Parties develop their own resolution (Negotiated Settlement Agreement) this settles the complaint
- If mediation is not successful, a notice of right to file is issued.

Stages of Mediation

- 1) Introductory remarks,
- 2) Statement of the problem by the parties,
- 3) Information gathering time,
- 4) Identification of the problems,
- 5) Bargaining and generating options, and
- 6) Reaching an agreement.



AVENUES OF REDRESS

When choosing the appropriate forum to address your concerns

There will be times when you find that the EEO process is not appropriate for the claim presented or you would like to address the allegations using other means of redress. Many of the other avenues will be more expedient than the EEO process:

MSPB

pursuant to 5 C.F.R. § 1201.22, file a written appeal with the Board within 30 days of the effective date of an appealable adverse action as defined in 5 C.F.R. §1201.3, or within 30 days of the date of receipt of the agency's decision, whichever is later

The Merit Systems Protection Board adjudicates cases for the following prohibited personnel practices:

1. Reduction in grade or removal for unacceptable performance
2. Removal, reduction in grade or pay, suspension for more than 14 days, or furlough for 30 days or less.
3. Removal, or suspension for more than 14 days, of a career appointee in the Senior Executive Service
4. Reduction-in-force action affecting a career appointee in the Senior Executive Service
5. Reconsideration decision sustaining a negative determination of competence for a GS employee
6. Determinations affecting the rights or interests of an individual or of the United States under the Civil Service Retirement System or the Federal Employees' Retirement System
7. Disqualification of an employee or applicant because of a suitability determination
8. Termination of employment during probation or the first year of a veteran's readjustment appointment when:
 - a. The employee alleges discrimination because of partisan political reasons or marital status; or
 - b. The termination was based on conditions arising before appointment and the employee alleges that the action is procedurally improper
9. Termination of appointment during a managerial or supervisory probationary period when the employee alleges discrimination because of partisan political affiliation or marital status
10. Separation, demotion, or furlough for more than 30 days, because of a reduction in force
11. Furlough of a career appointee in the Senior Executive Service
12. Failure to restore, improper restoration of, or failure to return following a leave of absence an employee or former employee of an agency in the executive branch following partial or full recovery from a compensable injury
13. Employment of another applicant when the person who wishes to appeal to the Board is entitled to priority employment consideration after a reduction-in-force action, or after partial or full recovery from a compensable injury
14. Failure to reinstate a former employee after service under the Foreign Assistance Act of 1961
15. Failure to re-employ a former employee after movement between executive agencies during an emergency
16. Failure to re-employ a former employee after detail or transfer to an international organization
17. Failure to re-employ a former employee after service under the Indian Self- Determination Act
18. Failure to re-employ a former employee after service under the Taiwan Relations Act
19. Employment practices administered by the OPM to examine and evaluate the qualifications of applicants for appointment in the competitive service
20. Removal of a career appointee from the Senior Executive Service for failure to be recertified
21. Reduction-in-force action affecting a career or career candidate appointee in the Foreign Service

Note: MSPB cases usually takes less processing time than EEO cases.

Office of Special Counsel

u.s.c. § 2301 what are "prohibited personnel practices?"

The Office of Special Counsel adjudicate cases for the following twelve prohibited personnel practices:

1. Discriminate against an employee or applicant based on race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation;

2. Solicit or consider employment recommendations based on factors other than personal knowledge or records of job-related abilities or characteristics;
3. Coerce the political activity of any person;
4. Deceive or willfully obstruct anyone from competing for employment;
5. Influence anyone to withdraw from competition for any position so as to improve or injure the employment prospects of any other person;
6. Give an unauthorized preference or advantage to anyone so as to improve or injure the employment prospects of any particular employee or applicant;
7. Engage in nepotism (i.e., hire, promote, or advocate the hiring or promotion of relatives);
8. Engage in reprisal for whistle blowing –
9. Take, fail to take, or threaten to take or fail to take a personnel action against an employee or applicant for exercising an appeal, complaint, or grievance right; testifying for or assisting another in exercising such a right; cooperating with or disclosing information to the Special Counsel or to an Inspector General; or refusing to obey an order that would require the individual to violate a law;
10. Discriminate based on personal conduct which is not adverse to the on-the- job performance of an employee, applicant, or others; or
11. Take or fail to take, recommend, or approve a personnel action if taking or failing to take such an action would violate a veterans' preference requirement; and.
12. Take or fail to take a personnel action, .if taking or failing to take action would violate any law, rule or regulation implementing or directly concerning merit system principles at 5 U.S.C. § 2301.

Inspector General

Responsible for possible violations of law, rules or regulations; mismanagement; gross waste of funds; abuse of authority; or danger to the public health and safety. Remedies usually impact the entire organization.

Negotiated Grievance Procedure

When a person is employed by an agency subject to 5 U.S.C. 7121(d) and is covered by a collective bargaining agreement that permits allegations of discrimination to be raised in a negotiated grievance procedure, a person wishing to file a complaint or a grievance on a matter of alleged employment discrimination must elect to raise the matter under either part 1614 or the negotiated grievance procedure, but not both.

Union

File a grievance in accordance with the provisions of the applicable Collective Bargaining Agreement; or Union Representative. Employees who are covered by a bargaining unit can consult with a union representative.

Open Door Policy

You can utilize your organizations open door policy (supervisor, DGC, GC) to discuss whatever issue or incident that occurred.



HARASSMENT/HOSTILE WORK ENVIRONMENT

Per AR 690-12

Hostile work environment and harassment

Pursuant to the Department of Army's (DA) Anti-Harassment Directive 2015-40 (Implementing Procedures for Anti-Harassment Policy), and Army Regulation 692-12 appendix D, it is APG's policy to maintain a work environment free from harassment. All employees are responsible for keeping their workplace free from prohibited discrimination and harassment based on race, color, religion, sex, national origin, age, disability, genetic information, or retaliation. All employees are expected to avoid any behavior or conduct that could reasonably be considered as harassment or creating a hostile work environment. No employees are exempt from these requirements.

A hostile work environment is a form of harassment. Harassment is defined as unwelcome conduct that is based on race, color, religion, sex (including pregnancy), national origin, age (40 or older), disability or genetic information. Harassment becomes unlawful where **(a)** Enduring the offensive conduct becomes a condition of continued employment; **(b)** The conduct is **severe or pervasive** enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive; **(c)** Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or EEO; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

Essentially, harassment occurs when a person suffers **consistent** and unwanted, and objectively offensive, conduct at work as a result of their membership in a protected class and **affects the terms and condition on employment**.

Harassment does not have to be of a sexual nature, however, and can include offensive remarks about a person's sex. Both victim and the harasser can be either a woman or a man, and the victim and harasser can be the same sex. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted). The harasser can be the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

REPORTING PROCEDURES

Supervisors and managers are required to take prompt, effective and corrective action upon being notified of an allegation of harassment. Any person who believes they have been subjected to or witnessed harassment may report the matter promptly to a first or second-line supervisor, another management official or the Equal Employment Opportunity (EEO) Office.

In cases of alleged harassment and or hostile work environment notification, the management official must consult with the agency's attorney/ labor counselor within 1 business day regarding recommendations on appropriate action and inquiry into the allegation per AR 690-12 appendix D.

Steps to Deal with a Hostile Work Environment

There are certain steps for anyone experiencing a situation that makes their work environment difficult or unbearable can take. These are centered on giving notice that the behavior is unwanted and documenting the behavior. Steps to deal with a hostile work environment include:

1. Ask the employee or other person to stop the behavior and document the request. If you feel too afraid or too intimidated to make this request, you can speak with your supervisor or EEO.
2. Keep a log of incidents involving harassment or abuse, including the dates, times, and circumstances. Keep copies of offending communications, such as emails, text messages, voicemail messages, notes, and gifts.

REASONABLE ACCOMMODATION

Per AR 690-12

What is Reasonable Accommodation?

“A change in the work environment or in the way things are customarily done which would enable an individual with a disability to enjoy equal employment opportunities.”

An individual can make the request, verbally or in writing, to their supervisor and may be required to provide medical documentation upon request.

Management has 30 business days to respond to the request for accommodation.

This process begins with an interactive and flexible discussion between the requester and the supervisor. For complex accommodation request, advisement from the Reasonable Accommodation Team EEO, HR, Legal, Occupational Health and Safety may be required (the DPM will set up the meeting not management).

Reasonable Accommodation Includes:

- Making existing facilities readily accessible and usable by persons with disabilities.
- Job restructuring, modifying work schedules, telecommuting, telework, and reassignment to a vacant position (if open and if qualified).
- Acquiring or modifying equipment or devices, adjusting or modifying examinations, training materials, or policies, and providing qualified readers or interpreters.

Reasonable Accommodation does not include:

- Removing the essential functions of the job or changing the responsibilities the individual has to perform the job.
- Creating a “new” position for the individual
- Providing the individual with equipment or services that they need outside of the workplace (hearing aids, eyeglasses, etc.)
- Using the disability to excuse behavior or poor job performance when management was unaware that a disability existed.

Privacy

The disability, the request, and the accommodation must all be kept confidential. Only those in a “need to know” position should be included (rater, senior rater, senior leadership, and those advising management)

This information may not be shared with other employees or agencies that work outside of providing direct input on the accommodation.

This information should not be left on a desk for other employees to see or discussed in front of other employees.

REASONABLE ACCOMMODATION
Pregnant Workers Fairness Act (PWFA) 2023
PUMP for Nursing Mothers Act (PUMP) 2010

PWFA guarantees employees the affirmative right to receive reasonable accommodations for limitations stemming from pregnancy, childbirth, and related medical conditions unless the requested accommodations would pose an “undue hardship” to the employer (similar to, but not the same as, the familiar process in place for workers with disabilities).

A pregnant or postpartum employee do not need to have a pregnancy-related disability to receive an accommodation.

Under the Pregnant Workers Fairness Act, an employer must have a good-faith conversation with a worker seeking reasonable accommodations about the worker’s needs and reasonable accommodations that could meet those needs. This is called the “interactive process.”

- ✓ The interactive process can occur in person, by phone, over email, or in other ways. For example, a supervisor might have a meeting with a pregnant employee requesting accommodations to discuss what job duties the employee can safely do or talk about available positions that the employee could temporarily transfer to.
- ✓ An employee does not need to use any “magic words,” or mention the “Pregnant Workers Fairness Act” or the phrase “reasonable accommodation,” in order to start this process. The request for an accommodation can come from someone other than the employee.
- ✓ The employer must respond to the request and engage in the interactive process promptly.
- ✓ Even if the employee is not able to perform some of (or all of) the main job duties, referred to as “essential functions,” an accommodation will be provided so long as the employee will be able to perform those duties in the near future and the accommodation is needed for a temporary amount of time.

An employer cannot force an employee to accept an accommodation that the employee does not want or need, or force an employee to take leave, whether paid or unpaid. For example, an employer cannot force a pregnant employee to accept a reduced work schedule or stop traveling for work, if the employee does not want or need those changes. **The PWFA goes into effect on June 27, 2023.**

PUMP Act requires employers to provide reasonable break time for an employee to express breast milk for their nursing child for one year after the child's birth each time such employee has need to express milk. Employees are entitled to a quiet place to pump at work, other than a bathroom, that is shielded from view and free from intrusion (ability to lock the door) from coworkers and the public and cleaning supplies.

For additional Information you can contact the EEO office:

[What You Should Know About the Pregnant Workers Fairness Act | U.S. Equal Employment Opportunity Commission \(eeoc.gov\)](https://www.eeoc.gov/what-you-should-know-about-the-pregnant-workers-fairness-act)

<https://www.opm.gov/policy-data-oversight/worklife/reference-materials/nursing-mother-guide.pdf>

EEO CONTACT

The Aberdeen Proving Ground EEO Office works to ensure all employees work in an environment that is free from any form of discrimination. If you believe you have been subjected to unlawful discrimination you may have the right to file an EEO complaint. For more information, please contact us.

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DISCRIMINATION IS PROHIBITED ON THE BASIS OF RACE, COLOR, RELIGION, SEX, (Gender Identity, sexual harassment, sexual orientation and Pregnancy), NATIONAL ORIGIN, AGE (40+), PHYSICAL/MENTAL DISABILITY, REPRISAL AND GENETIC (GINA) INFORMATION

Employees, former employees or applicants for employment at APG who believe that they have been discriminated against, may initiate a complaint with the Equal Employment Opportunity Office.

Complaints must be initiated in a timely manner. This notification must happen within **45 calendar** days of:

- The date of the incident giving rise to the complaint.
- The effective date of the personnel action giving rise to the complaint.
- The date the aggrieved became aware of or should reasonably become aware of the alleged discriminatory action or practice.

There are two stages to an EEO discrimination complaint: pre-complaint and formal. All complaints must begin at the pre-complaint stage before progressing to the formal stage.

The aggrieved individual may be offered an opportunity to participate in mediation. Mediation is a form of Alternative Dispute Resolution (ADR). A mediator (neutral, objective third party) brings the aggrieved and management together in an attempt to reach a mutually satisfactory solution to the employment matter.

Individuals who believe they have been sexually harassed have an additional venue. In addition to having their complaint processed under the Equal Employment Opportunity Commission, Title 29, Code of Federal Regulations 1614, they can pursue the complaint under Section 1561 of Title 10, United States Code.

Website: **<https://home.army.mil/apg/index.php/about/Garrison/EEO>**

Email: **apgeeo@army.mil** or **apgeeo299@army.mil**



DEPARTMENT OF THE ARMY
U.S. ARMY INSTALLATION MANAGEMENT COMMAND
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AMIM-APG-EE (RN 800D)

JUN 28 2021

MEMORDUM FOR U.S. Army Garrison Aberdeen Proving Ground Personnel

SUBJECT: U.S. Army Garrison Aberdeen Proving Ground Policy CO-02, Equal Employment Opportunity (EEO)

1. References:

- a. Code of Federal Regulations Title 29, Part 1614, Federal Sector Equal Employment Opportunity, 1 July 2013.
- b. Equal Employment Opportunity Commission Management Directive 715, 1 October 2003, <https://www.eeoc.gov/federal-sector/management-directive/section-717-title-vii>
- c. Notification and Federal Employee Anti-Discrimination and Retaliation (No Fear) Act of 2002, Public Law 107-174 Memorandum 29 September 2017.
- d. Army Regulation 690-600, Equal Employment Opportunity Discrimination Complaints, 9 February 2004.
- e. Army Regulation 690-12, Equal Employment Opportunity and Diversity, 12 December 2019.
- f. Executive Order (EO) 13164 (Establishing Procedures to Facilitate the Provision of Reasonable Accommodation), 26 July 2000, as amended by the Americans with Disabilities Act Amendments Act of 2008.

2. Applicability. This memorandum applies to all U.S. Army Garrison Aberdeen Proving Ground (APG) personnel.

3. I am fully committed to Equal Employment Opportunity (EEO) and a workplace free of discrimination, harassment and retaliation. This command will provide EEO for Civilian employees and applicants for employment without regard to race, color, sex, (including pregnancy, gender identity, and sexual orientation) religion, national origin, age, disability (mental and physical), reprisal or genetic information (including family medical history).

4. EEO is a fundamental tenant of our command culture. Adherence to its principles allows us to recruit, develop and retain a diverse, qualified workforce. Managers and

AMIM-APG-EE (RN 800D)

SUBJECT: U.S. Army Garrison Aberdeen Proving Ground Policy CO-02, Equal Employment Opportunity (EEO)

supervisors are accountable for ensuring equality of opportunity. Likewise, each of us must take responsibility for implementing the Commander's EEO Policy and cooperating fully in its enforcement. In so doing, we reaffirm our collective commitment to a workplace free of unlawful discrimination, harassment, and retaliation.

5. The Garrison EEO Program is designed to promote employment opportunities and to identify and address employment-related and diversity issues for women, minorities, individuals with disabilities.

6. Managers, supervisors, leaders, and employees must treat each other with dignity and respect and communicate effectively. Unacceptable behavior detracts from our ability to execute the Army's mission. Individuals who perceive they are being subjected to unlawful discrimination must file an EEO complaint with their servicing EEO office within 45 calendar days of the alleged incident or when the employee knew or should have known of the discriminatory or harassing conduct

7. Managers, supervisors, and employees will adhere to the procedures outlined in AR 690-12, Appendix C, Procedures for Providing Reasonable Accommodation for Individuals with Disabilities. All reasonable accommodations must be worked with the Disability Program Manager (DPM) in the EEO Office. Organization officials must begin processing oral requests for reasonable accommodation immediately, even if the employee has not yet submitted a written confirmation. The organization will process requests for reasonable accommodation and provide accommodations, when appropriate, as soon as reasonably possible, but no later than 30 business days from the date of the original request. When a request for reasonable accommodation is denied, the individual wishing to pursue the EEO Complaint Process must do so within 45 days of the denial.

8. When complaints arise, supervisors, managers, leaders, and employees should work to resolve them fairly and promptly, starting at the lowest possible level. Employees are encouraged to participate in mediation, the Army's preferred method of Alternate Dispute Resolution (ADR). A mediator is an objective and impartial person who facilitates communication between the aggrieved person and responsible management official, thereby avoiding excessive costs, delays and uncertain outcomes. U.S. Army Garrison Aberdeen Proving Ground management officials will participate in ADR when requested by an aggrieved person in the EEO complaints process.

9. EEO is a mandatory performance standard for all supervisors. Leaders are responsible for ensuring everyone completes the mandatory Army EEO, Anti-Harassment, and No FEAR training available through the Army Training Requirements and Resources System (ATRRS). Leaders at all levels are expected to share my

AMIM-APG-EE (RN 800D)

SUBJECT: U.S. Army Garrison Aberdeen Proving Ground Policy CO-02, Equal Employment Opportunity (EEO)

commitment to fostering a work environment free of discrimination in any form. I am personally committed to making this command a model employer of choice with a diverse, talented and effective workforce. Discrimination is illegal and will not be tolerated in this command.

10. The proponent for this policy is the EEO office, 410-306-2432. Under the provisions of Title VII and 29 Code of Federal Regulation Part 1614, this memorandum must be displayed on all official bulletin boards.



JOHNNY M. CASIANO
COL, IN
Commanding