

WHO HAS TO PROVE THAT DISCRIMINATION OCCURRED?

The “Burden of Proof” rests with the **aggrieved**.

More specifically:

(1) The burden of proof in a prohibited discrimination claim always remains with the complainant. He/she must establish a *prima facie* case of discrimination by presenting evidence such that, were it not rebutted, the finder of fact could conclude that unlawful discrimination did occur.

(2) The agency (management officials) must articulate some legitimate, nondiscriminatory reason(s) for its action(s). They must introduce evidence which, taken as true, would permit the conclusion that there was a nondiscriminatory reason for the adverse action(s).

(3) The complainant then must demonstrate that the agency’s reason(s) was not the true reason for the decision and that unlawful discrimination was. The complainant retains the ultimate burden of persuading the finder of fact that the agency intentionally discriminated against him/her.

PROCESSING INDIVIDUAL COMPLAINTS OF DISCRIMINATION (Informal Complaint Process)

- ✓ Alleged discriminatory action occurred or personnel action became effective
- ✓ Within 45 calendar days, the aggrieved contacts EEO and is offered either traditional counseling or (if appropriate) mediation
- ✓ Dependent upon the aggrieved’s election, a counselor or (if appropriate) mediator is assigned
- ✓ When counseling or mediation is successful, A binding Negotiated Settlement Agreement (NSA) will be prepared
- ✓ If resolution through counseling or mediation is unsuccessful, the EEO counselor will issue a Notice of Right to File a Formal Complaint of Discrimination
- ✓ Within 15 calendar days from the receipt of the Notice of Right to File, the aggrieved may file a formal complaint of discrimination

For additional information contact your servicing EEO Office at:

US Army Garrison, Fort Leavenworth
Equal Employment Opportunity
630 McClellan Ave, Bldg 197
Fort Leavenworth, Kansas 66027

usarmy.leavenworth.id-training.mbx.eeo@army.mil

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US Army Garrison, Fort Leavenworth
Equal Employment Opportunity

WANT TO FILE AN EEO COMPLAINT??

Before deciding to file an EEO Complaint ask yourself...

- Have you brought your concerns to management’s attention?
- Have you given the Chain of Command a chance to resolve your issue(s)?
- Is EEO the right office to address your Concerns?

Prior to filing an EEO Complaint ask yourself...



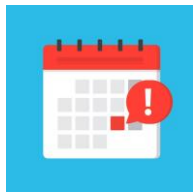
An Informational Brochure for
Employees and Supervisors

WHAT is the problem?

Is the problem related to a matter dealing with employment in which the Army has control?

- *Appointment*
- *Promotion*
- *Reassignment*
- *Separation/Termination*
- *Reprimand*
- *Evaluation/Performance Appraisal*
- *Time and Attendance*
- *Retirement*
- *Assignment of Duties*
- *Pay (Including Overtime)*
- *Harassment*
- *Reprisal*
- *Award*
- *Training*
- *Reinstatement*
- *Work Conditions*
- *Other*

WHEN did the incident or action occur?



Was it within the last 45 calendar days?

WHO is involved?

As the aggrieved, are you...

- A current civilian employee
- A former civilian employee
- An applicant for employment

Who took or failed to take the action in question?

- A supervisor
- A co-worker
- A visitor
- A contract worker
- Other

HOW were you treated differently?

Were you denied a job benefit?

- Promotion
- Training
- Award
- Request for Leave
- Poor Performance Evaluation
- Other

WHAT harm have you suffered?

- Adverse impact on performance rating/appraisal
- Treated unfairly (no one else was treated in the manner you were)
- Other

WHY do you feel you were treated differently?

Title VII of the Civil Rights Act of 1964, as amended, protects groups from discrimination in employment situations. The protected activity (group) forms the basis of your EEO Complaint.

Ask yourself was the action taken against you because of your (protected status as listed below) and only because of your status based on:

- **Race**
- **Color (Skin tone)**
- **Sex (including Sexual Orientation, Identification, Transgender Status and Sexual Harassment)**
- **National Origin**
- **Religion**
- **Age (40+)**
- **Disability (Mental/Physical)**
- **Genetic Information**
- **Reprisal (have you engaged in the EEO process as a complainant or witness, etc?)**

Final approach to your questioning

Now that you have taken all the information into consideration, ask yourself:

- If it were not for my race, color, sex, age, religion, national origin, disability, or reprisal, would this action have happened?
- Am I better qualified than the person who was selected? If so, was it because of my race, color, sex, age, religion, national origin, disability, or reprisal that I was not selected?
- In a termination issue, are the reasons stated by management in the termination letter false? Did the incidents occur?
- If the incidents did not occur, then why was I terminated, disciplined or received other action?
- Was it because of my race/color, sex, age, religion, national origin, disability or reprisal?