



REPLY TO
ATTENTION OF:

DEPARTMENT OF THE ARMY
MCALESTER ARMY AMMUNITION PLANT
1 C-TREE ROAD
McAlester, Oklahoma 74501-9002

*Command Policy No. 17

JMMC-CO

1 July 2010

MEMORANDUM FOR MCAAP AND RRMC Employees

SUBJECT: Equal Employment Opportunity (EEO)/Equal Opportunity (EO) Program Policy

1. References:

a. Equal Employment Opportunity (EEO), Title 29, Code of Federal Regulations (CFR), Part 1614, Federal Sector EEO, Title VII of the Civil Rights Act of 1964 & 1991 (42 USC §2000e-16), The Age Discrimination in Employment Act (ADEA) (29 USC §621), The Equal Pay Act of 1963 (29 CFR Part 1614), (29 USC §206(d)) and; Equal Opportunity (EO) (AR 600-20, Chapter 6 and 7).

b. Management Directive 715, AR 690-12, EEO, and Affirmative Action.

c. Alternate Dispute Resolution (ADR)/Resolving Employment Disputes Swiftly (REDS), Notification and Federal Employee Anti-discrimination and Retaliation Act (No FEAR), 15 May 2002.

d. Anti-Harassment/Prevention of Sexual Harassment (POSH) (Management Directive 715).

e. Reasonable Accommodation, Rehabilitation Act of 1973 (29 USC §791), Management Directive 715, Model Agency Title VII and Rehabilitation Act Programs, Part V.

f. Genetic Information Nondiscrimination Act of 2008 (GINA), Title II.

2. The EEO Program Policy is developed from the listed references in paragraph 1. As the Commander of the McAlester Army Ammunition Plant, I am committed to the principles of EEO and expect equal employment opportunity for all persons. I expect the same commitment and support from all personnel, especially senior leaders, managers, and supervisors, all of whom share a part in the EEO program success.

3. **Equal Employment Opportunity (EEO)/Equal Opportunity (EO):** Equality of opportunity is a right mandated by law. I am totally committed to provide equal opportunity in employment and treatment for all people, to include Soldiers and their families, and to prohibit discrimination in employment because of race, color, religion, sex/sexual harassment, national origin, age, disability, genetic information, or reprisal. I am equally committed to preventing any reprisal against an employee, applicant or Soldier for engaging in a protected EEO/EO activity. Discrimination, by act or inference, will not be tolerated and if I know or am made aware of any discrimination, I will act immediately to remove the source of that discrimination.

a. When complaints arise we must work to resolve them promptly, starting at the lowest level. Any employee who believes that he/she was discriminated against in an employment matter has a right to pursue a complaint of discrimination. This policy applies to any employee or applicant for employment who feels that he/she has been discriminated against for any of the above stated reasons. It also applies to both on and off post civilians, Soldiers and their families and to their working, living, and recreational environments who may present such complaints to the chain of command, Inspectors General, or the equal opportunity point of contact who will formally process the complaints.

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b. Contact should be made with the servicing EEO office responsible for the administrative processing of complaints of discrimination or consult with an EEO counselor within 45 days of the date of the matter. Everyone will respect the right of the employee to pursue a complaint without fear of reprisal.

4. The Right to File a Discrimination Complaint and Procedures on Filing: All civilian employees, former employees, applicants for employment, and certain contract employees are entitled to initiate a complaint of alleged discrimination when they believe that they have been discriminated against because of race, color, religion, sex, national origin, age (40+), physical/mental disability and/or reprisal in an employment matter, to include Equal Pay discrimination. Alternatively, if designated in writing, an attorney may file on behalf of the aggrieved. Individuals who believe they have been subjected to discrimination may use the EEO discrimination complaint procedures without fear of coercion, restraint, interference, harassment, intimidation, or reprisal. **Matters must be presented within 45 calendar days from the date the event occurred to an EEO official.** An EEO counselor will be assigned to conduct an informal inquiry after initial contact with the EEO office. Failure to make contact within 45 days may result in dismissal of a formal complaint on the basis of untimeliness. The EEO counselor's inquiry is designed to reach a resolution of the aggrieved person's allegations. If resolution is not reached, **a formal complaint must be filed within 15 calendar days from the date of receipt of the Notice of Right to File Discrimination Complaint.** All Army personnel WILL fully cooperate with and support the EEO counselor in the performance of his/her duties and the EEO counselor will be free from restraint, interference, harassment, coercion, discrimination, or reprisal in connection with the performance of his/her counselor duties.

5. Another option is mediation, an Alternate Dispute Resolution: MCAAP established an Alternate Dispute Resolution (ADR) Program called Resolving Employment Disputes Swiftly (REDS). This program is designed to resolve workplace disputes in a manner that avoids the cost, delay, and unpredictability of more traditional adversarial and adjudicative processes. The program's success is a direct result of our labor union, Civilian Personnel Advisory Center (CPAC), management, management/legal, and EEO working in a team effort to resolve issues. The REDS Program encompasses a broad range of joint problem solving techniques based on the core principles of fairness, voluntariness, neutrality, confidentiality, and enforceability. It focuses on open communications, building healthy future employment relationships, and high performance organizations. To achieve this, we must minimize all types of workplace disputes. Therefore, I am personally committed to and support the goals of ADR. I believe the use of ADR enhances our ability to work together to accomplish our mission. In addition to processing EEO complaints, the EEO Office is responsible for the administration of the REDS Program, which encompasses all workplace disputes. I strongly encourage your continued support.

6. Affirmative Action: This command will strive to have a workforce, at all levels and all occupational categories, that mirrors the representation of the appropriate civilian labor force (CLF). All reasonable efforts should be taken to ensure a diverse applicant pool from which to choose. Senior leaders, supervisors, and managers should seek opportunities to hire and retain a diverse workforce and should actively pursue equality in all aspects of an employee's career. All actions must be based upon merit factors, without bias or prejudice so that all employees have the opportunity to excel and be recognized.

7. EEO Participation in Performance Management System: Progress in the elimination of under representation of minority groups and women, particularly in the mid and higher level graded positions is my employment focus for MCAAP. In response to this focus, specific proactive initiatives have been implemented. Among these are explicit EEO/Affirmative Action performance objectives for managers and supervisors. Performance against these objectives is intended to reflect positive results which are commensurate with my expectations of the EEO/affirmative actions of all MCAAP managers/supervisors. First and second level supervisors are the cutting edge of our EEO and affirmative employment programs. They are fully responsible for hiring, promoting, training, and other significant personnel actions which impact affirmative employment goal accomplishment. The establishment of definitive and appropriate EEO performance objectives is essential in implementing the policies, practices, and action items developed by directors/office chiefs for their respective organizations in the accomplishment of our EEO program goals. The EEO office should be consulted for advice and assistance in developing the most appropriate EEO performance objectives.

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8. **No FEAR Act:** The purpose of the No FEAR Act is to require Federal agencies to be more accountable for violations of anti-discrimination and whistleblower protection laws. The No FEAR Act ensures that all Federal employees feel free to come forward with allegations of discrimination, wrongdoing, or misconduct, by making sure that Federal employees are aware of their rights. All new civilian personnel will be given initial No FEAR training and will receive refresher training thereafter, every 2 years. A summary of civilian personnel rights and protections under Federal anti-discrimination, whistleblower protection, and retaliation laws is provided below:

a. **Anti-discrimination Law:** A Federal agency cannot discriminate against an employee or applicant with respect to the terms, conditions, or privileges of employment on the basis of race, color, religion, sex (gender), national origin, age, disability, marital status, or political affiliation. Discrimination on these bases is prohibited by one or more of the following statutes; 5 U.S.C. subsection 2302(b)(1), 29 U.S.C. subsection 206(d), 29 U.S.C. subsection 631, 29 U.S.C. subsection 633a, 29 U.S.C. subsection 791 and 42 U.S.C. subsection 20003-16.

b. **Whistleblower Protection Laws:**

(1) A Federal employee with authority to take, direct others to take, recommend or approve any personnel action must not use that authority to take or fail to take, or threaten to take a personnel action against an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation. For example, these violations could involve gross mismanagement, gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; unless the disclosure of such information is specifically required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs.

(2) Retaliation against an employee or applicant for making a protected disclosure is prohibited by 5 U.S.C. subsection 2302(b)(8). If you believe that you have been the victim of whistleblower retaliation, you may file a written complaint (Form OSC-11) with the U.S. Office of Special Counsel (OSC) at 1730 M Street NW, Suite 218, Washington, DC 20036-4505 or online through the OSC web site: <http://www.osc.gov>.

c. **Retaliation for Engaging in Protected Activity:** A Federal agency cannot retaliate against an employee or applicant because that individual exercises his or her rights under any of the Federal anti-discrimination or whistleblower protection laws listed above. If you believe that you are the victim or retaliation for engaging in protected activity, you must follow, as appropriate, the procedures described in the Anti-discrimination Laws and Whistleblower Protection Laws or, if applicable, the agency administrative or negotiated grievance procedures in order to pursue any legal remedy.

d. **Disciplinary Actions:** Under the existing laws, each agency retains the right, where appropriate, to discipline a Federal employee for conduct that is inconsistent with Federal Anti-discrimination and Whistleblower Protection Laws up to and including removal. If OSC has initiated an investigation under 5 U.S.C. subsection 1214, however, according to 5 U.S.C. subsection 1214(f), agencies must seek approval from the Special Counsel to discipline employees for, among other activities, engaging in prohibited retaliation. Nothing in the No FEAR Act alters existing laws or permits an agency to take unfounded disciplinary action against a Federal employee or to violate the procedural rights of a Federal employee who has been accused of discrimination.

e. **Additional Information:** For further information regarding No FEAR Act regulations, refer to 5 CFR Part 724, as well as the EEO Office. Additional information regarding Federal anti-discrimination whistleblower protection and retaliation laws can be found at the EEOC web site: <http://www.eeoc.gov>. and the Office of Special Counsel web site: <http://www.osc.gov>.

9. **Anti-Harassment/Prevention of Sexual Harassment (POSH):** Harassment in the workplace violates federal law whether the discriminatory treatment is based on sex (whether or not of a sexual nature), race, color, religion, national origin, age 40 or older, disability, or protected activity under the anti-discrimination status. Offensive conduct constitutes harassment if it alters the conditions of the victim's employment either by culminating in a tangible employment action or by being sufficiently severe or pervasive to create a hostile work environment.

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a. I am strongly committed to ensuring no form of prohibited workplace harassment exists within MCAAP because it impacts our most valuable resource – our people. Harassment is defined as offensive behavior that adversely affects conditions of employment or behavior that results in a tangible employment action and/or is considered severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile or abusive. Engaging in workplace or discriminatory harassment is prohibited behavior, considered misconduct and subject to disciplinary action. Individuals who believe they are victims of harassment from supervisors or coworkers should immediately report the conduct to an appropriate management official.

b. Sexual harassment is a prohibited personnel practice under the Civil Service Reform Act and is a violation of Title VII of the Civil Rights of 1964. The Equal Employment Opportunity Commission defines sexual harassment as “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

(1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment;

(2) submission to, or rejection of, such conduct by an individual is used as the basis for employment decisions affecting such individuals; or

(3) such conduct has the purpose or effect of substantially interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.”

c. Personnel who engage in such practices not only violate the law but also violate the tenets of professionalism and basic human dignity. Its disruptive affect on the lives of individuals and the negative impact on productivity significantly reduce our ability to accomplish our mission.

d. It is my intention to fully enforce the provisions of AR 690-700 which outline the appropriate sanctions for persons found culpable of engaging in sexual harassment in the workplace. You are hereby apprised that such activities carry severe sanctions ranging from reprimand to removal for the first offense. Where the conduct has created a hostile or offensive work environment, removal is warranted for a first offense.

10. Reasonable Accommodations for Individuals with Disabilities. References:

a. Sections 501 and 505 of the Rehabilitation Act of 1973.29 U.S.C. 791(g) (1994), <http://www.eeoc.gov/policy/rehab.html>.

b. Executive Order 13164, Requiring Federal Agencies to Establish Procedures to Facilitate the Provision of Reasonable Accommodation, 26 July 2000, <http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=2000register&docid=fr28jyOO-140.pdf>.

c. U.S. Equal Employment Opportunity Commission, Policy Guidance on Executive Order 13164: Establishing Procedures to Facilitate the Provision of Reasonable Accommodation, 20 October 2000, <http://www.eeoc.gov/policy/docs/accommodationprocedures.html>.

d. U.S. Equal Employment Opportunity Commission, Practical Advice for Drafting and Implementing Reasonable Accommodation Procedures under Executive Order 13164, July 2005, <http://www.eeoc.gov/federallimplementingaccommodation.html>.

e. AR 600-7, Nondiscrimination on the Basis of Handicap in Programs and Activities Assisted or Conducted by the Department of the Army, 15 November 1983, <http://www.army.millusapalepubs/pdf/r6007.pdf>.

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f. Memorandum, DA, 17 March 2009, subject: U.S. Army Procedures for Providing Reasonable Accommodation for Individuals with Disabilities,
[http://www.per.hqusareur.army.mil/EEO PDF/Reasonable%20Accommodation.pdf](http://www.per.hqusareur.army.mil/EEO%20PDF/Reasonable%20Accommodation.pdf).

11. MCAAP fully complies with the reasonable accommodation requirements of the Rehabilitation Act of 1973. Reasonable accommodations will be provided to qualified employees or applicants with disabilities, unless doing so would cause an undue hardship. A reasonable accommodation is defined as 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. A request for reasonable accommodation is a statement that an individual needs an adjustment or change at work, in the application process, or in a benefit or privilege of employment for a reason related to a disability. The reasonable accommodation process begins as soon as the request for accommodation is made. In some cases, employees may be asked to provide medical documentation. The agency may not request medical information in support of every accommodation request, but rather may require reasonable information/documentation where the disability and/or need of accommodation is not obvious or otherwise known. All medical information is confidential. Contact the EEO office for procedures in processing requests for accommodation. General guidelines can be found on EEOC website www.eeoc.gov. The MCAAP EEO office is responsible for maintaining a recordkeeping system. All organizations will forward reasonable accommodation information to the EEO office.

12. Supervisors and managers are the key people in making decisions which affect the equal opportunities of employees and applicants for employment. As we strive to accomplish our mission and maintain the public's trust, we must carry out our responsibility to maintain high standards of honesty, integrity, and conduct. I expect all directors, managers, and supervisors to ensure that EEO is applied to, and a part of, all personnel management policies, procedures and actions that affect employment, including recruiting, hiring, awards, and other types of recognition, transfers, training, details and promotions. Everyone (directors, supervisors, managers, leaders and employees) is expected to share this important responsibility with me and treat any form of discrimination or harassment as a serious issue that we will work together to eliminate.

13. The EEO Office is located in the center wing of Headquarters (building 1). Staffed in the EEO Office are Ms. Coluah Watts-Stanfield, the Equal Employment Manager, coluah.stanfield@us.army.mil, and Ms. Kasandra L. Smart, Equal Employment Specialist, kasandra.smart@us.army.mil. For questions or concerns you may contact the EEO office at 918-420-6485, or ext 6485.


TIMOTHY D. BECKNER
COL, LG
Commanding