



EEO Quarterly News You Can Use



Departing and New Member of the EEO Team

We bid Travis White, EEO Special Emphasis Program Manager, “Adios” as he leaves for Fort Lee, VA. Travis has been with EEO at Fort Riley since February 2014.

We say “Hola” to Kathy Bellinder, as the newest member of our team. Kathy came to us in September 2014 from the Civilian Human Resources Agency Headquarters, Aberdeen Proving Ground, MD. She is the new EEO Complaints Program Manager.

Requesting Reasonable Accommodation

How must an individual request a reasonable accommodation?

When an individual decides to request accommodation, the individual or his/her representative must let the employer know that s/he needs an adjustment or change at work for a reason related to a medical condition. To request accommodation, an individual may use "plain English" and need not mention the ADA or use the phrase "reasonable accommodation."

Example A: An employee tells her supervisor, "I'm having trouble getting to work at my scheduled starting time because of medical treatments I'm undergoing." This is a request for a reasonable accommodation.

Example B: An employee tells his supervisor, "I need six weeks off to get treatment for a back problem." This is a request for a reasonable accommodation.

Example C: A new employee, who uses a wheelchair, informs the employer that her wheelchair cannot fit under the desk in her office. This is a request for reasonable accommodation.

Example D: An employee tells his supervisor that he would like a new chair because his present one is uncomfortable. Although this is a request for a change at work, his statement is insufficient to put the employer on notice that he is requesting reasonable accommodation. He does not link his need or the new chair with a medical condition.

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“We have become not a melting pot but a beautiful mosaic. Different people, different beliefs, different yearnings, different hopes, different dreams.”
-Jimmy Carter

While an individual with a disability may request a change due to a medical condition, this request does not necessarily mean that the employer is required to provide the change. A request for reasonable accommodation is the first step in an informal, interactive process between the individual and the employer. In some instances, before addressing the merits of the accommodation request, the employer needs to determine if the individual's medical condition meets the ADA definition of "disability, a prerequisite for the individual to be entitled to a reasonable accommodation.

(Taken from the EEOC website)

Inappropriate Workplace Behavior

Some types of behavior are always inappropriate when in the workplace. However, you may be wondering how you can identify these types of behavior and know when you need to report them. Keeping inappropriate behaviors out of the workplace will boost moral and increase productivity.

Jokes whether verbal or posted in your work space, about someone's gender, race, cultural background, religion or other personal characteristics are very inappropriate. This is true even if it seems that the person is poking fun at himself, as it could also hurt the feelings of someone else. If this happens to you, try respectfully asking the person to stop making jokes about the particular subject. If the behavior doesn't stop, then you should bring it to your supervisors attention.

Remember that touching someone else's body or making comments that are sexual in any way are always inappropriate behaviors. This type of behavior, both in and out of the workplace, could result in a criminal action, lawsuit, and/or disciplinary action up to and including removal from federal service. If you are on the receiving end of uninvited touching or sexual comments, report them to your supervisor immediately. If your first line supervisor fails to address the issue, then elevated up to your second line supervisor/senor rater.

Consider possible instances of discrimination. Discrimination based on age, gender, disability, national origin, race and religion is always inappropriate in the workplace. An example of this might be when a company only wants to hire men for manual labor jobs because they assume women can't do them because they are women.

Realize that pushing religion in the workplace is inappropriate. For example, if a Christian manager is trying to share his religion with a new employee to make him feel welcome; this could make the employee uncomfortable. He might feel like he can't voice his feelings and discomfort to his manager for fear of losing respect. If you feel that a supervisor or coworker is pushing unwanted information about his religion, you should ask them to stop. If they don't, make a report of inappropriate workplace behavior.

Sometimes people just don't take inappropriate workplace behavior seriously, and the only way to get them to stop is to report them to a supervisor. If someone's behavior hurts your feelings or makes you uncomfortable, you don't have to put up with it in the workplace. There are laws regulating workplace behavior to protect workers. For more information on these laws you can go to the Equal Employment Opportunity Commission web page (<http://www.eeoc.gov/>).

By Oubria Tronshaw, eHow Contributor

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Workplace Bullying v. Hostile Work Environment

Workplace bullying, like childhood bullying, is the tendency of individuals or groups to use persistent aggressive or unreasonable behavior against a co-worker or subordinate. Workplace bullying can include such tactics as verbal, nonverbal, psychological, physical abuse and humiliation. This type of aggression is particularly difficult because, unlike the typical forms of school bullying, workplace bullies often operate within the established rules and policies of their organization and their society. Bullying in the workplace is in the majority of cases reported as having been perpetrated by management and takes a wide variety of forms. Bullying can be covert or overt.

A *work environment* is not – at least in the legal sense – *hostile* merely because an individual says it is or holds a sincere, subjective belief that it is. Rather, a particular work environment is, legally speaking, hostile if it meets certain specific criteria:

1. Actions or words that a reasonable person would view as hostile, abusive or offensive.
2. An employee who is exposed to the hostile, abusive or otherwise offensive words or actions views them subjectively as offensive.
3. The hostile, abusive or offensive words or actions are based upon one or more of the prohibited bases of discrimination under Title VII.
4. The offensive conduct is either sufficiently severe even in an isolated incident, or is sufficiently pervasive to establish a work environment that can be perceived both subjectively and objectively by a “reasonable person” as hostile or abusive.

A hostile work environment exists when *all four* of the criteria above are met.

EEO Counselor Opportunities

The Fort Riley EEO Office is recruiting individuals interested in serving as collateral-duty EEO counselors. EEO collateral-duty assignments are official EEO duties and responsibilities assigned to an employee **in addition** to their primary duties and responsibilities of the position the employee occupies. EEO collateral-duty counselors should possess an understanding of how agency policies and practices affect the equal employment opportunities of all employees, understand the intent of the laws and regulations governing Federal equal employment opportunities, understand the employment problems of underutilized persons and classes in the workforce and/market, particularly racial and ethnic minorities, women, older workers, people with disabilities, or the economically disadvantaged, ability to establish effective working relationships with and gain the confidence of managers and supervisors at all levels of the agency, as well as with

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employees, regardless of their occupation, race, sex, ethnic heritage, or socio-economic background, knowledgeable of the general structure of the Federal personnel system and general knowledge of the missions, organizational structure, and distribution of responsibilities within the agency.

Those individuals interested in becoming an EEO counselor may contact Ms. Therese Ayers, EEO Manager at (785) 239-6698 or email therese.m.ayers.civ@mail.mil, NLT COB December 12, 2014.

(Resources: <http://www.opm.gov/qualifications/standards/Specialty-stds/gs-eeocl.asp>)

MANAGEMENT DIRECTIVE (MD) 715 — WHAT'S IN IT FOR YOU?

The Model EEO Program: Management Directive 715 (MD-715) sets forth EEO general reporting requirements for federal agencies. The EEOC Directive provides a roadmap for creating a model EEO Program for all federal employees as required by Title VII and the Rehabilitation Act.. This Management Directive requires each agency to report annually on the status of activities and to include a plan that sets forth the steps the agency will take in the future to correct deficiencies or further improve efforts to enhance diversity demographics. The MD-715 requires agencies to conduct periodic self-assessments of their EEO policies and practices to ensure free and open workplace competition. An important component of the MD-715 is the establishment of six Essential Elements for structuring model EEO programs.

The Elements are:

Element 1 - Demonstrated commitment from agency leadership

Element 2 - Integration of EEO into the agency's strategic mission

Element 3 - Management and program accountability

Element 4 - Proactive prevention of unlawful discrimination

Element 5 - Efficiency

Element 6 - Responsiveness and legal compliance

These six elements serve as the foundation upon which each agency builds its program. Agencies are directed to evaluate managers based on their efforts to prevent discrimination and to track disciplinary actions taken against managers found guilty of violating EEO policies. The success of an agency's EEO program ultimately depends on individual decisions made by individual agency managers.

(Taken from the EEOC website)

Facts About Retaliation

An employer may not fire, demote, harass or otherwise "retaliate" against an individual for filing a charge of discrimination, participating in a discrimination proceeding, or otherwise opposing discrimination. The same laws that prohibit discrimination based on race, color, sex, religion, national origin, age, and disability, as well as wage differences between men and women performing substantially equal work, also prohibit retaliation against individuals who oppose unlawful discrimination or participate in an employment discrimination proceeding.

In addition to the protections against retaliation that are included in all of the laws enforced by EEOC, the Americans with Disabilities Act (ADA) also protects individuals from coercion, intimidation, threat, harassment, or interference in their exercise of their own rights or their encouragement of someone else's exercise of rights granted by the ADA.

There are three main terms that are used to describe retaliation. Retaliation occurs when an employer, employment agency, or labor organization takes an **adverse action** against a **covered individual** because he or she engaged in a **protected activity**. These three terms are described below.

1. **Adverse Action.** An adverse action is an action taken to try to keep someone from opposing a discriminatory practice, or from participating in an employment discrimination proceeding. Examples of adverse actions include:

- employment actions such as termination, refusal to hire, and denial of promotion,

other actions affecting employment such as threats, unjustified negative evaluations, unjustified negative references, or increased surveillance, and any other action such as an assault or unfounded civil or criminal charges that are likely to deter reasonable people from pursuing their rights.

Adverse actions do not include petty slights and annoyances, such as stray negative comments in an otherwise positive or neutral evaluation, "snubbing" a colleague, or negative comments that are justified by an employee's poor work performance or history.

Even if the prior protected activity alleged wrongdoing by a different employer, retaliatory adverse actions are unlawful. For example, it is unlawful for a worker's current employer to retaliate against him for pursuing an EEO charge against a former employer.

Of course, employees are not excused from continuing to perform their jobs or follow their company's legitimate workplace rules just because they have filed a complaint with the EEOC or opposed discrimination.

2. **Covered Individuals.** Covered individuals are people who have opposed unlawful practices, participated in proceedings, or requested accommodations related to employment discrimination based on race, color, sex, religion, national origin, age, or disability. Individuals who have a close association with someone who has engaged in such protected activity also are covered individuals. For example, it is illegal to terminate an employee because his spouse participated in employment discrimination litigation.

Individuals who have brought attention to violations of law other than employment discrimination are NOT covered individuals for purposes of anti-discrimination retaliation laws. For example, "whistleblowers" who raise ethical, financial, or other concerns unrelated to employment discrimination are not protected by the EEOC enforced laws.

Facts About Retaliation Cont.

3. Protected Activity. Protected activity includes:

A. Opposition to a practice believed to be unlawful discrimination. Opposition is informing an employer that you believe that he/she is engaging in prohibited discrimination. Opposition is protected from retaliation as long as it is based on a reasonable, good-faith belief that the complained of practice violates anti-discrimination law; and the manner of the opposition is reasonable.

Examples of protected opposition include:

- Complaining to anyone about alleged discrimination against oneself or others;
- Threatening to file a charge of discrimination;
- Picketing in opposition to discrimination; or
- Refusing to obey an order reasonably believed to be discriminatory.

Examples of activities that are NOT protected opposition include:

- Actions that interfere with job performance so as to render the employee ineffective; or
- Unlawful activities such as acts or threats of violence.

Participation in an employment discrimination proceeding.

B. Participation means taking part in an employment discrimination proceeding. Participation is protected activity even if the proceeding involved claims that ultimately were found to be invalid.

Examples of participation include:

- Filing a charge of employment discrimination;
- Cooperating with an internal investigation of alleged discriminatory practices; or
- Serving as a witness in an EEO investigation or litigation.

A protected activity can also include requesting a reasonable accommodation based on religion or disability.

(Taken from the EEOC website)