



ARKANSAS DEPARTMENT OF THE MILITARY  
OFFICE OF THE ADJUTANT GENERAL  
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KENDALL W. PENN  
MAJOR GENERAL  
THE ADJUTANT GENERAL

NGAR-DOTM

21 January 2020

**MEMORANDUM FOR DEPARTMENT OF THE MILITARY (DOTM) STATE  
EMPLOYEES**

SUBJECT: Department of the Military (DOTM) Policy 50-2020, Equal Employment Opportunity Discrimination Complaint Policy and Procedures

1. The DOTM Human Resources is responsible for the creation, updating, revision, and dissemination of state policies and procedures. These policies and procedures assist the agency in maintaining an effective workforce.
2. The purpose of this policy is to inform all state employees and supervisors of the updated Department of the Military updated EEO discrimination complaint policy and procedures.
3. Point of contact for this memo is Scott Stanger at (501) 212-5167.

A handwritten signature in black ink, appearing to read "Kendall W. Penn".

KENDALL W. PENN  
MAJOR GENERAL  
The Adjutant General

Encl.  
EEO Discrimination Policy and Procedures

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**DEPARTMENT OF THE MILITARY**  
**Equal Employment Opportunity Discrimination Complaint Policy and Procedures**

**I. AUTHORITY:**

- (1) Title VII of the Civil Rights Act of 1964 (42 USC §2000e-16);
- (2) The Age Discrimination in Employment Act (ADEA) (29 USC §621);
- (3) The Equal Pay Act of 1963 (29 USC §206(d));
- (4) The Rehabilitation Act of 1973 (29 USC §791);
- (5) The Americans with Disabilities Act of 1990 (42 USC §§12111 through 12114).

**II. PURPOSE:**

The following shall establish and sets forth uniform equal opportunity complaint processing procedures for any employee of the Department of the Military who believes he or she has been the target of harassment and/or discrimination.

**III. POLICY:**

The Department of the Military is committed to maintaining a working environment free from discrimination and harassment. Unequal treatment of employees violates standards of integrity and impartiality, undermines agency cohesion and working relationships, and detracts from the agency's ability to effectively achieve its goals.

In accordance with federal and state laws, The Department of the Military prohibits illegal discrimination or harassment on the basis of his or her gender (to include sexual harassment and pregnancy), race, age, color, national origin, religion, disability, veteran status, reprisal, or any other protected status.

All Department of the Military employees, including but not limited to staff, supervisors, and senior management are required to abide by this policy. All employees are also expected to exercise good judgement in work related relationships and shall take appropriate measures to prevent harassment and discriminatory behavior.

An employee who is found to have engaged in discrimination, harassment, or retaliation in the course of his or her employment is subject to disciplinary action up to and including termination of employment.

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Access to this policy is at the employee's option. This procedure shall not compromise the rights of management to direct work activity in accomplishing the Department of the Military's goals and missions. Utilization of the Equal Employment Opportunity Discrimination Complaint Procedures is not intended, nor will it be allowed to become, a barrier to the supervisor/employee relationship.

#### **IV. CRITERIA:**

Harassment and discrimination are defined as any conduct that denigrates or shows hostility toward an individual because of his or her race, color, gender, national origin, religion, age (40 or over), physical or mental disability, sexual orientation, or any other protected status.

Petty slights, annoyances, and isolated incidents (unless particularly serious) do not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to a reasonable person, or when the actions interfere with an individual's ability to effectively perform his or her job duties on a day-to-day basis.

Prohibited conduct includes, but is not limited to:

- Offensive jokes, epithets, derogatory comments, or any other verbal or physical conduct based upon an individual's protected status;
- Ethnic slurs, graffiti, or other offensive conduct based upon an individual's protected status;
- Verbal or physical abuse, or threats of violence;
- Unwelcome physical advances, sexual pranks, sexual teasing, touching or grabbing, sexually suggestive gestures, or requests for sexual favors;
- Emailing, posting, or otherwise circulating cartoons, pictures, or any other demeaning or offensive materials in the workplaces related to an individual's protected status;

The harasser can be a supervisor, co-worker, other Department employee, or a non-employee who has a business relationship with the Department of the Military.

#### **V. COMPLAINT PROCEDURES:**

Any Department of the Military employee who believes that he or she has been the target of discrimination and/or harassment or who witness potentially offensive conduct is encouraged to caution the offender(s), either orally or in writing, to cease the unwelcome behavior.

In the event that all communication attempts with the harasser(s) have been ineffective or the employee does not wish to communicate directly with the harasser, the employee shall report the offensive conduct to a member of his or her chain of command.

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The chain of command shall be the primary means for the immediate reporting and resolution of harassment and discrimination complaints. Supervisors and other responsible Department officials who observe, are informed of, or reasonably suspect incidents of possible discrimination and/or harassment are expected to take effective measures to ensure no further apparent or alleged incidents occur. In addition, the supervisory employee must immediately report such incidents to the Department of the Military Equal Employment Opportunity (EEO) Compliance Officer. Failure of a supervisor or other official to report such incidents may be considered a violation of this policy and could result in disciplinary action up to and including termination of employment.

Should the complaint be against a member of the employee's chain of command or if the employee is especially uncomfortable in filing a complaint with his or her chain of command, the employee may bring forth his or her complaints directly to the Department of the Military EEO Compliance Officer. Formal complaints made to the EEO Compliance Officer must be received within 7 days of the most recent incident.

It is a violation of both this policy and federal law to retaliate against someone who has reported unlawful harassment. Violators of this policy may be subject to disciplinary action up to and including termination of employment.

**VI. DEPARTMENT OF THE MILITARY RESPONSIBILITIES:**

Under this policy, if the Department receives an allegation of discrimination or harassment, or has reason to believe such harassment and/or discrimination is occurring, it will take the steps necessary to ensure that the matter is investigated in a prompt, thorough, and impartial manner. If the allegation is determined to be credible, the Department will take immediate and effective action to address the issue, as deemed appropriate and in accordance with Department of the Military disciplinary policy.

As a means to promote open and frank discussions, all persons involved in the complaint and investigation process shall be subject to the confidentiality requirements. However, any threat of physical harm or disclosure of waste, fraud, abuse, or other illegal activity shall be exempt from confidentiality and will be reported to the appropriate officials. Any other violations of confidentiality requirements may be subject to disciplinary action.

**VII. EEO COMPLIANCE OFFICER RESPONSIBILITIES:**

The Department of the Military shall make it known that the EEO Compliance Officer shall be available to any employee to provide technical information on EEO matters, whether or not a complaint has been filed. Additionally, the EEO Compliance Officer shall be responsible for compilation and maintenance of documentation.

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**VIII. EMPLOYEE'S RIGHTS AND RESPONSIBILITIES:**

Employees are encouraged to report unwelcome conduct as soon as possible, as outlined in Section IV, Complaint Procedures.

The employee shall be allowed time during regular working hours to meet with the EEO Compliance Officer when the appointment has been scheduled by the EEO Compliance Officer. Excused time off may be given, with prior approval, to participate in scheduled meetings. That said, an employee shall not work on his or her complaints during scheduled working hours. Any other time off relating to his or her complaint will be subject to approved annual leave. Additionally, the employee shall not utilize Department of the Military resources for filing complaints or to prepare or respond to requests for documents, unless the forms or documents are those required by this policy or requested by the EEO Compliance Officer.

The employee may have access to relevant records and documents relevant to his or her complaint, subject to the confidentiality requirements as set out by state or federal law.

The employee, through his or her submission of an official complaint, agrees to cooperate with an investigation into the allegations. Failure or refusal to cooperate with the investigation may result in rejection or dismissal of his or her complaint. The employee may withdraw his or her complaint at any time however the Department of the Military reserves the right to continue an investigation into the allegation. At any time during the process, the employee has the right to file a complaint with the Equal Employment Opportunity Commission.