



**Arkansas Department of Military**  
Cabinet Secretary - Major General Jonathan M. Stubbs,  
The Adjutant General

**Policy Title:** Equal Employment Opportunity Policy and Complaint Procedures

**Policy Number:** 18

**Authority:**

- (1) Title VII of the Civil Rights Act of 1964 (42 USC §2000e-16)
- (2) 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)
- (6) Ark. Code Ann. § 21-3-101; §21-3-203 and §21-12-103.
- (7) Department of Transformation and Shared Services, Office of Personnel Management, Policy Title: Equal Employment Opportunity, Police Number: 17.

**Effective Date:** July 1, 2023

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**I. PURPOSE:**

The following establishes uniform equal employment opportunity provisions and complaint processing procedures for any employee of the Department of Military (DOTM) who believes he or she has been the target of harassment, discrimination, or retaliation on any protected basis.

**II. POLICY:**

The DOTM is committed to maintaining access to employment opportunities and working environments that are 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 mission.

In accordance with federal and state laws, DOTM prohibits illegal discrimination or harassment based on gender (to include sexual harassment and pregnancy), race, age, color, national origin, religion, disability, veteran status, or any other protected status.

All DOTM employees 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 shall be subject to disciplinary action up to and including termination.

This procedure shall not compromise the rights of management to direct work activity in accomplishing DOTM 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.

### **III. 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 employee, or a non-employee who has a business relationship with the DOTM.

### **IV. COMPLAINT PROCEDURES:**

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

If 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 supervisory chain.

The supervisory chain shall be the primary means for the immediate reporting and resolution of

harassment and discrimination complaints. Supervisors and other responsible DOTM 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 DOTM 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 supervisory chain or if the employee is especially uncomfortable in filing a complaint with his or her supervisory chain, the employee may bring forth his or her complaints directly to the DOTM EEO Compliance Officer. Formal complaints made to the DOTM EEO Compliance Officer must be received within seven (7) days of the most recent incident.

It is a violation of both this policy and federal and state 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.

#### **V. DEPARTMENT OF THE MILITARY RESPONSIBILITIES:**

Under this policy, if the DOTM 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 DOTM will take immediate and effective action to address the issue, as deemed appropriate and in accordance with DOTM disciplinary policy.

To promote open and frank discussions, all persons involved in the complaint and investigation process shall, to the maximum extent possible, keep all matters related to the complaint and investigation confidential. 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.

#### **VI. EEO COMPLIANCE OFFICER RESPONSIBILITIES:**

DOTM shall make it known that the DOTM EEO Compliance Officer shall be available to any employee to provide technical information on EEO matters, whether a complaint has been filed. Additionally, the DOTM EEO Compliance Officer shall be responsible for compilation and maintenance of documentation.

#### **VII. 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 a reasonable amount of time during regular working hours to

meet with the DOTM EEO Compliance Officer when the appointment has been scheduled by the DOTM 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 DOTM 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 DOTM EEO Compliance Officer.

The employee may have access to relevant records and documents relevant to his or her complaint, subject to applicable limitations as set out by state or federal law, such as, but not limited to, those documents exempt under the Privacy Act of 1974, the Health Insurance Portability and Accountability Act (HIPPA), and those related to an ongoing criminal investigation.

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 DOTM 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 (“EEOC”). Complaints may be filed by going to the EEOC’s public portal at <https://publicportal.eeoc.gov> and submitting an inquiry. Once an inquiry is submitted, an EEOC staff member will contact the employee and schedule an interview about his or her claim to determine if the EEOC is the right agency to handle his or her complaint. The EEOC will provide additional information about how to file a complaint during or shortly after the interview. For more information, an employee may contact the EEOC at 1-800-669-4000.