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WHERE AM I ON UNDERSTANDING EEO and AFFIRMATIVE ACTION?

Take a few minutes to answer the following questions:

- | | | |
|-----|----|--|
| Yes | No | I understand the personal and organizational implications of discriminatory workplace practices. |
| Yes | No | I recognize factors in the workplace that might be construed to be illegal under existing equal employment opportunity (EEO) legislation. |
| Yes | No | I know how to correct conditions that could lead to complaints of discrimination. |
| Yes | No | I know how to test decisions against the requirements of EEO and affirmative action principles. |
| Yes | No | I communicate personal and organizational commitment to EEO and affirmative action principles. |
| Yes | No | I understand that equal opportunity is not just about gender or race, but also covers groups such as the disabled and people 40 and older. |

Have you checked any answers “no”? If you have, pay particular attention to the material covered in this document that will help you get to a “yes” answer. There are legal ramifications for “no” answers that could get you or the district into serious trouble if you are uncertain about your obligations under the current laws and regulations.

Part I: Affirmative Employment

What is Affirmative Employment?

The goal of every government agency is to seek to provide full and fair employment opportunities in the work place. One of the tools the Federal government uses to accomplish this is affirmative action or affirmative employment. Essentially, affirmative employment is a conscious, deliberate effort to make certain qualified minority and female employees are given a full and fair opportunity to be represented in, and succeed in, the agency's workforce. In order to decide whether affirmative employment is necessary, you must first determine whether this specific group is already fully represented in the workforce. The way this is accomplished is through the Affirmative Employment Program planning process.

There are three affirmative employment programs that come under the auspices of the equal employment opportunity program. They are the Affirmative Employment Program Plan for Women and Minorities; the Affirmative Action Plan for the Disabled (AAPD); and the Affirmative Action Plan for Vietnam Era Veterans (DVAP). According to regulation, the AAPD and DVAP may be combined into one recruitment plan, however reporting requirements on accomplishments must be specifically identified. In response to the question as to why there is not only one plan to cover all groups, it's that there are separate laws and enforcement bodies which govern affirmative action for women and minorities versus people with disabilities and each requires a plan. However, at the Equal Employment Opportunity Commission (EEOC) plans are under-way to combine the planning and reporting requirements into a single program

Affirmative Employment Program Plan for Women and Minorities (AEPP).

The AEPP is a plan with detailed set of goals; objectives and action items developed in response to an analysis of specific EEO program areas. The analysis which included a statistical analysis of the number of women and minorities in the workforce compared against the available number in the labor force, results in the identification of barriers to effective affirmative employment efforts which then leads us to the development of the goals and with specific action items geared to resolve the problems areas. The specific program areas that are analyzed are:

- Prevention of Sexual Harassment
- EEO Organization and Resources
- EEO Workforce Profile
- Discrimination Complaints
- Recruitment and Hiring
- Employee Development Programs
- Promotions
- Separations
- EEO Program Evaluation

The objectives of an Affirmative Employment Program Plan are to:

- ✍️ Assign responsibility and authority for the program and its accomplishment to the Commander.
- ✍️ Establish a strong district policy, which affirms our commitment to equal employment opportunity.
- ✍️ Identify occupations, divisions, offices, etc., where minorities and women are underrepresented.
- ✍️ Reevaluate selection criteria to ensure it reflects job-related requirements.
- ✍️ Identify specific efforts to recruit qualified women and minorities who can meet job requirements and/or become qualified to do so, e.g., upward mobility.
- ✍️ Hold every district manager and supervisor accountable for helping achieve the objectives of the AEP.

In coordination with the Office of Counsel, the Civilian Personnel Advisory Center (CPAC), and the Special Emphasis Program Managers, the Equal Employment Manager prepares an annual Affirmative Employment Program report and update. This report provides statistical analysis of areas where we accomplished, or failed to accomplish, our goals. The officials responsible for action item accomplishment are added along with the milestones and the plan is then forwarded to the Commander for signature. Once signed, the plan is disseminated to all managers and supervisors for implementation.

How to Implement?

It is your job, as the manager or supervisor, to take a variety of positive steps to ensure that women and minorities are aware of the available positions, applies for these positions, and to give them full and fair consideration for the positions based on their qualifications and abilities. By selecting these employees from a list of qualified candidates, the manager achieves a better workforce balance. The positive steps are depicted in the AEP, which becomes your road map for implementation of affirmative employment.

Inasmuch as EEO is a management-oriented program, all supervisors and management officials are responsible for the implementation of the plan. Upon reviewing the plan individual supervisors/management should note where they are designated by position as a responsible official. You then have responsibility for accomplishing that action item within your organizational parameter. You can turn to the program analysis section to determine what and why action items are developed.

Goals v. Quotas.

The use of employment goals is controversial. Some question whether the action itself is discrimination against groups of potential employees not represented by the program. You should understand the difference between a *goal* and meeting employment *quotas*.

Keep in mind that a goal is an objective toward which an organization works. It is not a mandatory number that must be met regardless of applicant qualifications. Managers should try to fulfill goals without sacrificing qualifications and abilities. A goal is not a quota. A quota is a mandatory number of positions, which must be filled, usually by a certain date. In general, although our organization routinely establishes specific goals for the employment of women and minorities, we avoid establishing quotas. A supervisor is not required to hire specific types of employees, without regard for their qualifications.

Attitudes and Affirmative Employment:

Let's examine your attitude about others and how that might play into the affirmative employment process. Check the beliefs you agree with:

- Anyone with a physical disability is unable to produce as much as those who are not disabled.
- Minority employees have a more difficult time being accepted by the organization's customers than do non-minorities.
- People of certain religions can't work weekends.
- People who do not have a high school diploma experience difficulty reading, spelling, or calculating
- Someone who has been arrested can't be trusted as an employee.
- A person's medical history will indicate how well they can work.
- Minority employees tend to cause dissension and generate lots of grievances and/or EEO complaints.
- Minorities can usually get by on lesser salaries than non-minorities.
- Minorities who don't speak English well will not be able to follow or give directions.
- Older people approaching retirement are not stable employees.
- Veterans receiving disability payments will accept lower salaries and fewer benefits.
- Women don't devote as much time to their jobs as men do.

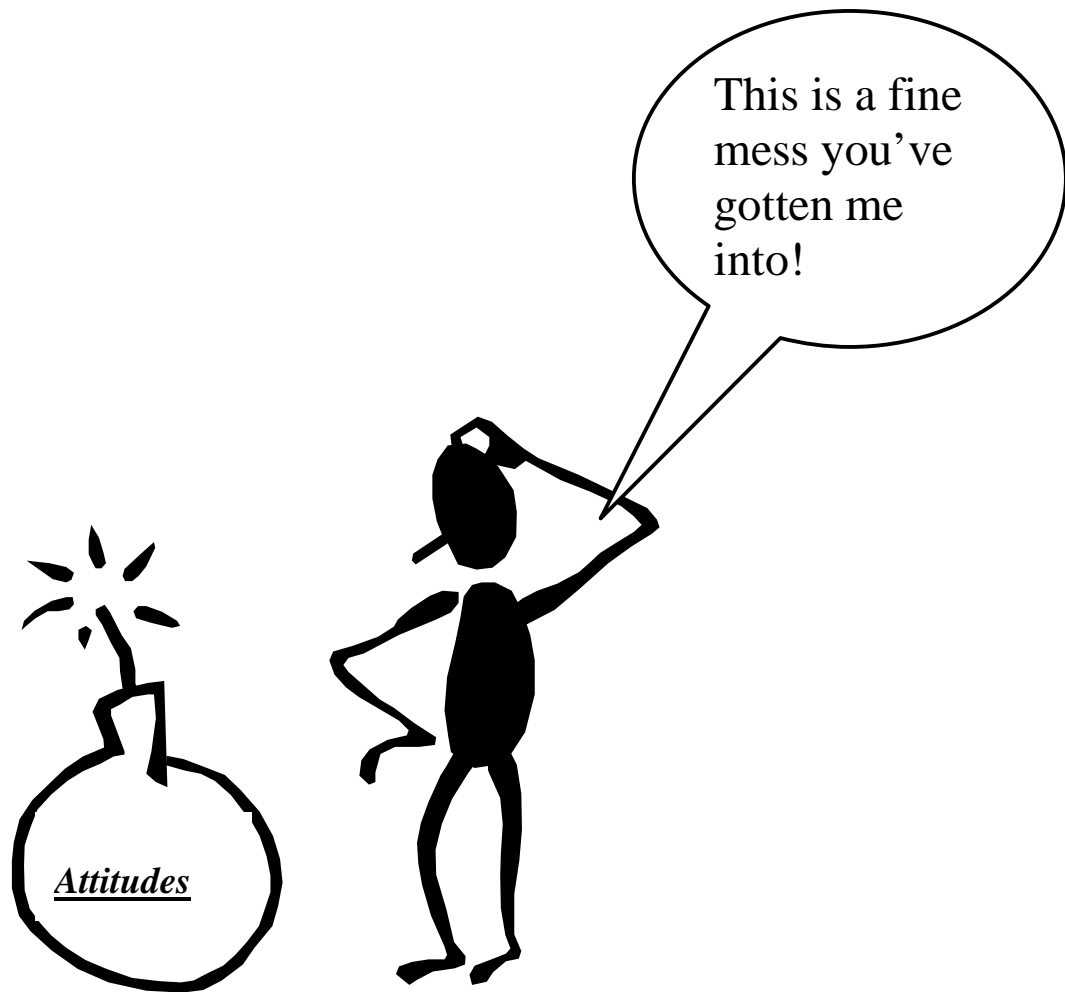
- Women bring their “home” problems to work with them.
- Men usually don’t like to work for women.
- Minorities know much more about each other than whites do.
- Women are too emotional to make good decisions.
- Qualifications are irrelevant when hiring a minority.
- Women usually don’t like to work for other women.
- I may give extra “points” or credit to a women or minority in the selection process.
- An employee’s retirement plan may be considered in the selection process.
- An employee should be able to do the job whether disabled or not.

Answer: If you agree with any of these statements, you could be headed for trouble—either legally or interpersonally. It would be a good idea to check the facts. In agreeing with any of these statements, you may be on your way to a Title VII violation (discrimination) or personally promoting the perception that you do not support equal employment opportunity.

Attitudes Affect Behavior:

Our behavior reflects our attitudes. Attitudes usually govern our actions and determine our sense of direction. Sometimes we are fully aware of this. At other times we are not. If our attitudes contain bias and prejudice, there is a very real chance these will be reflected in our work ethic and business decisions. The end result may be an inability to deal positively with some major human issues on the job. If you feel this could be happening in your case, do something about it. Education, gathering facts, examining your attitude toward women and minorities and realistic evaluation of the issues may be required.

YOU ARE RESPONSIBLE FOR YOUR ATTITUDES AND BEHAVIOR!



If leaders do not place a high value on achieving EEO goals in their organization, the effort will fail. It takes conscious effort to identify deficiencies and solve problems. Poor or unreasonable attitudes about the abilities, habits, or likely behavior of females, members of non-minority groups, and the disabled can destroy the will to accomplish EEO goals. It takes commitment to exert the effort required to maintain an appropriate work environment. If you have not already done so, now is the time for you to begin to examine your attitudes and where they came from. What are you willing to do about them?

Part II: Discrimination

Illegal Employment Practices:

The following practices reflect the direction of current legislation and the dangers inherent in careless personnel practices and techniques. Check those you need to learn more about. Then consult with the Equal Employment Manager to get the help you need.

Under Current Legislation It Is Unlawful To:

- Refuse to consider for employment, or otherwise discriminate, against any person because of race, color, national origin, sex, religion, physical/mental disability, or age.
- Show a bias when advertising vacancies for or against applicants based on race, color, national origin, sex, disability, religion or age unless you can prove your requirements are job related occupational qualifications.
- Use any screening techniques for employment or promotion (paper and pencil tests, questionnaires; etc.) that cannot be proved to be directly job-related.
- Categorize job candidates on the basis of race, color, national origin, sex, religion, or age.
- Condone or permit sexual harassment of employees.
- Segregate employees by race, religion, and national origin with respect to working areas, toilet, lockers, and/or recreational facilities.
- Cause or attempt to cause an employer to discriminate against any person because of race, age, religion, national origin, sex, or veteran's status through actions initiated by a union.
- Refuse to hire a woman because separate facilities would have to be provided.
- Perpetuate past discriminatory practices that have led to statistical imbalances in the workforce.
- Discharge, layoff, or otherwise terminate an employee on the basis of race, religion, sex, national origin or age.

The EEO Complaints Process:

Title VII of the Civil Rights Act as amended prohibits discrimination in employment. In order to comply with this Act, Department of the Army and the New Orleans District establishes policies that apply to the prohibited practice of discrimination in all employment practices. In the New Orleans District everything possible is done to insure that employees and applicants for employment are not subjected to discrimination in any form and that merit principles apply in all terms and conditions of employment. Occasions do arise, however, when employees or applicants may

perceive that they have been victims of discrimination based on sex (including sexual harassment and equal pay), color, handicap (mental or physical), age, race, national origin, religion, or reprisal. The Army has developed a complaint processing system, which is designed to ensure that the District is complying with established policy and that perceived discrimination is addressed quickly and efficiently. AR 690-600, available on the EEO Intranet web site, covers this system.

What is Discrimination?

Before proceeding into how the complaint process works, let's talk about what discrimination is and the types of discrimination an employee may claim. The term *discrimination* means making a decision based on some distinguishing, legitimate factor, which is not unlawful. *Unlawful* discrimination pertains to treating people differently for improper reasons, i.e., race, age, sex, color, national origin, and physical or mental handicap. Preventing unlawful discrimination is one of the primary purposes of the EEO program. As a manager or supervisor, you are required to use sound judgment in making routine and difficult supervisory decisions to ensure unlawful discrimination does not occur.

There are two types of discrimination recognized by the courts:

Disparate Treatment is the most common allegation a supervisor will face. Employees may claim they were treated differently because of their race, color, sex, age, nationality, religion, and or disability. This claim usually follows some form of personnel action.

Disparate Impact focuses on a system (such as promotion, training, or entrance examination) that appears to treat everyone alike, but has the *effect* of harming a particular group. An individual or a group may make the claim. If a group files the claim, it is called a class action complaint. In class action complaints, the manager rarely becomes directly involved in the issue.

Employees may claim discrimination based on eight different bases (as mentioned above). Let's explain them:

RACE: A race of people is united by a common history, nationality, or tradition. Origin determines what racial group that person belongs to, such as Caucasian (white), Negro (black), or Asian.

COLOR: Refers to the actual shade of one's skin, and may be a factor regardless of race. For instance, people in India may have dark skin tone than those of African descent.

SEX: Gender may not be considered in hiring or promotion decisions.

1. **Sexual Harassment:** This is a second form of sex discrimination. The definition centers around deliberate, repeated conducts or remarks of a sexual in nature that occur in the workplace, and are considered offensive.

2. **Equal Pay Act:** Compensating men/women differently for equal work.

RELIGION: Refers to a person's religious beliefs or affiliation, or lack of either. Religious discrimination can be used as a basis for a complaint when either the employee is treated differently or if the organization fails to make reasonable accommodation of needs required by the person's religion.

NATIONAL ORIGIN: Is a basis for discrimination involving making decisions or treating a person differently based on that person's country of origin. Complaints are usually based on treatment believed to be influenced by a person's last name, accent, or cultural heritage. This perception may grow out of statements, jokes, or other indications of bias.

AGE: Is used as a discrimination complaint by people age 40 and older. Age discrimination may involve individuals who are all over 40, however with an obvious disparity in age, e.g., 45 & 65.

PHYSICAL AND MENTAL DISABILITIES: Are defined by the Rehabilitation Act of 1973 (and subsequently, the Americans with Disabilities Act, ADA) as any person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, has a record of such an impairment, or is regarded as having such an impairment. If the aggrieved can establish his- or herself as a qualified handicapped individual, these laws require that reasonable accommodation must be made.

REPRISAL: The unlawful restraint, coercion, interference, intimidation, or discrimination against complainants, representatives, witnesses, EEO staff officials, or any other agency official responsible for processing complaints during any stage in the presentation and processing of the complaint or because of any opposition to any unlawful EEO employment discrimination. In order to be considered reprisal, the current incident of discrimination must usually have occurred within a relatively current period of time, e.g., one-year or less, from the previous Title VII activity.

The Precomplaint:

EEO Counselors are the first point of contact for employees and serve as a bridge between management and complainants. The primary goal of the EEO Counselor is the informal resolution of all complaints brought before them. In order to accomplish this, the counselor must gain the trust and confidence of both employees and management. The counselor is a fact finder—not an investigator. In the course of their duties, EEO Counselors conduct an informal inquiry concerning all allegations of discrimination. The commander must appoint EEO counselors. The names and phone numbers of counselors are posted on all official Corps of Engineers bulletin boards. It should be emphasized that the counselor's primary responsibility is to make every effort to resolve complaints in the earliest possible stages. In order to accomplish this, counselors often will make recommendations for resolution, which are usually based on precedence or case law.

Any employee or applicant who feels that he or she has been discriminated against must first discuss the concerns with an EEO Counselor. During this informal stage the counselor will:

✍️ Listen and help the employee or applicant identify the problem.

- ☞☞ Advise the employee or applicant of the right to representation.
- ☞☞ Study the problem impartially and objectively; and advise persons involved of their rights.
- ☞☞ Answer questions honestly.
- ☞☞ Examine any documents relating to the aggrieved action.
- ☞☞ Discuss the aggrieved person's problem with supervisors or management when appropriate.
- ☞☞ Conduct an inquiry into the matter giving rise to the complaint.
- ☞☞ Try to resolve the employee's or applicant's problem informally.

EEO Counselors report regularly to the Equal Employment Manager about their activities; however, they will use an aggrieved person's name only if they have written permission. The Counselor will make recommendations for action to the Equal Employment Manager.

Employees or applicants must contact the EEO Counselor within 45 calendar days of the date of the incident that caused them to complain OR, if it is a personnel action, within 45 calendar days of its effective date. This period may be extended at the discretion of the Equal Employment Manager or if the employee or applicant did not know of the time limits.

The EEO Counselor will make every effort to find a solution that is acceptable to both the aggrieved and management. The Counselor has 30 calendar days from the date of the reported problem to attempt an informal settlement. If, at the end of this time, the complaint is not resolved, the Counselor will advise the complainant of the right to file a formal complaint with the Equal Employment Manager. The counseling may continue beyond 30 days upon written approval of the aggrieved person. An additional 30 days' extension may be granted if the employee wishes to use the alternate dispute resolution process.

The Formal Complaint

If an individual decides to file a formal complaint it must be done within 15 calendar days from the date the counselor provides the "Notice of Right-to-File." The complaint must be in writing (use DA Form 2590-R, available in the EEO Office or on the EEO Intranet web site) and may be filed with the Secretary of the Army, the Equal Employment Manager, or the Commander. If the aggrieved chooses to file with an official other than the EEO Officer, he or she should also submit a copy of the complaint to the Equal Employment Manager, since that office will process the complaint. The complaint must be specific and it must be limited to the matters discussed with the EEO Counselor in the pre-complaint stage. No new allegations may be interjected at this time. Upon receipt and acceptance of a formal complaint the Equal Employment Manager will obtain the Counselor's written summary report of the informal complaint and will request an investigation from the Department of Defense Civilian Personnel Management Service Office of Complaints Investigation (OCI). OCI will request that the EEO Office send them the coun-

selor's report of the pre-complaint, any personnel records related to the complaint, statistical analysis of the workforce and any documents which would help them prepare for their investigative fact-finding conference. Sworn testimony will be taken from the complainant, any witnesses, and the appropriate principal agency witness, if any.

Alternative Dispute Resolution (ADR):

At the informal stage right through till the OCI investigator makes his appearance, ADR is an option. The Corps uses primarily conciliation and mediation as its choices for ADR.

Conciliation involves the early intervention of the Equal Employment Manager, prior to counseling, in order to facilitate communication between the disputants and reduce workplace tension.

Mediation involves the intervention of a neutral and impartial third party into the dispute. The mediator assists in clarifying issues, identifying underlying causes, and arriving at appropriate remedies to resolve the dispute. The mediator cannot impose a resolution on the parties and will protect the confidentiality of the process.

Corps employees, applicants for employment, and former employees who initiate a timely pre-complaint on matters arising during their employment with the Corps may choose to participate in ADR. Participation is voluntary.

Once the aggrieved person opts into ADR, the EEO officer will select a mediator who will coordinate logistical arrangements and proceed expeditiously to conduct the mediation. The precomplaint period is extended for up to an additional 60 calendar days to accomplish the mediation. The mediator will explain how he or she will conduct the mediation process; however, once the mediation is initiated, it should be conducted within 1-2 days. The management official responsible for taking the alleged discriminatory action will participate in the mediation. A dispute may be resolved by voluntary withdrawal of the allegations or by a settlement agreement. If the involved parties are able to reach an agreement, the mediator will coordinate a written settlement. If any issues remain unresolved, the mediator will issue a right to file notice and the complaint process can proceed.

Being Named in an EEO Complaint:

Although EEOC does not require it, the Army has termed the agency official responsible for the alleged discrimination as the "Principal Agency Witness" or PAW. Aggrieved persons also are not required to name a PAW and the EEO Counselor carefully explains this to them. However, if you are named as PAW in a complaint, you do have rights available to you.

Principal Agency Witnesses must be given an adequate opportunity to respond to the allegations made by the aggrieved person and to any documentation or witness statements presented to support the allegations. The Principal Agency Witness will also have an opportunity to respond to any documentation collected by the OCI Investigator during the investigation, which names or implicates him or her. Providing these officials with an opportunity to respond to each allegation or supportive documentation is more than just a concern regarding due process. A fully adequate

response by the Principal Agency Witness insures a complete investigative record from which a fair and impartial decision can be rendered. The PAW is also entitled to a representative of his/her choice, as long as the selection does not present a conflict of interest. The representative does not have the right to question or cross-examine the aggrieved person or any witness, but may act only as an individual's advisor during the proceedings.

If You Should Be Named:

If you are named as a Principal Agency Witness in an EEO complaint of discrimination the following is some guidance that will assist you in surviving the "process" unscathed and hopefully, facilitating a resolution.

A discrimination complaint is, by nature, an adversarial process and may ultimately result in litigation. Because of this, extra care must be exercised to avoid even the appearance of reprisal or harassment. That's easier said than done when you or your organization are on the defensive to begin with. An EEO complaint is relatively easy to file (as it should be). During administrative processing of a complaint, neither side has to prove or disprove that discrimination took place. A complaint is nothing more than an allegation. There must be some basis to it, but there need not be any proof. In other words, "I believe I've been discriminated against..." can be sufficient to take the complaint all the way into Federal Court.

Two of the most common errors made by management in a discrimination complaint are trying to prove their innocence or wrapping themselves in a cloak of righteousness. Both courses of action usually compound the problem. The first mistake (trying to prove innocence) is premature and creates a win/lose atmosphere when the counselor and the "system" are searching for a win/win compromise. Self-righteous behavior, on the other hand, stifles communication and usually ends up in a finger-pointing contest. "Successful" complaints are those that result in an informal settlement that both management and the employee can accept. A formal complaint is a failure regardless of which side "wins."

Gather all documents related to the complaint makes copies, & file them where you can easily retrieve them.

Exercise your right to have a representative. The EEO and Personnel officers and their staffs are neutral advisors and may not serve as your representative. Nor can the Labor Counselor represent you personally. A friend/colleague (whose judgment you trust) can be of considerable help by providing moral support and objectivity. Or you may retain a lawyer.

Gather your thoughts and review the decision and your actions leading to it.

Ensure that all employees and applicants are free to use the due process afforded by discrimination complaint procedures without fear of reprisal.

Assure that rights of other managers who are named as PAW's are preserved.

Assure that the mission and goals of the organization continue to be accomplished in the most effective and efficient manner.

During the investigation, keep your statements factual. Don't offer opinions unless the investigator asks for them and stick to the issues and/or allegations. A cooperative attitude is essential.

Try not to take the complaint personally. The complaint procedure is not used to indict management or individual managers. The process provides a forum for employees to air their grievances and a fact-finding method for management response.

Contact the EEO Office if you have any questions regarding your status as a PAW or about the discrimination complaint process.

Do not discuss the complaint with individuals who do not have a "need to know." Pointless discussion/debate often contributes to interoffice divisiveness and turmoil.

Above all, keep calm and remember you are setting the example for others to follow. When you overreact or visibly or verbally express anger over the complaint, you are not in control and give credence to the allegations.

If you are a PAW, you will definitely be required to give a statement as to why you made the decision that is now under dispute. When called to give a statement to an EEO official make sure that you are prepared. You have the right to request that the interview not take place until you have had time to prepare. When the interview begins, here are some additional tips to remember:

You may have a representative with you if you choose.

Listen carefully to every question.

Address any inaccuracies you believe are present in the questions as they are asked so that all your statements or objections are on the record.

Answer as truthfully as you can without guessing at answers...admit to forgetting, not knowing answers to questions, or having no knowledge of the situation or circumstances given.

Never sign anything you do not believe is 100% accurate.

Take your time and think over all answers; you should look through your records if you require information not readily at hand. Don't be rushed.

Ensure the relevant facts are included in your statement, supplementing the statement with your own information if necessary.

Read the statement carefully and do not sign it until you are confident it is accurate and properly reflects your position.

Keep a copy of everything you sign or give to the investigator.

When called as a witness in an EEO matter, the agency's representative, i.e., Labor Counselor, will first interview you. That individual will direct you insofar as responding to questions posed by the hearing official. However here are some general guidelines you might wish to follow:

Tell the truth. Nothing is easier to unravel than a falsehood.

Be yourself. Dress and speak as you always do.

Listen carefully to the questions and answer only the question you are asked. Do not elaborate on "yes" and "no" questions. These answers are sufficient.

Do not argue with the complainant's representative.

If a question cannot be answered "yes" or "no," say so and explain why.

Stay calm and tell your story exactly as you remember it.

Do not compromise your professionalism. Demeanor is very important when presenting your statement.

Sexual Harassment

Title VII of the Civil Rights Act of 1964 prohibits difference in treatment due to gender. DoD, Army HQ, USACE, division, and district policy further defines sexual harassment—repeated and unwanted behavior of a sexual nature—and establishes the parameters for handling such allegations. Supervisors and employees need to be made aware that the Army promulgates a zero tolerance policy for behaviors that are construed as sexual harassment. Sexual harassment is...unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

- ✍ Submission to such conduct is made either explicitly or implicitly a term or condition of an individual’s employment.
- ✍ Submission to or rejection of such conduct is used as a basis for employment decisions, or
- ✍ Such conduct has the purpose/effect of interfering with an individual’s work or creates an intimidating, hostile, or offensive work environment.

Before going on, we’re going to review the district’s policy on the prevention of sexual harassment and what it means to you in your day-to-day management of employees, the main points to remember are:

- ✍ Action is required whether there’s an official complaint OR no complaint
- ✍ Allegations OR potential problems must be immediately reported to Commander and Equal Employment Manager.
- ✍ Expedited investigation and processing (Section 1561).
- ✍ What is offensive is in the “eyes of the beholder.”
- ✍ We use the “reasonable person” or “reasonable victim” standard test.
- ✍ AR 15-6 investigation to determine culpability.

a. What Constitutes Unlawful Sexual Harassment? In 1990 the EEOC identified the types of sexual harassment situations that could be construed to be unlawful discrimination. Subsequent court decisions have been generally consistent with these guidelines.

TYPES OF UNLAWFUL SEXUAL HARASSMENT	
Type	Situation
I	To be considered unlawful, three conditions must be met: There must be verbal or physical conduct that is <i>repeated, unwanted, and sexual in nature.</i> The verbal or physical sexual conduct is <i>unwelcome</i> . The <i>unwelcome</i> behavior

TYPES OF UNLAWFUL SEXUAL HARASSMENT	
	is usually persistent. Acceptance or rejection of the sexual advance requests becomes the basis of a decision affecting the person's employment.
II	Verbal or physical conduct of a sexual nature interferes with a person's performance. Such behavior often creates a hostile work environment for that person, as they are intimidated by such conditions. Allowing sexually explicit language to flourish in the workplace, for instance, can lead to charges if any employee objects.
III	An employee receives an employment advantage, e.g., is hired, promoted, and given more favorable hours than given other applicants or employees, because he or she submitted to a sexual advance.
IV	A non-employee of the organization such as a contractor or customer sexually harasses an employee with the district's knowledge and the district does not take remedial action.

SEXUAL HARASSMENT CAN HAPPEN

TYPICAL FORMS OF HARASSMENT		
<i>Verbal</i>	<i>Visual</i>	<i>Physical</i>
Telling risqué jokes	Wearing suggestive attire	Touching, making physical contact
Asking for sexual favors	Staring at someone with sexual overtones	Standing too close
Comments about one's anatomy	Flirting non-verbally	A "too lengthy" handshake
Pursuing an unwanted relationship	Not wearing undergarments	
Unwanted compliments with sexual overtones	Sitting in a revealing position	

Some examples of hostile environment sexual harassment are:

A male employee complains to you that the all-male work group consistently uses profane language, and tells sexually explicit jokes/stories in the workplace. He is offended and wants the inappropriate behavior to cease.

A female employee complains to you that a male supervisor responded to her question as to whether he liked hot sauce or not, “the only thing I like hot is at home.” She states she is offended by the remark.

A female employee complains that upon entering a support office area, she was greeted by a male employee with the comment “Oh, here’s the whore-walker again...no, uhh, I meant to say, hall walker.

A management official congratulates a female project manager on a job well done with an unin- vited kiss on the cheek.

A female employee complains to you that a coworker is coming to her home in the evenings, un- solicited and unwelcome; and she has called the police for assistance. She further states the male coworker has followed her in his vehicle; has accosted her in the skyway on her lunch break and has threatened to damage her reputation at work if she continues to refuse to see him. She pro- vides proof of her allegations with a handwritten note signed by the male employee that was sent through the office mail distribution system and contains overt threats. It is your opinion that a previous personal relationship existed between the two employees, which is no longer desired by the female. The male is married.

b. What Can You Do About It?

Supervisors, protect employees, the organization—and yourself—from incidents of sexual har- assment by taking proactive, assertive actions that can help prevent sexual harassment from occurring. For starters:

You must act as a role model—walk the talk—in recognizing sexual harassment, eliminating it from the workplace, and preventing it from recurring.

Recommended Individual Actions:

- Actively demonstrate intolerance for sexual harassment.
- Encourage employees to *assertively* respond to situations/behaviors that they find offensive so that the situation may be resolved at the lowest level. Challenge employees to remain consistent and persistent in the assertive message they send—in words and in actions.
- Recognize the signs of harassment and stop it before it becomes a problem; be proactive.
- Maintain an ongoing dialogue with all employees to show your support for resolving in- stances of sexual harassment.

- When an employee makes an allegation, ask the employee to describe the behavior he/she finds offensive. Take the allegation seriously.
- Do not judge the “merit” of the complaint based on your personal standards of “unwanted” or “of a sexual nature.” Remember, the perception of the *recipient* of the behavior is what determines what’s offensive.
- At this point (or before) contact the EEO Office for advice on how to proceed. Avoid inaction; the problem will not go away, it will just go underground.

The EEOC Administrative Hearing

At this stage, an Administrative Judge (AJ), a full-time official of the EEOC, presides over the hearing to hear both sides of the complaint. The AJ acts as an impartial party on the matter. AJs hear complaints in the private sector as well as the Federal Government. While the preliminary hearing is informal and conducted telephonically, the hearing is very formal and treated like a miniature trial. Witnesses—management officials and the complainant, as well as others who may be involved—may be called to testify. All relevant documentation and evidence is provided and each side makes a final summary of how it believes the case should be solved. The burden of proof lies with the complainant. Witnesses including PAW's will not be present except as a witness testifying personally.

Dealing With the Decision:

The Administrative Judge must make a recommended finding based on the evidence presented in the record. The Department of Army EEO Office (EEOCCRA) may either reject or accept the finding. If the allegation of discrimination is supported, the organization must then seek a remedy for the complaint. On the other hand, if the allegation is unsupported, the complainant may then appeal the Army decision. He/she may also appeal if the remedy is less than he/she is seeking.

The Appeal:

If the agency has not made a final decision within 180 days of filing a formal complaint, the employee may initiate action in a Federal District Court.

The agency itself may want to appeal a decision. However, a complainant may appeal to a U.S. District Court, or a higher court, if the case is significant and she has the funds to pursue the matter. Even fewer cases reach this point before being resolved.

EXERCISE # 1: Test Your Ability to Recognize Sexual Harassment

Check any situation below that you feel would constitute sexual harassment.

- A person has been made to feel that he/she must submit to or accept sexual overtures as a condition of employment.
- A male allows his eyes to wander to a female's anatomy while having a conversation with her.
- A person has been made to feel that to submit to or to reject sexual conduct will affect his/her employment, advancement, evaluation, or work assignment.
- A female worker's inappropriate attire causes an uncomfortable distraction among male co-workers.
- Sexual conduct is intended to, or could possibly interfere with, the individual's work performance.
- A person tells a joke about blondes, women, or homosexuals.
- An individual feels sexually intimidated by the work environment.
- A female supervisor repeatedly invites a male subordinate to go out with her.
- An employee, making a friendly gesture, touches another employee and causes discomfort or annoyance.
- An employee makes an unwanted sexual advance to a person of the same sex.
- Workers stare or whistle when a woman enters the workplace or a meeting.
- Unwanted compliments about how clothing makes a person look.

Answers: Any of the situations described COULD be sexual harassment. Some are considered harassment if there is only one occurrence. If a person's work performance is affected by repeated unwelcome gestures, actions, or language, harassment has taken place. ***The recipient of the action is the one who determines "what's offensive."***

The hostile working environment concept originated out of sexual harassment cases. It is now a phrase or concept used universally in race, religion, age—all types—of discrimination. Its purpose is to indicate that the complainant's workplace environment has become polluted by several negative incidents, actions, behaviors of an adverse nature, which has resulted in a hostile environment that complainant believes to be caused by his race, age, religion, and etc.

As a manager or supervisor, you have an obligation to identify potential areas of discrimination or harassment and then act as a role model by using appropriate language and displaying behavior that supports equal employment opportunity and affirmative action.

To effectively support EEO guidelines, you must develop an awareness of the signals that tell you discrimination is taking place. This may go against your personal value system. If it does, educate yourself about the law and the possible consequences of its violation. It will help you see reasons why you must adopt a positive attitude toward EEO in your leadership style. See the chapter in affirmative employment regarding attitude.

It is increasingly essential to take an active rather than a passive role to discourage discrimination and to support policies and procedures. For good reasons, EEO is here to stay.

Part III: Hostile Working Environment.

Perpetuating Discrimination

Perpetuating discrimination is something you may be doing unconsciously. Usually it is based on your personal values, or the way your role models operate, or merely because that is the way things have always been done. Your values were set early in life. Your parents, teachers, local politics, the economy, music, religious influence, the media, and many other elements that played a role in your life influenced them. Ask yourself:

When you assign a project to a member of your staff, question whether you may be discriminating (are you acting on unconscious perceptions regarding abilities?).

The way that you develop-or neglect to develop-your staff for promotional opportunities may be discriminatory (are you only developing those you “like” or yell the loudest?).

How you hire, promote, fire, or select candidates for layoff may be violations of EEO laws. (Are you considering non-job related factors such as “he/she needs the money more than X?”)

To continue practices that perpetuate discrimination is illegal, whether it is done consciously or unconsciously!

Ten Unforgivable Mistakes:

Behaviors that perpetuate discrimination, harassment, or unfair treatment must be avoided if we are to succeed in providing equal employment opportunities and practices in this country. Managers and supervisors must look at their own behaviors—as well as those of employees—that are inappropriate and lead to unfair treatment. Check the behaviors that you feel need to change in your organization.

- ✘ Ignoring employees who discriminate or harass—knowingly or unknowingly.
- ✘ Considering ethnic joke telling as harmless fun.
- ✘ Selecting individuals for employment, promotion, layoff, projects based on personal preferences instead of job requirements.
- ✘ Neglecting opportunities to train women and minorities to become promotable.
- ✘ Asking questions about age, high school or college completion dates, marital status or family obligations during pre-employment interviews.

- ✍ ✍ Creating a project team, task force, or management group that excludes women or minorities.
- ✍ ✍ Continuing to pay different salaries to a management group that excludes women or minorities.
- ✍ ✍ Allowing pictures of scantily clad men/women in the workplace.
- ✍ ✍ Failing to provide training for managers and supervisors so that they are not in compliance with equal employment opportunity laws.

EXERCISE #2: Stay Alert for Signs of Discrimination

It is important to recognize signals that suggest discrimination. Ignoring subtle indicators of discriminatory practices can lead to BIG problems.

Following are signals that suggest discrimination is taking place. Put a check in front of any that you know exist in your organization. Then set up an action plan to correct the discriminatory practice.

- Employees are segregated
- There is no formal statement of EEO policy
- Ethnic jokes are told in public and not discouraged by management
- Women are poorly represented in management positions
- Minorities are poorly represented in management positions
- Employees are encouraged to attend “all male” or “all minority” meetings and functions
- Women and minority applicants are declined positions more frequently than men and non-minorities
- Opportunities for career improvement are not routinely offered to women and minorities
- Men and women are paid different salaries for comparable work
- There are few minority employees, in the lower paying jobs
- There is a significant lack of employees over 40
- There is no written affirmative action plan
- Provisions for the disabled do not exist at entrances, in rest rooms or in parking lots
- Women are treated differently than men in most aspects of the work
- Management’s attitude is that sexual harassment is brought on by the victim or that it does not exist
- Managers use the word “qualified” to discuss people of color candidates for positions—but never use the word “qualified” when discussing white applicants?
- Staff turnover is higher among people of color and or women

- ✘✘ It is assumed that a person of color was employed only because of affirmative action and is probably not qualified for the job.
- ✘✘ It is the responsibility of minority employees to educate whites about their culture
- ✘✘ We should all just concentrate on doing the job we're paid to do
- ✘✘ It is the aggrieved person's responsibility to tell perpetrator of sexual harassment to stop
- ✘✘ EEO is only for people of color, women, and the disabled.

EXERCISE #3: What you know About Your Work Environment

T	F	
		1. EEO laws are justified.
		2. Women have always been paid what they are worth in comparison to men.
		3. Minorities have vivid imaginations, which leads them to believe they are discriminated against.
		4. Title VII, Civil Rights Act of 1964 prohibits discrimination on the basis of color, race, religion, sex, or national origin.
		5. The Age Discrimination in Employment Act of 1967 protects persons between the ages of 40 and 70.
		6. Handicapped individuals are defined as persons who have a record of physical or mental impairment, history of alcoholism, asthma, diabetes, epilepsy, or other diseases that severely limit any major life activity.
		7. The 1980 Sexual Harassment Guidelines provide that an employer is responsible for the acts of its agents and supervisory employees with respect to sexual harassment.
		8. It is O.K. to use paper and pencil tests to screen applicants if you feel these instruments help you make a hiring decision.
		9. The Family and Medical Leave Act of 1993 (FMLA) allows fathers to take family care absence for the birth of a baby.
		10. According to the Americans with Disability Act, an employer should disqualify an applicant who requires special equipment, furniture, or workspace needs.
		11. Affirmative action includes seeking job opportunities for the handicapped, disabled veterans and Vietnam-era veterans.
		12. It is possible that sexual harassment charges can be filed against the supervisor or person accused of the harassing as well as the employer.
		13. There is little the supervisor can do to promote equal employment opportunity.
		14. Performance-based decision-making is essential when handling personnel matters.

The only correct “False” answers are numbers 2, 3, 8, 10, and 13.

EXERCISE #4: Do Not Perpetuate Discrimination

Anytime a manager or supervisor makes a decision involving employees, he or she has an opportunity either to discriminate against them or to support equal employment opportunity.

Mark any practice you feel perpetuates discrimination in the organization. Then check your responses at the bottom of the page.

- 1) Refusing to hire a pregnant woman because she may elect to stay home after the birth.
- 2) Not scheduling older workers for training because it would be a waste of time and money.
- 3) Giving a disabled individual special consideration in meeting production goals.
- 4) Eliminating qualified persons from consideration for a job due to lack of formal education when education is not a job requirement.
- 5) Hiring qualified minority applicants regardless of the personal bias of customers.
- 6) Allowing an employee time off for religious activities, or allowing religious practices on company time so long as it doesn't affect production.
- 7) Judging candidates for hire or promotion by including more than just their ability to perform the job.
- 8) Selecting an employee for a project should be focused on the top performers.
- 9) Identifying candidates for layoff should never include minorities.
- 10) Promoting young men within the company will ensure stable and consistent management in the future.

ANSWERS: Following the practices outlined in 1, 2, 3, 4, 7, 9 and 10 can lead to serious problems and certainly supports discrimination.

Part IV: Special Emphasis Program—What is It?

What is the Special Emphasis Program? SEP stands for the Special Emphasis Programs, which is an integral part of the overall Equal Employment Opportunity Program. The SEP strives to ensure equal employment opportunity in the hiring, advancement, training, and treatment of women and minorities. The SEP provides a means of incorporating EEO goals into the Corps' everyday personnel relations.

a. Under What Authority Does the SEP Operate? AE 690-12 dated 4 March 1988, establishes policies and procedures governing equal employment opportunity and affirmative action in the Department of the Army (i.e., Corps of Engineers).

b. Who Administers the SEP? The New Orleans District Equal Employment Manager is responsible for managing the affirmative employment program and the Special Emphasis Program for the New Orleans District. The SEP is part of the total EEO program and allows for the proactive awareness initiatives necessary to maintain an effective EEO program.

c. Points to Remember:

Policies, regardless of how well written, are meaningless unless meaningful effort is devoted to making them work.

Effort that is undirected by specific and meaningful initiatives is inadequate.

Dedicated supervisors and managers who are committed to an equal opportunity environment for all are what make the program effective.

d. Who Does the SEP Represent? Within the New Orleans District the SEP, by regulation, represents a unified commitment to those individuals serviced by the:

Federal Women's Program

Hispanic Employment Program

Black Employment Program

Individuals with Disabilities Program (SNAP, Special Needs Action Panel)

e. Is the SEP an Advocate of Preferential Treatment? No. Every manager and supervisor has the responsibility to provide equitable treatment of all employees and to assure equality for all women and minorities in all aspects of employment.

f. What is the Role of the SEP Manager? The New Orleans District Equal Employment Manager, along with her four Special Emphasis Program Managers, is responsible for providing leadership, direction, and technical guidance to the SEP Committee (SEPC); assuring actions planned are supportive of the EEO program and affirmative employment goals.

g. Why were the SEP and SEPC Created? The SEP was created to assist the district in its efforts to achieve a workforce in which women, minorities, and people with disabilities are fully repre-

sented through out the organization. The SEPC provide an opportunity for more individuals to become involved and to contribute to the district affirmative employment goals.

h. Acting Affirmatively. The intent of the special emphasis program is to:

Assist in the development and implementation of the AEP.

Follow through until the desired results are achieved.

Model and disseminate equal employment opportunity principles and practices.

i. Who Can Join the SEPC? You can! Everyone is encouraged to participate. You don't need to be a woman, a minority, or a person with a disability. You only need the motivation to help accomplish the goals of EEO.

j. How Does the SEPC Interface with the Community? The SEPC maintains regular contact with local groups and organizations concerned with improving employment and career opportunities for women, minorities, and people with disabilities. Good community relations are built through the sharing of information and resources.

Through their activities, these four Special Emphasis Program Committees support workshops, seminars, and training that promote affirmative employment and inform employees on how to advance their careers. Watch your bulletin board for SEPC activity notices.

Part V: Diversity [EEO, Affirmative Action, and Diversity: What's the Difference?]

One of the most common misconceptions about diversity is that it is really only affirmative action or EEO with a new name. Although this is not true, EEO, affirmative action, and diversity efforts are not mutually exclusive and can ideally support one another. Outlining the differences will be critical in getting people to respond positively.

EEO and Affirmative Action serve *social* purposes. Diversity management, on the other hand, serves *economic* purposes. Diversity management differs in purpose, approach, character, and scope.

EEO and Affirmative Action were designed to eliminate barriers to employment opportunities certain group's face and combat racism and prejudice in hiring practices. In defending against prejudice, EEO denies differences among people. Being different was equated with being inferior. Therefore, equal access and opportunity.

Affirmative Action was created to overcome barriers certain groups faced due to historical racism, prejudice, and bias. The negative here is that this can be seen as patronizing and tends to perpetuate the traditional belief that being different is a mark of inferiority. Even so, meeting affirmative hiring goals is often impossible, with companies being unable to retain recruits hired toward that end.

Diversity management suggests that success be based less on assimilation and more on inclusion, differences and all. The goal is to seek out and encourage the new perspectives and approaches to situations that different employees bring to work.

To value and capitalize on the differences people bring to their work, organizations must be willing to make whatever changes are necessary—systems, rules, procedures, management practices—that unintentionally give certain people advantages over others. Diversity Management is different from Equal Employment Opportunity and Affirmative Action in purpose, approach, character, and scope:

EEO and Affirmative Action	Diversity Management
<p>Social purposes.</p> <p>Fueled by legal or moral concerns.</p> <p>Designed to combat racism and prejudice in hiring practices.</p> <p>Reactive. Sets recruitment hiring goals and monitors compliance.</p> <p>Set up to overcome barriers certain groups faced due to racism, prejudice, and bias.</p> <p>Being different traditionally seen as mark of inferiority.</p> <p>Equal rights means everyone is treated the same.</p> <p>Denies differences among people.</p> <p>Differences became sore points or problem areas.</p>	<p>Economic purposes.</p> <p>Fueled by “good business.”</p> <p>Designed to increase productivity and profitability in businesses and organizations.</p> <p>Proactive. Uses a variety of tools, programs, procedures, and strategies to maximize each person’s contributions.</p> <p>Looks at the current situation and moves forward to make the most of it.</p> <p>Leaders realize being “different” does not mean “inferior.” Different is normal.</p> <p>Realizes that different people value different rewards.</p> <p>Confronts reality of differences and acknowledges them.</p> <p>Values difference and strive to turn them into advantages by translating them into a company’s assets.</p>

What Is Diversity?

Diversity refers to the ways people differ from each other. These ways are significant and there are plenty of them:

Culturally, we vary in:

Gender

Age

Ethnicity

Race

Sexual orientation

Educational background

Religion

Physical/mental ability

Lifestyle

Immigrant status

Language facility

Functionally, we vary in the ways we:

Think

Learn

Process information

Respond to authority

Show respect

Reach agreements

Historically, we also vary in:

Family make-up

Perspective

Political outlook

Inter-group relationships

So there are Differences. So What? When work groups are made up of people with many backgrounds, cultures and lifestyles, promoting teamwork and smooth interactions can be quite a challenge. Finding new ways to work together will require thinking about people's differences—not to divide, separate or exclude, but to take advantage of those differences. We need to create environments that welcome and encourage the benefits of diversity.

EEO Guidelines For Managers and Supervisors

You must protect the rights of your employees and the agency under current EEO legislation. The following guidelines suggest a positive way to do so.

EEO legislation is complex and is constantly being tested and interpreted in the courts. Be alert for changes. When in doubt about how to proceed, seek the advice of your legal or equal employment opportunity advisers.

Create and maintain an atmosphere within your organization that demonstrates you are aware of and *support* equal employment policies.

Refuse to permit discriminatory acts of any type by anyone in your organization. Racial slurs, jokes, and sexual harassment are offensive and have no place on the job. Even seemingly small incidents can make people *uncomfortable* and lead to charges of discrimination and subsequent investigations.

Part VI: Roles and Responsibilities

Analyze the positions you supervise to ensure the qualifications required of the people who fill them are based on job-related requirements. Be sure non-discriminatory practices are being followed in all recruitment and hiring activities involving you. Look for possible inequities in pay, job assignments, special projects, training and promotional practices under your jurisdiction and correct them.

Fully implement the district's Affirmative Employment Program Plan and, whenever possible, lend your expertise to their development. Make an effort to support and assist qualified females, minorities, and disabled employees to advance within your organization.

Document any disciplinary action you take. Also, carefully document your reasons for selection, termination, transfer, promotion, or other personnel action. Be sure your documentation is adequate to support the action. If there is any doubt, check with a higher authority.

Do not retain unsatisfactory performers for any reason. Make every reasonable effort to help them meet standards and document these efforts. Then, if they can't do the job, terminate them or move them to a position in which they can adequately perform.

Develop A Personal Action Plan

Reflect for a moment on what you have been learning—then develop an action plan to apply these concepts.

Think about the material you have read. Review the self-analysis questionnaires. Re-think the case studies and examples. A clear plan of action based on what you don't know will assist you to clarify your goals. Also, you should have learned some things about yourself. What are they? Make a commitment to yourself to develop a personal action plan to assist you in dealing with any EEO problems you encounter.

My Personal Action Plan

My current knowledge of equal employment opportunity laws and the district's Affirmative Employment Program Plan is: ADEQUATE_____ NEEDS IMPROVEMENT_____

I need to improve my knowledge and understanding in the following areas.

My goals for improving the status of my organization under the district's Affirmative Employment Program Plan are as follows: (Be sure they are specific, attainable, and measurable.)

The following people and resources can help me achieve my goals.

Following are my action steps along with a timetable to accomplish each goal.

Part VII: Summary of Federal EEO Laws and Orders

***CIVIL RIGHTS ACT OF 1866 (42 USC 1981)**

This law, known as section 1981, guarantees all persons the same right to make and enforce contracts that “white citizens” enjoy. It has been construed to cover virtually all private contractual arrangements including employment. Race is covered but sex and religion are not.

***TITLE VII, CIVIL RIGHTS ACT OF 1964 (AS AMENDED BY EEO ACT of 1972)**

Prohibits discrimination on the basis of color, race, religion, sex, or national origin. Covers all employers with 15 or more persons, all educational institutions, public and private, state and local governments, public and private agencies, and labor unions with 15 or more members, joint labor-management committees for apprenticeship and training. Prohibits practices identified by statistically determined adverse impact as well as intentional unequal treatment. Decisions concerning hiring, placement, training, promotion, termination, and layoff are covered. Title VII established the EEOC (Equal Employment Opportunity Commission) to enforce the law. The amendment in 1972 enables the EEOC to enforce Title VII through court action.

***EXECUTIVE ORDER 11246 (AS AMENDED BY EXECUTIVE ORDER 11375)**

Requires an Affirmative Action Plan from all federal contractors and subcontractors that firms with contracts over \$50,000 and 50 or more employees develop and implement written programs to be monitored by the Department of Labor. Revised order 4 covers under utilization of females and minorities and Rile 410:2741 covers payment of dues in private clubs that discriminate on the basis of race, sex, religion and national origin.

***AGE DISCRIMINATION IN EMPLOYMENT ACT OF 1967**

Prohibits employers of 20 or more persons from discriminating against persons between age 40 and 70 in any area of employment because of age. Some apprenticeship programs, retirement, and/or benefit systems are excepted from these prohibitions. A number of states also have age laws and a few protect all ages. The subsequent Age Discrimination Act 1975 prohibits discrimination on the basis of age against all persons 40 or older by any employer receiving Federal money.

***PUBLIC LAW 103-353, THE VETERAN’S REEMPLOYMENT RIGHTS (VRR) LAW**

The new 1994 statute expands the rights of servicemen and women who return to the workforce after a period of military service. The law broadly extends an employer’s responsibility for providing COBRA coverage, increases the time that individuals can be away from the job and still maintain rights to reemployment, exposes employers to potential liability for service-related injuries, and expands the employer’s responsibilities for making up contributions in pension plans. Regulations detailing compliance with the law may not be published for sometime, even though some of the law’s provisions are already effective.

*FREEDOM OF INFORMATION AND PRIVACY ACT OF 1974

Provides citizens with access to information on public officials and information compiled by the CIA and FBI. This act covers only government employees and provides them access to all information maintained and used in the hiring process, to grant salary increases and promotions and allows for such information to be contested or rebutted in a written document that must be maintained in the same file.

*AMERICANS WITH DISABILITIES ACT OF 1990 (ADA)

The purpose of this act is to make it easier for disabled persons to hold jobs, travel, use public telecommunication services, and integrate into society. The act prohibits discrimination based on disabilities in the areas of employment, public services, public transportation, public accommodations, and telecommunications. Disabilities include visual, speech, hearing and orthopedic impairments, tuberculosis, HIV infection, and AIDS, cerebral palsy, epilepsy, muscular dystrophy's, multiple sclerosis, cancer, heart disease, diabetes, mental retardation and psychiatric disorders.

*CIVIL RIGHTS ACT OF 1991 (CRA)

Amends Title VII, Civil Rights Act of 1964, Age Discrimination in Employment Act of 1967, and Americans with Disabilities Act of 1990. It creates the right to a jury trial and allows for recovery of compensation and punitive damages for intentional discrimination under Title VII. It encourages employers to establish and use a "grievance" or "open-door" policy to resolve problems before they become big. It addresses racial harassment on the job, the ability of employees to challenge discriminatory seniority systems, the rights of US citizens working outside the US, enforcement procedures under the Age Discrimination in Employment of 1967, and solutions under the Americans with Disabilities Act of 1990.

*FAMILY AND MEDICAL LEAVE OF 1993 (FMLA)

Provides opportunities to balance the demands of the workplace with the needs of families. The Act is designed to permit eligible male and female employees to take up to 12 weeks of unpaid, job-protected leave within a 12 month period, for the birth, adoption or foster care of a child, to care for a sick child, spouse or parent who has a serious health condition, or for their own serious health condition.

Part VII: Summary Of The Federal EEO Laws and Orders

*SECTION 717 OF TITLE VII

In the 1972 amendments of Title VII of the Civil Rights Act (Section 717, 42 USC 2000e-16), the Congress required agencies to maintain affirmative employment programs to ensure enforcement of Federal equal employment opportunity policy; to apply the same legal standards to prohibited discrimination established for private employers to the Federal Government; and to eliminate discrimination that Congress found existing throughout the Federal employment system.

In enacting these requirements, Congress cited the need to eliminate discrimination in Federal employment. This discrimination was evidenced (1) by serious under representation and exclusion of minorities and women in specific areas, agencies, regions, and grade levels; and (2) by systemic institutional barriers operating through various civil service rules and procedures, particularly non-job related selection and promotion techniques.

*EXECUTIVE ORDER 11478

The purpose of this Executive order as amended by Executive order 12106 is to establish the policy of the Government of the United States to provide equal opportunity in Federal employment because of race, color, religion, sex, or national origin, and to promote the full realization of equal employment opportunity through a continuing program in each executive department and agency. This policy of equal opportunity applies to and must be and integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of civilian employees of the Federal Government ... The head of each executive department and agency shall establish and maintain an affirmative program of employment opportunity for all civilian employees and applicants for employment within his jurisdiction.

Part VIII: EEO Terms and Definitions

Acronyms

ADEA – Age Discrimination in Employment Act

AEP- Affirmative Employment Program

AEPP- Affirmative Employment Program Plan

AI/AN- American Indian/Alaskan Native

AI/ANEP- American Indian/Alaskan Native Employment Program

AJ – Administrative Judge

AA/PI- Asian American/Pacific Islander Employment Program

AA/PIM- Asian American/Pacific Islander Employment Program Manager

ARNG- Army Reserve National Guard

ASA (M&RA)- Assistant Secretary of the Army (Manpower and Reserve Affairs)

BEP- Black Employment Program

BEPM- Black Employment Program Manager

BIG- Blacks in Government

CAD- Census Availability Data

CFR 1614 – Code of Federal Regulations on Federal Sector Equal Employment Opportunity

COE - Chief of Engineers

CPAC - Civilian Personnel Advisory Center

CPEA - Civilian Personnel Evaluation Agency

CPM – Career Program Manager

CPO- Civilian Personnel Officers

CPOC- Civilian Personnel Operations Center

DA- Department of the Army

DCPDS- Defense Civilian Personnel Data System

DCSPER- Deputy Chief of Staff for Personnel

DoD- Department of Defense

DVAAP- Disabled Veterans Affirmative Action Program

EPA – Equal Pay Act

EEO- Equal Employment Opportunity

EEOC- Equal Employment Opportunity Commission

EEOO- Equal Employment Opportunity Officer

EEOCCRA- Equal Employment Opportunity Compliance & Complaints Review Agency

FAD – Final Army Decision

FAR- Federal Acquisition Regulation

FEORP- Federal Equal Opportunity Recruitment Program

FWP- Federal Women’s Program

FWPM- Federal Women’s Program Manager

FY- Fiscal Year

GSA- General Services Administration

HBCU- Historically Black Colleges and Universities

HEP- Hispanic Employment Program

HEPM- Hispanic Employment Program Manager

HSI Hispanic Serving Institutions

HQDA- Headquarters, Department of the Army

MACOM- Major Army Command

MER – Management-Employee Relations

MI- Minority Institutions

MSPB- Merit Systems Protection Board

NAACP- National Association for the Advancement of Colored People

NAFEO- National Association for Equal Opportunity in Higher Education

OASA (M&RA)- Office of the Assistant Secretary of the Army (Manpower and Reserve Affairs)

OCI – Office of Complaints Investigation

OPM- Office of Personnel Management

PIWD- Program for Individuals with Disabilities

PMIWD- Program Manager for Individuals with Disabilities

RNO- Race or National Origin

ROTC- Reserve Officer Training Candidate

SAMR-SFECR - Secretary of the Army (Manpower and Reserve Affairs) – Equal Employment Opportunity Agency

SEP- Special Emphasis Program

SEPM- Special Emphasis Program Manager

TAPES – Total Army Personnel Evaluation System

USACPEA- United States Army Civilian Personnel Evaluation Agency

USAR- United States Army Reserves

Terms

Affirmative Employment. Action taken to provide equal employment opportunity in hiring, promotion, training, recognition, and all other aspects of employment to minority group members, women, individuals with disabilities and disabled veterans.

American Indian/Alaskan Native. Used to describe the 510 federally recognized tribes, including the 200 Alaskan Native groups such as Eskimos and the Aleuts.

Asian American/Pacific Islander. Is a person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands.

Discrimination. Illegal treatment of a person or group based on race, color, national origin, religion, sex, age, or handicap.

Disparate Treatment. Treating an employee of another race, religion, sex, color, or national origin differently.

Equal Employment Opportunity. The right of all persons to work and advance on the basis of merit, ability, and potential, free from social, personal, or institutional barriers of prejudice and discrimination.

Individual with Disability. An individual who has a physical or mental impairment that substantially limits one or more major life activity, has a record of such impairment, or is regarded as having such an impairment.

Hispanic. A person of Puerto Rican, Mexican, Cuban, Central or South American, or other Spanish culture or origin regardless of race.

Minority. A person having origins in Black racial groups of Africa, Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin regardless of race, Asians, Pacific Islanders, American Indians or Alaskan Natives.

Qualified handicapped individual. Employees or applicants who are disabled, yet capable of performing the major functions of a particular job, with or without reasonable accommodation.

Reverse Discrimination. A mis-used term, meaning the hiring, promoting, training, or retaining unqualified or non-performing minorities over white males. This term is incorrect in that discrimination is discrimination—and is all illegal.

Sexual Harassment. Deliberate or repeated, unsolicited verbal comments, gestures or physical contact of a sexual nature that are unwelcome.

Underutilization. Having fewer minorities or women in a particular job group than would reasonably be expected by their availability in the job market.

Veterans. *Disabled veterans*: Persons entitled to compensation for a disability incurred or aggravated in the line of duty that caused release or discharge from active duty.

Vietnam era veterans: Persons who served on active duty for more than 180 days during the Vietnam Era and were discharged or released with other than a dishonorable discharge, or were discharged or released due to a disability which was incurred during the Vietnam Era