



Department of Defense Education Activity REGULATION

NUMBER 5713.9
April 17, 2009

DME0

SUBJECT: Equal Employment Opportunity Program

- References:
- (a) DoDEA Regulation 5713.9, "Equal Employment Opportunity Program" March 2, 2004 (hereby canceled)
 - (b) Part 1614 of title 29, Code of Federal Regulations
 - (c) DoD Directive 1440.1, "The Civilian Equal Employment Opportunity (EEO) Program," May 21, 1987, as amended
 - (d) Equal Employment Opportunity Commission (EEOC) Management Directive (MD) 110, "Federal Sector Complaints Processing Manual," November 9, 1999, as amended
 - (e) EEOC MD 715, effective October 1, 2003
 - (f) Section 2301 of title 5, United States Code
 - (g) Public Law 107-174, "Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002," May 15, 2002
 - (h) Title VII of the Civil Rights Act of 1964
 - (i) Title I of the Americans with Disabilities Act

1. PURPOSE.

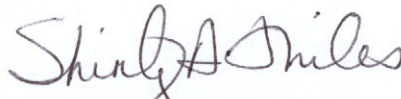
This Regulation reissues Reference (a) to update the Equal Employment Opportunity (EEO) policies and responsibilities for the Department of Defense Education Activity (DoDEA) under References (b) through (e).

2. APPLICABILITY.

This Regulation applies to the Office of the Director, Department of Defense Education Activity; the Director, Domestic Dependent Elementary and Secondary Schools, and Department of Defense Dependents Schools, Cuba (DDESS/DoDDS-Cuba); the Director, Department of Defense Dependents Schools, Europe (DoDDS-E); the Director, Department of Defense Dependents Schools, Pacific, and Domestic Dependent Elementary and Secondary Schools, Guam (DoDDS-P/DDESS-Guam); and all DoDEA employees and applicants for employment with DoDEA.

4. POLICY. It is DoDEA policy that employment practices will adhere to Reference (c), which:
- a. Ensures equal employment opportunity for all employees and applicants for DoDEA employment.
 - b. Prohibits discrimination based on race, color, religion, sex, national origin, age, physical or mental disability, reprisal and/or retaliation.
 - c. Prevents restraint, interference, coercion, harassment (sexual or non-sexual), discrimination, or reprisal against persons who oppose discrimination or who take part in presenting or processing discrimination complaints.
 - d. Promotes the full realization of equal employment opportunity through a continuing Affirmative Action Program.
 - e. Ensures the development, implementation, and evaluation of the Affirmative Action Program for Minorities and Women, Persons with Disabilities, and Special Emphasis Programs, to assure that DoDEA's workforce is reflective of the nation's diversity.
 - f. Ensures fair, impartial, and timely investigation and resolution of complaints of discrimination in employment, including harassment.

5. EFFECTIVE DATE. This Regulation is effective immediately.



Dr. Shirley A. Miles
Director

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ENCLOSURE

RESPONSIBILITIES

1. Director, DoDEA. The Director, DoDEA, as Diversity Management and Equal Opportunity (DMEO) Director, shall:
 - a. Plan, manage, and direct the DoDEA DMEO office and its subordinate elements in accordance with Reference (c).
 - b. Exercise authority, direction, and control over the DoDEA Chief, DMEO.
 - c. Allocate sufficient staff and resources to ensure a viable EEO program.
2. Chief, DMEO. The DoDEA Chief, DMEO, under the authority, direction, and control of the Director, DoDEA, shall:
 - a. Advise the Director, DoDEA, on EEO matters.
 - b. Develop and implement policies and procedures in support of the DoDEA DMEO Program and in accordance with Reference (c).
 - c. Develop and implement Affirmative Action initiatives for minorities, women, people with disabilities, and disabled veterans.
 - d. Develop and implement diversity initiatives throughout the agency.
 - e. Identify and correct/eliminate systemic barriers and discriminatory practices that impede cultivation of a diverse workforce.
 - f. Resolve disputes at the lowest possible level utilizing alternative dispute resolution techniques.
 - g. Develop and issue the following reports at the close of the fiscal year, according to References (b), (e) and (g):
 - (1) EEOC Form 462: Annual Statistical Report of Discrimination Complaints
 - (2) EEOC MD-715 Annual Report: Affirmative Action Programs
 - (3) No FEAR Act Report
 - h. Forward subparagraph g reports to the EEOC for use by the United States Congress , EEOC, and Attorney General.

i. Distribute reports listed in subparagraphs g(1) through g(3) within DoDEA to all directors and pertinent administrators, managers, and supervisors.

j. Coordinate with DoDEA administrators, managers, and supervisors on the establishment and maintenance of an EEO Affirmative Action Plan applicable to their areas of responsibility.

k. Process complaints of discrimination.

l. Resolve workplace disputes at the lowest possible level.

m. Design and implement audit and reporting systems that will measure DMEOP Program effectiveness.

n. Render final DoDEA decisions and orders in discrimination complaint cases for review and signature by the Director, DoDEA, in accordance with Reference (b).

o. Supervise and manage the day-to-day operations of the EEO Program.

3. The Director, DoDEA, and the DoDEA Chief, DMEOP, are the designated officials to receive formal complaints of discrimination.

GLOSSARY

PART I. ABBREVIATIONS AND ACRONYMS

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| DMEO | Diversity Management and Equal Opportunity |
| DoDEA | Department of Defense Education Activity |
| EEO | Equal Employment Opportunity |
| EEOC | Equal Employment Opportunity Commission |
| MD | Management Directive |
| No FEAR Act | Notification and Federal Employee Anti-Discrimination and Retaliation Act |

PART II. DEFINITIONS

Affirmative Action. A tool to achieve equal employment opportunity. A program of self-analysis, problem identification, data collection, policy statements, and reporting systems, designed to eliminate discriminatory policies and practices, past and present.

age. A prohibited basis for discrimination. For purposes of this Regulation, persons protected under age discrimination provisions are those 40 years of age or older, except when a maximum age requirement has been established by statute or the Office of Personnel Management.

color. A prohibited basis for discrimination. Illegal treatment based on an individual's skin pigmentation (lightness or darkness), complexion, shade or tone. Such discrimination can occur "between persons of different races or ethnicities or even between persons of the same race or ethnicity."

disability. A prohibited basis for discrimination. Title I of the Americans with Disabilities Act of 1990 prohibits discriminating against qualified individuals with disabilities in job application procedures, hiring, firing, advancement, compensation, job training, and other terms, conditions, and privileges of employment. An individual with a disability is a person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such an impairment; or is regarded as having such an impairment.

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

diversity. Accepting and valuing the collective talents, skills, abilities, characteristics, attributes, and contributions of ALL employees in pursuit of organizational objectives.

EEO. 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.

harassment. Unwelcome conduct that is based on race, color, sex, religion, national origin, disability, and/or age. Harassment becomes unlawful where (a) enduring the offensive conduct becomes a condition of continued employment, or (b) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive. Anti-discrimination laws also prohibit harassment against individuals in retaliation for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or lawsuit under these laws; or opposing employment practices that they reasonably believe discriminate against individuals, in violation of these laws.

harassment (sexual). A form of sex discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature, when the conduct explicitly or implicitly affects an individual's employment, unreasonably interferes with an individual's work performance, or creates an intimidating, hostile, or offensive work environment.

minorities. All persons classified as black/African American (not of Hispanic origin), Hispanic, Asian, Native Hawaiian/Other Pacific Islander, American Indian/Alaskan Native, or two or more races.

national origin. A prohibited basis for discrimination. An individual's place of origin or his or her ancestor's place of origin, or the possession of physical, cultural, or linguistic characteristics of a national origin group.

race. A prohibited basis for discrimination. For purposes of this Regulation, all persons are classified as black/African American (not of Hispanic origin), Hispanic, Asian, or Native Hawaiian/Other Pacific Islander, American Indian/Alaskan Native, White, or two or more races.

religion. A prohibited basis for discrimination. Traditional systems of religious belief and moral or ethical beliefs as to what is right and wrong that are sincerely held with the strength of traditional religious views. The phrase "religious practice" as used in this Regulation includes both religious observances and practices. DoDEA will accommodate an employee's religious practices unless doing so causes undue hardship on the conduct of DoDEA's business.

retaliation (reprisal). A prohibited basis for discrimination. An employer may not fire, demote, harass or otherwise "retaliate" against an individual for filing a charge of discrimination, participating in a discrimination proceeding, or otherwise opposing discrimination.

sex (gender). A prohibited basis for discrimination. It is unlawful to discriminate against any employee or applicant for employment because of his/her sex in regard to hiring, termination, promotion, compensation, job training, or any other term, condition, or privilege of employment. Title VII of the Civil Rights Act of 1964 also prohibits employment decisions based on stereotypes and assumptions about abilities, traits, or the performance of individuals on the basis

of sex. Title VII prohibits both intentional discrimination and neutral job policies that disproportionately exclude individuals on the basis of sex and that are not job related. Title VII's prohibitions against sex-based discrimination also cover sexual harassment and pregnancy based discrimination.