

July 30, 2012

Volume 1, Issue 1



Fort Riley EEO Newsletter



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EEO Tip: Hostile Work Environment

The EEOC affirmed the decision of an Administrative Judge (AJ) who found that the plaintiff had established a claim of hostile work environment harassment on the basis of her sex. The AJ found that while her accused supervisor behaved inappropriately and unprofessionally towards both men and women, he treated women worse.

The AJ noted that the supervisor's conduct towards women included: 1) speaking to them in curt and rude tones; 2) making derogatory comments about women; 3) screaming and yelling at them; 4) repeatedly criticizing them in public and in private; 5) micromanaging them more than men when their performance did not merit increased supervision; 6) circumventing the chain of command and undermining her supervisory authority over her subordinates; and 7) displaying physically intimidating behavior such as aggressive body language, slamming doors and slamming his fists on the desk.

On appeal, the agency argued that the AJ had erred in crediting the testimony of the plaintiff and her witnesses over the agency's witnesses. In its decision, the EEOC declined to reweigh the parties' credibility on appeal and noted that the agency had not pointed to any objective documentary evidence contradicting the testimony of the plaintiff and her witnesses. The EEOC affirmed the AJ's award of \$125,000 in non-pecuniary compensatory damages and more than \$103,000 in attorney fees. The EEOC noted that the plaintiff had experienced a stress breakdown which necessitated her eventual separation from the agency and that she still suffers the effects of anxiety, depression, and post-traumatic stress disorder.

The EEOC found that substantial evidence in the record supported the AJ's award of \$125,000, which was not "monstrously excessive" "nor the product of passion or prejudice." The EEOC also held that the AJ's reduction in requested attorney fees was appropriate based on the fact that the fee petitions contained many excessive, redundant, unnecessary, or inadequately documented expenditures. In its order, the EEOC ordered the agency to consider appropriate disciplinary action against the responsible management officials and specifically noted that training is not considered disciplinary action.

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"Nothing can stop the man with the right mental attitude from achieving his goal; nothing on earth can help the man with the wrong mental attitude"
~Thomas Jefferson

5 Tips for Motivating Employees

Sure you can offer raises and promotions, but contrary to popular belief, money is not the best motivator because it sends the message that nothing is worth doing unless you get paid extra. Motivating employees to learn, to grow, to try challenging new assignments, and to work together as a team can be incredibly fulfilling. Employees want to be recognized as individuals, shown appreciation, and be given opportunities to grow. This requires bosses to manage one-on-one rather than treating every employee alike. Try these 5 tips:

Tip #1: Act as a role model and help inspire employees to identify what they are passionate about at work; then provide them with some projects in their area of passion or interest – a happy employee is a motivated employee!

Tip #2: Clearly define the organization's vision, mission and strategy as well as the goals and objectives of each employee (and include your employees in the crafting of these). Make sure everyone on your team understands the key role they play in contributing to the success of the department. Ensure each employee is in alignment toward the overall strategy so your group can work as a team and help each other out. Positive team energy will help motivate everyone.

Tip #3: Empower your employees to succeed and delegate challenging and meaningful work – in general, people want to succeed and they want to continue learning and growing, so provide them with opportunities.

Tip #4: Work with each employee to create their own personal development plan. Then, provide them with coaching and mentoring and help them increase their skills and their sense of competence and accomplishment.

Tip #5: Monitor the progress of your employees towards accomplishing their goals and objectives – then provide rewards to reinforce positive behavior, increase their sense of progress and keep them motivated. This can include recognition in front of peers and other rewards that don't cost a lot of money but are meaningful to the person.

Ideas provided by:

<http://www.forbes.com/sites/lisaquast/2012/01/10/5-tips-for-motivating-employees/>

<http://www.susanfee.com/coaching/tips/CreativeWaystoMotivateYourEmployees.htm>

<http://www.inc.com/ss/7-unusual-ways-motivate-employees>



**"Coming together is
the beginning.
Keeping together is
progress.
Working together is
success."**

~Henry Ford

Workplace Bullying v. Hostile Work Environment

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

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

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

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

The Hatch Act

The **Hatch Act of 1939** is a federal law whose main provision is to prohibit employees in the executive branch of the federal government, except the President and the Vice President, from engaging in partisan political activity. The law was officially known as **An Act to Prevent Pernicious Political Activities**.

OSC has developed a number of booklets, posters and fact sheets that explain the application of the Hatch Act. Copies of the booklets and posters can be ordered from the Government Printing Office. The fact sheet may be downloaded or emailed directly from the OSC website. Additionally, OSC has created a PowerPoint presentation - "Political Activity and the Federal Employee" - which covers the rules and regulations of the Hatch Act.

An employee who violates the Hatch Act shall be removed from their position, and funds appropriated for the position from which removed thereafter may not be used to pay the employee or individual. However, if the Merit Systems Protection Board finds by unanimous vote that the violation does not warrant removal, a penalty of not less than 30 day's suspension without pay shall be imposed by direction of the Board.

Summary of Permitted/Prohibited Activities for Employees Who May Participate in Partisan Political Activity

These federal employees **MAY**-

- be candidates for public office in nonpartisan elections
- register and vote as they choose
- assist in voter registration drives
- express opinions about candidates and issues
- contribute money to political organizations
- attend political fundraising functions
- attend and be active at political rallies and meetings
- join and be an active member of a political party or club
- sign nominating petitions
- campaign for or against referendum questions, constitutional amendments, municipal ordinances
- campaign for or against candidates in partisan elections
- make campaign speeches for candidates in partisan elections
- distribute campaign literature in partisan elections
- hold office in political clubs or parties

These federal employees **MAY NOT**-

- use official authority or influence to interfere with an election
- solicit or discourage political activity of anyone with business before their agency
- solicit or receive political contributions (may be done in certain limited situations by federal labor or other employee organizations)
- be candidates for public office in partisan elections
- engage in political activity while:
 - on duty
 - in a government office
 - wearing an official uniform
 - using a government vehicle
- wear partisan political buttons on duty



Six Essential Elements of a Model EEO Program

When establishing a model EEO program, an agency should incorporate into the design a structure for effective management, accountability and self-analysis which will ensure program success and compliance with EEO MD-715. Agency personnel programs and policies should be evaluated regularly to ascertain whether such programs have any barriers that tend to limit or restrict equitable opportunities for open competition in the workplace.

The six essential elements for a model EEO program, as described in EEO-MD-715, at PART A, II. A-F, and PART B, III. A-F, are as follows:

- 1. **Demonstrated commitment from agency leadership**- Post EEO Policy Statements in all offices and on bulletin boards. Demonstrate the value of EEO to the agency and employees. Seek input (e.g., using employee surveys and focus groups, discussions with employee advisory groups, etc.) regarding the workplace environment. Provide/request EEO training as needed.
- 2. **Integration of EEO into the agency's strategic mission**- Encourage regular visits from the EEO Office to your work environment. The EEO team can assist leaders with evaluating workforce demographics and trends.
- 3. **Management and program accountability**- Make clear that all managers and supervisors share responsibility with EEO program and human resources officials for the successful implementation of EEO programs.
- 4. **Proactive prevention of unlawful discrimination**- Ensure all your employees attend EEO training (NEO, SHARP, EEO for Supervisors, Reasonable Accommodations) whether or not training is mandatory.
- 5. **Efficiency**- Ensure your approach to a situation is efficient, fair and impartial. Managers should always be receptive to resolving issues at the lowest level.
- 6. **Responsiveness and legal compliance**- Ensure all final Negotiated Settlement Agreements (NSA) are monitored for compliance and timeliness.

****Don't wait for a complaint to be filed to do something! ****
<http://www.eeoc.gov/federal/directives/715instruct/section1.html>

Promoting an Inclusive Culture

The goal of all Equal Employment Opportunity Directorates is to help their individual installation achieve what is called an inclusive culture. An inclusive culture is a workplace environment that celebrates and promotes diversity; it entails successful integration of diverse people in the workplace. It's a commitment to workplace diversity which is not only based upon representation, but is indicative of a climate in which respect, equity and positive recognition and celebration of differences is developed. The response to disability, both socially and command wide, does not hamper a positive employment experience.

Cornell University recently did a study asking individuals with disabilities why they do not self-identify:

Risk of being fired/ not hired	73%
Employer may focus on disability	62%
Fear of limited opportunities	61.1%



People with disabilities are the largest and fastest growing minority group in the world, 54 million people in the US identify themselves as being disabled. Understanding the importance of an inclusive culture is important for government employees due to the changing demographics of our workforce due to our aging workforce and returning service members. The steps we make today to promote inclusivity will pave the way for our future government employees, so let's be vigilant and committed to promoting diversity in all its forms!

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EEO Counselor Opportunities

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

Those individuals interested in becoming an EEO counselor may contact Ms. Karen Matagi, EEO Manager at (785) 239-6698 or email karen.r.matagi.civ@mail.mil, NLT COB August 14, 2012.

Resources:

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

HOT!! EEO Training for Supervisors

The EEO Office will be teaching EEO Training for Supervisors, every other month through the fiscal year, beginning August 16, 2012; from 1:30 pm to 3:00 pm. This class is strongly recommended, not only for civilian supervisors, to include leads, but also for military personnel that supervise civilian employees. The focus of the training is to broaden your understanding as a manager/supervisor/lead on the mechanics of EEO and how it impacts your workforce. This includes complaints processing, dealing with issues at the lowest level, reasonable accommodations under ADA and ADAAA, conflict resolution, and effective communication.

Training dates, 1330-1500 hrs:

August 16, 2012

September 20, 2012

November 1, 2012

Location:

EEO Conference Room

500 Huebner Rd, Room 120



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