



# EEO FOCUS



# NEWS YOU CAN USE

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Welcome to the first edition of the *EEO Focus – News You Can Use!* This quarterly EEO newsletter is designed to keep managers and supervisors informed about critical Equal Employment Opportunity (EEO) information and initiatives. The EEO Office wants to enhance your awareness of issues that impact the work environment while offering you advice and information that you can immediately put into practice that will create a more effective workplace. Every manager has a responsibility to ensure that they provide a work-

place free from discrimination. This newsletter is one way you can receive timely information on how you inculcate EEO into your daily business practices. Working together, we CAN be a model employer. EEO wants to hear from you. If you have questions or concerns of an EEO nature, please give the EEO Office a call (526-9673/9672). We are here to offer you advice and assistance. You can also check out our website for more comprehensive information at <http://www.carson.army.mil/EEO/new%20site/index.html>

## Americans with Disabilities Amendments (ADA) Act

*Human progress is neither automatic nor inevitable. Every step toward the goal of justice requires sacrifice, suffering, and struggle; the tireless exertions and passionate concern of dedicated individuals.*  
*Martin Luther King, Jr.*

The Americans with Disabilities Act Amendments Act (Public Law 110-325) (ADAAA) went into effect 1 Jan 09. It amends both the Americans with Disabilities Act of 1990 (ADA) and The Rehabilitation Act, which covers disability issues in the Federal government and incorporates the ADA by reference. The ADA was originally enacted because "Congress recognized that physical and mental disabilities in no way diminish a person's right to fully participate in all aspects of society, but that people with physical or mental disabilities are frequently precluded from doing so because of prejudice, antiquated atti-



tudes, or the failure to remove societal and institutional barriers" (Sec. 2(a)(2)). Since then, the U.S. Supreme Court has issued rulings interpreting provisions of the ADA that Congress determined erroneously limited its application, particularly with respect to disabilities in the workplace. In response to those rulings, and as a result of a partnership between disability advocates and the business community, Congress passed the ADAAA and President Bush signed it into law 25 Sept 08.

**Impact**  
Under the ADAAA's broader umbrella of coverage, more employees and applicants will meet the test for being a qualified individual with a disability, which could result in an increase of requests for reasonable accommodation for disabilities.



## Americans with Disabilities Amendments (ADA) Act Cont'd

### Points to remember

If an employee or applicant requests a change to the work or interview environment because of a mental or physical medical condition, a reasonable accommodation should be considered. In determining the need(s) for reasonable accommodation you should refer to the Fort Carson Reasonable Accommodation Policy or contact EEO for advice and guidance. The DoD Computer/Electronic Accommodations Program can provide a wide variety of assistive

technology (<http://www.tricare.mil/CAP/>) usually at minimal or no cost. DoD has an identified and established a goal for the participation rates of individuals with "targeted" disabilities such as blindness, deafness, missing extremities, partial or complete paralysis, convulsive disorders, mental retardation, mental illness, and distortion of a limb or spine. By 2010 DOD anticipates that 2 % of its total workforce will be

comprised of individuals with disabilities. Managers and supervisors should be aware of employment programs, recruitment options and initiatives to improve participation rates of individuals with disabilities. For more information on initiatives, recruitment and hiring authorities contact the Civilian Personnel Office or the EEO Office.

Information obtained from:  
IMCOM Bi-weekly Newsletter

*“Congress passed the ADAAA and President Bush signed it into law 25 Sept 08.”*

## COULD YOU BE CREATING A HOSTILE WORK ENVIRONMENT?

**What Is Harassment?** The United States Equal Employment Opportunity Commission (EEOC) defines harassment as follows:

Harassment is a form of employment discrimination that violates Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, (ADEA), and the Americans with Disabilities Act of 1990, (ADA).

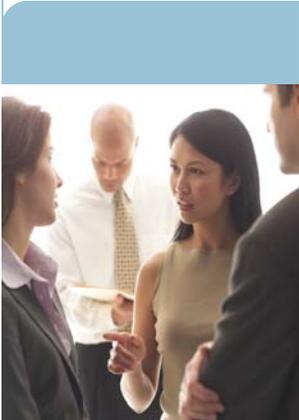
**Harassment is unwelcome conduct that is based on race, color, sex, religion, national origin, disability, and/or age.** Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough

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.**

Petty slights, annoyances, and isolated incidents (unless extremely serious) will not rise to the level of illegality. To be unlawful, the conduct must create a work environment that would be intimidating, hostile, or offensive to reasonable people. Offensive

conduct may include, but is not limited to, offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance. Harassment can occur in a variety of circumstances; prevention is the best tool to eliminate harassment in the workplace. Employers are encouraged to take appropriate steps to prevent and correct unlawful harassment.

They should clearly communicate to employees that unwelcome harassing conduct will not be tolerated. They can do this by reinforcing the complaint or grievance process, providing anti-harassment training to their managers and employees, and taking immediate and appropriate action when an employee complains.



### COULD YOU BE CREATING A HOSTILE WORK ENVIRONMENT? Con't

Employers should strive to create an environment in which employees feel free to raise concerns and are confident that those concerns will be addressed. Employees are encouraged to inform the harasser directly that the conduct is unwelcome and must stop. Employees should also report harassment to management at an early stage to prevent its escalation. **Employer Liability for Harassment** The employer is automatically liable for harassment by a supervisor that results in a negative employment action such as termination, failure to promote or hire, and loss of wages. If the

supervisor's harassment results in a hostile work environment, the employer can avoid liability only if it can prove that: 1) it reasonably tried to prevent and promptly correct the harassing behavior; and 2) the employee unreasonably failed to take advantage of any preventive or corrective opportunities provided by the employer. The employer will be liable for harassment by non-supervisory employees or non-employees over whom it has control (e.g., independent contractors or customers on the premises), if the agency knew, or should

have known about the harassment and failed to take prompt and appropriate corrective action. When investigating allegations of harassment, the EEOC looks at the entire record including the nature of the conduct, and the context in which the alleged incidents occurred. A determination of whether harassment is severe or pervasive enough to be illegal is made on a case-by-case basis. For more information about what you can do to ensure a workplace free from harassment, contact the EEO Office.

Key Information reprinted from the Fort Bragg EEO Newsletter



*The employer is automatically liable for harassment by a supervisor that results in a negative employment action such as termination*

### MANAGEMENT DIRECTIVE 715 — WHAT'S IN IT FOR YOU?

Management Directive 715 (MD-715) sets forth general reporting requirements for federal agencies. The Directive provides a roadmap for creating effective equal employment opportunity (EEO) programs for all federal employees as required by Title VII and the Rehabilitation Act. MD-715 is the policy guidance which the Equal Employment Opportunity Commission provided to federal agencies for their use in establishing and maintaining effective programs of equal employment opportunity. MD-715, Part C requires each agency to report annually on the status of activities and to include a plan that sets for the steps the agency will take in the future to correct

deficiencies or further improve efforts undertaken pursuant to MD-715. MD-715 requires federal agencies to conduct periodic self-assessments of their EEO policies and practices to ensure free and open workplace competition. An important component of MD-715 is the establishment of six Essential Elements for structuring model EEO programs at federal agencies. The Elements are: Demonstrated commitment from agency leadership; Integration of EEO into the agency's strategic mission; Management and program accountability; Proactive prevention of unlawful discrimination; Efficiency; and Responsiveness and legal compliance.

These six elements serve as the foundation upon which each agency shall build its program. Agencies are directed to evaluate managers based on their efforts to prevent discrimination and to track disciplinary actions taken against managers found guilty of violating EEO policies. The success of an agency's EEO program ultimately depends on individual decisions made by individual agency managers. Therefore, agency managers constitute an integral part of the agency's EEO program. The EEO office serves as a resource to these managers by providing direction, guidance and monitoring of key activities to achieve a diverse workplace free of barriers to equal opportunity.





**Collateral Duty EEO Counselors:** These individuals assist the EEO Office with inquiries into EEO complaints as well as provide informal EEO information to their work sites. These Counselors are critical to the success of the EEO complaints program and are a great addition to the EEO team. If any EEO counselor or specialist contacts you regarding an EEO complaint, please offer them prompt and courteous attention as they work to resolve workplace conflict.

The EEO Office is proud to announce the Department of Army certification of seven new Collateral Duty EEO Counselors for fiscal year 2009. They are:

Danell Pugh	Office Automation Assistant	MEDDAC
Valerie Fields	Office Automation RMD	MEDDAC
Delores Cunningham	Health System Assistant	Warrior Transition Battalion
Nathaniel Nugin	Mobilization/Development Program Manager	Army Community Service
Maya Gavin-Ellison	Financial Analyst	DFMWR
Frederick Morris	S2/S3	1/407th AFSB
Billie Garner (not shown)	Public Affairs Specialist	Public Affairs Office

**Prevention of Sexual Harassment – POSH Training**

**Every civilian employee and military managers of civilian employees must take refresher Prevention of Sexual Harassment (POSH) training annually.**

**POSH training will be conducted at McMahon Theater on 10 February, 12 May, and 12 Aug 2009. Three classes are offered each of these days at 0800, 1000, and 1300 hours.**

**POSH training can also be taken online in lieu of the theater style course. To log into the POSH training course and examination, go to <https://lms.carson.army.mil/>.**



**EEO is for Everyone!**