



PENNSYLVANIA NATIONAL GUARD

★ 1747 ★

EQUAL EMPLOYMENT OPPORTUNITY (EEO) PROGRAM

Pennsylvania National Guard

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EEO Training Objectives

Engage Critical Thinking

Think critically about one's own perceptions of diversity

Check Incivility

Check unconscious bias and stereotyping (thinking drives behavior)

**Goal: Enhance EEO & Diversity Knowledge
that Supports the Agency's Mission**

Demonstrate Respect

Take immediate and corrective action in response to incivility & discrimination allegations

Know Your Responsibilities

Repair Agency relationships (between the Agency and Aggrieved) damaged by diversity conflict



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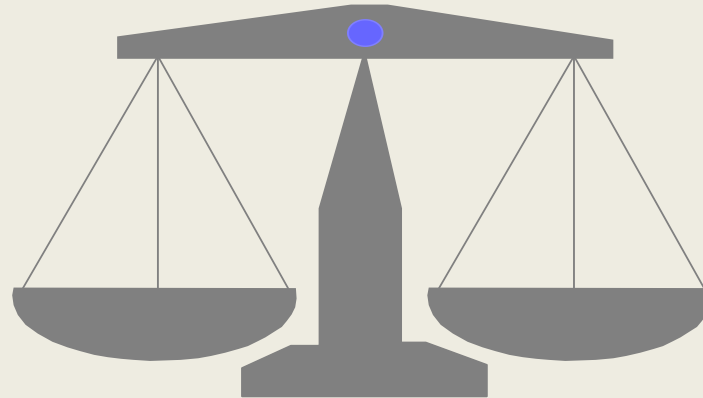
EEO Program Responsibilities

The State Equal Employment Manager
(SEEM) manages and directs the EEO program
through EEO counselors...

- *Who are trained to serve as a bridge between management and employees for EEO matters*
- *Whose primary objective is to attempt an informal resolution of all complaints brought before them*
- *Who must be perceived by both parties as neutral*



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Equal Employment Opportunity

The right of all persons to participate in, and benefit from, programs and activities for which they are qualified.

Recruitment
Training

Promotions
Utilization

Assignments
Retention

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EEO Coverage

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If you are a technician in dual status, Title 5 NG Employee or job applicant, the law protects you from discrimination on the bases of race, color, religion, sex (gender, pregnancy and sexual orientation), national origin, age (40 or older), disability or genetic information.

References:

- Title VII of the Civil Rights Act
- Rehabilitation Act of 1973, as amended
- ADA Amendments Act of 2008
- Equal Pay Act of 1964, as amended--illegal to discriminate based on sex in pay and benefits
- The Genetic Information Nondiscrimination Act of 2008 (GINA)

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Race and Color

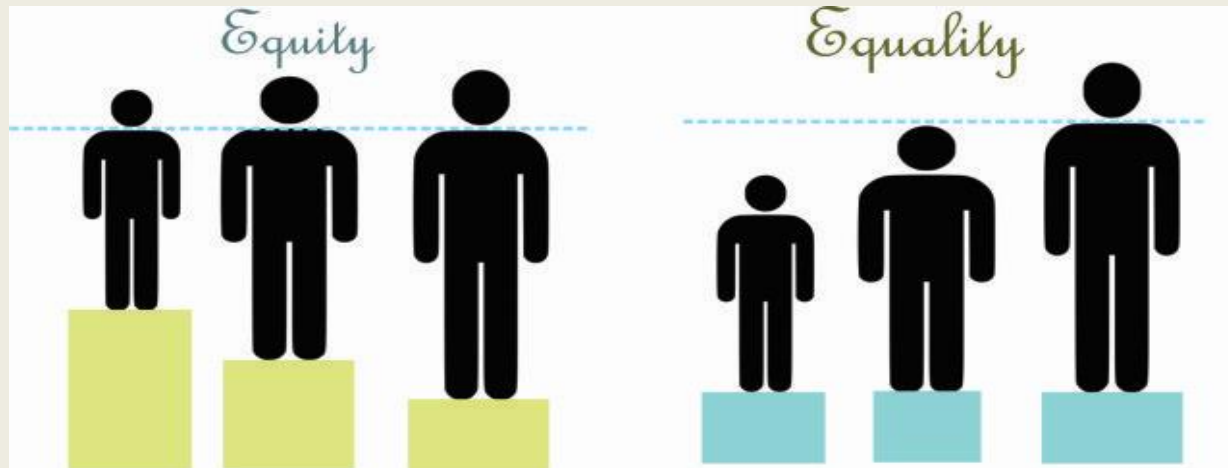
Race and Color: This category includes Hispanic or Latino, White, Black or African American, Asian, Native Hawaiians or Other Pacific Islander, Native Americans or Alaska Native.

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Barrier Analysis in EEO



<https://africanwomeninscienceandengineering.wordpress.com/2016/07/27/gender-equity-and-equality-ii-the-role-of-the-society>

The goal of barrier analysis under EEOC Management Directive (MD-715) is to identify the root causes of disparities in equal employment opportunities so that federal agencies can take action to remedy the policies, procedures, and practices that lead to such disparities.

<https://www.eeoc.gov/federal/directives/barrier-analysis.cfm>

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EEO: The Concept

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Equal:

- Of same measure, quantity, amount or number
- Alike in quality, nature or status
- Alike for each member of a group, class or society

Employment:

- Activity in which one engages or is employed
- An instance of such activity
- Act of employing; state of staying employed

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Supervisor/ Manager Responsibilities

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- Understand the goals of the EEO Program and actively participate in accomplishing these goals
- Create a work environment free of discrimination
- Develop a positive, problem-solving approach to handling incivility and discrimination allegations

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Demonstrate Respect

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- R**esolve conflicts at the lowest level
- E**xplore options to improve relationships
- S**ensitize yourself & your subordinates
- P**romote positive human relations
- E**liminate unacceptable behavior
- C**onsider organization & employee needs
- T**each non-discrimination & EEO skills

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Check it When You See It

Microaggressions

- Unconscious bias
- Subtle disrespect
- Breaches of etiquette
- Culturally insensitive behaviors



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What Should You Do?

Leaders

- Take immediate and corrective action
- Look for evidence of illegal or improper behavior
- Document action taken

EEO: The law forbids discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits, and any other term or condition of employment.



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Leadership

Not Every Leadership
Challenge Is
An EO/EEO Issue...

But

Every EO/EEO
Issue Is A Leadership
Challenge!



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EEO Complaint Process

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1. Technician has 45 days to file a complaint (Pre-Complaint) with an EEO Counselor.
2. The EEO Counselor then has 30 days to conduct an informal inquiry and facilitate an informal resolution—60 extra days if formal ADR process (e.g., Mediation) is requested.
3. If resolution is not reached, a Formal Complaint may be filed (15-days after final EEO Counseling).
4. In that case, a formal investigation is conducted.

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Theories of Discrimination

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- Disparate Treatment
- Disparate Impact or (Adverse Impact)
- Sexual Harassment
- Retaliation
- Religious Accommodation
- Equal Pay
- Age Discrimination
- Disability



The alleged harasser/discriminator can be the Agency and the victim's supervisor, a supervisor in another area, a co-worker, or someone who is not an employee of the employer, such as a client or customer.

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Disparate Treatment

Is the Most Common Theory of Discrimination

Disparate treatment is an element of employment discrimination. The term means that an employee was treated differently than other employees similarly situated, though in a legal sense, the different treatment must be based on the individual's inclusion in a protected class.

<https://legaldictionary.net/disparate-treatment/>



EEO Coverage (Recap)

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If you are a technician in dual status, Title 5 NG Employee or job applicant, the law protects you from discrimination on the bases of race, color, religion, sex (gender, pregnancy and sexual orientation), national origin, **age (40 or older), disability or genetic information.**

Supervisors who receive a request for an accommodation related to a disability or medical condition, please contact the SEEM's Office

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Disparate Treatment

Definition:

- Treatment of an individual that is less favorable than treatment of others, for a discriminatory purpose.
- Discriminatory treatment of an employee for reasons of his inclusion in a protected class.



<https://legaldictionary.net/disparate-treatment/>

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Sexual Harassment

QUID PRO QUO

Zero Tolerance!

“This for That”

Making sexual favors a condition of employment or the basis for favorable or unfavorable employment decisions.

HOSTILE WORK ENVIRONMENT

Conduct that unreasonably interferes with an individual’s work performance or creates an intimidating, hostile, or offensive working environment.



Examples of Sexual Harassment

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- Influencing, offering to influence, or threatening the career, pay or job of another person in exchange for sexual favors;
- Deliberate or repeated offensive comments, gestures or physical contact of a sexual nature in a work or duty related environment; and
- Conduct which interferes with an individual's performance or creates an intimidating, hostile or offensive environment
- Non-consensual sharing of "intimate images"

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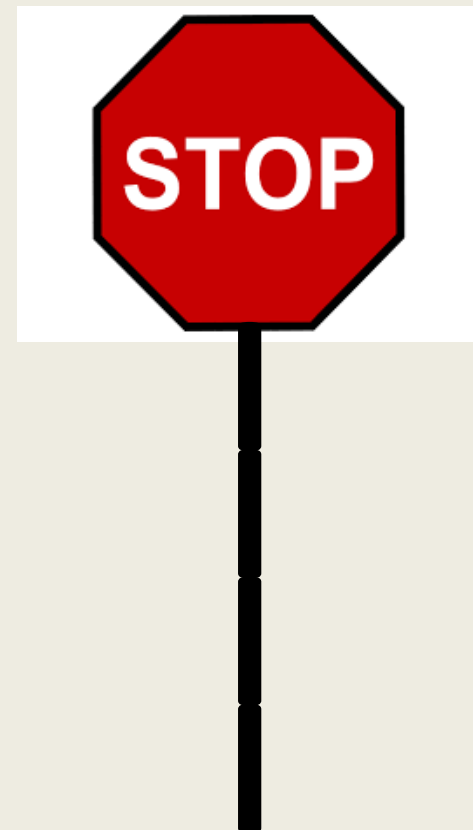


Retaliation

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- Retaliation occurs when an employer (supervisor) takes a materially adverse action because an individual has engaged in, or may engage in, activity in furtherance of the EEO laws the Commission enforces.
- The EEO anti-retaliation provisions ensure that individuals are free to raise complaints of potential EEO violations or engage in other EO activity without employers taking materially adverse actions in response.



EEOC Guidance on Retaliation and Related Issues, 25 August 2016

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Elements of a Disparate Treatment Complaint

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Prima Facie Case—Building blocks which would lead a reasonable person to believe there was disparate treatment:

Complainant is a member of a protected class

Complainant was subject to adverse action

Connection between membership in the protected class and the adverse employment action



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Agency's Responsibility

Take immediate and corrective action:

- Protect the victim
- Implement a retaliation/harassment prevention plan
- Look for evidence of illegal or improper behavior
- Document action taken

Respond to an EEO Discrimination Complaint:

- Once established – the Agency (supervisor responsible) must articulate a legitimate non-discriminatory reason for the action taken.

EEOC Training Institute



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EEO Investigation

(Example: Disparate Treatment)

Questions: Did the Agency take the challenged adverse action against the Complainant and did it occur because of a discriminatory motive?

Compares: Agency's treatment of the Complainant to its treatment (policy/practice) of individuals who are similarly situated to the Complainant

Reviews Agency's policies/practices for:

- Adverse impact
- Disproportionate Impact on a protected group



Resolution Process

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MEDIATION/FACILITATION

- Is voluntary
- Non-controversial in nature
- Provided through the skills of a trained mediator (not typically from within the direct chain of command)
- Allows the Agency and Aggrieved to arrive at what each of them agree is the best resolution
- Permits the Complainant to still pursue a formal complaint if not satisfied with the process

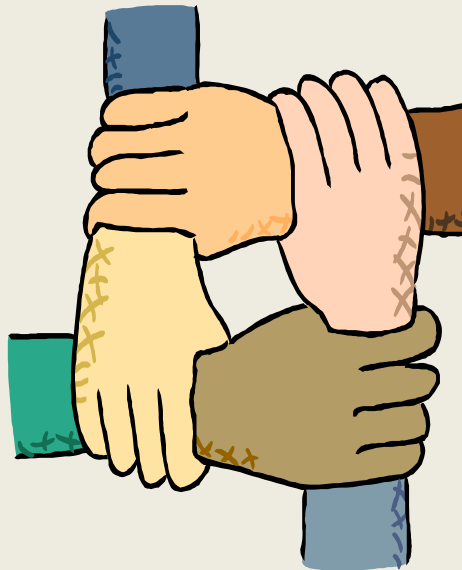
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EEO and Diversity Supports

Recruitment

Readiness



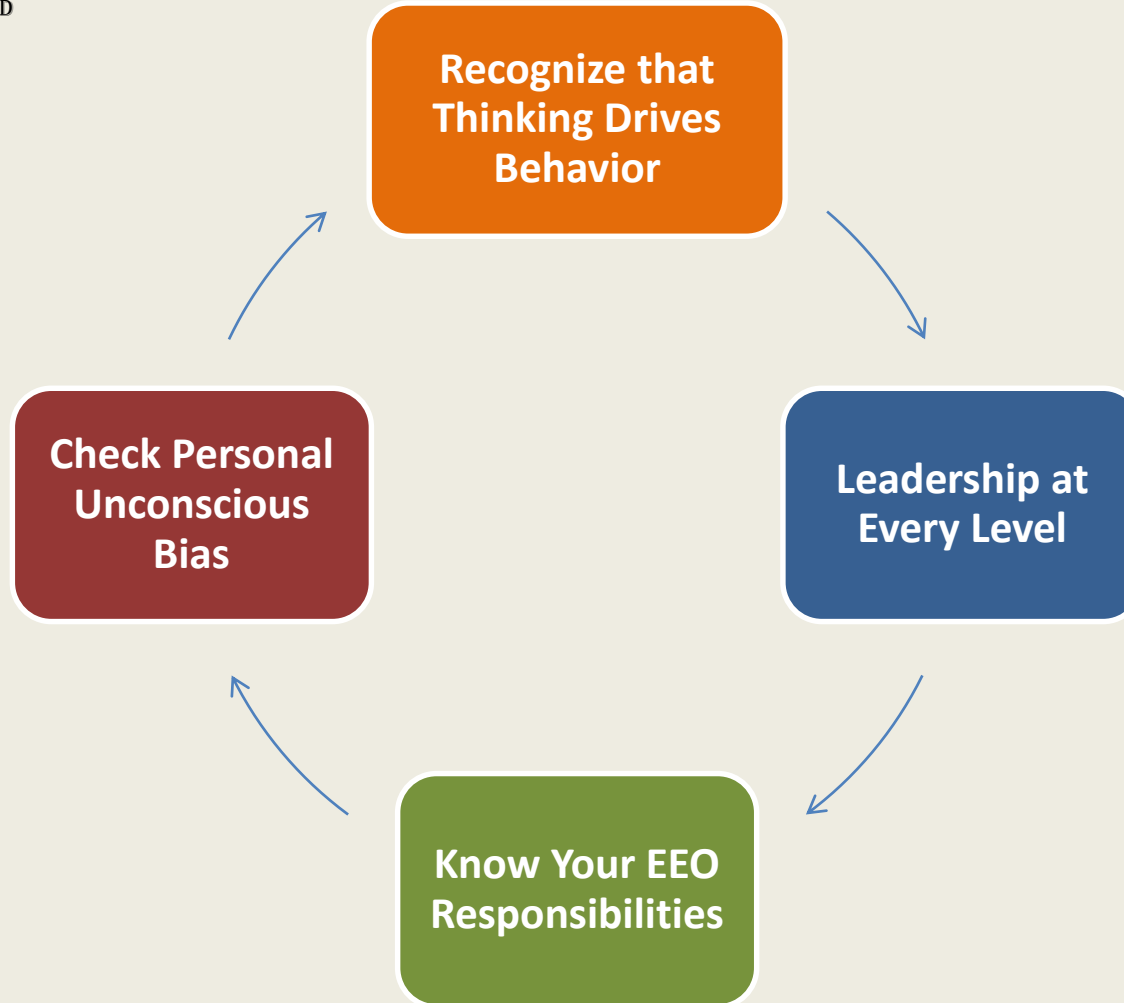
Retention

Inclusion



Way Forward

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POINTS OF CONTACT

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State Equal Opportunity Manager (SEEM)

717-861-8520

Equal Employment Specialist

717-861-8934

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