



DEPARTMENT OF THE NAVY

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SECNAV INSTRUCTION 12713.14

From: Secretary of the Navy

Subj: EQUAL EMPLOYMENT OPPORTUNITY

Ref: (a) 29 U.S.C. §633a
(b) 42 U.S.C. §2000ff
(c) 29 U.S.C. §791-794
(d) 42 U.S.C. §2000e, *et seq.*
(e) 29 U.S.C. §206(d)
(f) 29 CFR 1614
(g) EEOC Management Directive 715 of 1 October 2003
(h) EEOC Management Directive 110 of 5 August 2015
(i) DoD Directive 1440.1 of 17 April 1992
(j) Public Law 107-174
(k) DON HR and EEO Career Program Recruitment and Hiring Guide (NOTAL)
(l) SECNAVINST 12250.6B
(m) 42 U.S.C. §4151, *et seq.*
(n) SECNAV M-5214.1

Encl: (1) EEO Program Responsibilities
(2) Program Components and Requirements
(3) Definitions

1. Purpose. To implement policy, assign responsibilities, identify requirements, and prescribe procedures in accordance with references (a) through (k) for the Department of the Navy (DON) Equal Employment Opportunity (EEO) Program. In addition, this policy updates EEO program requirements in reference (l), Civilian Human Resources Management in the Department of the Navy.

2. Cancellation. This policy cancels and replaces the DON Civilian Human Resources Manual Subchapter 1601 (July 2005).

3. Applicability

a. This instruction applies to the Office of the Secretary of the Navy (SECNAV), the Chief of Naval Operations (CNO), the

Commandant of the Marine Corps (CMC), and all U.S. Navy, U.S. Marine Corps installations, Commands, Units, field offices, and all other organizational entities within the DON.

b. This instruction applies to all DON civilian employees and applicants for employment and military managers and supervisors of civilian employees paid from appropriated and non-appropriated funds to the extent permitted by law and applicable regulations.

4. Policy. The DON is committed to a culture of respect where EEO is not only the law, but is recognized as laying the foundation for an environment where everyone is valued, understood, and included. Equality of opportunity is an essential element of readiness and is vital for attracting, developing and retaining a top-quality workforce to accomplish the DON strategic mission. It is DON policy to:

a. Provide equal employment opportunities for all persons regardless of race, color, religion, sex (including pregnancy, childbirth, or related medical conditions), national origin, age, disability, or genetic information (including family medical history), and ensure that anyone who engages in protected EEO activity is free from reprisal;

b. Provide all employees the freedom to compete on a fair and level playing field with equal opportunity for competition;

c. Ensure equal employment opportunity covers all personnel/employment programs, management practices and decisions including, but not limited to, recruitment, hiring, merit promotion, transfer, reassignments, training and career development, benefits, discipline, and separation;

d. Ensure that leadership at all levels demonstrates commitment to fully integrate the principles of equality of opportunity into the DON mission;

e. Ensure that managers and supervisors understand and successfully execute their responsibilities to ensure equality of opportunity;

f. Promote the full realization of equal employment opportunity through a continuing affirmative employment program that is effective, responsive and legally compliant; and

g. Recognize the critical significance of accountability in the design, implementation and review of employment policies, practices and procedures to ensure equality of opportunity and a discrimination-free work environment.

5. Discussion

a. The DON EEO Program is designed to meet legal, statutory and regulatory requirements to ensure equality of opportunity for all employees and applicants for employment. Those laws and regulations, as well as DoD and DON policies, are provided in the list of references. References (a) through (e) are the legal requirements that address equal employment opportunity in the federal workforce. References (f) through (h) include the federal regulation for establishing an EEO Program and the Equal Employment Opportunity Commission's (EEOC) directives for implementation. The Department of Defense's EEO policy is outlined in reference (i). The legal requirement for disclosing discrimination complaints information is also provided (reference (j)). The DON Human Resources (HR) and EEO Career Program Recruitment and Hiring Guide is provided in reference (k). Reference (m) is the Architectural Barriers Act.

b. The program responsibilities for ensuring equality of opportunity, as well as staffing requirements for program implementation, are outlined in enclosure (1). Mandatory program components and requirements are delineated in enclosure (2). Critical program terminology is defined in enclosure (3).

6. Responsibilities. See enclosure (1).

7. Records Management

a. Records created as a result of this instruction, regardless of format or media, must be maintained and disposed of according to the records disposition schedules found on the Directives and Records Management Division (DRMD) portal page: <https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/SitePages/Home.aspx>

b. For questions concerning the management of records related to this instruction or the records disposition schedules, please contact your local Records Manager or the DRMD program office.

8. Forms and Reports

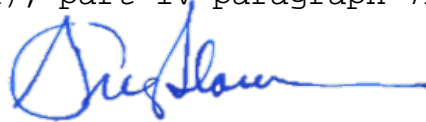
a. Forms

(1) SECNAV 12306/1, Confirmation of Reasonable Accommodation Request, can be found on Navy forms online at <https://navalforms.documentservices.dla.mil/web/public/forms>

(2) The EEO Annual Federal Equal Employment Statistical Report of Discrimination Complaints (Form 462 Report) can be accessed at: <https://www.eeoc.gov/federal/form462/index.cfm>

(3) Federal agency administrators must upload data into the EEOC Federal Sector EEO Portal (FedSEP) provided by EEOC which is not accessible to the general public but only to authorized federal agency administrators.

b. Reports. The reporting requirements included in enclosure (1) and (2) of this instruction are exempt from reports control, per reference (n), part IV paragraph 7n.



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EEO PROGRAM RESPONSIBILITIES

1. The responsibility for ensuring Equal Employment Opportunity (EEO) lies primarily with those who make the employment decisions that impact the workforce - leaders, managers and supervisors. The DON EEO Program provides them with essential support, in compliance with applicable laws and regulations, to ensure a discrimination-free work environment. This support is provided at all levels of the organization with varying degrees of authority:

a. Department Level. The DON Office of EEO (OEEO) exercises program responsibility for the DON EEO Program. The OEEO exercises overall responsibility for managing the DON EEO program, directs the manner in which the program is executed, and provides oversight of EEO programs throughout the DON. This authority applies to the execution of affirmative employment program initiatives, the processing of discrimination complaints, and requests for reasonable accommodations. The DON OEEO evaluates the program annually through the MD-715 Report and the Annual Federal Equal Employment Statistical Report of Discrimination Complaints (462 Report).

b. Major Command Level. The Major Command EEO Office exercises program responsibility for the command, and ensures that DON EEO policies and procedures are implemented command-wide. The EEO office works directly with command leadership and subordinate commands/activities in both program execution and program evaluation. Command status reports and other required data reports are submitted to DON OEEO.

c. Unit Level. As a component of a Major Command EEO Program, the Unit EEO Office is the unit's principal EEO advisor responsible for ensuring implementation of DON and Major Command EEO policies and shall have direct access to the unit's leaders, managers and supervisors, and other staff as needed to perform this responsibility. The EEO Office shall implement and execute effective programs to ensure equal opportunity within the unit, including barrier analysis, the processing of discrimination complaints and requests for reasonable accommodation, and providing EEO services and support to units that do not have organic EEO Offices.

2. Program responsibilities at each DON level are as follows:

a. Department Level. The SECNAV will ensure that the principles of equal employment opportunity are integrated into everyday practice and are fundamentally a part of DON culture. To this end, as required by the Equal Employment Opportunity Commission, the SECNAV will issue an annual policy statement to the workforce affirming the principles of EEO.

b. The Assistant Secretary of the Navy (Manpower and Reserve Affairs (ASN (M&RA))) is the DON EEO Director, designated by the SECNAV in accordance with Section 1614.102(b)(4) of reference (f), responsible for establishing and sustaining a DON-wide EEO Program consistent with statutory and regulatory requirements. The ASN (M&RA) provides overall policy and program direction to the Director, Office of Equal Employment Opportunity (OEEO), and evaluates the sufficiency of the program annually, keeping the Secretary informed of program status and significant issues. The ASN (M&RA) ensures that the EEO Program is administered in a neutral and impartial manner to safeguard the integrity of the program and ensures sufficient resources are allocated to the DON EEO Program for an effective and quality execution of program objectives.

c. The General Counsel of the Navy provides legal advice and services in support of the DON EEO Program, and supervises the provision of legal services to DON EEO program officials, commands, organizations, and activities by attorneys within the Office of the General Counsel (OGC).

d. The Deputy Assistant Secretary of the Navy (Civilian Human Resources) is delegated responsibility for providing direction to the Director, OEEO consistent with reference (h).

3. The Director, OEEO is the principal advisor on all EEO matters related to the DON EEO Program. The Director, OEEO is the principal advisor on all EEO matters related to the DON EEO program. The Director, OEEO has direct access to the ASN (M&RA) on all EEO policy matters and serves as the principal EEO representative and point of contact between DON and various internal and external offices. The Director,

OEEEO is the authoritative source for DON EEO Program execution as it applies to affirmative employment program initiatives, disability program initiatives, and complaints program initiatives. As such, the Director, OEEEO:

- a. Provides leadership, strategic direction, guidance and oversight on all aspects of the DON EEO Program;
- b. Ensures that DON-wide implementation of the program is compliant with all applicable laws and regulations and issues binding interpretive guidance on matters and authorities relevant to DON EEO Program execution;
- c. Establishes policies and directives to ensure consistent and effective program execution efforts;
- d. Conducts the annual DON-wide EEO Program assessment and prepares the DON EEO Program Status Report for submission to the Equal Employment Opportunity Commission;
- e. Provides regular EEO Program updates to the ASN (M&RA) and senior DON leadership;
- f. Directs the efforts of the DON Office of EEO program managers;
- g. Issues final agency actions on EEO complaints filed against the Department of the Navy by means of delegated authority by the ASN (M&RA);
- h. Partners with the Office of Civilian Human Resources (OCHR) to provide DON commands with appropriate enterprise data systems to conduct effective barrier analysis;
- i. Serves as primary advisor on the EEO positions in the HR and EEO Career Program and chairs selection panels for all Director, EEO positions in compliance with reference (k);
- j. Collaborates with all OCHR program areas and the Office of the General Counsel to effectively accomplish EEO Program goals and objectives; and

k. Ensures that EEO staff receive annual training, consistent with EEO requirements in reference (h).

4. The Director, OCHR, must:

a. Ensure that the principles of equal employment opportunity are seamlessly integrated into all HR policies, practices and procedures;

b. Integrate EEO Program execution efforts into the daily work of OCHR;

c. Ensure that the EEO principles are an integrated component of the DON HR Program and that DON HR practitioners are active participants in EEO Program execution efforts, including but not limited to data analytics, barrier analysis, workforce and executive development, EEO training and recruitment;

d. Establish a results-oriented performance assessment and accountability system that holds managers and supervisors accountable for upholding merit systems principles, eliminating systemic, attitudinal and physical barriers to equal employment opportunities, and for creating a culture of inclusion where all employees are provided equal opportunities to succeed; and

e. Ensure that the OCHR Operations Centers are cognizant of the DON EEO Program objectives and goals and those of their serviced commands and units.

5. Major Command Level

a. The Heads of Major Commands are designated Command EEO Officers. As such, they must:

(1) Establish and sustain effective EEO programs within their respective commands that are compliant with this instruction and references (a) through (j) paying particular attention to the critical elements of a model EEO Program outlined in reference (g);

(2) Ensure that the EEO Program is administered in a neutral and impartial manner to safeguard the integrity of the program;

(3) Seamlessly integrate the principles of equality of opportunity into their strategic missions;

(4) Issue an annual policy statement to the workforce affirming the principles of EEO upon assumption of command and annually thereafter;

(5) Ensure a work environment that is free of hostile, discriminatory, or offensive behavior;

(6) Ensure that workplace harassment, regardless of basis, is not tolerated, is immediately investigated in accordance with applicable procedures, and where substantiated, appropriate action is taken;

(7) Ensure that all supervisors and managers receive training on their roles and responsibilities for effective EEO program execution and efforts;

(8) Be responsive to all DON OEEEO direction, requests and requirements; and

(9) Establish and staff as appropriate the position of Director, EEO that is filled as outlined in reference (k) and other program positions/requirements that are outlined in enclosure (2) to meet or exceed acceptable servicing level requirements in support of the command and their strategic mission(s), and ensure all EEO practitioners:

(a) Receive training to obtain and sustain technical competencies; and

(b) Are free from restraint, interference and reprisal in the execution of their duties or in their efforts to maintain the integrity of the EEO Program.

b. The Director, EEO (DEEO) (formerly the Command Deputy Equal Employment Opportunity Officer) of the Command has direct access to the Head of the Major Command, who is designated as

Command Equal Employment Officer (CEEEO), serving as primary advisor to the Command EEO Officer and Deputy Director, EEO within the command. The Director, EEO is the authoritative source within the command on EEO policies, practices and procedures and the command's technical expert on EEO Program execution. As such, the Director, EEO must:

(1) Ensure that the command's program is compliant with DON policy and all applicable laws and regulations and includes all program components as listed in enclosure (2);

(2) Provide direction, guidance and oversight on all aspects of the command's program to ensure effective program execution efforts at subordinate Unit levels, to include directing the efforts of the Command program managers for the Affirmative Employment Program, the Special Emphasis Program, the Individuals with Disability Program, and the Discrimination Complaints Program;

(3) In accordance with references (f) and (h), will promptly review and make timely decisions regarding complaints of discrimination. The DEEO will have the authority to sign all EEO Program related correspondence for the Command and subordinate commands, to include timely accepting/dismissing discrimination claims, in coordination with or via delegated authority to the servicing Deputy Director, EEO (DDEEO) at the Unit Level;

(4) Chair selection panels, under the direction of the Director, OEEEO, for the selection of Deputy Director, EEO for subordinate Unit programs as outlined in reference (j);

(5) Serve as a link between subordinate units and the DON OEEEO to monitor and enforce compliance with this Instruction and other program requirements;

(6) Conduct regular assessments of subordinate Unit program execution efforts;

(7) Ensure that EEO practitioners possess and maintain the technical competencies to effectively execute their responsibilities;

(8) Annually assess the status of EEO Program efforts for the entire command and report accomplishments/plans to the DON OEEEO, as required;

(9) Provide regular EEO Program updates to the CEEEO and senior leadership; and

(10) Work collaboratively with the command HR Office and the command General Counsel to effectively accomplish program goals and objectives.

6. The Director, Civilian Human Resources must:

a. Ensure that the principles of equal employment opportunity are seamlessly integrated into all command HR programs, policies, practices and procedures;

b. Ensure that the EEO principles are an integrated component of the HR Program and that HR practitioners collaborate in effectively accomplishing EEO program goals, objectives, and execution efforts, including but not limited to data analytics, barrier analysis, workforce and executive development, and recruitment;

c. Implement a results-oriented performance assessment and accountability system that holds managers and supervisors accountable for upholding merit systems principles, eliminating systemic, attitudinal and physical barriers to equal employment opportunity, and for creating a culture of inclusion where all employees are provided equal opportunity to succeed.

7. Unit Level

a. Unit Commanders or Heads of each Naval Unit/Marine Corps command employing civilians are designated as Equal Employment Opportunity Officers of their unit. As such, they must:

(1) Establish and sustain an effective EEO program that is compliant with DON policy, all applicable statutes and regulations, as well as their command's directives, paying particular attention to the critical elements of a model EEO Program outlined in reference (g);

(2) Ensure that the EEO Program is administered in a neutral and impartial manner to safeguard the integrity of the program;

(3) Seamlessly integrate the principles of equality of opportunity into their strategic mission;

(4) Issue an annual policy statement to the workforce affirming the principles of EEO;

(5) Ensure a work environment that is free of hostile, discriminatory, or offensive behavior;

(6) Ensure that workplace harassment, regardless of basis, is not tolerated, is immediately investigated in accordance with applicable procedures, and, where substantiated, appropriate action is taken;

(7) Ensure that all supervisors and managers receive training on their role and responsibilities for effective program execution and are held accountable;

(8) Comply with the Major Command's program direction, requirements and requests; and

(9) Work with the Major Command to ensure that sufficient resources are allocated to the EEO Program and ensure EEO practitioners:

(a) Receive training to obtain and sustain technical competencies; and

(b) Are free from restraint, interference and reprisal in the execution of their duties or in their efforts to maintain the integrity of the EEO Program.

b. The Deputy Director, EEO (DDEEO) (formerly Deputy EEO Officer) is at the unit level and has direct access to the EEOO of their unit while serving as the principal EEO advisor to the EEOO on all matters pertaining to the effective management of the Unit's EEO Program. As such, the DDEEO must:

(1) Ensure that the Unit's program is compliant with DON and Major Command EEO policies and applicable laws and regulations and includes all program components as listed in enclosure (2);

(2) Provide direction, guidance and oversight on all aspects of the Unit's program, to include, but not limited to:

(a) Providing sound advice/guidance to leadership and supervisors/managers on their role and responsibilities for the Unit's EEO Program;

(b) If delegated the authority by the Director, EEO at the Major Command level, promptly review and make timely decisions regarding complaints of discrimination. This includes timely accepting/dismissing discrimination complaints. If delegated the authority by the Director, EEO at the Major Command level, the DDEEO will have the authority to accept/dismiss claims and sign all EEO Program related correspondence.

(c) Publicizing EEO program information to all employees through the use of various media;

(d) Conducting an annual assessment of the Unit's EEO Program, in compliance with enclosure (2) and in accordance with Major Command requirements, and reporting results to the Major Command, as required;

(e) Directing the efforts of the Unit's program managers for the Affirmative Employment Program, the Special Emphasis Program, the Individuals with Disability Program, and the Discrimination Complaints Program to include but not limited to:

1. Ensuring that barrier identification and elimination efforts are ongoing and that all relevant stakeholders are involved in the barrier analysis process;

2. Processing reasonable accommodation and personal assistance services requests for all relevant stakeholders in accordance with applicable law, regulations, DON and command requirements;

3. Implementing effective Special Emphasis programs;

4. Managing the discrimination complaints process in accordance with reference (f) and (h) and applicable case law;

5. Managing disability-related complaints filed under reference (c) and reference (m) and referring the issue(s) to responsible parties for possible resolution;

6. Managing and keeping current all enterprise data systems, e.g., DON complaints management system, Navy Electronic Accommodations Tracker (NEAT), as required;

(f) Providing regular EEO program updates/briefs to the unit EEOO, senior leadership and supervisors/managers;

(g) Ensuring that all managers and supervisors receive training on their role and responsibilities for effective program execution and are held accountable;

(h) Ensuring that EEO practitioners possess and maintain the technical competencies to effectively execute their responsibilities; and

(i) Working collaboratively with HR practitioners and local or command counsel to effectively accomplish program goals and objectives.

8. Human Resources Directors must:

a. Work collaboratively with the Unit's EEO Office to ensure that the principles of equal employment opportunity are seamlessly integrated into HR programs, policies, practices and procedures;

b. Ensure that the EEO principles are an integrated component of the HR Program and that HR practitioners are active participants in EEO Program execution efforts, including but not limited to data analytics, barrier analysis, workforce and executive development, and recruitment;

c. Implement a results-oriented performance assessment and accountability system that holds managers and supervisors accountable for upholding merit systems principles, eliminating systemic, attitudinal and physical barriers to equal employment opportunity wherever possible, and for creating a culture of inclusion where all employees are provided equal opportunity to succeed.

9. Managers and supervisors make the day-to-day employment decisions affecting employees. As a result, they have a critically important role in the successful execution of the EEO Program objectives. They must:

a. Ensure that all employees and applicants for employment are afforded equal opportunity to compete on a fair and level playing field without regard for race, religion, color, sex (including pregnancy, childbirth, or related medical conditions), national origin, age, disability or genetic information;

b. Ensure that workplace harassment, regardless of basis, is not tolerated, is immediately investigated in accordance with applicable procedures, and, where substantiated, appropriate action is taken;

c. Actively support and participate in the accomplishment of DON, Major Command and Unit EEO Program initiatives and barrier analysis efforts;

d. Ensure a work environment that is free of hostile, discriminatory, or offensive behavior;

e. Provide effective and timely reasonable accommodations and personal assistance services in accordance with applicable regulations and guidance;

f. Cooperate with EEO Officials, in a timely manner, when requested to participate in any facet of the EEO complaint process including but not limited to fact finding inquiries, investigations, hearings;

g. Ensure the dissemination of EEO Program information; and

h. Ensure that all employees and applicants for employment are not retaliated against for filing a discrimination complaint, participating in the discrimination complaint process, opposing unlawful discrimination, or for requesting a reasonable accommodation. This protection from retaliation extends to all aspects of employment.

10. Employees. All employees have a role to play in the successful execution of the EEO Program. They must:

- a. Ensure that they conduct themselves in a professional manner in the workplace;
- b. Foster a discrimination-free work environment;
- c. Take required EEO training; and
- d. Cooperate with EEO Officials when requested.

PROGRAM COMPONENTS AND REQUIREMENTS

1. The DON EEO Program consists of four major components: the Affirmative Employment Program, the Special Emphasis Program, the Individuals with Disabilities Program and the Discrimination Complaints Program. These programs are mandatory at all levels and each must have an identified program manager who reports to the head of the EEO Office at that level. There are many resources available to keep these programs both compliant with applicable laws and regulations and consistent DON-wide:

a. The DON EEO Program Manual. This is a separately issued manual that will supplement and implement the policy established in this instruction and will define the required processes to be followed that will ensure consistent program execution. Each component, tool, report, and process identified here will be fully explained in the manual with sample formats, letters, tasks and other helpful guidance as appropriate.

b. Available Tools. There are several tools available to assist EEO practitioners, as well as managers and supervisors, in the execution of their program responsibilities. These tools are described below with full details on access and use that will be available in the DON EEO Program Manual.

(1) Most helpful to overall program management is the OCHR Portal. The portal provides information on all aspects of HR and EEO program implementation and execution which is invaluable for EEO practitioners who need to understand both programs. There are two sites on the portal. The public site has EEO information for current and prospective DON employees. The private site has policy and program guidance for DON EEO and HR practitioners. Practitioners can also find information on the latest updates and news on emerging issues related to EEO. The portal contains templates, forms and internal operating procedures to assist practitioners in the performance of their EEO responsibilities.

(2) HR Link (EEO App) is a web-based, access-controlled, password-controlled application, owned/operated by the Office of Civilian Human Resources, which contains workforce demographic data for appropriated fund employees. Development and maintenance of the EEO App is ongoing based on the needs of the DON EEO Program. It includes the availability of standard

reports identified by users of the tool. Authorized users can also access the A and B Workforce data tables by race, national origin, gender and disability in compliance with reference (g) requirements.

(3) DON Complaints Management System is a web-based, CAC-enabled application that provides a broad range of discrimination complaints processing and management capabilities. It includes a number of specific features for tracking and managing federal government discrimination cases. DON complaints management system includes a Notification and Federal Employee Antidiscrimination and Retaliation Act (No FEAR Act) Report module that enables the DON to comply with No FEAR Act regulatory requirements for quarterly reporting as well as for Equal Employment Opportunity Commission's (EEOC) Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints (EEOC Form 462).

(4) Investigations and Resolutions Case Management System (IRCMS) is an electronic, CAC-enabled system owned by the Diversity Management Operations Center's (DMOC) Investigations and Resolutions Directorate (IRD). IRD is chartered to investigate EEO complaints for Department of Defense (DoD) components. DoD components are required to utilize IRCMS (formerly FileX) to submit requests for investigations, track cases pending investigation at IRD, uploading documents for IRD, and downloading reports once the investigation is completed.

(5) IRD Monthly Status Report. The IRD provides a monthly inventory of DON cases that are pending investigation or that have been received at IRD for investigation. The DON OEEEO requires DON activities to review this report to ensure that cases submitted to IRD are accurately docketed and any discrepancies are immediately resolved.

(6) FEDSEP (formerly FileX) is a web-based, password-controlled application owned by EEOC that is designed to accept electronic submissions of hearing requests, hearing documents or files, and appeals.

(7) NEAT is a web-based, CAC-enabled application that provides a centralized system for tracking reasonable accommodation requests throughout the DON. The utilization of

NEAT allows the DON to comply with federal requirements for tracking reasonable accommodation requests and enables DON to provide reasonable accommodation data to EEOC upon request in accordance with reference (c) as amended. Access to NEAT is limited to individuals who process reasonable accommodation requests, and to EEO practitioners who provide oversight and enforce compliance with DON's Procedures for Processing Requests for Reasonable Accommodation.

2. EEO Reports

a. Per reference (g), the DON is required to conduct a thorough self-assessment of its EEO program annually and then submit a report to the Equal Employment Opportunity Commission (EEOC) detailing the results (Annual EEO Program Status Report (EEOC FORM 715-01)). EEOC then reports to Congress. The DON report includes assessment results from all Major Commands and their subordinate Units.

b. The EEOC's Office of Federal Operations produces an Annual Report on the Federal Workforce that includes, among other data, information on federal equal employment opportunity complaints and Alternative Dispute Resolution units. This data is collected from each agency in the Annual Federal Equal Employment Opportunity Statistical Report of Discrimination Complaints (EEOC Form 462). The DON Office of EEO inputs data into the form provided on the EEOC Form 462 website which is not accessible to the general public. While this is an automated report generated at the DON-level, Commands and Units are required to review, update and resolve data issues in *DON complaints management system* (the DON web-based complaints data tool) at least on a monthly basis to ensure all input is complete and accurate.

c. Reference (j) requires that federal agencies be accountable for violations of anti-discrimination and whistleblower protection laws. At least every two years, agencies must provide training to employees, including managers, regarding the rights and remedies available under the employment discrimination and whistleblower protection laws. It also requires federal agencies to post on their public web site

summary statistical data pertaining to complaints of employment discrimination filed under reference (f) by employees, former employees and applicants for employment.

d. DON Complaints Management System - EEOC Annual Status Report of Discrimination Complaints (462). The DON is required to report annually to the EEOC on the Status of Discrimination Complaints (462 Report). This report is designed by EEOC and updated as needed. The DON OEEEO has the responsibility for compiling the corporate DON 462 Report annually. All data collected will be reviewed and verified by the DON OEEEO.

3. EEO Program Components

a. EEO Program Management

(1) Description. To achieve its purpose, the DON EEO Program must be administered as a comprehensive program, not as independent program pieces. Therefore, strong program leadership at all levels is key, encouraging teamwork, collaboration and alignment of goals and efforts to ensure program success.

(2) Key Elements and Processes. These program elements and processes are required at all levels of the DON EEO Program consistent with the program's authority level as outlined in enclosure (1):

(a) The EEO Officer/head of the Major Command and/or head of subcomponent issues an EEO policy statement within six months of reporting on board and annually thereafter affirming the original statement unless circumstances require a new policy statement to be issued. The statement should be made available to all employees annually as well as to new supervisors and new employees.

(b) Heads of EEO Program Offices meet regularly with senior leaders and managers to provide program updates and status reports. They also serve as collaborative partners in employment-related discussions, participating in strategic planning meetings.

(c) Heads of EEO Program Offices, Human Resources (HR) Officers, and supporting OGC attorneys meet regularly to discuss common issues and collaborate on barrier analysis efforts and the design and implementation of HR programs and initiatives. Their blended viewpoints provide the necessary expertise to build and maintain effective policies, practices and procedures that comply with governing EEO laws and regulations.

(d) Ongoing analysis of workforce data (i.e. accessions, promotions, and separations), HR survey results, complaint statistics, comments from employees/employee groups, and other data, provides critical information and should be shared with many areas of the organization to ensure necessary corrective steps are taken.

(e) In addition to the required annual brief on the status of the EEO Program, the head of the EEO Office will brief the EEO Officer and senior leadership on a regular basis. These briefings will address topics that are of interest and importance to the organization, e.g., discrimination complaints trends and costs, workforce profile changes, and barrier analysis results.

(f) The Head of the EEO Office is responsible for the annual EEO Program self-assessment which requires a coordinated plan of action that includes the participation of all stakeholders, captures ongoing barrier analysis efforts and results, and creates the resultant status report.

(g) All managers and supervisors must receive training every three years that helps them execute their responsibility to ensure equality of opportunity and a discrimination-free work environment. Upon selection to a manager or supervisor position, training must occur within 90 days. It can be stand-alone or offered as part of an ongoing supervisory training program. Content is determined by the outcome of ongoing analysis of workforce data, the workplace climate, discrimination complaints, or input from other sources. This required training must be tracked and monitored.

(h) The DON OEEEO provides information and guidance on implementing the latest changes in laws/regulations and DON

policies/procedures through monthly meetings and ongoing communication. DEEOs of commands communicate regularly with all command DDEEOs and will confirm that all Unit EEO practitioners receive the necessary training to enhance their skills. In particular, EEO specialists serving as EEO counselors must receive 32 hours of complaints counseling training prior to assuming counseling duties and all EEO counselors are required to receive at least 8 hours of continuing EEO counseling training every year.

b. Affirmative Employment Program

(1) Program Description. The Affirmative Employment Program (AEP) is the heart of the EEO Program. Through ongoing analysis, the AEP is designed to identify and eliminate barriers to equal employment opportunity for all current and potential members of the workforce, making it the foundation on which the other EEO program elements and initiatives are built. All available workforce data is regularly evaluated by factors such as race, ethnicity, gender and disability in pay plans, grades, and major occupations. However, as conclusions concerning the existence of workplace barriers cannot be drawn from gross numerical assessments alone, thorough analysis of employment policies, practices, and procedures (e.g., recruitment, hiring, promotions, awards, separations and developmental opportunities.) is also conducted to gain a more comprehensive picture of possible workplace barriers to equal opportunity.

(2) Key Elements and Processes. These program elements and processes are required at all levels of the DON EEO Program consistent with the program's authority level as outlined in enclosure (1):

(a) Conduct analysis for barriers to full participation of all groups in the DON workforce:

1. Review all workforce data regularly;
2. Conduct regular analyses of workforce separations and accessions; and

3. Collaborate with HR in the regular review of employment policies, practices and procedures as part of ongoing barrier analysis.

(b) Manage the EEOC-mandated annual self-assessment of the DON EEO Program which assesses the progress made during the year in both program execution and barrier identification and removal efforts. This management includes:

1. Creating a plan for corrective action for identified barriers and ensuring that the plan is completed; and

2. Assisting in coordinating the completion of the Annual EEO Program Status Report.

(c) Work with managers and supervisors providing the information necessary to help them execute their responsibility to ensure equality of opportunity.

c. Special Emphasis Program

(1) Program Description. While the AEP focuses on the participation of all groups in the workforce, the Special Emphasis Program (SEP) exists to improve the employment and advancement opportunities of each of the groups individually, identifying systemic barriers to opportunity and monitoring progress in eliminating discrimination and adverse impact on each group. The following programs within the SEP are elective: Black Employment Program, Asian American/Pacific Islander Employment Program, Native American Employment Program and all other groups. The Individuals with Disabilities Program (IWDP) is typically included as part of an agency's SEP. Due to the nature of EEOC's affirmative action requirements for disability employment, the DON IWDP has been designated as a separate program for the DON, similar to DoD components and other federal agencies. Federal Women's Program, Hispanic Employment Program, and Individuals with Disabilities Program are mandatory programs.

(2) Key Elements and Processes. These program elements and processes are required at all levels of the DON EEO Program consistent with the program's authority level as outlined in enclosure (1):

(a) Work with the AEP to identify barriers to the hiring, development and advancement of the individual groups Evaluate workforce data on promotions, training, awards and disciplinary actions to ensure they are enacted in a nondiscriminatory manner with no adverse impact to a particular group;

(b) Develop and implement special program initiatives that will enhance the employment and advancement potential of a particular group;

(c) Participate in the annual self-assessment of the DON EEO Program and the resultant EEO Program Status Report;

(d) In observance of Special Emphasis months, conduct training that addresses identified needs of the group or an event that showcases their successes in the workplace;

(e) Collaborate with Human Resources and Diversity Offices annually in the accomplishment of the Federal Equal Opportunity Recruitment Program and the Disabled Veterans Affirmative Action Program reports to the Department of Defense; and

(f) Work with managers and supervisors providing the information necessary to help them execute their responsibility to ensure equality of opportunity.

d. Individuals with Disabilities Program

(1) Program Description. In compliance with reference (c), the DON Individuals with Disabilities (IWD) Program takes proactive steps to ensure equal employment opportunity for DON employees with disabilities as well as applicants for employment, striving to prevent discrimination before it occurs. The IWD Program Manager at all DON levels is responsible for ensuring that the DON is working toward model program status.

(2) Key Elements and Processes. These program elements and processes are required at all levels of the DON EEO Program consistent with the program's authority level as outlined in enclosure (1):

(a) Provide ongoing advice, guidance, and assistance related to the DON IWD Program;

(b) Work collaboratively with HR professionals to ensure ongoing efforts are in place to:

1. Provide hiring officials information about DON goals for hiring IWD and Individuals With Targeted Disabilities (IWTG) and the use of the Schedule A(u) Hiring Authority;

2. Increase the participation rate of IWD and IWTG in the workforce and at higher grade levels; and

3. Ensure all aspects and benefits of employment are accessible to people with disabilities, to include facilities and electronic and information technology.

(c) Conduct analysis for barriers to full participation of people with disabilities in the DON workforce:

1. Review all workforce data regularly;

2. Collaborate with HR in the regular review of employment policies, practices and procedures as part of ongoing barrier analysis;

(d) Address any/all identified biases present in the workforce;

(e) Timely process complaints arising pursuant to reference (c) and reference (m) in compliance with governing regulations;

(f) Process requests for reasonable accommodation and personal assistance services, tracking the process to ensure timeliness and compliance with DON policy; and

(g) Provide training on disability laws and regulations, affirmative action requirements, barrier analysis, accessibility of electronic and information technology and facilities, and DON reasonable accommodation and personal assistance services procedures as needed.

e. Discrimination Complaints Program

(1) Program Description. The DON Discrimination Complaints Program ensures that discrimination complaints filed against the DON are processed promptly, impartially, and in accordance with governing regulations and DON policy. This policy ensures that individuals filing discrimination complaints are free from restraint, interference, coercion, harassment, discrimination and reprisal. It also requires that individuals with complaint processing responsibilities are held accountable for meeting all processing regulatory requirements.

(2) Key Elements and Processes. These program elements and processes are required at all levels of the DON EEO Program consistent with the program's authority level as outlined in enclosure (1):

(a) Provide authoritative advice and guidance on discrimination complaints process;

(b) Ensure discrimination complaints processing is timely and compliant with all regulatory requirements;

(c) Conduct discrimination complaints trends analyses to uncover any issues or concerns and share the results with leadership and appropriate individuals and offices; types of analysis should include:

1. Status and timeliness of complaints processing;
2. Type and number of complaints filed;
3. Remedies;
4. Settlement agreements; and
5. Findings of discrimination.

DEFINITIONS

1. Barrier. An agency policy, principle or practice that limits or tends to limit employment opportunities because of an individual's race, color, religion, sex (including pregnancy), national origin, age, disability, genetic information (including family medical history) or reprisal for protected activity.

2. Disability. With respect to an individual:

a. A physical or mental impairment that substantially limits one or more major life activities (e.g. seeing, hearing, eating, sleeping, walking, etc.) of such individual.

b. A record of (i.e. has a history of, or has been misclassified as having) a physical or mental impairment that substantially limits one or more major life activities.

c. Being regarded as having an impairment (i.e. the individual has been subjected to an action prohibited by the Americans with Disabilities Act, as amended), because of an actual or perceived impairment that is not both transitory (lasting or expected to last six months or less) and minor.

3. Discriminate or discrimination. Limits, segregates, or classifies employees or applicants for employment in any way that deprives or tends to deprive any individual of employment opportunities or otherwise adversely affects his or her status as an employee because of a prohibited basis, or in the case of qualified individual with a disability, because of his or her disability or the failure to reasonably accommodate the individual. EEO Bases of Discrimination are:

a. Age. Reference (a) forbids age discrimination against people who are 40 years of age or older. The law protects this group from discrimination when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits and any other terms or conditions of employment.

b. Color. Although reference (d) does not define "color," the courts and the EEOC read "color" to have its commonly understood meaning - pigmentation, complexion, or skin shade or tone.

Thus, color discrimination occurs when a person is discriminated against based on the lightness, darkness, or other color characteristic of the person. Color discrimination can also involve someone being treated unfavorably because s/he is married to (or associates with) a person of a certain color or because of the person's connection to an organization associated with people of a certain color.

c. Disability. Reference (c) prohibits employment discrimination against individuals with disabilities in the federal sector. Disability discrimination occurs when an employer or other entity covered by reference (c) treats a qualified individual with a disability unfavorably because of a disability, or because that person has a history of a disability, or because that individual is believed to have a physical or mental impairment. This law also requires that a qualified individual with a disability be provided a reasonable accommodation, so long as it does not create an undue hardship on the operations of the agency.

d. Genetic information. Reference (b) prohibits genetic information discrimination in employment. Reference (b) prohibits the use of genetic information in making employment decisions, restricts employers and other covered entities from requesting, requiring, or purchasing genetic information, and strictly limits disclosure of genetic information. Genetic information includes information about an individual's genetic tests and the genetic tests of an individual's family members, as well as information about the manifestation of a disease or disorder in an individual's family member (i.e., family medical history).

e. National origin discrimination. National origin discrimination involves treating people (applicants or employees) unfavorably because they are from a particular country or part of the world, because of ethnicity or accent, or because they appear to be of a certain ethnic background (even if they are not).

f. Race. Reference (d) does not contain a definition of "race," nor has the EEOC adopted one. For the collection of federal data on race and ethnicity, the Office of Management and Budget has provided the following five racial categories:

American Indian or Alaska Native; Asian; Black or African American; Native Hawaiian or Other Pacific Islander; and White; and one ethnicity category, Hispanic or Latino. Race discrimination involves treating someone unfavorably because s/he is of a certain race or because of personal characteristics associated with race (such as hair texture, skin color, or certain facial features). This type of discrimination also involves treating someone unfavorably because the person is married to (or associated with) a person of a certain race or connection to an organization generally associated with people of a certain race.

g. Religion. Religious discrimination involves treating a person unfavorably because of his/her religious beliefs. The law protects not only people who belong to traditional, organized religions, but also others who have sincerely held religious, ethical or moral beliefs. The law also requires that an agency reasonably accommodate an employee's religious beliefs, absent undue hardship. Religious discrimination also can involve treating someone less favorably because the person is married to (or associated with) an individual of a particular religion or because of connection with an organization or group that is generally associated with people of a certain religious organization or group. Statutory and regulatory frameworks include "beliefs or practices or lack thereof."

h. Retaliation. Retaliation occurs when an employer 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. These laws prohibit retaliation because an individual engaged in "protected activity." Generally, protected activity consists of either participating in an EEO process or opposing conduct made unlawful by an EEO law.

i. Sex. Sex discrimination involves treating someone (an applicant or employee) unfavorably because of that person's sex. Sex discrimination also can involve treating someone less favorably because of his or her connection with an organization or group that is generally associated with people of a certain sex. Sex discrimination may include allegations of sexual harassment or harassment on the basis of the person's gender. Equal pay and compensation violations based on reference (e) are

also sex-based discrimination. Reference (e) requires that men and women in the same workplace be given equal pay for equal work. Reference (d) forbids discrimination based on pregnancy when it comes to any aspect of employment, including hiring, firing, pay, job assignments, promotions, layoff, training, fringe benefits (such as leave and health insurance), and any other term or condition of employment.

j. EEOC MD-715. Reference (g) outlines the responsibilities of federal agencies to establish and maintain effective EEO programs pursuant to reference (c) and reference (d).

k. Harassment. Harassment is unwelcome conduct that is based on race, color, religion, sex (including pregnancy, childbirth, or related medical conditions), national origin, age (40 or older), disability or genetic information. 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.

4. Major Command. EEO Major Commands to include to include the Office of the Chief of Naval Operations (OPNAV), Headquarters, U.S. Marine Corps (HQMC), the Office of the SECNAV (Secretariat), Office of Naval Research (includes Naval Research Lab), Naval Intelligence Command, Bureau of Medicine, Naval Air Systems Command, Naval Personnel Command, Naval Supply Systems Command, Naval Sea Systems Command, Naval Facilities and Engineering Command, Strategic Systems Programs, Military Sealift Command, Space and Naval Warfare Systems Command, Naval Installations Command, Fleet Cyber Command, U.S. Fleet Forces Command, U.S. Pacific Fleet, Navy Reserve Forces Command, Naval

Special Warfare Command, and Naval Education and Training Command.

5. Personal assistance services. Assistance with performing activities of daily living that an individual would typically perform if he or she did not have a disability, and that is not otherwise required as a reasonable accommodation, including assistance with removing and putting on clothing, eating, and using the restroom.

6. Reasonable Accommodation. Generally, any modification or adjustment to a job application process, the work environment or to the manner or circumstances under which work is customarily performed that enables a qualified individual with a disability to perform the essential functions of a position or enjoy equal benefits and privileges of employment as are enjoyed by similarly situated individuals without a disability.

7. Unit. An organization or installation performing a function or a mission, typically represented by Unit Identification Code (UIC).

8. Unit Head/Head of a Unit. The official who has overall responsibility for managing a Unit/UIC.