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NVNG-AG

9 Oct 2019

MEMORANDUM FOR All Personnel of the Nevada National Guard

SUBJECT: Equal Employment Opportunity (EEO) Policy for all Federal Technician Employees to include Title 32 or 5, former Federal Employee's and applicants for Federal Technician Employment in the Nevada National Guard.

1. References and definition: See Enclosure 1.

2. Policy.

a. The Nevada National Guard is fully committed to maintaining a positive work environment that is productive and free from discrimination and bias. We prohibit discrimination in employment because of race, sex (including pregnancy, gender identity and sexual orientation when based upon sex stereotyping), color, national origin, religion, age, disability, genetic information or reprisal/retaliation for previous EEO activity in accordance with applicable statutes and Equal Employment Opportunity Commission (EEOC) regulations. I want to ensure we have a command climate that encourages employees to freely identify and report injustices and discrimination of any form, without the threat of intimidation or reprisal. Leaders are responsible for ensuring that all personnel receive fair and equitable treatment on the basis of their capability and merit. I expect leaders to take swift and positive steps to eradicate bias behaviors and discriminatory practices.

b. It is the Nevada National Guard's policy to provide equal opportunity for all in areas of recruitment, hiring, promotions, transfers, reassignments, training, benefits and separations and in all policies affecting the treatment of T5 and T32 Employees. A diverse workforce provides a variety of perspectives and talents that enhance the workforce and workplace and allows an organization to capitalize and better leverage our different strengths and skills within the organization. We benefit by effectively incorporating diversity and inclusion by attracting and retaining top talent as an employer-of-choice and maintaining an inclusive environment that enhances the contribution of all members to fulfill the organization's mission.


c. The Nevada National Guard has an established discrimination complaint process for T5 and T32 National Guard employees, former T5 and T32 employees and applicants for employment. Within 45 days of the date that a person knows or should have known that they were being discriminated against, all employees have the opportunity to be referred to an EEO Counselor. The EEO Counselor will conduct an initial inquiry into the allegation of discrimination. A report will then be completed in accordance with regulatory guidance, or be referred by the counselor or State Equal Employment Manager (SEEM) to participate in alternate

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dispute resolution or mediation. At the conclusion of the dispute resolution, mediation or traditional counseling session, the complainant will have the opportunity to withdraw the complaint, settle the complaint, or present a formal complaint to the SEEM for investigation. Any person who believes that he or she has been the victim of unequal/discriminatory treatment or has knowledge of this behavior, is urged to report such conduct immediately to their supervisory chain, and EEO Counselor or to the SEEM. It is the goal of the NVNG to resolve and settle all complaints and allegations of illegal discrimination fairly, equitably and expeditiously.

3.e POC for this policy is Alicia Nyland, the State Equal Employment Manager, (775) 384-5845 or alicia.l.nyland.civ@mail.mil



ONDRA BERRY, Brig Gen, USAF
The Adjutant General, NVMD

Enclosures

- 1.e References and Definitionse
- 2.e EEO Contactse

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Enclosure 1

References and Definitions

1. References:

- a. Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. § 2000E-16).
- b. The Civil Rights Act of 1991 (P.L. 101-336) applicable to the National Guard personnel.
- c. The Age Discrimination in Employment Act (ADEA) of 1967, as amended (29 U.S.C. § 633A).
- d. The Rehabilitation Act of 1973, as amended (29 U.S.C. 791 and 794a).
- e. The Equal Pay Act (EPA) of 1963 (29 U.S.C. 206 (d)).
- f. The Americans with Disabilities Act (ADA) of 1990 (42 U.S.C. § 12101 *et seq.*, P.L. 110-336).
- g. The ADA Amendments Act (ADAAA) of 2008 (42 U.S.C. § 12101 *et seq.*, P.L. 110-325)
- h. The Genetic Information Nondiscrimination Act (GINA) of 2008 (P.L. 110-233)
- i. Title 29 of the Code of Federal Regulations; Parts 1613 and 1614, including revisions (29 C.F.R. Parts 1613 and 1614)
- j. Equal Employment Opportunity Commission Management Directive 110 (EEOC MD-110).
- k. Department of Defense (DOD) directive 1440.d, the DOD Civilian Equal Employment Opportunity (EEO) Program, as changed; and related case law and decision and interpretation of EEOC, November 21, 2003.

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- l. Executive Order 13087 (28 May 1998) and Memorandum from Under Secretary of Defense Clifford L. Stanley Re: Repeal of "Don't Ask, Don't Tell" (20 September 2011).
- m. Public Law 114-328, 23 December 2016, "National Defense Authorization Act for Fiscal Year 2017"
- n. NVNG Equal Employment Opportunity (EEO) Policy Statement, DTD: 23 July 2019
- o. NVMD REG 9600, Nevada National Guard Joint Civilian Discrimination Complaint Instruction, 9 October 2019

2. Definitions:

- a. *Discrimination.* Any Action unlawfully or unjustly resulting in unequal treatment of a person or group based on race, color, gender, national origin, age, disability, genetics, religion, sexual orientation or reprisal.
- b. *Equal Opportunity.* The right of all persons to participate in, and benefit from, programs and activities (for example, career, employment, educational, social) for which they are qualified. These programs and activities will be free from social, personal or institutional barriers preventing people from rising to the highest level of responsibility possible. Persons will be evaluated on individual merit, fitness, and capability, regardless of race, color, gender, national origin, age, disability, genetics, religion or sexual orientation.
- c. *Disparaging Terms.* Terms used to degrade or connote negative statements pertaining to race, color, gender, national origin or religion. Such terms may be expressed as verbal statements, printed material, visual material, signs symbols, posters or insignia. The use of these terms constitutes unlawful discrimination.
- d. *Gender Discrimination.* The action taken by an individual to deprive a person of a right because of their gender. Such discrimination can occur overtly, covertly, intentionally or unintentionally.
- e. *Sexism.* Attitudes and beliefs one gender is superior to another.

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f. *Hazing.* Any conduct whereby a person, regardless of service, rank or position, and without proper authority, recklessly or intentionally causes another person to suffer or be exposed to any activity that is cruel, abusive, humiliating, oppressive, demeaning or harmful. Soliciting or coercing another to participate in any such activity is also considered hazing. Hazing need not involve physical contact among or between military members or employees; it can be verbal or psychological in nature. Likewise, it need not be committed in the physical presence of the victim; it may be accomplished through written or phone messages, text messages, email, social media, or any other virtual or electronic medium. Actual or implied consent to acts of hazing does not eliminate the culpability of the perpetrator. Without outside intervention, hazing conduct typically stops at an identified end-point.

g. *Bullying.* Bullying is any conduct whereby a person(s), regardless of service, rank or position, intends to exclude or reject another person through cruel, abusive, humiliating, oppressive, demeaning or harmful behavior, which results in diminishing the other person's dignity, position, or status. Absent outside intervention, bullying will typically continue without any identifiable end-point. Bullying may include an abuse of authority. Bullying tactics include, but are not limited to, making threats, spreading rumors, social isolation and attacking someone physically, verbally or through the use of electronic media.

h. *Racism.* Any attitude or action of a person or institutional structure that subordinates a person or group because of skin color, ethnicity or race.

i. *Sexual Orientation.* Refers to an individual's emotional or physical attraction to the same and/or opposite sex (heterosexual, homosexual, or bisexual).

j. *Ally.* A person who does not identify as lesbian, gay or bisexual, but supports the rights and safety of those who do identify as lesbian, gay or bisexual.

l. *Bisexual.* A person who is attracted romantically, physically or emotionally to both men and women.

m. *Gay.* A male-identified person who is attracted romantically, physically or emotionally to another male-identified person.

n. *Lesbian.* A female-identified person who is attracted romantically, physically or emotionally to another female-identified person.

o. *Unlawful Harassment.* Includes but isn't limited to, unwelcome conduct, intimidation, ridicule, insult, offensive comments or jokes, or physical conduct based on any of the other bases such as race, color, religion, etc., when an employee's acceptance

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or rejection of such conduct explicitly or implicitly forms the basis for a tangible employment action affecting the employee or the conduct is sufficiently severe or pervasive as to alter the terms, conditions or privileges of the person or otherwise create a hostile or abusive work environment. This type of harassment does not involve discrete personnel actions such as a denial of promotion.

p. *Hostile Work Environment.* Discriminatory conduct or behavior in the workplace that is unwelcome and offensive to an employee or group of employees based on any of the protected bases. The conduct or behavior must be pervasive and constitute a pattern rather than consist of one or two isolated incidents. The pattern of behavior has to be of a degree severe enough to cause disruption beyond a reasonable degree in the work of the targeted person such as when the person becomes disturbed because of intimidation or due to fear of loss of employment. The complainant must have reason to believe such behavior patterns are likely to continue indefinitely. Offensive conduct may include, but are 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. The harasser can be the victim's supervisor, a supervisor from another section, an agent of the harasser, a co-worker or a non-military person. The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct.

q. *Sexual Harassment.* Sexual harassment is a form of gender discrimination involving unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of sexual nature when:

- The sexual harassment or conduct is made a term or condition of an individual's employment or career, job or pay/salary, or
- The sexual harassment or conduct is used as the basis for career or employment decisions, or
- The sexual harassment or conduct unreasonably interferes with an individual's work environment.

r. *Sexual Orientation.* An emotional or physical attraction to the same and/or opposite sex (homosexual, heterosexual, bisexual). Complaints may be based on actual or perceived sexual orientation, as well as associated with an individual or affinity group associated with a particular sexual orientation.

s. *Transgender.* A person who has initiated or completed the medical care to transition from one gender to another or is stable in the preferred gender.

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Enclosure 2

Nevada National Guard Equal Employment Contacts and Counselors

EO Counselors are available to all employees, applicants for employment and supervisors to discuss/advice and counsel on issues related to equal opportunity, discrimination or sexual harassment (includes gender, non-sexual or hostile work environment related). The following personnel have attended the EO counselors training and receive eight hours of refresher training on an annual basis and they are available to assist you with the types of issues mentioned above.

EEO Counselor	Phone	Email
LTC Laura Boldry	775-887-7273	laura.e.boldry.mil@mail.mil
Mr. Kevin Baugh	775-887-7381	kevin.baugh.ci@mail.mil
Mr. Jeremiah Trapp	775-887-7210	jeremiah.p.trapp.civ@mail.mil

State Equal Employment Manager	Phone	Email
Alicia Nyland	775-384-5845	alicia.l.nyland.civ@mail.mil

The NVNG State Equal Employment Manager is available for all employees, applicants and supervisors to discuss and advise on issues related to equal opportunity, discrimination or sexual harassment (included gender, non-sexual or hostile work environment related). The NVNG SEEM attends the EEO counselors training, conducts the eight hour annual refresher training and attends annual refresher training conducted by the Equal Employment Opportunity Commission (EEOC).

Contact information is to be posted on all facility and unit/wing electronic information sources and boards.