

## CHAPTER 28

### EQUAL EMPLOYMENT OPPORTUNITY

#### Section I - General Provisions

1-1. **Authority.**

- a. Executive Order 11478, 8 August 1969.
- b. Civil Rights Act of 1964, (P.L. 88-352), as amended by the Equal Employment Opportunity Act of 1972 (P.L. 92-261, 24 March 1972).
- c. Age Discrimination in Employment Act of 1967, as amended by the Fair Labor Standards Amendments of 1974 (P.L. 93-259, effective 1 May 1974).
- d. National Guard Technicians Act of 1968 (P.L. 90-486, 13 August 1968).
- e. 29 CFR 1613.
- f. NGR 690-600/NGR (AF) 40 - 1614, Civilian Discrimination Complaint Processing and Adjudication.
- g. Lilly Ledbetter Fair Pay Act of 2009, Public Law 111-2, amendment to the Civil Rights Act of 1964.

1-2. **Purpose.**

Provide information and guidance to technicians and applicants for employment. Outline the procedures and applicable directives implementing equal employment opportunity within the Alabama National Guard technician program.

1-3. **Scope.**

The provisions of this chapter apply to all technicians and applicants for technician employment in the Alabama National Guard.

1-4. **Policy.**

a. It is the policy of The Adjutant General to provide equal opportunity in technician employment on the basis of merit and fitness without discrimination because of race, color, religion, sex, age, national origin, or physical and/or mental handicap.

b. Promotes the full realization of equal employment opportunity through the affirmative employment program as an integral part of every aspect of personnel policy and practice in the employment, development, advancement and treatment of technicians of the Alabama National Guard.

1-5. **EEO Program Duties and Responsibilities.**

a. **The Adjutant General (TAG).** The Adjutant General shall exercise personal leadership in establishing, maintaining and carrying out a continuing affirmative program designed to promote equal employment opportunity.

b. **Commanders/Managers/Supervisors.** Each commander, manager and supervisor in the Alabama National Guard share the responsibility for an effective EEO program.

c. **State Equal Employment Manager (SEEM).**

(1) Serves as principal advisor to The Adjutant General on EEO matters; provides active staff leadership in the EEO program, with special emphasis on the development and implementation of the EEO Affirmative Employment Plan.

(2) Maintains continuing familiarity with conditions and circumstances affecting or relating to EEO within the Alabama National Guard technician program.

(3) Analyzes discrimination complaints to identify problem areas. Insures discrimination complaints are properly adjudicated.

(4) Coordinates and counsels with commanders, managers, and supervisors to develop solutions to problems so that personnel actions taken meet program objectives of EEO as well as conform to merit principles.

(5) Represents The Adjutant General (TAG) in EEO affairs within the state; Represents the National Guard through contact with community leaders, civic and minority organizations and educational institutions.

(6) Coordinates and supervises the activities of other EEO officials both full time and part time.

b. **Special Emphasis Program Committee (SEPC).** Is established to integrate the Federal Women's Program (FWP), Black Employment Program (BEP), Hispanic Employment Program, (HEP), Asian/Pacific American Employment Program, (APAEP), and the Program for Individuals with Disabilities, (PID). The SEPC provides an opportunity for more members of the work force to become involved and make a personal commitment and contribution to the EEO Program.

c. **Special Emphasis Program Managers (SEPM).**

(1) Assists the State Equal Opportunity Officer (as an additional duty) in implementing the National Guard Bureau policy to insure full equality for minorities in recruitment, placement, promotion, training, development and recognition in all positions and at all grade levels commensurate with a compatible military assignment for technicians within the constraints imposed by law.

(2) Participates actively in the formulation of affirmative actions relating to minorities and females and works with the SEEM, HRO staff, commanders, managers and supervisors in the implementation and follow through of these affirmative actions.

(3) May receive complaints of discrimination and refer complainant to available counselors for informal resolution.

(4) Reviews issues involved in complaints of discrimination to identify those matters that reflect patterns or practices, supervisory attitudes or other problem areas which result in denial of equal opportunity for employment or promotion for minorities and women.

d. **Equal Employment Opportunity Counselors.**

(1) Provide equal employment opportunity counseling service to technicians and applicants for technician employment at all units, locations and activities of the Alabama Army and Air National Guard, in addition to their normally assigned technician duties.

(2) Act as impartial and neutral parties serving both management and the technician workforce while working for the best interests of both.

(3) Establish and maintain an open and sympathetic channel through which technicians and applicants for employment may raise questions, discuss grievances and, when possible, get a resolution of problems dealing with equal employment opportunity, on an informal basis.

(4) Counselors report on EEO matters to the SEEM and submit recommendations to the EEO office regarding the status of, and means for improving, the EEO program.

(5) A list of EEO counselors should be posted on all units' technician bulletin boards.

## **Section II - EEO Program Status Report**

### **2-1. EEOC Form 715-01, Federal Agency Annual EEO Program Status Report.**

This annual report, EEOC Form 715-01, is used in reporting to the Equal Employment Opportunity Commission (EEOC) and National Guard Bureau our progress in establishing and maintaining continuous effective affirmative programs of equal employment opportunity under Section 717 of Title VII (PART A) and effective affirmative action programs under Section 501 of the Rehabilitation Act (PART B). This report is developed and published annually to outline plans and procedures to accomplish objectives and action items to enhance the EEO environment within the Alabama National Guard technician program. The report also guides us toward being a Model Agency for Title VII and Rehabilitation Act Programs as described in EEOC Management Directive 715. This Directive can be found at <http://www.eeoc.gov/federal/directives/md715instruct.cfm>.

### **2-2. Essential Elements of Model Agency Title VII and Rehabilitation Act Programs.**

The essential elements of model Title VII and Rehabilitation Act programs are:

- a. Demonstrated commitment from agency leadership;
- b. Integration of EEO into the agency's strategic mission;
- c. Management and program accountability;
- d. Proactive prevention of unlawful discrimination;
- e. Efficiency, Responsiveness and legal compliance.

## **Section III - Complaint Processing**

### **3-1. Complaint Processing.**

a. All technician complaints of discrimination based on race, color, religion, sex, age, national origin or mental and/or physical handicap must be processed in accordance with National Guard Bureau Regulation (AR) 690-600/NGR (AF) 40-1614 and EEOC Management Directive 110 .

b. The complainant must bring the complaint to the attention of the EEO Counselor within 45 calendar days of the date of the alleged discrimination or, if a personnel action, within 45 calendar days of the effective date of the action.

c. Class action complaints may also be filed, however, different time limits and processing procedures are applicable. Class complaint procedures and information can be obtained from the State Equal Employment Manager (SEEM).

#### **Section IV - Freedom from Reprisal or Interferences**

4-1. **Freedom from Reprisal.** Reprisal against anyone who has participated in a protected activity will not be tolerated. Reprisal refers to prohibited acts of retaliation against those who file EEO complaints or who otherwise participate in the EEO process as representatives, witnesses, investigators, counselors or program officials. Acts of reprisal are prohibited by 29 CFR 1614.101 (b). However prior participation in an EEO activity does not insulate an individual from subsequent acts of misconduct.

4-2. **Choice of Review Procedures.** Complainants must decide if they will request an immediate decision from National Guard Bureau or a hearing by an EEOC Administrative Judge (AJ). If an Administrative Judge hears your case, you will be issued a decision with 180 days. The National Guard Bureau (agency) will then take final action by issuing an order within 40 days of receipt of the AJ's decision. If the complainant elects an immediate decision by NBG and elects to appeal the agency's dismissal, decision or final action it must be within 30 days of receipt directly to EEOC at the address shown below:

Equal Employment Opportunity Commission  
Office of Federal Operations  
P.O. Box 19848  
Washington, D.C. 20036

4-3. **Time Limits.** A technician or applicant may file a charge of restraint, interference, coercion, discrimination or reprisal, in connection with the presentation of a complaint within 45 calendar days of the date of the alleged occurrence. The charge will be in writing and shall contain all pertinent facts and should be addressed to The Adjutant General or State Equal Employment Manager.