

STATE OF OHIO  
ADJUTANT GENERAL'S DEPARTMENT  
2825 West Dublin Granville Road  
Columbus, Ohio 43235-2789

MEMORANDUM

TO: All State Employees of The Adjutant General's Department

FROM: John C. Harris Jr., The Adjutant General *John C. Harris Jr. 10 APR 2019*

DATE: April 10, 2019

SUBJECT: Equal Employment Opportunity (EEO), Anti-Discrimination, Harassment and Retaliation and Reporting Policy

**1.0 Purpose:** The Adjutant General's Department (ADJ) is a diverse, inclusive, and equal opportunity employer. The purpose of this policy is to emphasize that **discrimination**, **harassment**, and/or **retaliation** will not be tolerated in the workplace and to establish procedures for state employees and applicants for state employment to report claims of discrimination, harassment, and retaliation.

This policy is not intended to be a complete statement of federal and/or state law, or an employee's rights regarding discrimination, harassment, and retaliation. As always, an employee should seek the counsel of an attorney for questions regarding the law and the rights thereby accorded. Bargaining unit employees may also be represented by their unions.

**2.0 Policy:** It is the policy of the ADJ to maintain a working environment free from discrimination, harassment, and retaliation. Further, it is the policy of the ADJ to prohibit discrimination, harassment, and retaliation of applicants and employees due to race, color, religion, gender/sex, gender identity or expression, national origin (ancestry), military status, disability, age (40 years of age or older), genetic information, sexual orientation, or caregiver status (status as a parent during pregnancy and immediately after the birth of a child, status as a parent of a young child, or status as a foster parent) as those terms are defined in applicable Ohio law, federal law, and any effective Executive Order, in making any of the following employment-related decisions including, but not limited to, hiring, layoff, transfer, termination, promotion, demotion, discipline, rate of compensation, eligibility for in-service training programs, or terms and conditions of employment. Moreover, ADJ may not retaliate against anyone who exercises a protected right under EEO laws, including making a complaint or participating in an investigation.

**2.1. Procedures for Reporting Claims of Discrimination, Harassment, and/or Retaliation:** Any employee or applicant for employment who believes that they are a victim of discrimination, harassment, or retaliation based on race, color, religion, gender, gender identity or expression, national origin (ancestry), military status (past, present, or future), disability, age (40 years of age or older), status as a parent during pregnancy and immediately after the birth of a child, status as parent of a young child, status as a foster parent, genetic information, and/or sexual orientation should report the incident(s) to: 1) the employee's

supervisor; 2) ADJ's EEO officer and/or Deputy Director of State Human Resources; 3) the Department of Administrative Services, Equal Opportunity Division (DAS-EOD); 4) the Ohio Civil Rights Commission (OCRC); and/or 5) the Equal Employment Opportunity Commission (EEOC).

Any employee who believes that they have been subject to harassment are encouraged to inform the potential harasser that their conduct is unwelcome, directly or indirectly, as soon as practical and safe. It is everyone's responsibility to maintain a workplace free from harassment and to speak up if harassment is occurring.

All personnel of the ADJ are asked to assist in an effort to achieve equal employment opportunity. Any willful or deliberate violation of this policy by an employee of the ADJ will be cause for disciplinary action.

The ADJ State Employee EEO Officer has full authority for the administration of the program. See paragraph 2.2 below for ADJ EEO Officer contact information.

**2.2 Methods and Timelines for Reporting:** A state employee or applicant for state employment who believes they have experienced harassment, discrimination, or retaliation may report the incident to one or all of the following:

- *Employee supervisor and/or supervisory chain* (contact varies by employee)
- *Pamela A. Schaal, ADJ EEO Officer, Deputy Director of State Human Resources, Adjutant General's Department, 2825 West Dublin Granville Road, Columbus, Ohio 43235-2789, (614) 336-7151 or DSN 346-7151*
- *Ohio Department of Administrative Services, Equal Opportunity Division (EOD):* Filing with EOD can be done through the Adjutant General's Department EEO Officer or directly by calling (614) 466-8380 or visiting [www.das.ohio.gov/Divisions/EqualOpportunity](http://www.das.ohio.gov/Divisions/EqualOpportunity). This filing must occur no later than thirty (30) days from the date of the last alleged discriminatory incident.
- *Ohio Civil Rights Commission (OCRC):* Filing with OCRC can be done by calling (614) 466-7742, by visiting [www.crc.ohio.gov](http://www.crc.ohio.gov), or by mail to 30 E. Broad Street, Fifth Floor, Columbus, Ohio 43215 or a regional office. This filing must occur no later than six (6) months from the date of the last alleged discriminatory incident.
- *Federal Equal Employment Opportunity Commission (EEOC):* Filing with the EEOC can be done by calling (800) 669-4000, visiting [www.eeoc.gov](http://www.eeoc.gov), or by mail to 1240 E. 9<sup>th</sup> Street, Suite 3001, Cleveland, Ohio 44199. This filing must occur no later than three hundred (300) days from the date of the last alleged discriminatory incident.

**2.3 Enforcement:** Discrimination, harassment, and retaliation will not be tolerated. Such conduct is subject to discipline, up to and including termination. Supervisory employees are advised that they may be subject to personal liability for acts of discrimination, harassment, and/or retaliation and may be responsible for providing their own legal defense.

### 3.0 Authority

ORC 124.04, Chapter 4112; OAC 123:1-49; DAS HR-D-14; Executive Order 2019-05D

This policy supersedes any previously issued directive or policy and will remain effective until canceled or superseded.

### 4.0 Inquiries

Direct inquiries about this policy to:

Pamela A. Schaal  
Deputy Director of State Human Resources  
Adjutant General's Department (ADJ)  
2825 W. Dublin Granville Road  
Columbus, Ohio 43235-2789

(614) 336-7151 or DSN 346-7151

### 5.0 Definitions

**a. Discrimination.** Discrimination occurs when an adverse employment action is taken based on the employee or applicant's status as a member of a protected class. There are two forms of discrimination:

- Disparate Treatment – Disparate treatment occurs when an employer intentionally treats an employee differently because of their protected class.
- Disparate Impact – Disparate impact occurs when an employment policy, although neutral on its face, adversely impacts persons in a protected class.

**b. Harassment.** Unwelcome conduct based on a protected class, such as race, sex, religion, etc. Harassment becomes unlawful when 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. Harassment can be verbal and/or physical and can include name calling, slurs, jokes, gestures, leering, stalking, grabbing, and/or assault. This is not an exhaustive list of all harassing behaviors.

**c. Retaliation.** The act of punishing an employee or applicant for asserting their rights under EEO laws to be free from employment discrimination, including harassment. This includes retaliation against an individual who requested an accommodation; filed, testified, or participated in a discrimination investigation, proceeding, or lawsuit; or opposed employment practices that they reasonably believed discriminate against individuals. A claim of retaliation is based on objective and non-discriminatory criteria.

**d. Complainant.** An individual who makes the discrimination, harassment, or retaliation complaint.