



*Department of the Army  
Assistant Secretary Manpower and  
Reserve Affairs*

**The Army Leadership  
Role in  
Equal Employment Opportunity**

Stanley L. Kelley Jr., Director  
Equal Employment Opportunity Compliance  
and Complaints Review Agency

# ARMY EEO VISION COMES FIRST

## VISION

Army - The model employer with a diverse and effective work force founded upon equality of opportunity

## GOALS

- ★ A work environment free of unlawful discrimination
- ★ Equal Employment Opportunity institutionalized as an integral part of the Army mission
- ★ A work force reflective of our Nation's diversity
- ★ Army Equal Employment Opportunity professionals are experts in their field

# EO or EEO ?

*Soldiers and Civilians are protected*

EO

EEO

Soldiers

UCMJ

Civilians

Statutes

***Equal Employment Opportunity Program  
(Civilians)***

# Applicable Laws

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- ✓ **Civil Rights Act of 1964 (Title VII) as amended**
  - ✓ **Rehabilitation Act (1973) Sections 501 and 504**
  - ✓ **Age and Discrimination in Employment Act of 1967  
as amended**
  - ✓ **Equal Pay Act (1963)**
  - ✓ **Americans with Disabilities Act (1990)**
  - ✓ **Civil Rights Act of 1991**

# Implementing Guidance

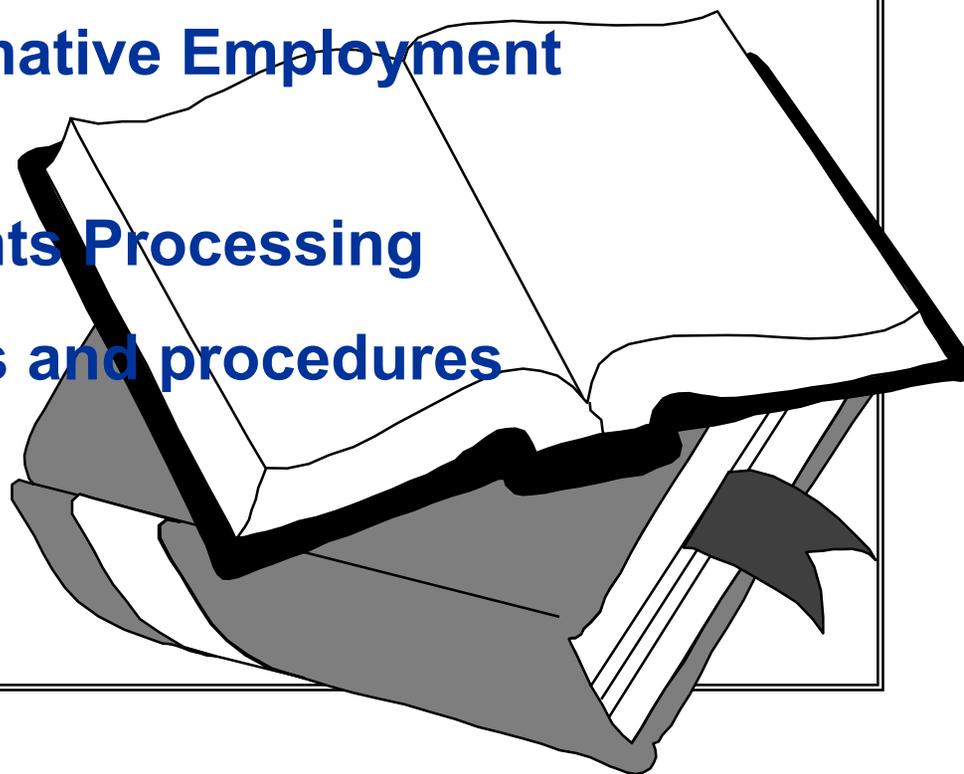
**29 Code of Federal Regulations, Chapter 1614**

**EEO Management Directive 110**

**AR 690-12 EEO and Affirmative Employment Programs**

**AR 690-600 EEO Complaints Processing**

**Locally developed policies and procedures**



## ***EEOCCRA Mission***

- **Manage Federal Discrimination Complaints Program for Army and other Department of Defense customers**
- **Adjudicate complaints of discrimination**

# Responsibilities

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## **ASA (M&RA)**

- HAS OVERALL RESPONSIBILITY FOR ALL EEO POLICY MATTERS
- ENSURES ADEQUATE RESOURCES ARE AVAILABLE TO IMPLEMENT ARMY'S EEO PROGRAM



## **DEPUTY FOR EEO POLICY/DIRECTOR, EEO AGENCY**

- DEVELOP ARMY- WIDE EEO POLICY AND EVALUATE AEP PLANS AND SPECIAL EMPHASIS PROGRAMS
- OVERSIGHT AUTHORITY FOR NON-DISCRIMINATION IN FEDERALLY ASSISTED/CONDUCTED PROGRAMS
- DIRECT THE EEOA STAFF



## **DIRECTOR, EEO COMPLIANCE AND COMPLAINT REVIEW AGENCY**

- DEVELOP ARMY POLICY AND PROGRAMS TO MANAGE DISCRIMINATION COMPLAINT SYSTEM
- ADJUDICATE COMPLAINTS OF DISCRIMINATION

# Responsibilities (Cont'd)

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## **EEO OFFICER**

- DEVELOP, COORDINATE AND EVALUATE ALL EEO ACTIVITIES
- ADVISE COMMANDER ON EEO MATTERS
- MANAGE EEO COMPLAINT SYSTEM



## **CPAC CHIEF**

- DEVELOP AND IMPLEMENT RECRUITING AND TRAINING PLANS
- COMPILE DATA
- IDENTIFY AND DEVELOP STRATEGIES TO REMOVE EMPLOYMENT BARRIERS

# Responsibilities (Cont'd)

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## **CHIEF OF ENGINEERS**

- ESTABLISH POLICY AND PROCEDURES TO ELIMINATE ARCHITECTURAL, TRANSPORTATION AND COMMUNICATION BARRIERS FOR PERSONS WITH DISABILITIES



## **COMMANDERS**

- PROVIDE PERSONAL LEADERSHIP THROUGH POLICY STATEMENTS, AEP PLANS AND REVIEW AND ANALYSIS
- PROVIDE SUFFICIENT RESOURCES
- APPOINT EEO OFFICIALS
- MONITOR EEO PERFORMANCE OF MANAGERS AND SUPERVISORS

# Responsibilities (Cont'd)

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## **LABOR COUNSELOR**

- PROVIDE LEGAL ADVICE ON AEP POLICY AND EEO COMPLAINTS PROCESSING
- REPRESENT ARMY AT INVESTIGATIONS & HEARINGS



## **MANAGERS AND SUPERVISORS**

- ENSURE FAIR AND EQUITABLE TREATMENT OF ALL EMPLOYEES
- ENSURE NON-DISCRIMINATION IN FEDERALLY ASSISTED/CONDUCTED PROGRAMS



## **SPECIAL EMPHASIS PROGRAM MANAGERS**

- ADVISE EEO AND CP OFFICIALS, MANAGERS AND SUPERVISORS ON EMPLOYMENT ISSUES OF TARGET GROUPS

# ***Installation EEO Officer:***

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## ***On the Commander's personal staff ...***

***Serves as the Commander's KEY ADVISOR***

### ***MUST:***

***Report to Chief of Staff -- or higher***

***Have UNFETTERED ACCESS to the Commander***

***Be viewed as KEY ADVISOR to senior managers***

***Have CONFIDENCE of the work force***

***Fill EEO Officer vacancies EXPEDITIOUSLY***

***-- usually with in 60 days***



# ***Installation EEO Officer:***

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## ***Manages:***

***Complaint-processing, Affirmative Action and Special Emphasis Programs***

## ***Administers and Oversees:***

***An **A**lternate **D**ispute **R**esolution program and ... encourages complaint resolution at the **lowest level*****

## ***Trains and Advises:***

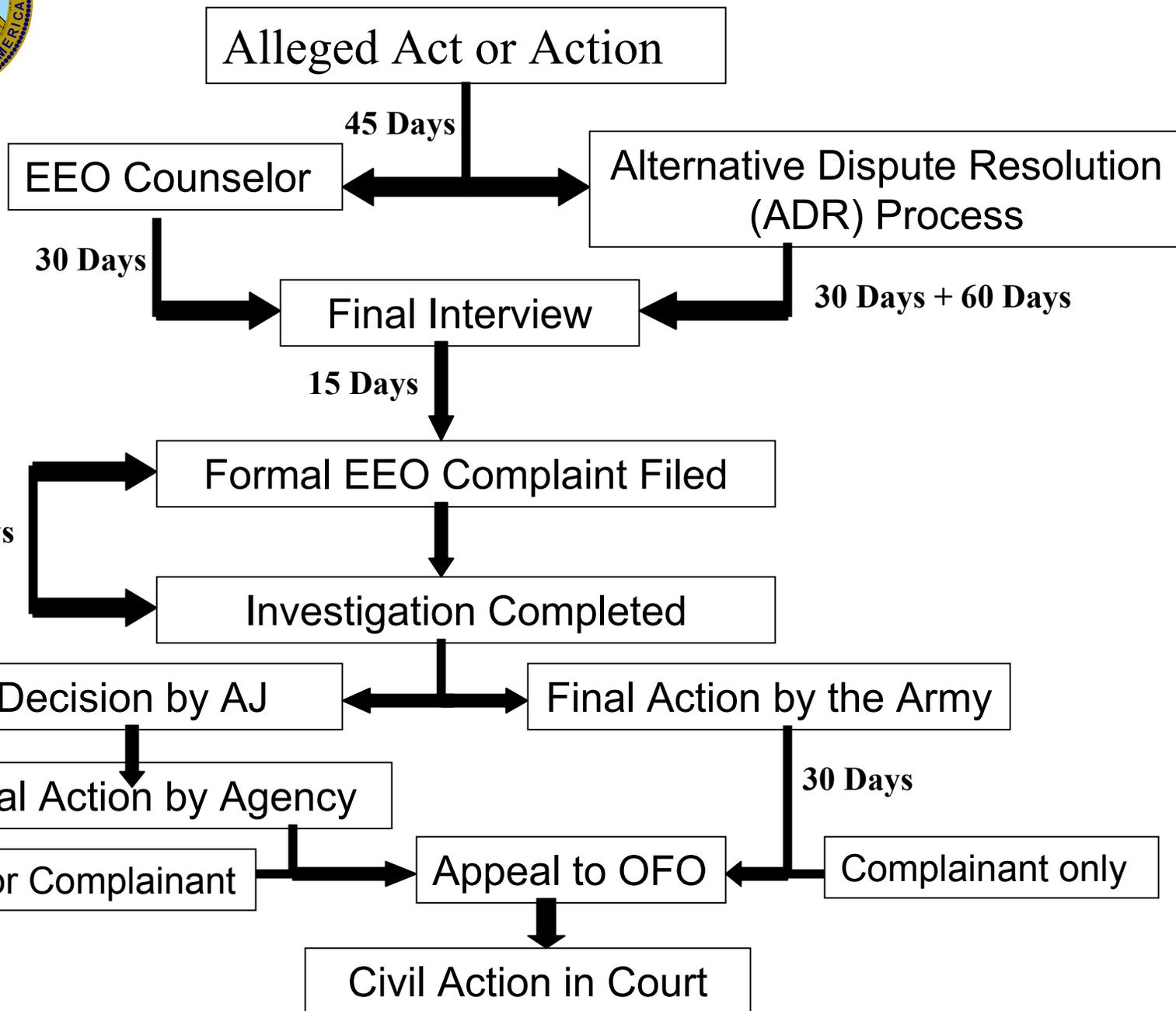
***Commanders, Managers and Supervisors in carrying out **their** EEO Program responsibilities***



# ***Federal Sector EEO Complaint Processing***



# Overview of Complaint Process



# *Types of Complaints*



## *Individual*

**Personnel action personal in nature, to an individual.**

## *Class*

**An employment policy, practice or procedure when applied equally among individuals may adversely affect a group of people.**



# ***The EEO Complaint Process ... who can file a complaint?***

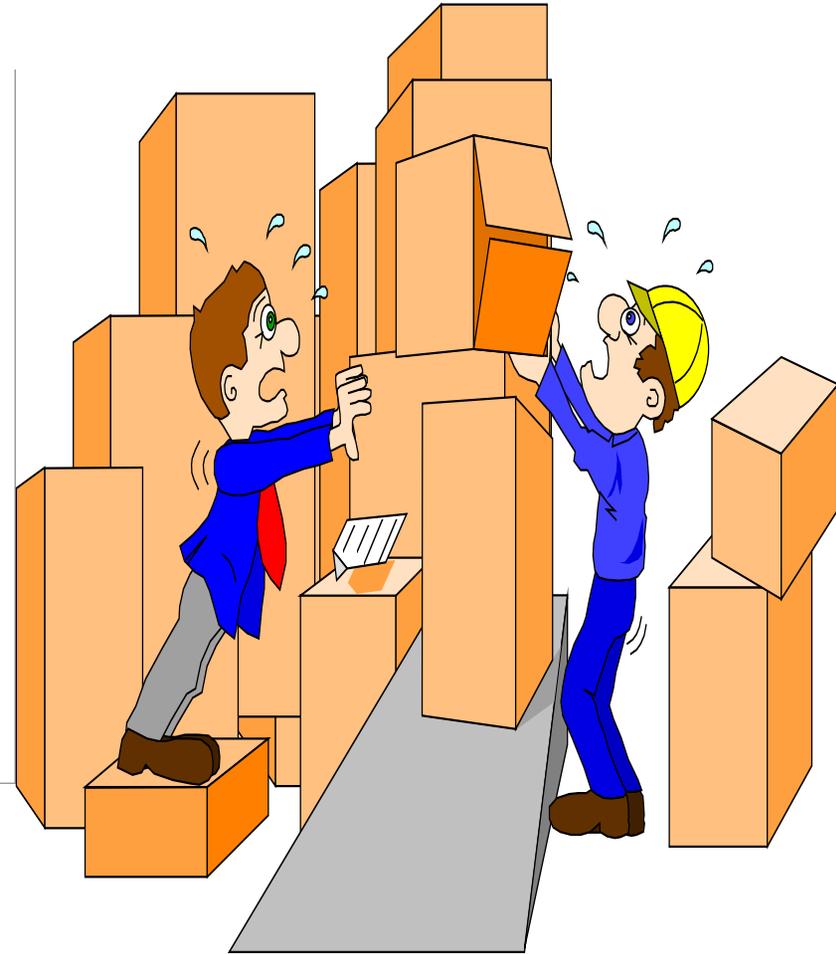
**Applicants, Current, Former and Prospective Employees,  
Certain Contractors**



# Bases for filing a complaint

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- Race
- Color
- Sex
- Age
- Religion
- National Origin
- Disability (physical or mental)
- Reprisal for Title VII Activity



*Aggrieved must identify an issue relating to a term, condition or benefit of **EMPLOYMENT***

# Procedural Rights

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Management  
and  
Witnesses

## Informal Stage

- *Representation*

## Formal Stage

- *Representation*



Aggrieved

## Informal Stage

- *Representation*
- *Remain anonymous*

## Formal Stage

- *Representation*

***Back to Basics***

# Program Management

## **EEO**

*must be a philosophy that is integral to readiness. It must be removed from the "Program Box" and instilled into the very fiber of Army, becoming inherent in all day-to-day practices and demonstrated continually at all levels.*

**Commanders**

**Supervisors**

**Team Leaders**

**Employees**

**The EEO Program**

**is a**

**Managers' Program**



## ***Managers should:***

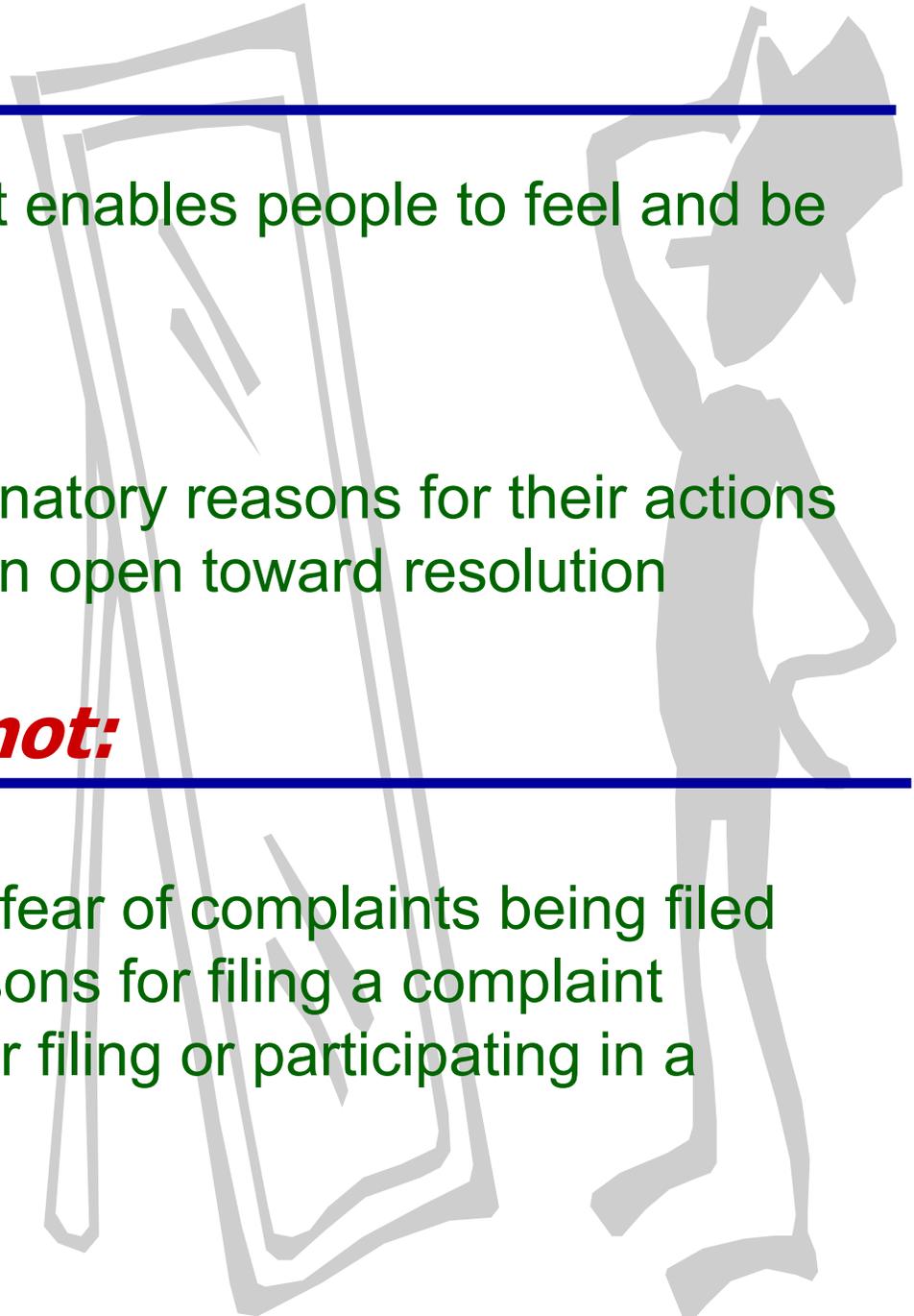
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- Create an environment that enables people to feel and be relevant
- Tell the truth
- Be credible
- Have legitimate nondiscriminatory reasons for their actions
- Keep lines of communication open toward resolution
- Be professional

## ***Managers should not:***

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- Fail to act as managers for fear of complaints being filed
- Criticize complainant's reasons for filing a complaint
- Retaliate against anyone for filing or participating in a complaint
- Become defensive



# EEO Program Concerns

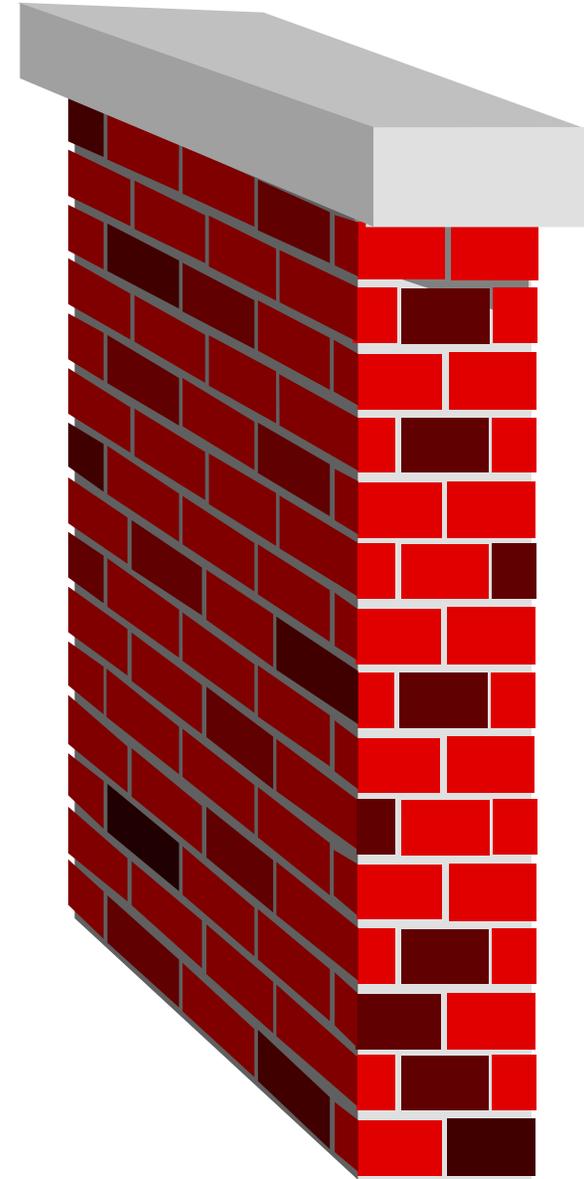
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- ✓ Leaders fail to assume program ownership
  - ✓ Leader development
  - ✓ Employee distrust of management
  - ✓ Accountability through performance and behavior
  - ✓ Not enough work environment monitoring

# Failure to Address Employee EEO Concerns

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- *Costly*
- *Reduced productivity*
- *Causes chaos throughout the work place and community*
- *Trust is hard to regain*
- *Loss of valuable employees*
- *Mission suffers*



**Findings of  
discrimination  
are  
costly and career  
damaging!**

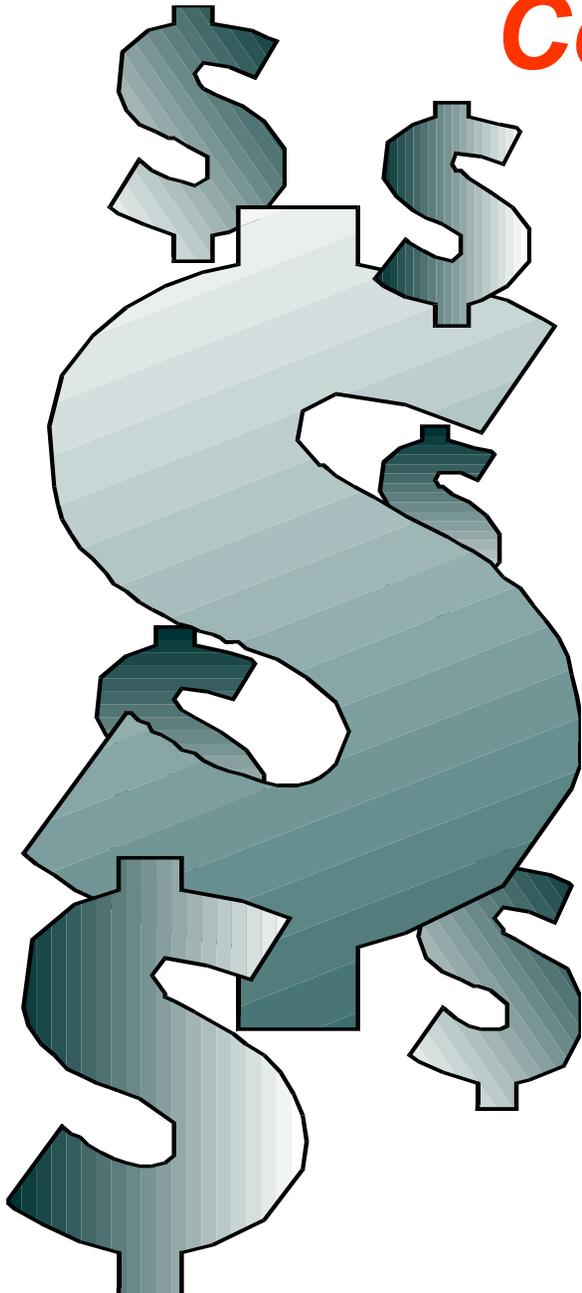


# Costly ...

## Complaints

**98**                      **99**                      **00**

Informal	3,109	2,846	2,891
Formal	1,449	1,366	1,346
Settled	523	638	525
ADR	262	297	428
Findings	6	3	6



***Costly ...***

**Informal**

**1,000**

***indirect costs***

**Complaint Processing**

**Formal**

**5,000 - 60,000**

**Costly ...**

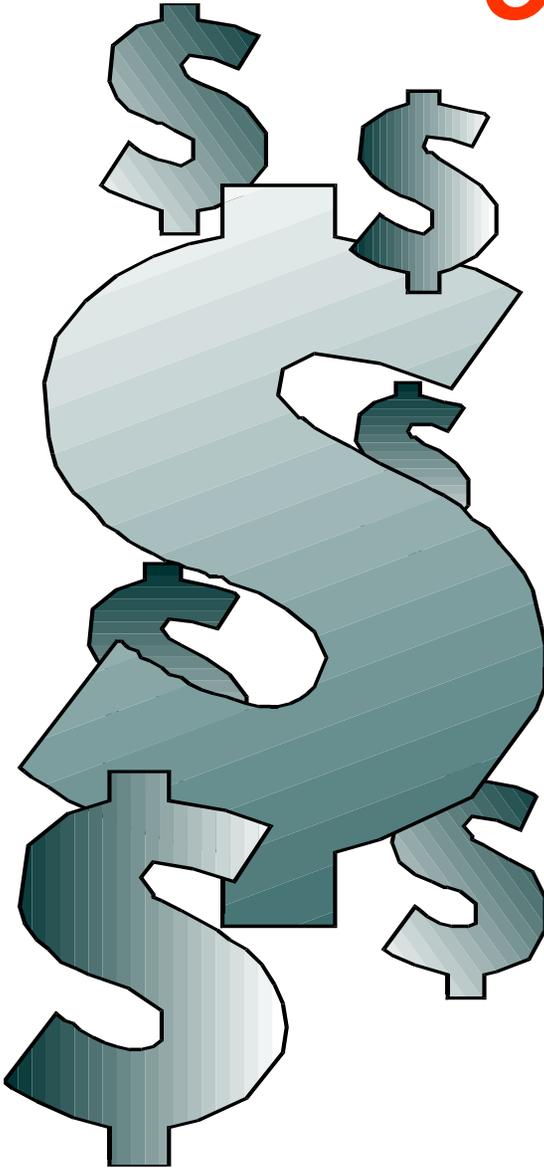
## **Back Pay Awarded**

**FY98**     **\$ 905,060**

**FY99**     **\$ 481,079**

**FY00**     **\$1,220,856\***

\*includes lump sum payments





**Costly ...**

## **Attorney Fees**

<b>FY98</b>	<b>\$ 522,330</b>
<b>FY99</b>	<b>\$1,061,944</b>
<b>FY00</b>	<b>\$ 846,010</b>

**Costly ...**

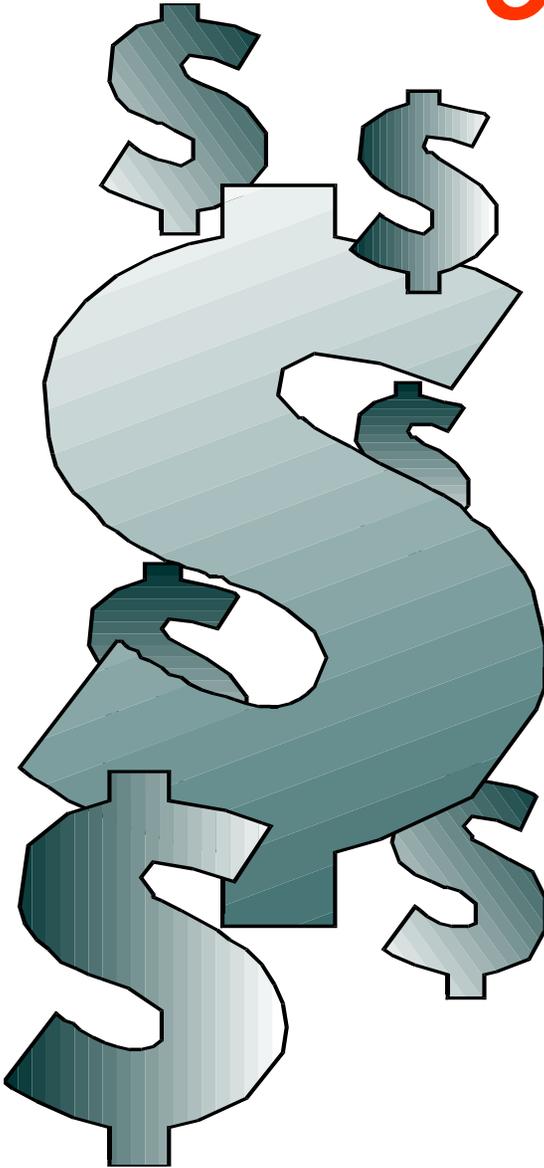
## **Compensatory Damages**

**FY98     \$ 905,060**

**FY99     \$ 481,079**

**FY00     \$1,220,856\***

\*includes lump sum payments

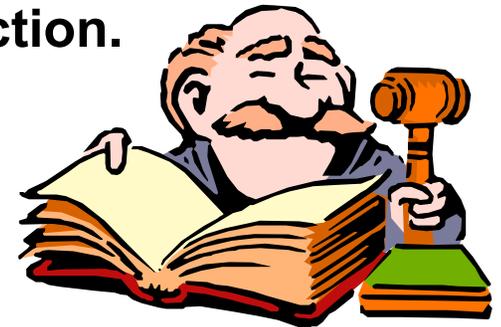


# **AVOIDING LIABILITY IN SEX BASED HARASSMENT CASES**

(See *Sebek v. Holder*, DOJ OFO Appeal No. 07A00005)  
Appellant awarded \$2 K non-pecuniary damages plus \$9 K pecuniary loss

**Employer held subject to vicarious liability, under Title VII of Civil Rights Act of 1964, as amended, for supervisor actionable sexual hostile environment created by a supervisor with immediate or successively higher authority over the employee.**

**The employer has the responsibility to avoid liability by taking timely and effective action.**

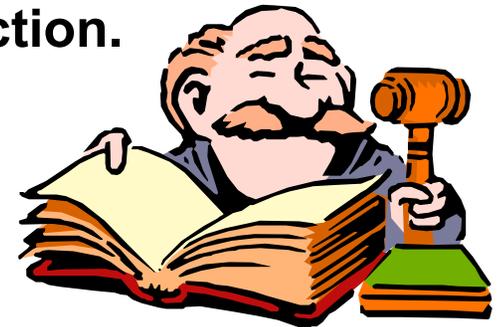


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## “Embryonic Stage”



*Address employee concerns  
early!*

**Best and most cost effective opportunity for leaders to  
address individual concerns and attempt resolution**

# Areas of Concern

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- **Findings of Discrimination**

- ✓ **Americans with Disabilities Act**

- ✓ Failure to accommodate

- ✓ Army policies and procedures

- ✓ **Same sex sexual harassment**

- ✓ *Oncale v. Sundowner Offshore Services*

- ✓ **Sexual harassment**

- ✓ Vicarious liability

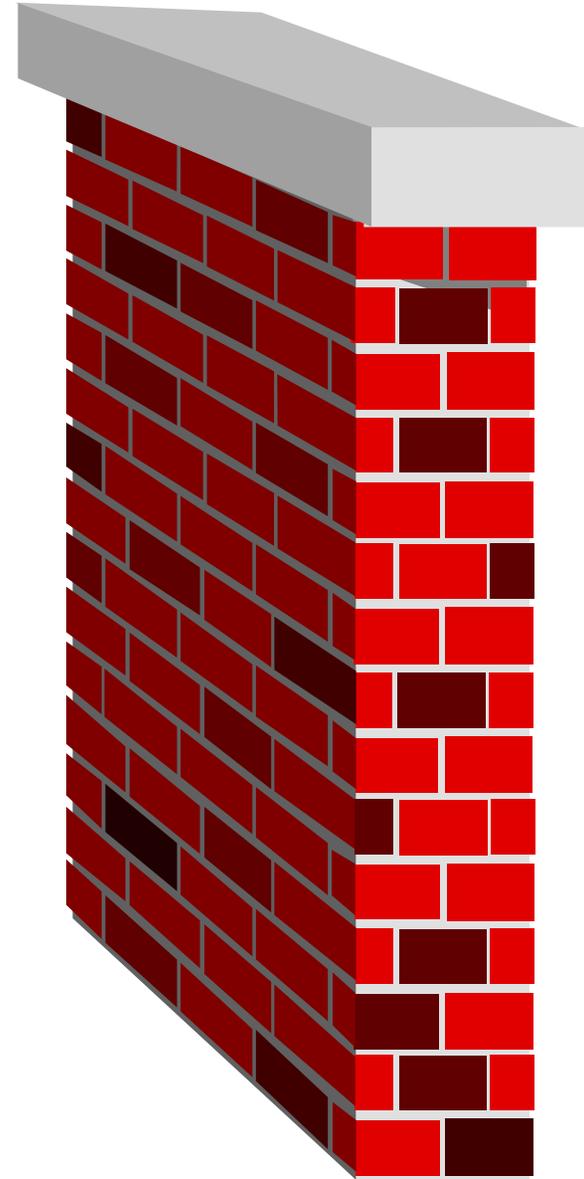
- ✓ **Reprisal**



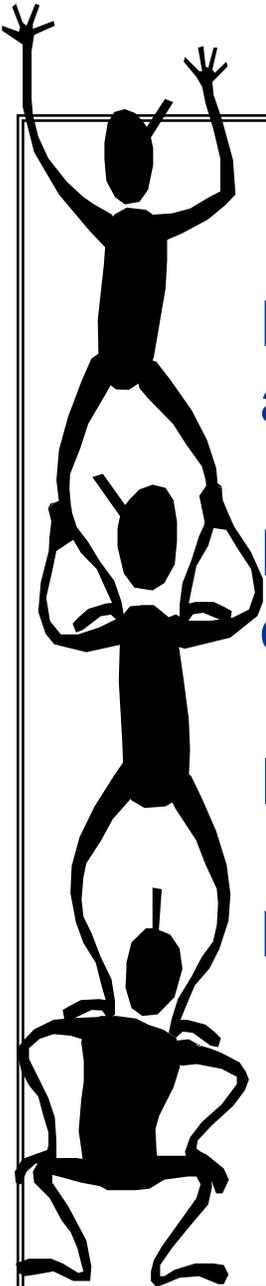
# Areas of Concern

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- *Failure to produce witnesses*
- *Delay of investigative process*
- *Systemic cultural attitudes*
  - *Ethnic slurs*
  - *Derogatory words*
  - *Group association*



# Leadership Initiatives



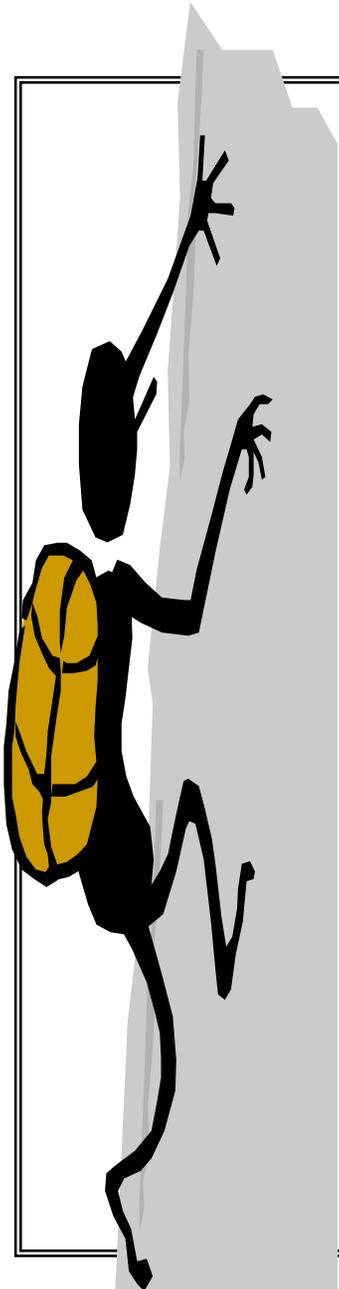
Develop a plan to examine morale, teamwork and communication

Hold supervisors accountable for the health of their organizations

Identify aspiring leaders -- mentor and train

Provide leader and supervisory development training

# More Leadership Initiatives



Promote open communication and collaboration for *EARLY* resolution of employee concerns and dissatisfactions

Publish clear, concise command policy on prevention of discrimination and reprisal

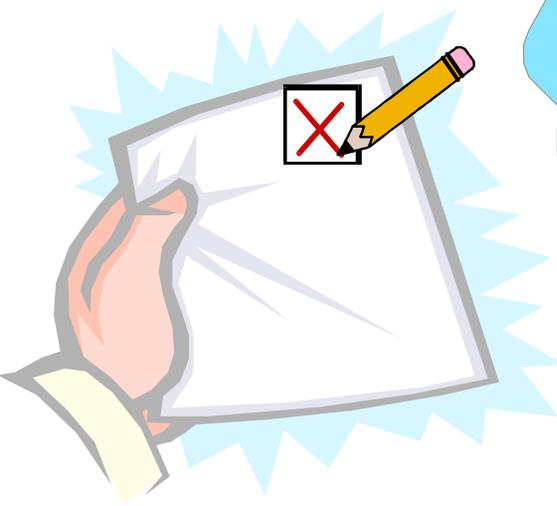
Create an environment that enables people to feel and be ***RELEVANT!***

# **Professionalism = Accountability**

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**Performance objectives --**

**Ratees with Supervisory Duties:  
Include performance expectations  
for Leadership and  
Equal Employment Opportunity**



# Address Employee Concerns Early!

*What's in it for you?*

No surprises

Saves time, money, less  
turnover

Builds healthy, cohesive team

Increases productive  
environment

Promotes Readiness

and

Mission Accomplishment



# Where We're Going ...

*We are going to help create an environment in which the diversity, dignity, and capabilities of individuals are valued.*

*Where people do not feel the need to address concerns through an administrative process.*

*When complaints are filed, we will decide issues quickly, enabling people to refocus on Army's mission.*

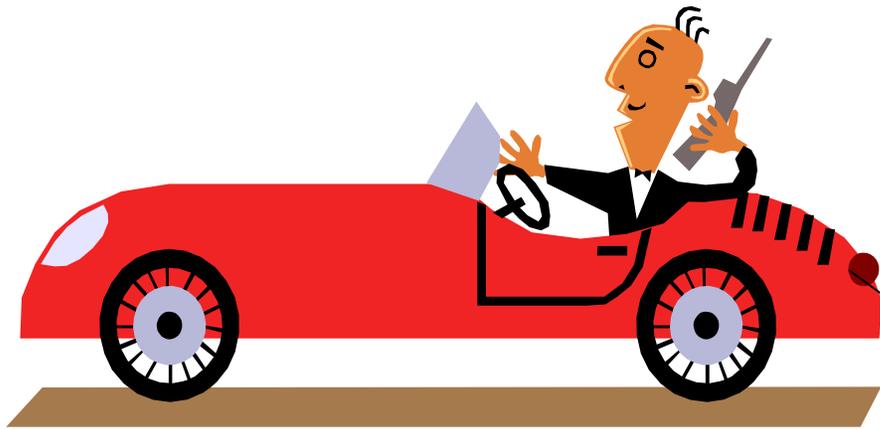
# WE ARE HERE TO SERVE YOU!

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**Laura M. MacNeil, Lead Analyst**      **(703) 607-1447**

**J. Pamela Ray, Compliance Manager**  
**(703) 607-2294**





The End