

Equal Employment Opportunity Newsletter

Equality is OK!



USAG FORT SILL

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Addressing Sexual Orientation & Gender Identity



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EEO Officer

It is the policy of the Federal Government to provide equal employment opportunity to all individuals. Executive Order 11478, as amended, expressly prohibits discrimination based on sexual orientation and gender identity within executive branch civilian employment. It also prohibits discrimination based on race, color, religion, sex, national origin, disability, parental status, and age. The Executive Order states that this non-discrimination policy "must be an integral part of every aspect of personnel policy and practice in the employment, development, advancement, and treatment of civilian employees of the Federal Government, to the extent permitted by law."

Agency Responsibilities:

As the nation's largest employer, the Federal Government should set an example for other employers that employment discrimination based on sexual orientation or gender identity is not acceptable. All federal workers—including lesbian, gay, bisexual, and transgender (LGBT) individuals—should be able to perform their jobs free from any unlawful discrimination. Agencies, including federal officials and managers, should commit to promoting a work environment that is free from sexual orientation and gender identity discrimination, in accordance with existing federal law. Agencies should notify employees about avenues of redress and encourage them to report instances of discrimination to their supervisors and to the agency's Equal Employment Opportunity (EEO) office. When made aware of problems, managers should consult with their human resources office or agency legal counsel to ensure that appropriate steps are taken. All reports of sexual orientation or gender identity discrimination should be taken seriously and addressed promptly and properly. In some circumstances, this may involve taking corrective steps or disciplining those who discriminate, as applicable.

Individuals who believe they have been discriminated against based on sexual orientation or gender identity may file a complaint through their agency's federal sector EEO complaint process. The EEOC has instructed agencies to accept claims alleging sexual orientation or gender identity discrimination as claims of sex discrimination and to investigate those claims to determine if discrimination on the basis of sex occurred (including discrimination based on sex stereotypes).

Very generally, the EEO complaint process works as follows:

- The person has **45 days** from the date of the alleged discrimination to notify an EEO counselor at his or her agency.
- The agency counselor may then attempt to resolve the claim informally through alternative dispute resolution or other practices.
- If the attempts to resolve the claim informally are unsuccessful, the applicant or employee is given a notice of right to file a complaint. The applicant or employee has **15 days** from the date he or she receives that formal notice to file a formal complaint.

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Special points of interest:

- SEXUAL ORIENTATION & GENDER IDENTITY
- FEDERAL COURT DECISIONS
- ERGONOMICS
- TIDBIT CORNER

Inside this issue:

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Addressing Sexual Orientation & Gender Identity (Cont)

-If the agency accepts the claim, it will conduct an investigation, which generally must be completed within **180 days**. Upon completion of the investigation, it will issue to the applicant or employee the investigative file and provide notice of his or her choice of receiving a final agency decision (FAD) based on the results of the investigation or requesting a hearing from an EEOC Administrative Judge.

-If a hearing is requested, an EEOC Administrative Judge may hold a hearing on the complaint and will

issue a decision as to whether discrimination occurred. The agency will then issue a Final Order either accepting the decision of the EEOC Administrative Judge or rejecting it and appealing the matter to the EEOC.

-The applicant or employee has the option of accepting the FAD, appealing the decision of the EEOC Administrative Judge or FAD to the EEOC (this must be done within **30 days** of receiving the FAD), or filing a claim in federal court (this must be done within **90**

days of receiving the FAD). Under Title VII, an applicant or employee **MUST** work through the administrative EEO process before he or she can file a claim in federal court.

-Decisions appealed to the EEOC are reviewed by attorneys in its Office of Federal Operations. In adjudicating the appeal, the EEOC will determine whether the agency dealt with the claim appropriately and applied the correct legal analysis.

-Decisions from the EEOC are final and binding on the agency. The

WE WILL NEVER
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OTHERS.
~WILL ROGERS

applicant or employee, however, retains the option of taking his or her claim to federal court after the EEOC issues a decision on an appeal (this must be done within **90 days** of receiving the EEOC decision).

All days are **calendar days.

Additional information regarding the federal sector EEO complaint process may be found on the EEOC's website at www.eeoc.gov/federal/fed_employees/complaint_overview.cfm. The EEOC's website also has information about the enforcement protections for LGBT

workers at www.eeoc.gov/eeoc/newsroom/wysk/enforce-ment_protections_lgbt_workers.cfm.

Price Waterhouse v. Hopkins, 490 U.S. 228 (1989). The Supreme Court recognized that employment discrimination based on sex stereotypes (e.g., assumptions and/or expectations about how persons of a certain sex should dress, behave, etc.) is unlawful sex discrimination under Title VII. Price Waterhouse had denied Ann Hopkins a promotion in part because other partners at the firm felt that she did not act as woman should act. She was told, among

other things, that she needed to "walk more femininely, talk more femininely, [and] dress more femininely" in order to secure a partnership. *Id.* at 230-31, 235. The Court found that this constituted evidence of sex discrimination as "[i]n the . . . context of sex stereotyping, an employer who acts on the basis of a belief that a woman cannot be aggressive, or that she must not be, has acted on the basis of gender." *Id.* at 250. The Court further explained that Title VII's "because of sex" provision strikes at the "entire spectrum of disparate treatment of men and women resulting from sex stereotypes." *Id.* (quoting City of Los Angeles Dep't of

Water & Power v. Manhart, 435 U.S. 702, 707 n.13 (1978).

Lopez v. River Oaks Imaging & Diagnostic Group, Inc., 542 F. Supp. 2d 653 (S.D. Tex. 2008). The plaintiff alleged that she was subjected to sex discrimination when the employer rescinded its job offer after learning that she was transgender. Denying the employer's motion for summary judgment, the court concluded that the plaintiff's claim was actionable as sex discrimination under Title VII on the theory that she failed to comport with the employer's notions of how a male should look. A finder of fact might reasonably con-

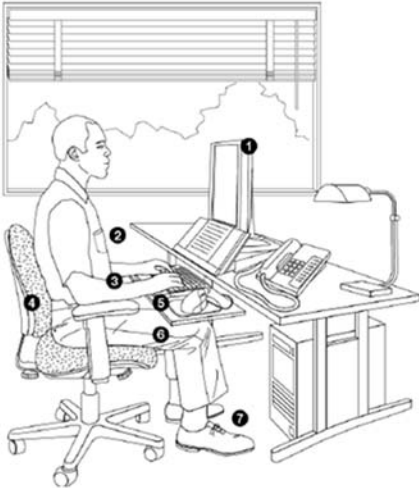
clude that the employer's statement that the job offer was rescinded because she had "misrepresented" herself as female reflected animus against individuals who do not conform to gender stereotypes.

Rosa v. Parks W. Bank & Trust Co., 214 F.3d 213 (1st Cir. 2000). Citing Title VII case law, the court concluded that a transgender plaintiff, who was biologically male, stated a claim of sex discrimination under the Equal Credit Opportunity Act by alleging that he was denied a loan application because he was dressed in traditionally female attire.

What is Ergonomics?

Workstation Review

1. Monitor Screen Top
Slightly below eye level
2. Body
Centered in front of the monitor and keyboard
3. Forearms
Level or tilted-up slightly
4. Lower Back
Supported by chair
5. Wrists
Should not rest while typing
6. Legs
Horizontal
7. Feet
Resting flat on the floor or footrest



Ergo Tip: "Wrist rests" are misleading. One should only use a wrist rest while taking a break from typing!

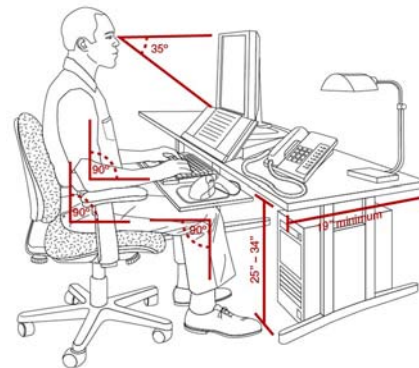
Ergonomics is the field of study that seeks to fit the job to the person, rather than the person to the job by evaluating and designing workplaces, environments, job tasks, equipment, and processes in relationship to human capabilities and interactions in the workplace. The workplace requires new ergonomic solutions anytime there is a change, e.g., new employee, chair, or desk. It is important that all furniture (chairs, desks) and other accessories are adjustable in order to meet individual worker's needs, for no two people are alike. Ergonomics covers the entire work area including issues with chairs, workstations, and lighting.

Effective use of ergonomic practices will assist in maintaining high levels of productivity, avoiding painful and costly employee injuries, and increasing worker satisfaction. By designing the job around the person, employees will have a decreased risk of injury and an improved perception of

their "employee-centered" role at work.

Ergonomic Checklist

- Is the workstation adjusted so that your wrist is in a neutral position, i.e., not bent up or down?
- If documents are referred to, is there an adequate document holder?
- Is the top of your monitor parallel to your eyes?
- Is your pointing device (e.g. mouse) on the same plane as the keyboard and in a comfortable position?
- Is the seat height adjustable so that the entire sole of your foot rests on the floor or footrest, and the back of the knee is slightly higher than the seat of the chair?



To the right are five easy steps to help prevent injury

Source: The Workplace Ergonomics Reference Guide is a publication of the Computer/Electronic Accommodations Program.
http://www.cap.mil/Documents/CAP_Ergo_Guide.pdf



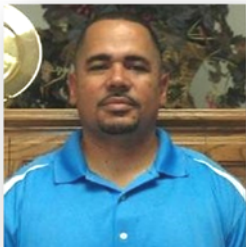
Computer/Electronic
Accommodations
Program

1. Neck Stretch Turn head to right and left, side-to-side, up and down.	2. Shoulder Rolls Roll shoulders forward and back.
3. Arm/Wrist Stretch Extend your arm with wrist facing up. Stretch back fingers with the other hand.	4. Back Stretch Place hands on hips. Gently rotate body side-to-side. Lift chest and lean back gently.
5. Eye Exercises Blink often, focus on distant objects. Look up, down, side-to-side. Rotate your eyes.	



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Have an EEO question? Access via EEO website.

<http://sill-www.army.mil/USAG/eeo/index.html>



Jose F. Saucedo
EEO Specialist



Knowledge in dangerously addictive short doses.



Tidbit Corner: TEDTalks

TED is a nonprofit devoted to spreading ideas, usually in the form of short, powerful talks (18 minutes or less). It is a global community, welcoming people from every discipline and culture who seek a deeper understanding of the world. The power of ideas change attitudes, lives and, ultimately, the world. <https://www.ted.com/>

A great first viewing of any TED Talk is former Army General Stanley McChrystal's "Listen, learn...then lead" talk where he shares, via 15 minute video, what he learned about leadership over his decades in the military. How can you build a sense of shared purpose among people of many ages and skill sets? By listening and learning—and addressing the possibility of failure. https://www.ted.com/talks/stanley_mcchrystal

Another very powerful TED Talk, and among the most viewed, is Susan Cain's "The power of introverts." In a culture where being social



and outgoing are prized above all else, it can be difficult, even shameful, to be an introvert. But, as Susan Cain argues in this passionate talk, introverts bring extraordinary talents and abilities to the world, and should be encouraged and celebrated.

https://www.ted.com/talks/susan_cain_the_power_of_introverts

MISSION

Promote an inclusive work environment that ensures equal employment opportunity, fosters a culture that values diversity and empowers individuals to participate constructively to their fullest potential in support of IMCOM's mission. The Garrison EEO Officer serves as the principle advisor to the Garrison Commander on all EEO related issues and concerns.

VISION STATEMENT

The installation leadership is committed to respect, fairness, and equality for all civilian employees by ensuring a professional work environment free from unlawful discrimination.

Equal Employment Opportunity is provided to all qualified persons. Discrimination based on an individual's race, color, religion, gender, national origin, age (40 and above), mental and physical disabilities, reprisal for participating in a protected activity and genetic information is unlawful.

Hours of Operation Monday-Friday 7:30 a.m. — 4 p.m.