MEMORANDUM FOR All Members of the Texas Military Forces

SUBJECT: (JFTX P13-05) Texas Military Forces (TXMF) Equal Opportunity (EO) and Equal Employment Opportunity (EEO) Policy

1. This policy replaces (JFTX 11-03); Subject: Texas Military Forces (TXMF) Equal Opportunity (EO) and Equal Employment Opportunity (EEO) Policy, dated 17 February 2008.

2. References:
   
a. AR 600-20, Army Command Policy, dated 18 April 2008
   
b. NGR (AR) 690-600/NGR (AF) 40-1614 and NGR (AR) 600-22/ANGI 36-3
   
c. Equal Employment Opportunity Commission (EEOC) 29 CFR 1614 & DoD 1440.1
   
d. Title VII of the Civil Rights Act of 1964, as amended (including the Pregnancy Discrimination Act.)
   
e. The Equal Pay Act of 1963, as amended (EPA)
   
f. The Age Discrimination Act of 1967, as amended (ADEA)
   
g. Title I and Title V of the Americans with Disabilities Act of 1990, as amended (ADA)
   
h. The Genetic Information Nondiscrimination Act of 2008 (GINA)
   
i. Section 504 of the Rehabilitation Act of 1973
   
   j. Texas Labor Code, Chapters 21 and 22
   
   k. Texas Administrative Code, Title 40, Part 20, Chapter 819

3. Applicability: This policy applies to all TXMF personnel regardless of component or department. Specifically, this policy is applicable to all Texas Army National Guard and Air National Guard members, all Texas State Guard members, all state employees, all dual status and non-dual status federal technicians, and all non-paid employees of any type.
4. Definitions: Important definitions are included as enclosure 1 to this policy and should be read carefully.

5. Federal and State laws and DoD directives, prohibit unlawful discrimination based on race, sex (includes sexual harassment, discrimination in the payment of wages, and discrimination because of pregnancy, child birth, or a medical condition related to pregnancy or child birth), religion, color, national origin, age, disability and genetic information. The Texas Adjutant General’s Department strives to provide an environment free of unlawful discrimination and offensive behavior or harassment. Discrimination and harassment are inconsistent with Department policies or philosophy, are strictly prohibited and will not be tolerated. All employment practices (e.g., recruitment, hiring, promotions, transfers, reassignments, training, awards, benefits and separations), services, programs, and activities will be free of such illegal discrimination, at every organizational level within the Department. Any person found to have violated this policy will be subject to disciplinary action in accordance with applicable rules and regulations (which may be up to and including dismissal).

6. Consistent with federal laws, acts of retaliation against an employee who engages in a protected activity, whistleblowing, or the exercise of any appeal or grievance rights provided by law, will not be tolerated.

7. Violation of this policy could cause punitive action as it constitutes a violation of Texas Government Code (TCMJ), sections 432.137 (Failure to Obey an Order or Regulation) and 432.167 (General Article). Persons not adhering to this policy may also be subject to disciplinary action(s) in accordance with additional applicable laws and regulations. Commanders and leaders are responsible for fostering a command and leadership climate which supports and enforces this policy.

8. Any member or employee who feels that he or she is subjected to discrimination, harassment, or retaliation is encouraged to address this concern through his or her military chain of command or supervisory channels. If this approach is inappropriate for the situation or the result is unsatisfactory to the member or employee, then he or she has a right to contact the Department of Equal Employment Opportunity Office at (512) 782-5325 or DSN 954-5325, the Inspector General’s (IG) Office (512) 782-5122, or the State Human Rights/Director of Human Resources at (512) 782-6786. Exempt technicians and Federal civilian personnel who experience discrimination must contact an EEO counselor within 45 days of the date of the alleged discrimination; military members have 180 days to file an EO complaint. State civilian employees have 180 days from the date of an alleged unlawful employment practice to file a complaint with the Texas Workforce Commission Civil Rights Division or the Equal Employment Opportunity Commission.
NGTX-JHE
SUBJECT: (JFTX P13-05) Texas Military Forces (TXMF) Equal Opportunity (EO) and Equal Employment Opportunity (EEO) Policy

9. This memorandum will expire 2 years from the date of publication unless sooner rescinded or superseded.

Encl
as

[Signature]
JOHN F. NICHOLS
Major General, TXANG
Adjutant General

DISTRIBUTION:
A
CAROLYN SMALLWOOD
CWO 5, OS, TXARNG
TXMF Policy Branch

3
Definitions

**Discrimination.** Any action that unlawfully or unjustly results in unequal treatment of persons or groups based on race, color, gender, national origin, or religion.

**Harassment.** The unwelcome verbal or physical conduct towards a person which has the purpose or effect of unreasonably interfering with her/his work performance and/or creating an intimidating, hostile, or offensive work environment.

**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.

**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 that prevent people from rising to the highest level of responsibility possible. Persons will be evaluated on individual merit, fitness, and capability, regardless of race, color, sex, national origin, or religion.

**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.

**National origin.** An individual’s place of origin or that of an individual’s ancestors. The term also applies to a person who has the physical, cultural, or linguistic characteristics of a national group.

**Prejudice.** A negative feeling or dislike based upon a faulty or inflexible generalization (that is, prejudging a person or group without knowledge or facts).

**Race.** A division of human beings identified by the possession of traits transmissible by descent and that is sufficient to characterize persons possessing these traits as a distinctive human genotype.

**Race and ethnic code definitions.** The minimum categories for data on race and ethnicity for Federal statistics, program administrative reporting, and civil rights compliance reporting are defined as follows:

(a) **American Indian or Alaska Native.** A person having origins in any of the original peoples of North and South America (including Central America) and who maintains tribal affiliation or community attachment.

(b) **Asian.** A person having origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinents including, Cambodia, China, India, Japan, Korea, Malaysia, Pakistan, the Philippine Islands, Thailand, and Vietnam.
Definitions (continued)

(c) Black or African American. A person having origins in any of the black racial groups of Africa. Terms such as "Haitian" or "Negro" can be used in addition to "Black" or "African American".

(d) Native Hawaiian or other Pacific Islander. A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

(e) White. A person having origins in any of the original peoples of Europe, the Middle East, or North Africa.

(f) Hispanic or Latino. A person of Cuban, Mexican, Puerto Rican, South or Central American, or other Spanish culture of origin, regardless of race. The term "Spanish origin," can be used in addition to "Hispanic or Latino."

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

Religion. A personal set or institutionalized system of attitudes, moral or ethical beliefs and practices held with the strength of traditional views, characterized by ardor and faith, and generally evidenced through specific observances.

Sexism. Attitudes and beliefs that one gender is superior to another.