



South Dakota

DEPARTMENT OF THE MILITARY
OFFICE OF THE ADJUTANT GENERAL

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NGSD-TAG

8 June 2019

MEMORANDUM FOR All South Dakota Army and Air National Guard Personnel

SUBJECT: Command Policy on Equal Opportunity, the Treatment of Individuals and the Prevention of Discrimination and Harassment of National Guard Military Personnel, Military Family members, Retirees, Recruits and Applicants for any military tour.

1. References: See enclosure 1.
2. Definitions: See enclosure 2.
3. Purpose:
 - a. To ensure equal opportunity exists and is maintained in the South Dakota National Guard.
 - b. To ensure compliance with all applicable laws, regulations, and procedures regarding equal opportunity during any military service in the South Dakota National Guard.
4. The South Dakota National Guard is committed to developing and maintaining a professional environment where all Soldiers and Airmen can expect to be treated with dignity and respect during their military service in any status, process or procedure. This commitment starts with fostering a policy of equality, offering the broadest competition of opportunities and ensuring fair and equitable treatment of all Service members, their Families, Recruits and Retirees based on merit and focused on readiness. Our personnel are the force multiplier in this effort.
5. Policy. The South Dakota National Guard will not tolerate, condone, nor permit any kind of unlawful discrimination or harassment, to include bullying or hazing, at any time while serving in a military status and when considering recruitment, retention, discipline, employment, awarding, promotion, training seat selection, leadership assignments, or any administrative type practices in the workplace of **military personnel including Army, Air, AGR/M-Day/Traditional Title 32, former military members, Retirees, military Family members, Recruits/applicants for membership or AGR tours** on the basis of race, color, religion, sex (includes pregnancy, gender/gender identity and sexual harassment), national origin, sexual orientation, or reprisal for previous complaint activity or participation in the complaint process. Any officer or enlisted Soldiers and Airmen who engage in or permit discrimination or harassment without taking positive corrective action will be subject to appropriate disciplinary action.

The National Guard Bureau EO Hotline 800-371-0617

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6. Equal Opportunity is a commander's program. Commanders will be the tip of the spear in the prevention of discrimination and harassment in our military force and lead by example. The number one priority of our organization is to take excellent care of Soldiers, Airmen and their Families and the prevention of discrimination and any type of harassment is a part of that priority. Discrimination and harassment do not fit within our core values, mission or our vision of this organization. Taking care of people is to be imbedded in our planning and equal opportunity is a part of the process. Leadership will identify and remove social, personal or institutional barriers preventing anyone from rising to the highest level of their capabilities to include selection and mentorship processes. We are all responsible to provide and maintain an environment fostering mutual respect and dignity by ensure fair and equitable treatment of all.

7. All Informal/Formal Request for Resolution (IRR/FRR) or complaints, will be filed on an NGB Form 333 and processed per SDNG TAG Memorandum, SUBJECT Military Procedures for Discrimination and Harassment Request for Resolution (Complaints) by Military Personnel, Military Family members, Retirees, Recruits and Applicants for all military tours, dated 8JUNE2019, and applicable regulations.

8. **This policy will be posted on all unit bulletin boards.** Point of contact for this policy and the complaint process are: SDNG SEEM, Mrs. Carstin Jerzak at 605-737-6635 or via email: carstin.k.jerzak.mil@mail.mil. Air National Guard POC is Military Equal Opportunity Officer, 1stLt Marie Schaffhauser, (605) 988-5707, DSN: 798-7707, or via email: maria.a.schaffhauser.mil@mail.mil. Army National Guard POC is the JFHQ Human Relations/Equal Opportunity Officer, LTC Sarah Gadbois, (605) 484-8684, or via email: sarah.m.gadbois.mil@mail.mil.

Enclosures:
1 – References
2 - Definitions


JEFFREY P. MARLETTE
Major General (SD), SDNG
The Adjutant General

Every Member Counts
SOUTH DAKOTA NATIONAL GUARD 



DoD Live 1-on-1 Help Confidential Worldwide 24/7
Safe Helpline
Sexual Assault Support for the DoD Community
Click: www.SafeHelpline.org
Call: 877-995-5247
Text: 55-247 (INSIDE THE U.S.)
202-470-5546 (OUTSIDE THE U.S.)
A confidential and anonymous sexual assault hotline for the DoD Community.

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Enclosure 1 - References:

- a. Title VI of the Civil Rights Act of 1964, as amended.
- b. DOD Directive 1350.2, Department of Defense Military Equal Opportunity Program, Certified Current as of 21 November 2003.
- c. DOD Directive 5500.11, Nondiscrimination in Federally Assisted Programs, Certified Current as of 21 November 2003.
- d. Army Directive 2015-39, (Inclusion of Sexual Orientation in the Military Equal Opportunity Program)
- e. Army Directive 2015-40, (Implementing Procedures for Anti-Harassment Policy)
- f. Army Regulation 600-20, Army Command Policy, 18 March 2008, Rapid Action Revision Issue Date 22 November 2014.
- g. Air Force Instruction 36-2706, Equal Opportunity Program Military and Civilian, 5 October, 2010, Incorporating Change 1, 5 October 2011
- h. National Guard Bureau Memorandum, SUBJECT: National Guard Equal Employment Opportunity (EEO), Equal Opportunity (EO) and Discrimination Policy, DTD: 14APR2015
- i. National Guard Regulation 600-21, Equal Opportunity in the Army National Guard DTD: 22 May 2017
- j. Air National Guard Instruction 36-7, Air National Guard Military Equal Opportunity Program, DTD: 25 April 2003
- k. Chief National Guard Bureau Instruction 9601.01, National Guard Discrimination Complaint Program, DTD: 27 September 2015
- l. Memorandum from Under Secretary of Defense Clifford L. Stanley Re: Repeal of "Don't Ask, Don't Tell" DTD: 20 September 2011

Enclosure 2 – Definitions:

a. *Discrimination.* Any action unlawfully or unjustly resulting in unequal treatment of persons or groups based on race, color, gender, national origin, sexual orientation or religion.

b. *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 preventing 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.

c. *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.

d. *Gender discrimination.* The action taken by an individual to deprive a person of a right because of their gender or sex (includes Transgender). Such discrimination can occur overtly, covertly, intentionally or unintentionally.

e. *Sexism.* Attitudes and beliefs one gender is superior to another.

f. *Hazing.* Any conduct whereby a Service member or members regardless of service, rank, or position, and without proper authority, recklessly or intentionally causes a Service member to suffer or be exposed to any activity that is cruel, abusive, humiliating, oppressive, demeaning, or harmful. Soliciting or coercing another to participate in any such activity is also considered hazing. Hazing need not involve physical contact among or between military members or employees; it can be verbal or psychological in nature. Likewise, it need not be committed in the physical presence of the victim; it may be accomplished through written or phone messages, text messages, email, social media, or any other virtual or electronic medium. Actual or implied consent to acts of hazing does not eliminate the culpability of the perpetrator. Without outside intervention, hazing conduct typically stops at an identified end-point.

g. *Bullying.* Bullying is any conduct whereby a Service member or members, regardless of service, rank, or position, intends to exclude or reject another Service member through cruel, abusive, humiliating, oppressive, demeaning, or harmful behavior, which results in diminishing the other Service member's dignity, position, or status. Absent outside intervention, bullying will typically continue without any identifiable end-point. Bullying may include an abuse of authority. Bullying tactics include, but are not limited to, making threats, spreading rumors, social isolation, and attacking someone physically, verbally, or through the use of electronic media.

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

i. Sexual Orientation. Refers to an individual's emotional or physical attraction to the same and/or opposite sex (heterosexual, homosexual or bisexual).

j. Ally. A person who does not identify as lesbian, gay or bisexual, but supports the rights and safety of those who do identify as lesbian, gay or bisexual.

k. Bisexual. A person who is attracted romantically, physically or emotionally to both men and women.

l. Gay. A male-identified person who is attracted romantically, or physically or emotionally to another male-identified person.

m. Lesbian. A female-identified person who is attracted romantically, physically or emotionally to another female-identified person.

n. Transgender Service member. A service member who has received a medical diagnosis indicating gender transition is medically necessary, including any service member who intends to begin transition, is undergoing transition, or has completed transition and is stable in the preferred gender.

o. Unlawful harassment. Includes but isn't limited to, unwelcome conduct, intimidation, ridicule, insult, offensive comments or jokes, or physical conduct based on any of the other bases such as race, color, religion, etc, when an employee's acceptance or rejection of such conduct explicitly or implicitly forms the basis for a tangible employment action affecting the employee or the conduct is sufficiently severe or pervasive as to alter the terms, conditions or privileges of the person or otherwise create a hostile or abusive work environment. This type of harassment does not involve discrete personnel actions such as a denial of promotion.

p. Hostile Work environment. Discriminatory conduct or behavior in the workplace that is unwelcome and offensive to an employee or group of employees based on any of the protected bases. The conduct or behavior must be pervasive and constitute a pattern rather than consist of one or two isolated incidents. The pattern of behavior has to be of a degree severe enough to cause disruption beyond a reasonable degree in the work of the targeted person such as when the person becomes disturbed because of intimidation or due to fear of loss of employment. The complainant must have reason to believe such behavior patterns are likely to continue indefinitely. Offensive conduct may include, but are not limited to offensive jokes, slurs, epithets or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures and interference with work performance. The harasser can be the victim's supervisor, a supervisor from another section, an agent of the harasser, a co-worker or a non-military person. The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct.

q. Sexual Harassment. See the state policy for specific information regarding definitions and procedures for reporting sexual harassment complaints.