



South Dakota
DEPARTMENT OF THE MILITARY
OFFICE OF THE ADJUTANT GENERAL
2823 West Main Street
Rapid City, South Dakota 57702-8170
(605) 737-6702
FAX: (605) 737-6677



NGSD-TAG

8 June 2019

MEMORANDUM FOR All South Dakota Army and Air National Guard Personnel

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.

1. References: See Enclosure 1.
2. The discrimination and harassment Informal Requests for Resolution (IRR) and Formal Requests for Resolution (FRR) processes (formally called the complaint process), as defined below, are available for all military personnel to include Army, Air, M-Day/Traditional, Title 32 AGR, former military personnel, Retirees, Recruits, military Family members and applicants for any military tour whom feel they have been discriminated or harassed, to include hazing or bullying, based on their 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.
3. All personnel are highly encouraged to first seek resolution through the unit commander, first line leadership and unit Equal Opportunity professionals. Secondly, personnel are encourage to seek resolution through the Alternative Dispute Resolution (ADR) facilitation process before utilizing this process. My goal is to ensure a safe and supportive environment for all personnel filing a request for resolution and resolve issues expeditiously at the lowest level possible. Retaining our personnel is paramount, directly related to readiness, and personnel are to conduct themselves in a professional and respectable manner at all times. Leaders are responsible for initiating communication and resolution when there is any situation not reflecting the values of our organization and profession.
4. Timelines for filing requests: All personnel identified in paragraph 2 have **180 days** to file an IRR from the date of the alleged discrimination/harassment or the date the individual became aware or reasonably should have become aware of the discriminatory/harassing event or action. Timelines for processing requests are IAW with current applicable federal, state and local regulations. See Enclosure 3.
5. **All personnel seeking assistance for sexual harassment cases will read and sign the "Preamble" (enclosure 2) acknowledging they understand the definitions, reporting options and differences between sexual harassment and sexual assault, prior to the intake of a**

NGSD-TAG

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.

requests by all EO professionals. The preamble clarifies the basis of the cases and will initiate the hand off of the case to the Unit Victim Advocate or Sexual Assault Response Coordinator, while maintaining the individual's option for a restricted report. The preamble is maintained as a part of the case file.

6. All requests for resolution (complaints) are initiated at the informal level and will be referred to as Informal Requests for Resolution (IRR). All IRR's require a trained EOA to intake and process. If the supporting MACOM EOA is unavailable the SEEM will appoint an EOA to the case. All sexual harassment and discrimination IRR's will be documented on an NGB Form 333, Discrimination Complaint in the Army and Air National Guard. All NGB 333s will be maintained at the unit level, however a copy will be immediately scanned in and emailed directly to the State Equal Employment Manager (SEEM) upon intake. The SEEM will ensure the MACOM Equal Opportunity Advisor (EOA), SJA and the ARNG, Human Relations/Equal Opportunity (HR/EO) officer or ANG, Military Equal Opportunity (MEO) officer are apprised of IRRs while ensuring confidentiality is maintained. The SEEM will manage and track the status of all IRR/FRR cases for the SDNG.

7. Commanders will engage their MACOM EOA immediately when personnel request to process an IRR or when any situation of discrimination or harassment arise. MACOM EOAs will immediately engage the SEEM when personnel request to process an IRR or when any situation of discrimination nor harassment arise. Commanders have the primary role of negotiating the resolution of all IRRs and will not delay or stall this process. Commanders will cooperate and work with the appointed EOA and the SDNG SEEM to ensure all case records are complete and meet all required timelines. The engagement of leadership is essential in the resolution process and results in a better outcome at the lowest level. Unit EO leaders take an active role in the case process by being available to assist commanders and the EOA/SEEM with limited fact-finding or information and communicating with the requestor during the resolution process. The following are alternate offices or personnel available to intake or assist with processing IRRs:

- a. Army: MACOM EOA, the state level HR/EO or SEEM.
- b. Air: MEO or SEEM.

8. All investigations into discrimination or sexual harassment are conducted in accordance with (IAW) current applicable federal, state and local regulations and references in enclosure 1. Utilization of an AR 15-6 investigation, as an alternate means of investigating these types of complaints is recommended if it's determine this is the best means to assure a thorough and unbiased investigation can be conducted. Commanders will appoint Investigating Officers (IO) in writing and forward a copy of the appointment to the SEEM. The appointment and investigation report of the IO will become a part of the official case file. Appointment memorandums for IO's will include mandatory meetings with a supporting SJA and the SDNG SEEM regarding investigation procedures and processing.

NGSD-TAG

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.

9. The only means of appealing an IRR is to file a Formal Request for Resolution (FRR) per the 30 Day Notification Memorandum provided at the closing counseling of the IRR by the commander. FRRs are filed through the SEEM office to National Guard Bureau, Complaints Management Division (NGB-CMD). All FRR's will be documented on a NGB Form 333 and will be forward to NGB along with the investigation and supporting unit case files.

10. The only means of appealing an IRR is to file a Formal Request for Resolution (FRR) per the 30 Day Notification Memorandum provided at the closing counseling of the IRR by the commander. FRRs are files through the SEEM office to National Guard Bureau, Complaints Management Division (NGB-CMD). All FRR's will be documented on a NGB Form 333 and will be forward to NGB along with the investigation and supporting unit case files.

11. The NGB Form 333, preamble and case files are all inspectable items, however the SEEM is the official custodian of all records for discrimination and sexual harassment cases. Units need to ensure all case records are sent to the SEEM as well as ensure current/on-going records and or investigations are secured and maintained at a classification level of "confidential". Only individuals with an official need to know basis should have access to these records. Unit Commanders, EOA/EOL's will coordinate with the SEEM for guidance for forwarding case records immediately upon request, official referral, completion/closure or resolution of a complaint or upon notification of the filing of a FRR. All resolution agreements will be documented on the NGB Form 333.

12. Commanders will **immediately** initiate a retaliation prevention plan upon the initiation of all requests and monitor all cases during and after processing for signs or forms of retaliation. The retaliation prevention plan will ensure all personnel named in the IRR, such as the complainant, witnesses, bystanders and leadership are counseled regarding the definition of retaliation, reprisal, the consequences of such actions and where to file a complaint with the Inspector General for protection under the Whistle Blowers Act. **Retaliation against personnel will not be tolerated, deteriorates trust in leadership and our organization and undermines the resolution process.** Leaders will take this process seriously and refer to enclosure 1, item 4 and the EO professionals for assistance as needed. Retaliation prevention plans are maintained in the case file and are active until all informal and formal procedures are formally closed out by the appropriate level of authority.

13. There is a National Guard Bureau EO Hotline available to personnel which provides procedural information on discrimination and harassment complaints. The number is 1-800-371-0617. If an Equal Employment Analyst is not available, your call will be returned the next working day. This number will provide information regarding filing a military or technician complaint, sexually harassing conduct and appeals or other specific complaint procedures. You cannot use this number to file a discrimination or harassment complaint, discuss the merits of a complaint, or appeal a decision or determination. The number is there as a resource rather than a channel for resolution.

The National Guard Bureau EO Hotline 800-371-0617


NGSD-TAG

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.

14. **These procedures will be posted on all unit bulletin boards.** Any questions regarding the interpretation of this policy should be addressed through the military chain of command. Air Guard personnel may utilize the Military Equal Opportunity professionals at 605-988-5705 for questions regarding this policy. Army Guard personnel may utilize the Human Resource/Equal Opportunity professional at 605-848-2836. All personnel can contact the full time SDNG SEEM, Mrs. Carstin Jerzak at 605-737-6635 or by appointment, Monday through Friday from 0700-1600 or via email: carstin.k.jerzak.mil@mail.mil with questions or assistance with the resolution process for the equal opportunity/discrimination and sexual harassment programs.

Enclosures:

- 1 - References
- 2 - Preamble
- 3 - Complaint Processing Poster


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

Enclosure 1: References

1. National Guard Regulation 600-21, Equal Opportunity Program in the Army National Guard, DTD: 22 May 2017
2. Air National Guard Instruction 36-7, Air National Guard Military Equal Opportunity Program, DTD 25 April 2003
3. Chief National Guard Bureau Instruction 9601.01, National Guard Discrimination Complaint Program, DTD: 27 September 2015
4. TC 26-6, Commanders Equal Opportunity Handbook, DTD: JUN2008