



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

20 October 2022

MEMORANDUM FOR All Personnel, South Dakota National Guard (SDNG)

SUBJECT: Command Policy for the Prevention and Zero Tolerance of Sexual Harassment

1. References: See Enclosure 1.
2. Purpose. To ensure all South Dakota National Guard (SDNG) personnel work or serve in an environment free from sexual harassment.
3. Policy. Harassment on the basis of a person's gender or sex constitutes illegal gender or sex based discrimination and is a violation of law as set forth in federal regulations, state statutes and military policy.

a. Sexual Harassment is defined as a form of illegal sex/gender discrimination involving unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

- the sexual harassment or conduct is made a term or condition of an individual's employment or career, job or pay/salary, or
- the sexual harassment or conduct is used as the basis for career or employment decisions, or
- the sexual harassment or conduct unreasonably interferes with an individual's work performance, or
- the sexual harassment or conduct creates an intimidating, hostile, or offensive work environment.

Any person in a supervisory or command position who uses or allows implicit or explicit sexual conduct or behavior to control, influence, or affect the career, pay or job of a Soldier, Airman, or employee is engaging in sexual harassment. Similarly, any Soldier, Airman or employee who makes deliberate or repeated unwelcome verbal (i.e. comments, jokes, slurs), nonverbal (i.e. gestures, display of pictures on any type of media) or physical (i.e. touching, bumping) conduct of a sexual nature is engaging in illegal sexual harassment.

b. Commanders, leaders, managers and supervisors are directed to immediately protect all employees, Soldiers, and Airmen from the following:

- Acts of sexual harassment in the workplace. If such acts occur, the leadership must demonstrate they took immediate and appropriate corrective action.
- Acts by non-employees or service members sexually harassing employees or service members in the workplace. Again, leaders will be held accountable for taking immediate and appropriate corrective action.

NGSD-TAG

SUBJECT: Command Policy Concerning the Prevention and Zero Tolerance of Sexual Harassment

c. Commanders, leaders, managers and supervisors are directed to protect all employees by doing the following:

- taking all necessary steps to prevent sexual harassment from ever occurring by: Emulating and enforcing my "Zero Tolerance" policy for the prevention of sexual harassment; providing immediate necessary protections; informing employees and service members of their rights and how to request resolution of sexual harassment complaints; and educating all employees and service members on the definition of sexual harassment, how to identify it and the techniques used to stop it.

- taking all necessary steps to immediately remove from the workplace any, and all signs, pictures, posters, clippings, documents, screen savers, papers, books, journals, magazines, videos, and any other written or graphic materials in hard copy or digital form emphasizing or suggesting sexual, lewd, obscene, pornographic or otherwise inappropriate images and/or activity.

d. Request for resolution of sexual harassment complaints will be processed through the references listed in enclosure 1 as applicable to the status of the personnel involved or overall jurisdiction of the case. Basic time limits for filing complaints are based on employee/service member status as follows: 1) Federal Employee's/Technicians (T32 or T5) have **45 days** from the date of the harassment or from when they became aware of the harassment. 2) All military personnel (T32 - AGR/ADOS/OTOT/M-Day/DSG) have **180 days** from the date of the harassment or from when they became aware of the harassment.

e. Any employee, Soldier, or Airman found in noncompliance with this policy is subject to immediate disciplinary action under applicable military and federal regulations.

f. Personnel on state active duty are covered by state statutes, policies, and regulations regarding sexual harassment.

4. The prevention of sexual harassment is critically important throughout the South Dakota National Guard. The responsibility to assure our work environment is free from illegal sexual harassment rests squarely on the shoulders of all leaders and directly supports my number one priority of "Taking Excellent Care of our Soldiers, Airmen and Families". Everyone in the South Dakota National Guard must fully understand Sexual Harassment will never be tolerated.

5. The point of contact is SDNG Equal Employment Manager, Carstin Jerzak, (605) 737-6635, carstin.k.jerzak.civ@army.mil.

6. This policy will be posted to all official bulletin boards.



JEFFREY P. MARLETTE
MG, SDNG
The Adjutant General

1. References:

- a. Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C § 2000E-16).
- b. 29 C.F.R. §1614.
- c. Chief National Guard Bureau Instruction 9601.01, National Guard Discrimination Complaint Program, DTD: 27 September 2015
- d. Chief National Guard Bureau Manual 9601.01, National Guard Discrimination Complaint Process, DTD: 25 April 2017
- e. SDNG Joint Civilian/Technician Discrimination Complaint Guide
- f. 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.
- g. SDNG TAG Command policies regarding Equal Opportunity and Equal Employment Opportunity.
- h. The National Guard Bureau EO Hotline 800-371-0617

