

U.S. ARMY SERGEANTS MAJOR ACADEMY (BNCOC)

L327/ ENFORCE THE EQUAL OPPORTUNITY  
PROGRAM

OCT 04



**Stand Alone Common Core**

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**TRAINING SUPPORT PACKAGE (TSP)**

<b>TSP Number / Title</b>	L327 / ENFORCE THE EQUAL OPPORTUNITY PROGRAM
<b>Effective Date</b>	01 Oct 2004
<b>Supersedes TSP(s) / Lesson(s)</b>	L327, Enforce the Equal Opportunity Program, Version 1, Oct 03
<b>TSP Users</b>	600-BNCOC, Basic Noncommissioned Officer Course
<b>Proponent</b>	The proponent for this document is the Sergeants Major Academy.
<b>Improvement Comments</b>	<p>Users are invited to send comments and suggested improvements on DA Form 2028, <i>Recommended Changes to Publications and Blank Forms</i>. Completed forms, or equivalent response, will be mailed or attached to electronic e-mail and transmitted to:</p> <p style="text-align: center;">COMDT USASMA ATTN ATSS DC BLDG 11291 BIGGS FIELD FT BLISS TX 79918-8002</p> <p style="text-align: center;">Telephone (Comm) (915) 568-8875 Telephone (DSN) 978-8875</p> <p style="text-align: center;">E-mail: <a href="mailto:atss-dcd@bliss.army.mil">atss-dcd@bliss.army.mil</a></p>
<b>Security Clearance / Access</b>	Unclassified
<b>Foreign Disclosure Restrictions</b>	FD5. This product/publication has been reviewed by the product developers in coordination with the USASMA foreign disclosure authority. This product is releasable to students from all requesting foreign countries without restrictions.

**PREFACE**

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**Purpose**

This Training Support Package provides the instructor with a standardized lesson plan for presenting instruction for:

<u>Task Number</u>	<u>Task Title</u>
121-050-8010	Enforce Compliance with the Army's Equal Opportunity and Sexual Harassment Policies and Program

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**This TSP  
Contains**

### TABLE OF CONTENTS

	<u>PAGE</u>
Preface.....	2
Lesson Section I Administrative Data .....	4
Section II Introduction.....	7
Terminal Learning Objective - Determine individual and leader actions to ensure compliance with the Army's Equal Opportunity (EO) Program.....	7
Section III Presentation .....	10
Section IV Summary.....	12
Section V Student Evaluation.....	13
Appendix A - Viewgraph Masters (N/A) A - .....	1
Appendix B - Test(s) and Test Solution(s) (N/A) B - .....	1
Appendix C - Practical Exercises and Solutions C - .....	1
Appendix D - Student Handouts D - .....	1

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**ENFORCE THE EQUAL OPPORTUNITY PROGRAM  
L327 / Version 1  
01 Oct 2004**

**SECTION I. ADMINISTRATIVE DATA**

<b>All Courses Including This Lesson</b>	<u>Course Number</u>	<u>Version</u>	<u>Course Title</u>
	600-BNCOC	1	Basic Noncommissioned Officer Course

<b>Task(s) Taught(*) or Supported</b>	<u>Task Number</u>	<u>Task Title</u>
	121-050-8010	Enforce Compliance with the Army's Equal Opportunity and Sexual Harassment Polices and Program

<b>Reinforced Task(s)</b>	<u>Task Number</u>	<u>Task Title</u>
	None	

<b>Academic Hours</b>	The academic hours required to teach this lesson are as follows:	
	<u>Resident Hours/Methods</u>	
	1hr	/Conference/Discussion
Test	0 hrs	
Test Review	0 hrs	
<b>Total Hours:</b>	<b>1 hr</b>	

<b>Test Lesson Number</b>	<u>Hours</u>	<u>Lesson No.</u>
Testing (to include test review)	N/A	

<b>Prerequisite Lesson(s)</b>	<u>Lesson Number</u>	<u>Lesson Title</u>
	None	

**Clearance Access** Security Level: Unclassified  
Requirements: There are no clearance or access requirements for the lesson.

**Foreign Disclosure Restrictions** FD5. This product/publication has been reviewed by the product developers in coordination with the USASMA foreign disclosure authority. This product is releasable to students from all requesting foreign countries without restrictions.

<b>References</b>	<u>Number</u>	<u>Title</u>	<u>Date</u>	<u>Additional Information</u>
	AR 600-20	ARMY COMMAND POLICY	13 May 2002	

**Student Study Assignments**

- Before class--
- Read Student Handouts 1 thru 4.
  - Complete PE-1.
- During class--
- Participate in classroom discussion.
- After class--
- Turn in recoverable reference materials.

**Instructor Requirements**

1:16, BNCOC graduate, served as a squad leader, ITC, SGITC qualified

**Additional Support Personnel Requirements**

<u>Name</u>	<u>Stu Ratio</u>	<u>Qty</u>	<u>Man Hours</u>
None			

**Equipment Required for Instruction**

<u>Id Name</u>	<u>Stu Ratio</u>	<u>Instr Ratio</u>	<u>Spt</u>	<u>Qty</u>	<u>Exp</u>
441-06 LCD PROJECTION SYSTEM	1:16	1:1	No	1	No
559359 SCREEN PROJECTION	1:16	1:1	No	1	No
702101T134520 DELL CPU, MONITOR, MOUSE, KEYBOARD	1:16	1:1	No	1	No
7110-00-T81-1805 DRY ERASE BOARD	1:16	1:1	No	1	No
7510-01-424-4867 EASEL, (STAND ALONE) WITH PAPER	1:16	1:1	No	1	No

\* Before Id indicates a TADSS

**Materials Required**

- Instructor Materials:**
- TSP.
  - Solution to PE-1.
- Student Materials:**
- Pen or pencil and writing paper.
  - Student Handouts 1 thru 4.
  - PE-1.

**Classroom, Training Area, and Range Requirements**

CLASSROOM, GENERAL PURPOSE, 600 SF, 16 PN

**Ammunition Requirements**

<u>Id</u>	<u>Name</u>	<u>Exp</u>	<u>Stu Ratio</u>	<u>Instr Ratio</u>	<u>Spt Qty</u>
	None				

**Instructional Guidance**

**NOTE:** Before presenting this lesson, instructors must thoroughly prepare by studying this lesson and identified reference material.

**NOTE:** USASMA expects you to know the information in this TSP well enough to teach from it, not read from it.

**NOTE:** The Installation Equal Opportunity Advisor (EOA) should be available for consultation prior to class.

Before class--

- Issue SH-1 thru SH-4 and Practical Exercise 1 during inprocessing.
- Inform students they must read SH-1 thru SH-4, and complete Practical Exercise 1 as a homework assignment prior to class.
- Read and study all TSP material and be ready to conduct the class.

During class--

- Conduct the class in accordance with this TSP.
- Use the questions in PE-1 to stimulate student discussion during the class.
- Hand out Student Handout 4 when indicated in this TSP.
- Hand out Solution to Practical Exercise 1 at end of class.

After class--

- Collect all recoverable materials after the class.

**Proponent Lesson Plan Approvals**

<u>Name</u>	<u>Rank</u>	<u>Position</u>	<u>Date</u>
Colyer, Donald J.	GS09	Training Specialist	
Bennett-Green, Agnes	SGM	Chief, B/ANCOC	
Bucher, George V.	GS11	Chief, CMD	
Lemon, Marion	SGM	Chief, CDDD	

**SECTION II. INTRODUCTION**

Method of Instruction: Conference / Discussion  
 Technique of Delivery: Small Group Instruction (SGI)  
 Instructor to Student Ratio is: 1:16  
 Time of Instruction: 5 mins  
 Media: None

**Motivator**

Platoons and companies are the levels of the Army where soldiers spend most of their military careers. Each becomes a tightly knit family where soldiers know one another very well--their likes and dislikes, their faults and strengths, their beliefs and ideas, and their similarities and differences. These small groups of soldiers determine to a large extent whether wars are won or lost.

As leaders, it is your responsibility not only to recognize and manage differences among yourselves, but also recognize and manage differences among those you lead. It is imperative that you recognize and manage diversity so that it does not interfere with the Army's mission effectiveness or ability to fight and win on the battlefield. Your challenge is to execute your leadership duties so as to support the Army's Equal Opportunity Program by fostering mutual respect and dignity for soldiers through your personal conduct and professional leadership.

**Terminal Learning Objective**

**NOTE:** Inform the students of the following Terminal Learning Objective requirements. At the completion of this lesson, you [the student] will:

<b>Action:</b>	Determine individual and leader actions to ensure compliance with the Army's Equal Opportunity (EO) Program.
<b>Conditions:</b>	As a section leader in a classroom environment given extracts from AR 600-20, TSP 121-050-8010, and student handouts.
<b>Standards:</b>	Determined individual and leader actions to ensure compliance with the Army's Equal Opportunity (EO) Program IAW AR 600-20 and TSP 121-050-8010.

**Safety Requirements**

None

**Risk Assessment Level**

Low

**Environmental Considerations**


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**NOTE:** It is the responsibility of all soldiers and DA civilians to protect the environment from damage.

None

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**Evaluation**

None

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**Instructional Lead-In**

Let me share with you information from the Army Policy Memorandum on Equal Opportunity signed by the Army Chief of Staff and the Secretary of the Army:

“America’s Army serves as the nation’s leader in equal opportunity. This success comes from total commitment to the ideals upon which our country was founded. We must continue our strong leadership in this area to ensure equal opportunity for all. To accomplish this, we, the Army’s senior leadership, reaffirm our commitment to these principles and will work to ensure the equal opportunity and freedom from sexual harassment are standard in America’s Army.

People are the cornerstone of readiness. Sophisticated weapons systems and modern technology are of little value without a dedicated, trained team of professional soldiers and civilians. They must know they will be treated fairly, and with dignity and respect in all aspects of performing the mission. They have a right to expect from their leadership an environment in which their efforts can be fully directed toward mission accomplishment and not detracted by unequal treatment. Leaders are expected to enforce the Army’s standards.

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**Instructional  
Lead-In,  
continued**

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We are justifiably proud of the many accomplishments the Army has made in the field of human rights; however, much remains to be done. Leaders at all levels must continue to ensure the environment, in which our soldiers and civilians work and live, is free from discriminatory practices. Each individual has a right to compete for advancement based upon abilities and merit, irrespective of race, color, religion, gender, or national origin. Army civilians are further protected against discrimination based on age and physical or mental disability. Leaders at all levels have an obligation to create and maintain an environment with zero tolerance for discrimination and harassment. We must continue to demonstrate that America's Army is the equal opportunity leader for the nation and the institution where men and women of diverse backgrounds can achieve their full potential in support of the Army's mission."

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**SECTION III. PRESENTATION**

- 
1. Learning Step / Activity 1. Discuss the key elements of the EO policy.

Method of Instruction: Conference / Discussion  
 Technique of Delivery: Small Group Instruction (SGI)  
 Instructor to Student Ratio: 1:16  
 Time of Instruction: 5 mins  
 Media: None

**NOTE:** Refer students to PE-1. Use the questions to stimulate the group discussion. Select different students to give their answers to questions 1 thru 3. Allow them to briefly discuss any disagreements they have. Use the solution to the PE on p C-6 to verify the students' answers are correct.

2. Learning Step / Activity 2. Discuss unit leadership responsibilities for Equal Opportunity and Sexual Harassment policies compliance.

Method of Instruction: Conference / Discussion  
 Technique of Delivery: Small Group Instruction (SGI)  
 Instructor to Student Ratio: 1:16  
 Time of Instruction: 10 mins  
 Media: None

**NOTE:** Refer students to PE-1. Use the questions to stimulate the group discussion. Select different students to give their answers to questions 4 thru 7. Allow them to briefly discuss any disagreements they have. Use the solution to the PE on p C-6 to verify the students' answers are correct.

3. Learning Step / Activity 3. Discuss the different behaviors that constitute EO and sexual harassment violations.

Method of Instruction: Conference / Discussion  
 Technique of Delivery: Small Group Instruction (SGI)  
 Instructor to Student Ratio: 1:16  
 Time of Instruction: 10 mins  
 Media: None

**NOTE:** Refer students to PE-1. Use the questions to stimulate the group discussion. Select different students to give their answers to questions 8 thru 12. Allow them to briefly discuss any disagreements they have. Use the solution to the PE on pp C-6 and C-7 to verify the students' answers are correct.

4. Learning Step / Activity 4. Discuss appropriate individual and leader actions that prevent sexual harassment.

Method of Instruction: Conference / Discussion  
 Technique of Delivery: Small Group Instruction (SGI)  
 Instructor to Student Ratio: 1:16  
 Time of Instruction: 5 mins  
 Media: None

**NOTE:** Refer students to PE-1. Use the questions to stimulate the group discussion. Select different students to give their answers to questions 13 thru 17. Allow them to briefly discuss any disagreements they have. Use the solution to the PE on pp C-7 and C-8 to verify the students' answers are correct.

5. Learning Step / Activity 5. Discuss leader actions to resolve EO complaints.

Method of Instruction: Conference / Discussion

Technique of Delivery: Small Group Instruction (SGI)

Instructor to Student Ratio: 1:16

Time of Instruction: 10 mins

Media: None

**NOTE:** Refer students to Student Handout 4. Have them read it and solicit answers from them to the following questions:

- What steps must SGT Green take to submit an EO complaint against SFC Brown?
- What actions can SGT Green's commander take to resolve her complaint?
- What actions can you take to prevent incidents of intimidation, harassment, or reprisal?

**NOTE:** Use the students' answers for the PE when asking the questions above and clarify any questions that students might have.

**SECTION IV. SUMMARY**

Method of Instruction: <u>Conference / Discussion</u>
Technique of Delivery: <u>Small Group Instruction (SGI)</u>
Instructor to Student Ratio is: <u>1:16</u>
Time of Instruction: <u>5 mins</u>
Media: <u>None</u>

**Check on Learning**

None

**Review / Summarize Lesson**


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During this lesson we discussed the Army's Equal Opportunity and Equal Employment Opportunity programs to include the prevention of sexual harassment. We have emphasized the policy, individual and leader responsibilities, and your rights. We also identified behaviors that violate the Army's EO/EEO programs and policies and procedures for filing EO complaints. As a leader, your actions, and the actions of your soldiers, must contribute to the Army's ultimate goal to foster mutual dignity and respect among all personnel.

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**SECTION V. STUDENT EVALUATION****Testing  
Requirements**

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**NOTE:** Describe how the student must demonstrate accomplishment of the TLO. Refer student to the Student Evaluation Plan.

None

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**Feedback  
Requirements**

**NOTE:** Feedback is essential to effective learning. Schedule and provide feedback on the evaluation and any information to help answer students' questions about the test. Provide remedial training as needed.

None

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**Appendix A - Viewgraph Masters (N/A)**

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**Appendix B - Test(s) and Test Solution(s) (N/A)**

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## Appendix C

### PRACTICAL EXERCISE 1

<b>Title</b>	ENFORCE THE EQUAL OPPORTUNITY PROGRAM						
<b>Lesson Number / Title</b>	L327 version 1 / ENFORCE THE EQUAL OPPORTUNITY PROGRAM						
<b>Introduction</b>	None						
<b>Motivator</b>	None						
<b>Terminal Learning Objective</b>	<p><b>NOTE:</b> The instructor should inform the students of the following Terminal Learning Objective covered by this practical exercise.</p> <p>At the completion of this lesson, you [the student] will:</p> <table border="1" style="width: 100%;"> <tr> <td style="width: 15%;"><b>Action:</b></td> <td>Determine individual and leader actions to ensure compliance with the Army's Equal Opportunity (EO) Program.</td> </tr> <tr> <td><b>Conditions:</b></td> <td>As a section leader in a classroom environment given extracts from AR 600-20, TSP 121-050-8010, and student handouts.</td> </tr> <tr> <td><b>Standards:</b></td> <td>Determined individual and leader actions to ensure compliance with the Army's Equal Opportunity (EO) Program IAW AR 600-20 and TSP 121-050-8010.</td> </tr> </table>	<b>Action:</b>	Determine individual and leader actions to ensure compliance with the Army's Equal Opportunity (EO) Program.	<b>Conditions:</b>	As a section leader in a classroom environment given extracts from AR 600-20, TSP 121-050-8010, and student handouts.	<b>Standards:</b>	Determined individual and leader actions to ensure compliance with the Army's Equal Opportunity (EO) Program IAW AR 600-20 and TSP 121-050-8010.
<b>Action:</b>	Determine individual and leader actions to ensure compliance with the Army's Equal Opportunity (EO) Program.						
<b>Conditions:</b>	As a section leader in a classroom environment given extracts from AR 600-20, TSP 121-050-8010, and student handouts.						
<b>Standards:</b>	Determined individual and leader actions to ensure compliance with the Army's Equal Opportunity (EO) Program IAW AR 600-20 and TSP 121-050-8010.						
<b>Safety Requirements</b>	None						
<b>Risk Assessment</b>	Low						
<b>Environmental Considerations</b>	None						
<b>Evaluation</b>	At the end of the lesson discussion you will compare your answers with the solution sheet provided by the instructor.						
<b>Instructional Lead-In</b>	None						
<b>Resource Requirements</b>	<p><b>Instructor Materials:</b> Solution to Practical Exercise 1</p> <p><b>Student Materials:</b></p> <ul style="list-style-type: none"> <li>• Pen or pencil and writing paper.</li> <li>• Practical Exercise 1.</li> <li>• SH-2 thru SH-4.</li> </ul>						
<b>Special Instructions</b>	Students receive this practical exercise during in-processing. Students must read the reading assignment and complete the practical exercise prior to class. Students must bring the completed exercise and reading assignments to class.						

**Procedures**

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QUESTION 1: What is the Army's Equal Opportunity Policy?

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QUESTION 2: During what periods does this policy apply?

- a. When in uniform during duty hours, on post.
- b. Whenever one is officially representing the U.S. Army.
- c. Both on and off post, during duty, and non-duty hours.
- d. During duty hours on post, in uniform, or not.

QUESTION 3: List the six components of the Army's EO Program:

- (1) \_\_\_\_\_
- (2) \_\_\_\_\_
- (3) \_\_\_\_\_
- (4) \_\_\_\_\_
- (5) \_\_\_\_\_
- (6) \_\_\_\_\_

QUESTION 4: Who is the command's EO officer who is personally responsible and accountable for the EO climate within the unit?

- a. The commander
- b. The first sergeant
- c. The platoon Sergeant
- d. The squad leader

QUESTION 5: What is the time limit for a new commander to conduct a unit climate assessment?

- a. Within 45 days (180 days for USAR units) annually thereafter.
- b. Within 90 days (120 days for USAR units) annually thereafter.
- c. Within 90 days (180 days for USAR units) semi-annually thereafter.
- d. Within 90 days (180 days for USAR units) and annually thereafter.

QUESTION 6: Who is primarily responsible for recommending appropriate remedies to eliminate and prevent unlawful discrimination and sexual harassment?

- a. The commander
- b. The Equal Opportunity Advisor (EOA)
- c. The first sergeant
- d. The Equal Opportunity Representative (EOR)

QUESTION 7: To what position must Commanders appoint a member of the chain of command in the rank of SSG through 1LT to assist in carrying out the EO Program?

- a. Equal Opportunity Advisor (EOA)
  - b. Equal Opportunity Representative (EOR)
  - c. Squad Leader
  - d. Special Emphasis Program Representative (SEPR)
-

**Procedures,  
continued**

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QUESTION 8: Racism is a concept with behaviors or actions that violate the Army's EO policies. What is the definition of racism?

- a. A form of gender discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.
- b. Any conduct whereby one military member or employee, regardless of service or rank, unnecessarily causes another military member or employee, regardless of service or rank, to suffer or be exposed to an activity which is cruel, abusive, oppressive, or harmful.
- c. Any attitude or action by an individual, group, or institution to subordinate another person or group because of skin color or other physical traits associated with a particular group.
- d. Any practice that have an adverse effect on individuals or groups of individuals because of their race, color, religion, sex, national origin, age, or handicap.

QUESTION 9: Sexism is a concept with behaviors or actions that violate the Army's EO policies. What is the definition of sexism?

- a. A form of gender discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . .
- b. An attitude, behavior, or conditioning that fosters stereotypes of social roles based on sex or gender.
- c. Any attitude or action by an individual, group, or institution to subordinate another person or group because of skin color or other physical traits associated with a particular group.
- d. Any practice that have an adverse effect on individuals or groups of individuals because of their race, color, religion, sex, national origin, age, or handicap.

QUESTION 10: Prejudice is a concept with behaviors or actions that violate the Army's EO policies. What is the definition of prejudice?

- a. A negative attitude or feeling toward certain groups based upon faulty and inflexible generalizations.
  - b. Any conduct whereby one military member or employee, regardless of service or rank, unnecessarily causes another military member or employee, regardless of service or rank, to suffer or be exposed to an activity which is cruel, abusive, oppressive, or harmful.
  - c. Any attitude or action by an individual, group, or institution to subordinate another person or group because of skin color or other physical traits associated with a particular group.
  - d. Any practice that have an adverse effect on individuals or groups of individuals because of their race, color, religion, sex, national origin, age, or handicap.
-

**Procedures,  
continued**

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QUESTION 11: Identify four EO or sexual harassment violations that are subject to the UCMJ listed below:

- a. Ignoring women or women’s issues.
- b. Making racial or sexual comments and/or gestures.
- c. Making unsolicited and unwelcome sexual contact with intent to satisfy lust or sexual desire.
- d. Exclusively using the pronouns “he” and “his,” or the word “guys,” such as “this man’s Army”
- e. Using degrading terms or words to describe members of a different gender or racial group.
- f. Influencing or threatening the career, pay, or job of others in exchange for sexual favors.
- g. Threatening the career, job, or salary of another unless they “cooperate.”
- h. Using negative ethnic or gender characteristics as metaphors, i.e., “The 1SG is an Indian giver.”

QUESTION 12: List four actions you, as a unit leader, may take in response to violations of the EO and sexual harassment policies.

- (1) \_\_\_\_\_
- (2) \_\_\_\_\_
- (3) \_\_\_\_\_
- (4) \_\_\_\_\_

QUESTION 13: What is the policy of the Army on sexual harassment?

\_\_\_\_\_  
\_\_\_\_\_

QUESTION 14: What is sexual harassment?

\_\_\_\_\_  
\_\_\_\_\_

QUESTION 15: What are the three categories of sexual harassment?

- (1) \_\_\_\_\_
- (2) \_\_\_\_\_
- (3) \_\_\_\_\_

QUESTION 16: What are the two types of sexual harassment?

- (1) \_\_\_\_\_
- (2) \_\_\_\_\_

QUESTION 17: List five techniques of dealing with sexual harassment.

- (1) \_\_\_\_\_
  - (2) \_\_\_\_\_
  - (3) \_\_\_\_\_
  - (4) \_\_\_\_\_
  - (5) \_\_\_\_\_
-

**Feedback  
Requirements**

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None

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**SOLUTION TO  
PRACTICAL EXERCISE 1**

QUESTION 1: What is the Army's Equal Opportunity Policy?

The U.S. Army will provide equal opportunity and fair treatment for military personnel, family members and DA civilians without regard to race, color, gender, religion, or national origin, and provide an environment free from unlawful discrimination and offensive behavior.

Ref: AR 600-20 (SH-2), p 44, para 6-3a

QUESTION 2: During what periods does this policy apply?

c. Both on and off post, during duty and non-duty hours.

Ref: AR 600-20 (SH-2), p 44, para 6-3a (1)

QUESTION 3: List the six components of the Army's EO Program:

- (1) Leader Commitment
- (2) Sequential and Progressive Training
- (3) Effective and Responsive Complaint Process
- (4) Affirmative Action Plan
- (5) Feedback Mechanisms
- (6) Equal Opportunity Advisors

Ref: TSP 121-050-8010 (SH-3), p SH-3-9

QUESTION 4: Who is the command's EO officer who is personally responsible and accountable for the EO climate within the unit?

a. The commander

Ref: AR 600-20 (SH-2), p 41, para 6-2g and 6-2g (1)

QUESTION 5: What is the time limit for a new commander to conduct a unit climate assessment upon assuming command?

d. Within 90 days (180 days for USAR units) and annually thereafter.

Ref: AR 600-20 (SH-2), p 42, para 6-2g (12)

QUESTION 6: Who is primarily responsible for recommending appropriate remedies to eliminate and prevent unlawful discrimination and sexual harassment?

b. The Equal Opportunity Advisor (EOA)

Ref: AR 600-20 (SH-2), p 42, para 6-2h (5)

QUESTION 7: What position must Commanders appoint a member of the chain of command in the rank of SSG through 1LT to assist in carrying out the EO Program?

b. Equal Opportunity Representative (EOR)

Ref: AR 600-20 (SH-2), p 43, para 6-2i

QUESTION 8: Racism is a concept with behaviors or actions that violate the Army's EO policies. What is the definition of racism?

c. Any attitude or action by an individual, group, or institution to subordinate another person or group because of skin color or other physical traits associated with a particular group.

Ref: TSP 121-050-8010 (SH-3), p SH-3-13

QUESTION 9: Sexism is a concept with behaviors or actions that violate the Army's EO policies. What is the definition of sexism?

b. An attitude, behavior, or conditioning that fosters stereotypes of social roles based on sex or gender.

Ref: TSP 121-050-8010 (SH-3), p SH-3-13

QUESTION 10: Prejudice is a concept with behaviors or actions that violate the Army's EO policies. What is the definition of prejudice?

a. A negative attitude or feeling toward certain groups based upon faulty and inflexible generalizations.

Ref: TSP 121-050-8010 (SH-3), p SH-3-14

QUESTION 11: Of the items listed below, identify four that are EO and sexual harassment violations that are subject to the UCMJ:

They are all EO or sexual harassment violations, but b, c, f, and g are subject to the UCMJ.

Ref: TSP 121-050-8010 (SH-3), pp SH-3-2 and SH-3-3

QUESTION 12: List four actions you, as a unit leader, may take in response to violations of the EO and sexual harassment policies.

Any four of the following actions would be correct:

- On-the-Spot Corrections
- Counseling-Verbal and/or Written
- Training/Education
- Deny Promotion/Advancements
- Decisions concerning awards, training, or schools
- Changes in duties or responsibilities
- Transfer or reassignment
- Bar to reenlistment
- Separation

Ref: TSP 121-050-8010 (SH-3), SH-3-17 thru SH-3-19

QUESTION 13: What is the policy of the Army on Sexual Harassment?

"The policy of the Army is that sexual harassment is unacceptable conduct and will not be tolerated."

Ref: AR 600-20 (SH-2), p 52, para 7-3a

QUESTION 14: What is Sexual Harassment?

A form of gender discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature.

Ref: AR 600-20 (SH-2), p 52, para 7-4a

QUESTION 15: What are the three categories of sexual harassment?

- (1) Verbal
- (2) Nonverbal
- (3) Physical contact

Ref: AR 600-20 (SH-2), pp 52 and 53, para 7-5a thru c

QUESTION 16: What are the two types of sexual harassment?

- (1) Quid Pro Quo
- (2) Hostile environment

Ref: AR 600-20 (SH-2), p 53, para 7-6a and b

QUESTION 17: List five techniques of dealing with sexual harassment.

- (1) Direct Approach
- (2) Indirect Approach
- (3) Third Party
- (4) Chain of Command
- (5) File a Formal Complaint

Ref: AR 600-20 (SH-2), p 53, para 7-7a thru e

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## Appendix D

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**HANDOUTS FOR LESSON 1: L327 version 1**

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This appendix contains the items listed in this table--

<b>Title/Synopsis</b>	<b>Pages</b>
SH-1, Advance Sheet	SH-1-1
SH-2, Extract AR 600-20	SH-2-1
SH-3, Extract from TSP 121-050-8010	SH-3-1 thru SH-3-26
SH-4, Situation: Green vs Brown	SH-4-1

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## Student Handout 1

### Advance Sheet for L327

**Lesson Hours** This lesson consists of one-hour of small group instruction.

**Overview** During this lesson you will learn about the Army's Equal Opportunity Program along with the Army's policies on sexual harassment. You will learn the leader's roles and responsibilities regarding these subjects, the Army's commitment to fair and equal treatment, the complaint process, and methods to resolve problems.

**Learning Objectives** Terminal Learning Objective (TLO).

<b>Action:</b>	Determine individual and leader actions to ensure compliance with the Army's Equal Opportunity (EO) Program.
<b>Conditions:</b>	As a section leader in a classroom environment given extracts from AR 600-20, TSP 121-050-8010, and student handouts.
<b>Standard:</b>	Determined individual and leader actions to ensure compliance with the Army's Equal Opportunity (EO) Program IAW AR 600-20 and TSP 121-050-8010.

Learning Steps/Activities (LS/As).

- LS/A 1** Discuss the key elements of the EO policy.  
**LS/A 2** Discuss unit leadership responsibilities for Equal Opportunity and Sexual Harassment policies compliance.  
**LS/A 3** Discuss the different behaviors that constitute EO and sexual harassment violations.  
**LS/A 4** Discuss appropriate individual and leader actions that prevent sexual harassment.  
**LS/A 5** Discuss leader actions to resolve EO complaints.

**Assignment** The student assignments for this lesson are:  
 Before class--

- Read Student Handouts 1 thru 4.
- Complete PE-1.

**Additional Subject Area Resources** None

**Bring to Class** Student Handouts 1 thru 4.

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## Student Handout 2

### Extract from AR 600-20, Army Command Policy

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This student handout contains 29 pages of extracted material from the following publication:

AR 600-20, Army Command Policy 13 May 2002.

<u>Description</u>	<u>Pages</u>
Chapter 4, Military Discipline and Conduct	17 thru 23
Chapter 6, Equal Opportunity Program in the Army	40 thru 49
Chapter 7, Prevention of Sexual Harassment	52 thru 54
Appendix E, EO/Sexual Harassment Complaint Processing System	66 thru 73

**Disclaimer:** The training developer downloaded this extract from the U.S. Army Publishing Agency Home Page. The text may contain passive voice, misspellings, grammatical errors, etc., and may not be in compliance with the Army Writing Style Program.

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or fail to clear their personal accounts before departure from their stations. This includes consideration under Articles 15, 121, 123a, 133, or 134, Uniform Code of Military Justice. When indebtedness information is received after a soldier departs from the station, the commanding officer of the station at which personal accounts remain unsettled will take action outlined in AR 600-15.

#### **4–9. Civil status of members of the Reserve component**

*a.* Reserve Component members, not serving on active duty, are not for most purposes considered officers or employees of the United States solely by reason of their Reserve status. They may accept and receive pay for employment in any civil branch of the public service, in addition to any pay and allowances they may be entitled to under the laws governing members of RCs.

*b.* A member of the RC, not serving on active duty, may practice his or her civilian profession or occupation before or in connection with any department of the Federal Government unless prohibited by law.

*c.* Conflict of interest laws impose limitations on activities in which persons may engage after terminating active duty or employment by the United States. A reservist who has handled a government matter shall not, while in a civilian status, represent any party, other than the government, in connection with the same particular matter. (See 18 USC 207.) While handling government matters, reservists will not take any direct or indirect action in a particular matter in which they have an outside financial interest. (See 18 USC 208; DODD 5500.7-R, para 5-408.)

*d.* ARNG and USAR soldiers who are officers and employees of the United States or the District of Columbia are entitled to a leave of absence from their civilian employment when ordered under Title 39, District of Columbia Code to ADT or annual training (AT). This leave of absence will be granted without loss of pay, time, or efficiency rating on all days during which they are ordered to duty with troops or field exercises, or for instruction, for periods not over 15 days in any calendar year. As an exception, officers and employees of the United States or of the District of Columbia who are members of the Army National Guard of the District of Columbia are authorized leave for all days (no limit) on which they are ordered under Title 39, District of Columbia Code to duty for parades or encampment under 5 USC 6323.

*e.* ARNG and USAR soldiers may accept and be paid for civil employment with any foreign government, when approved by the Secretary of the Army and the Secretary of State. This includes any concern controlled in whole or in part by a foreign government. AR 600-291 is used for processing applications.

#### **4–10. Participation in support of civilian law enforcement agencies**

*a.* Military support of civilian law enforcement is governed by the Posse Comitatus Act (18 USC 1385), 10 USC Sections 371-382, DODD 5525.5, and AR 500-51. Commanders will not sanction use of military personnel in support of civilian law enforcement agencies in the 50 states, the District of Columbia, the Commonwealth of Puerto Rico, or United States Territories, except when authorized by law. Because this is a complex area of the law, commanders and law enforcement personnel should consult with their servicing judge advocate or legal advisor.

*b.* Military personnel may report crimes or other suspicious activities to civilian police agencies or cooperate with civilian authorities in their capacities as private citizens. Military law enforcement personnel may exchange information with civilian authorities according to AR 500-51.

#### **4–11. Membership campaigns**

DA recognizes and benefits from the activities of many worthy organizations, associations, and clubs. Many of these organizations enjoy close, historical ties with the military community and are composed largely of active or retired military personnel. DA support of private organizations is strictly regulated by DODI 1000.15 and DODD 5500.7-R.

*a.* In supporting such organizations and associations, post commanders and heads of DA Staff agencies will-

(1) Ensure membership among personnel under their jurisdiction is truly voluntary.

(2) Prohibit any practice that involves or implies compulsion, coercion, influence, or reprisal in the conduct of membership campaigns. This prohibition includes repeated orientations, meetings, or similar counseling of persons who have chosen not to join after given a chance to do so. It also includes using membership statistics in support of supervisory influence.

(3) Prohibit any practice that involves or implies DA sponsorship or endorsement of the organization and its activities.

(4) Prohibit the use of government property, facilities, or services, e.g., golf course membership, as an inducement to join a private organization.

*b.* This policy does not prohibit commanders from informing personnel without coercion about membership in such organizations. When doing so, commanders will ensure they do not favor one organization over others.

#### **4–12. Extremist organizations and activities**

Participation in extremist organizations and activities by Army personnel is inconsistent with the responsibilities of military service. It is the policy of the United States Army to provide equal opportunity and treatment for all soldiers without regard to race, color, religion, gender, or national origin. Enforcement of this policy is a responsibility of

command, is vitally important to unit cohesion and morale, and is essential to the Army's ability to accomplish its mission. It is the commander's responsibility to maintain good order and discipline in the unit. Every commander has the inherent authority to take appropriate actions to accomplish this goal. This paragraph identifies prohibited actions by soldiers involving extremist organizations, discusses the authority of the commander to establish other prohibitions, and establishes that violations of prohibitions contained in this paragraph or those established by a commander may result in prosecution under various provisions of the UCMJ. This paragraph must be used in conjunction with DODD 1325.6, Subject: Guidelines for Handling Dissident and Protest Activities Among Members of the Armed Forces.

*a. Participation.* Military personnel must reject participation in extremist organizations and activities. Extremist organizations and activities are ones that advocate racial, gender or ethnic hatred or intolerance; advocate, create, or engage in illegal discrimination based on race, color, gender, religion, or national origin or advocate the use of or use force or violence or unlawful means to deprive individuals of their rights under the United States Constitution or the laws of the United States, by any State, by unlawful means.

*b. Prohibitions.* Soldiers are prohibited from the following actions in support of extremist organizations or activities. Penalties for violations of these prohibitions include the full range of statutory and regulatory sanctions, both criminal (UCMJ), and administrative.

(1) Participating in public demonstrations or rallies.

(2) Attending a meeting or activity with the knowledge that the meeting or activity involves an extremist cause when on duty, when in uniform, when in a foreign country (whether on or off duty or in or out of uniform), when it constitutes a breach of law and order, or when it is likely to result in violence or when in violation of off limits sanctions or commander's order.

(3) Fund raising activities.

(4) Recruiting or training members (including encouraging other soldiers to join).

(5) Creating, organizing or taking a visible leadership role in such an organization or activity.

(6) Distributing literature on or off a military installation, the primary purpose and content of which concerns advocacy or support of extremist causes, organizations, or activities; and it appears that the literature presents a clear danger to the loyalty, discipline, or morale of military personnel, or the distribution would materially interfere with the accomplishment of a military mission.

*c. Command authority.* Commanders have the authority to prohibit military personnel from engaging in or participating in any other activities that the commander determines will adversely affect good order and discipline or morale within the command. This includes, but is not limited to, the authority to order the removal of symbols, flags, posters, or other displays from barracks, to place areas or activities off-limits (see AR 190-24), or to order soldiers not to participate in those activities that are contrary to good order and discipline or morale of the unit or pose a threat to health, safety, and security of military personnel or a military installation.

*d. Command Options.* Commander's options for dealing with a soldier's violation of the prohibitions include-

(1) UCMJ action. Possible violations include-

(a) Article 92-Violation or failure to obey a lawful general order or regulation.

(b) Article 116-Riot or breach of peace.

(c) Article 117-Provoking speeches or gestures.

(d) Article 134-General article, specifically, conduct which is prejudicial to good order and discipline or service discrediting.

(2) Involuntary separation for unsatisfactory performance or misconduct, or for conduct deemed prejudicial to good order and discipline or morale.

(3) Reclassification actions or bar to reenlistment actions, as appropriate.

(4) Other administrative or disciplinary action deemed appropriate by the commander, based on the specific facts and circumstances of the particular case.

*e. Command Responsibility.* Any soldier involvement with or in an extremist organization or activity, such as membership, receipt of literature, or presence at an event, could threaten the good order and discipline of a unit. In any case of apparent soldier involvement with or in extremist organizations or activities, whether or not violative of the prohibitions in subparagraph b, commanders must take positive actions to educate soldiers, putting them on notice of the potential adverse effects that participation in violation of Army policy may have upon good order and discipline in the unit and upon their military service. These positive actions include-

(1) Educating soldiers regarding the Army's equal opportunity policy. Commanders will advise soldiers that extremist organizations' goals are inconsistent with Army goals, beliefs, and values concerning equal opportunity.

(2) Advising soldiers that any participation in extremist organizations or activities:

(a) Will be taken into consideration when evaluating their overall duty performance, to include appropriate remarks on evaluation reports.

(b) Will be taken into consideration when selections for positions of leadership and responsibility are made.

(c) Will result in removal of security clearances, where appropriate.

(d) Will result in reclassification actions or bar to reenlistment actions as appropriate.

(3) The commander of a military installation or other military controlled facility under the jurisdiction of the United States shall prohibit any demonstration or activity on the installation or facility that could result in interference with or prevention of orderly accomplishment of the mission of the installation or facility, or present a clear danger to loyalty, discipline, or morale of the troops. Further, such commanders shall deny requests for the use of military controlled facilities by individuals or groups that engage in discriminatory practices or for activities involving such practices.

*f.* Commanders should seek the advice and counsel of their legal advisor when taking actions pursuant to this policy.

#### **4-13. Army language policy**

English is the operational language of the Army. Soldiers must maintain sufficient proficiency in English to perform their military duties. Their operational communications must be understood by everyone who has an official need to know their content, and, therefore, must normally be English. However, commanders may not require soldiers to use English unless such use is clearly necessary and proper for the performance of military functions. Accordingly, commanders may not require the use of English for personal communications which are unrelated to military functions.

#### **4-14. Relationships between soldiers of different rank**

*a.* The term “officer,” as used in this paragraph, includes both commissioned and warrant officers unless otherwise stated. The provisions of this paragraph apply to both relationships between Army personnel and between Army personnel and personnel of other military services. This policy is effective immediately, except where noted below, and applies to different-gender relationships and same-gender relationships.

*b.* Relationships between soldiers of different rank are prohibited if they:

- (1) Compromise, or appear to compromise, the integrity of supervisory authority or the chain of command.
- (2) Cause actual or perceived partiality or unfairness.
- (3) Involve, or appear to involve, the improper use of rank or position for personal gain.
- (4) Are, or are perceived to be, exploitative or coercive in nature.
- (5) Create an actual or clearly predictable adverse impact on discipline, authority, morale, or the ability of the command to accomplish its mission.

*c.* Certain types of personal relationships between officers and enlisted personnel are prohibited. Prohibited relationships include-

(1) On-going business relationships between officers and enlisted personnel. This prohibition does not apply to landlord/tenant relationships or to one-time transactions such as the sale of an automobile or house, but does apply to borrowing or lending money, commercial solicitation, and any other type of on-going financial or business relationship. Business relationships which exist at the time this policy becomes effective, and that were authorized under previously existing rules and regulations, are exempt until March 1, 2000. In the case of Army National Guard or United States Army Reserve personnel, this prohibition does not apply to relationships that exist due to their civilian occupation or employment.

(2) Dating, shared living accommodations other than those directed by operational requirements, and intimate or sexual relationships between officers and enlisted personnel. This prohibition does not apply to-

*(a)* Marriages.

*(b)* Relationships (dating, shared living accommodations, and intimate or sexual relationships) outside of marriage that predate the effective date of this policy until 1 March 2000.

*(c)* Situations in which a relationship which complies with this policy would move into non-compliance due to a change in status of one of the members (for instance, a case where two enlisted members are married and one is subsequently commissioned or selected as a warrant officer).

*(d)* Personal relationships outside of marriage between members of the National Guard or Army Reserve, when the relationship primarily exists due to civilian acquaintanceships, unless the individuals are on active duty (other than annual training) or Full-time National Guard duty (other than annual training).

*(e)* Personal relationships outside of marriage between members of the Regular Army and members of the National Guard or Army Reserve when the relationships primarily exists due to civilian association and the Reserve component member is not on active duty (other than annual training) or Full-time National Guard duty (other than annual training).

*(f)* Soldiers and leaders share responsibility, however, for ensuring that these relationships do not interfere with good order and discipline. Commanders will ensure that personal relationships which exist between soldiers of different ranks emanating from their civilian careers will not influence training, readiness, or personnel actions.

(3) Gambling between officers and enlisted personnel.

*d.* These prohibitions are not intended to preclude normal team building associations which occur in the context of activities such as community organizations, religious activities, family gatherings, unit-based social functions, or athletic teams or events.

*e.* All military personnel share the responsibility for maintaining professional relationships. However, in any relationship between soldiers of different grade or rank the senior member is generally in the best position to terminate or limit the extent of the relationship. Nevertheless, all members may be held accountable for relationships that violate this policy.

*f.* Commanders should seek to prevent inappropriate or unprofessional relationships through proper training and leadership by example. Should inappropriate relationships occur, commanders have available a wide range of responses. These responses may include counseling, reprimand, order to cease, reassignment, or adverse action. Potential adverse action may include official reprimand, adverse evaluation report(s), nonjudicial punishment, separation, bar to reenlistment, promotion denial, demotion; and courts martial. Commanders must carefully consider all of the facts and circumstances in reaching a disposition that is warranted, appropriate, and fair.

#### **4-15. Other prohibited relationships**

*a. Trainee and soldier relationships.* Any relationship between permanent party personnel and IET trainees not required by the training mission is prohibited. This prohibition applies to permanent party personnel without regard to the installation of assignment of the permanent party member or the trainee.

*b. Recruiter and recruit relationships.* Any relationship between permanent party personnel assigned or attached to the United States Army Recruiting Command and potential prospects, applicants, members of the Delayed Entry Program (DEP), or Members of the Delayed Training Program (DTP) not required by the recruiting mission is prohibited. This prohibition applies to United States Army Recruiting Command Personnel without regard to the unit of assignment of the permanent party member and the potential prospects, applicants, DEP members, or DTP members.

#### **4-16. Fraternization**

Violations of paragraphs 4-14b, 4-14c, and 4-15 may be punished under Article 92, UCMJ, as a violation of a lawful general regulation.

#### **4-17. Standards of conduct**

Department of the Army personnel must place loyalty to country, ethical principles, and law above private gain and other personal interests. The performance of their duties should be in keeping with the highest tradition of military and civilian service to the U.S. Government.

*a. Guidance.* Minimum standards of conduct required of all Soldiers and Army civilians are prescribed by the Joint Ethics Regulation, DODD 5500.7-R. That regulation provides Army personnel with guidance on a multitude of ethical issues including the avoidance of conflicts of interests between their commercial/financial interest and their official duties.

*b. Annual training.* Commanders at all levels will ensure that all Army personnel required to file either a public or confidential financial disclosure report, contracting officers, procurement officials, and others identified by an Army ethics counselor, receive annual ethics training as prescribed by DODD 5500.7-R.

#### **4-18. Employment and volunteer work of spouse**

*a.* The Army affirms the rights of a spouse of a soldier to pursue and hold a job, attend school, or perform volunteer services on or off a military installation. No DA official will, directly or indirectly, impede or otherwise interfere with these rights. Moreover, no DA official will use the preferences and requirements of the Army or any other DOD component to influence the employment, educational, or volunteer service decisions of a spouse. Neither will such decision of a spouse, nor the marital status of the soldier affect, favorably or adversely, the performance evaluations, assignments, or promotion opportunities of the soldier.

(1) In discharging their responsibilities, members of military promotion, continuation, and similar personnel selection boards are prohibited from considering the marital status of a soldier, or the employment, educational, or volunteer service activities of a soldier's spouse. AR 135-155, AR 135-205, AR 140-158, and AR 600-8-29 provide specific policies governing board conduct.

(2) Personnel decisions, including those related to the assignments of soldiers, will not be affected favorably or adversely, by the employment, educational or volunteer services activities of a soldier's spouse, or solely by reason of a soldier's marital status. AR 140-10, AR 614-30, AR 614-100, AR 614-200, and AR 690-700 provide specific policies. Exceptions may be-

*(a)* Necessary to alleviate the personal hardship of a soldier or spouse upon the request of the soldier concerned, such as when a family member requires specialized medical treatment or educational provisions or similar personal preference accommodations.

*(b)* Needed to facilitate the assignment of dual-military couples to the same geographic area.

*(c)* Required by law such as instances in which a prohibited conflict of interest may exist between the official duties of a soldier and the employment of the soldier's spouse. DODD 5500.7-R, The Joint Ethics Regulation, provides specific policies.

*(d)* Made by the Assistant Secretary of Defense (Personnel and Readiness), with the concurrence of the General Counsel, on a case-by-case basis, for reasons of national security, that marital status is an essential assignment qualification for particular military billets or positions.

(3) Performance appraisals on soldiers, including officer and enlisted evaluations reports, will not contain any information regarding the employment, educational or volunteer service activities of the soldier's spouse, or reflect

favorably or adversely on the member based solely on the soldier's marital status. AR 623-1, AR 623-105, and 623-205 provide specific policies.

b. Violations of this policy provide a basis for disciplinary action under the UCMJ in addition to appropriate administrative sanctions.

#### **4-19. Homosexual conduct policy**

The DCS, G-1 is responsible for the U.S. Army Homosexual Conduct Policy.

##### *a. General.*

(1) This policy implements section 654 of Title 10, United States Code. Department of Defense has stated that the suitability of persons to serve in the Army is based on their conduct and their ability to meet required standards of duty performance and discipline.

(2) Definitions are as follows:

(a) *Bisexual.* A person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in both homosexual and heterosexual acts.

(b) *Homosexual.* A person, regardless of sex, who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts as further described in (3) below.

(c) *Sexual orientation.* An abstract sexual preference for persons of a particular sex, as distinct from a propensity or intent to engage in sexual acts.

(3) *Homosexual conduct.* "Homosexual conduct" is a homosexual act, a statement by a soldier that demonstrates a propensity or intent to engage in homosexual acts, the solicitation of another to engage in homosexual act or acts, or a homosexual marriage or attempted marriage.

(a) A "homosexual act" means any bodily contact, actively undertaken or passively permitted, between members of the same sex for the purpose of satisfying sexual desires and any bodily contact (for example, hand-holding, slow dancing, or kissing) that a reasonable person would understand to demonstrate a propensity or intent to engage in such bodily contact.

(b) A "statement by a person that he or she is a homosexual or bisexual or words to that effect" means language or behavior that a reasonable person would believe intends to convey the statement that a person engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts. This may include statements such as "I am a homosexual," "I am gay," "I am a lesbian," "I have a homosexual orientation," and the like.

(c) A "homosexual marriage or attempted marriage" is when a person has married or attempted to marry a person known to be of the same biological sex (as evidenced by the external anatomy of the person involved).

b. *Accession policy.* A person's sexual orientation is considered a personal and private matter and is not a bar to entry or continued service unless manifested by homosexual conduct in a manner described in a(3). Applicants for enlistment, appointment, or induction into the Army will not be asked or required to reveal whether they are heterosexual, homosexual or bisexual. Applicants also will not be required to reveal whether they have engaged in homosexual conduct unless independent evidence is received indicating that the applicant engaged in such conduct or unless the applicant volunteers a statement that he or she is a homosexual or bisexual or words to that effect.

Homosexual conduct is grounds for barring entry into the army, except as provided in AR 601-210. Applicants will be informed of the laws and regulations governing sexual conduct in the armed services, including homosexual conduct as defined in a(3). AR 601-210, and NGBR 600-200 governs the Army accession policy.

c. *Separation policy.* Homosexual conduct is grounds for separation from the army under the terms set forth in paragraph a (3). AR 635-100, AR 635-200, AR 135-175, and 135-178, govern Army separation policies.

##### *d. Guidelines for command-directed fact-finding inquiries into homosexual conduct.*

###### *(1) Responsibilities.*

(a) Only a soldier's commander is authorized to initiate fact-finding inquiries involving homosexual conduct. A commander may initiate a fact-finding inquiry only when he or she has received credible information that there is a basis for discharge. Commanders are accountable for ensuring that inquiries are conducted properly and that no abuse of authority occurs.

(b) A fact-finding inquiry may be conducted by the commander personally or by a person he or she appoints. It may consist of an examination of the information reported or a more extensive investigation as necessary.

(c) The inquiry should gather all credible information that directly relates to the grounds for possible separation. Inquiries shall be limited to the actual circumstances directly relevant to the specific allegations.

(d) If a commander has credible evidence of possible criminal conduct, he or she shall follow the procedures outlined in the AR 27-10 and AR 195-2.

(e) These guidelines do not apply to activities of CID and other DOD law enforcement organizations that are governed by AR 195-2.

###### *(2) Basis for conducting inquiries.*

(a) A commander will initiate an inquiry only if he or she has credible information that there is a basis for discharge. Credible information exists when the information, considering its source and the surrounding circumstances,

supports a reasonable belief that a soldier has engaged in homosexual conduct. It requires a determination based on articulable facts, not just a belief or suspicion.

(b) A basis for discharge exists if-

1. The soldier has engaged in a homosexual act.

2. The soldier has said that he or she is a homosexual or bisexual, or made some other statement that indicates a propensity or intent to engage in homosexual acts, or

3. The soldier has married or attempted to marry a person of the same sex.

(3) Credible information does not exist, for example, when-

(a) The individual is suspected of engaging in homosexual conduct, but there is no credible information, as described that supports the suspicion.

(b) The only information is the opinion of others that a soldier is a homosexual.

(c) The inquiry would be based on rumor, suspicion, or capricious claims concerning a soldier's sexual orientation.

(d) The only information known is an associational activity such as going to a gay bar, possessing or reading homosexual publications, associating with known homosexuals, or marching in a gay rights rally in civilian clothes. Such activity, in and of itself, does not provide the evidence of homosexual conduct.

(4) Credible information exists, for example, when-

(a) A reliable person states that he or she observed or heard a soldier engaging in homosexual acts, or saying that he or she is a homosexual or bisexual or is married to a member of the same sex.

(b) A reliable person states that he or she heard, observed or discovered a soldier make a spoken or written statement that a reasonable person would believe was intended to convey the fact that he or she engages in, attempts to engage in, or has the propensity or intent to engage in homosexual acts.

(c) A reliable person states that he or she observed behavior that amounts to a nonverbal statement by a soldier that he or she is a homosexual or bisexual-i.e., behavior that a reasonable person would believe intended to convey the statement that the soldier engages in, attempts to engage in, or has the propensity or intent to engage in homosexual acts.

(5) *Procedures.*

(a) Informal fact-finding inquiries and administrative separation procedures are the preferred method of addressing homosexual conduct. This does not prevent disciplinary action or trial by courts-martial when appropriate.

(b) Commanders shall exercise sound discretion regarding when credible information exists. They shall examine the information and decide whether an inquiry is warranted or whether no action should be taken.

(c) Commanders or appointed inquiry officers shall not ask, and soldiers shall not be required to reveal whether a soldier is a heterosexual, homosexual, or bisexual. However, upon receipt of credible information of homosexual conduct, (as described in a(3)) commanders or appointed inquiry officials may ask soldiers if they engaged in such conduct. The soldier should first be advised of the DOD policy on homosexual conduct (and rights under Article 31(b), UCMJ, if applicable). Should the soldier choose not to discuss the matter further, the commander should consider other available information. Nothing in this provision precludes questioning a soldier about any information provided by the soldier in the course of the fact-finding inquiry or any related proceedings. Nor does it provide the soldier with any basis for challenging the validity of any proceeding or the use of any evidence, including a statement by the soldier in any proceeding.

(d) At any given point in the inquiry, the commander or appointed inquiry official must be able to clearly and specifically explain which grounds for separation he or she is attempting to verify and how the information being collected relates to those specific separation grounds.

(e) A statement by a soldier that he or she is a homosexual or bisexual creates a rebuttable presumption that the soldier engages in, attempts to engage in, has a propensity to engage in, or intends to engage in homosexual acts. The soldier shall be given the opportunity to present evidence demonstrating that he or she does not engage in, attempt to engage in, or has a propensity or intent to engage in homosexual acts.

(f) The soldier bears the burden of proving, by a preponderance of evidence, that he or she is not a person who engages in, attempts to engage in, has a propensity to engage in, or intends to engage in, homosexual acts.

(6) *Legal effect.* The procedures set forth in this paragraph create no substantive or procedural rights.

*e. Investigation policy.* Investigations or inquiries will not be initiated solely to determine whether a member is a heterosexual, homosexual, or bisexual. There must be credible information that a basis for disciplinary action or discharge exists. The information that constitutes the basis of the investigation must be deemed credible by the criminal investigation organization commander as well as the soldier's commander in most cases. AR 195-2, Criminal Investigating Activities, provides guidance on the investigation of sexual misconduct.

*f. Security.* Individuals will not be asked or required to reveal on personnel security questionnaires whether they are heterosexual, homosexual, or bisexual. An individual's sexual conduct, whether homosexual or heterosexual, is a legitimate security concern only if it could make an individual vulnerable to exploitation or coercion, or indicate a lack of trustworthiness, reliability or good judgment that is required of anyone with access to classified information. AR 380-67 provides additional guidance.

*g. Training.*

(1) All officers and enlisted personnel of the Active Army and Reserve Components will receive briefings upon entry and periodically thereafter with a detailed explanation of regulations governing sexual conduct by members of the Armed Forces. Briefings will include policies on homosexual conduct and applicable laws in accordance with section 654 of Title 10, United States Code and Article 137, Uniform Code of Military Justice (UCMJ).

(2) The Army uses the DoD Homosexual Conduct Policy Training Plan as a guide in training commanders and personnel involved in recruiting, accession processing, criminal investigations, and administrative separations. The training plan includes detailed hypotheticals that illustrate how military personnel should approach specific, concrete scenarios under the new DoD policy on homosexual conduct.

#### **4–20. Hazing**

The Army has been and continues to be a values based organization where everyone is encouraged to do what is right by treating others as they should be treated - with dignity and respect. Hazing is fundamentally in opposition to our values and is prohibited.

*a. Definition.* Hazing is defined as any conduct whereby one military member or employee, regardless of Service or rank, unnecessarily causes another military member or employee, regardless of Service or rank, to suffer or be exposed to an activity which is cruel, abusive, oppressive, or harmful.

(1) Hazing includes, but is not limited to any form of initiation “rite of passage” or congratulatory act that involves: physically striking another in order to inflict pain; piercing another’s skin in any manner; forcing or requiring the consumption of excessive amounts of food, alcohol, drugs, or other substances; or encouraging another to engage in illegal, harmful, demeaning or dangerous acts. 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.

(2) When authorized by the chain of command and not unnecessarily cruel, abusive, oppressive, or harmful, the following activities do not constitute hazing:

(a) the physical and mental hardships associated with operations or operational training;

(b) administrative corrective measures, including verbal reprimands and a reasonable number of repetitions of authorized physical exercises;

(c) extra military instruction or training;

(d) physical training or remedial physical training;

(e) other similar activities.

(3) Whether or not such actions constitute hazing, they may be inappropriate or violate relevant civilian personnel guidance depending on the type of activities and the assigned duties of the employee involved.

*b. Scope.* Hazing is not limited to superior-subordinate relationships. It may occur between peers or even, under certain circumstances, may involve actions directed towards senior military personnel by those junior in rank or grade to them (for example, a training instructor hazing a student who is superior in rank). Hazing has at times occurred during graduation ceremonies or similar military “rites of passage.” However, it may also happen in day-to-day military settings. It is prohibited in all cases, to include off-duty or “unofficial” celebrations or unit functions. Express or implied consent to hazing is not a defense to violation of this regulation.

*c. Command responsibilities.* Enforcement of this policy is a responsibility of commanders at all levels. Commanders will devote particular attention to graduation or advancement ceremonies as well as other occasions or settings which might put soldiers “at risk” for voluntary or involuntary hazing. These situations will be supervised properly, respectful of all participants, perpetuate the best of the traditions which the Army embraces, and leave all participants and spectators feeling proud to be a member of or associated with the U.S. Army.

*d. Command options.* This paragraph is punitive with regards to soldiers. Violators of this policy may be subject to Article 92 of the UCMJ (Failure to obey a lawful general order or regulation). Other applicable UCMJ articles include Article 80 (Attempts), Article 81 (Conspiracy), Article 93 (Cruelty and maltreatment), Article 124 (Maiming), Article 128 (Assault), Article 133 (Conduct unbecoming an officer and a gentleman), and Article 134 (Drunk and disorderly conduct, and/or Soliciting another to commit an offense). Civilian employees who violate this policy may also be subject to adverse action or discipline in accordance with applicable laws and regulations. Commanders should seek the advice and counsel of their legal advisor when taking actions pursuant to this paragraph.

#### **4–21. Informal funds**

Commanders may authorize informal funds. Examples of informal funds are office coffee, cup and flower, and annual picnic funds. These funds are subject to the following guidelines.

*a.* Use is limited to expenses consistent with the purpose and function of the fund.

*b.* Only one individual is to be responsible for fund custody, accounting, and documentation. Annually, this individual’s supervisor is advised of the fund’s financial status.

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*d.* The chain of command shall ensure complainants are protected from reprisal or retaliation for filing equal opportunity complaints. Should soldiers be threatened with such an act, or should an act of reprisal occur, they must report these circumstances to the DoD Inspector General. If the allegation of reprisal is made known to any agency authorized in this regulation to receive complaints, the agency should refer the complaint to the DoD Inspector General. It is strongly encouraged to simultaneously report such threats or acts of reprisal to the appropriate chain of command. The DoD IG Hotline number is 1(800) 424-9098 or DSN 664-8799, and may be used to report threats or acts of reprisal. Personnel calling from outside the continental United States may dial (703) 604-8569; or, mail a letter to Department Of Defense Inspector General, ATTN: Defense Hotline, 1900 Defense Pentagon, Washington, DC 20301-1900.

## **Chapter 6**

### **Equal Opportunity Program In The Army**

#### **6-1. Purpose**

The Equal Opportunity (EO) program formulates, directs, and sustains a comprehensive effort to maximize human potential and to ensure fair treatment for all persons based solely on merit, fitness, and capability in support of readiness. EO philosophy is based on fairness, justice, and equity. Commanders are responsible for sustaining a positive EO climate within their units. Specifically, the goals of the EO program are to-

- a.* Provide EO for military personnel, and family members, both on and off post and within the limits of the laws of localities, states, and host nations.
- b.* Create and sustain effective units by eliminating discriminatory behaviors or practices that undermine teamwork, mutual respect, loyalty, and shared sacrifice of the men and women of America's Army.
- c.* Additionally, in many circumstances, DA civilians may use the Equal Employment Opportunity complaint system. AR 690-600 provides further guidance.

#### **6-2. Responsibilities**

- a.* The Deputy Chief of Staff, G-1. The DCS, G-1 will-
  - (1) Be responsible for Army-wide policies, doctrine, plans, and initiatives pertaining to the Army EO Program.
  - (2) Be responsible for overall evaluation and assessment of the Army's EO Program.
  - (3) Write, coordinate, maintain, and implement the Headquarters, Department of the Army (HQDA) Affirmative Action Plan (AAP).
  - (4) Establish selection criteria, in coordination with the CG, U.S. Total Army Personnel Command (PERSCOM), for Army personnel to attend the Defense Equal Opportunity Management Institute (DEOMI).
  - (5) Coordinate, in conjunction with the CG, PERSCOM, EO training seat allocations at DEOMI.
  - (6) Coordinate the distribution of training seats at DEOMI between the Active Army and the U.S. Army Reserve (USAR).
  - (7) Include Equal Opportunity Advisor (EOA) staffing requirements in authorization documents.
  - (8) Establish and maintain a sexual harassment and sexual abuse assistance line to assist victims of harassment or abuse with information which will allow them to report the harassment or abuse to their local authorities and/or seek emotional counseling from local resources. Army Assistance Line number is 1-800-267-9964.
- b.* Chief, National Guard Bureau (CNGB), and Chief, U.S. Army Reserve (CAR). The CNGB and CAR will-
  - (1) Develop, monitor, and evaluate the implementation of EO policies and programs in their components.
  - (2) Establish requisite staff positions in their offices and make resources available to adequately carry out EO Program requirements.
  - (3) Select Army National Guard and Reserve personnel to attend the DEOMI.
  - (4) Develop information management and reporting requirements to determine the progress made toward affirmative action goals.
  - (5) Establish EO training for units and professional military education courses consistent with HQDA policy and command needs.
- c.* Commanding General, U.S. Army Forces Command (CG, FORSCOM). The CG, FORSCOM, will-
  - (1) Supervise and evaluate the unit EO training program conducted by the numbered armies in continental United States (CONUS).
  - (2) Coordinate, on a continuing basis with the Office of the Chief, Army Reserve (OCAR), to conduct EO seminars for USAR general officers assigned to Army Reserve Commands/General Officer Commands (RSCs/GOCOMs) and for key military and civilian staff assigned to those commands.
  - (3) Assess and evaluate USAR EO programs.
- d.* Commanding General, U.S. Army Training and Doctrine Command (CG, TRADOC). The CG, TRADOC, will-

- (1) Develop EO training doctrine and training materials. Coordinate development with HQDA.
  - (2) Develop EO instruction and associated training materials for use in the accession/initial-entry-training base, in professional military education courses throughout the Army and in units. Training will be interactive, small group oriented and testable.
  - (3) Conduct required EO education and training in TRADOC Service schools and training centers.
  - (4) Evaluate the effectiveness of training conducted in TRADOC Service schools and training centers.
  - (5) Provide assistance and instructional materials to schools not under the jurisdiction of TRADOC. These schools include, but are not limited to The Judge Advocate General's School, Army Medical Department Center and School, Inspector General Course, and U.S. Army War College.
  - (6) Develop the program of instruction and evaluate the conduct of the Army Service Specific Training (ASST) for Army personnel attending the resident and reserve training courses at DEOMI.
  - (7) Develop EO correspondence courses available to all Army personnel.
  - (8) Establish the Soldier Support Institute (SSI) as the proponent for EO training.
- e. Commanders of Major Army Commands (MACOM).* These commanders will-
- (1) Monitor the execution of the EO Program in all commands, installations, agencies, and activities (to include Army Reserve and Army National Guard units when activated) under their jurisdiction.
  - (2) Schedule EO training for units consistent with HQDA policy and command needs.
  - (3) Provide support, as appropriate, for EO matters in all host and tenant support agreements.
  - (4) Ensure EOAs deploy with assigned units.
  - (5) Ensure military and civilian EO/EEO programs complement each other.
  - (6) Provide personnel, funding, and other resources to carry out the EO Program. Funding may be used for the continuous education of command EOAs, local training for equal opportunity representatives (EORs), staff assistance visits (SAVs) by headquarters personnel, and ethnic observances/special commemorations for the entire installation's personnel.
  - (7) Ensure installations maintain EO assistance lines to provide advice and information on unlawful discrimination and sexual harassment. These assistance lines shall provide procedural information on the filing of EO complaints and clarify what constitutes acts of sexual harassment. Complaints shall not be received over the telephone. Personnel with complaints must file them in person. The assistance line shall also provide information on the complaint appeals process to include access to higher levels of authority if resolution cannot be accomplished at the installation level. The assistance line may also be used to provide information to leaders on the procedures to follow in handling sexual harassment complaints. Personnel serving as assistance line operators must be well trained in Army policies and procedures for processing EO complaints.
  - (8) Submit Quarterly Narrative and Statistical Report (QNSR) IAW procedures outlined in para 6-16.
- f. Commanding General, U.S. Total Army Personnel Command (CG, PERSCOM).* The CG, PERSCOM, will-
- (1) Maintain statistical data concerning racial/ethnic designation category (REDCAT) and gender for the management of personnel systems and affirmative action initiatives.
  - (2) Determine the need for training seats at DEOMI for the Annual Structure Manning and Decision Review (SMDR) for the Program Objective Memorandum (POM) years.
  - (3) Program personnel, in coordination with HQDA, ODCS, G-1, ATTN: DAPE-HR-L, to attend DEOMI.
  - (4) Control DEOMI military student training allocations for the Army.
  - (5) Assign active duty military personnel to meet Army EOA requirements.
  - (6) Demographically align EOAs with population of the U.S. Army as a whole.
- g. Commanders at all levels.* Commanders at all levels are the EO officers for their commands. All commanders will-
- (1) Be personally responsible and accountable for the EO climate within their units.
  - (2) Develop and implement EO programs for their organizations that enhance unit cohesion, esprit, and morale.
  - (3) Upon receipt of a DA Form 7279-R (Equal Opportunity Complaint Form), the Commander will, within 72 hours, provide a description of the allegations through command channels to their general court-martial convening authority. DA Form 7279 will be locally reproduced on 8 1/2 by 11-inch paper. A copy for reproduction purposes is located at the back of this regulation. DA Form 7279-R will also be available on the USAPA web site and the Army Electronic Library (AEL) CD-ROM
  - (4) Identify unlawful discriminatory practices affecting military personnel and family members, initiate corrective actions, and provide follow-up and feedback throughout problem resolution.
  - (5) Promote EO and interpersonal harmony for all military personnel and family members.
  - (6) Assign EOAs to their personal or coordinating staff as prescribed in paragraph 6-4, below. The EOAs must attend staff meetings and be included in unit training exercises and deployments in order to accomplish their EO mission.
  - (7) The commander will be in the EOA rating scheme.

(8) Conduct EO training on a continuing basis for all assigned and attached personnel. Training must be consistent with this regulation, MACOM directives, and local guidance.

(9) Monitor and assess the execution of EO programs and policies at all levels within their areas of responsibility.

(10) Involve public affairs personnel at every level of command in planning and publicizing EO programs and initiatives.

(11) Publish and post separate, written command policy statements for EO, the prevention of sexual harassment, and equal opportunity complaint procedures. All statements will be consistent with Army policy. Statements must include an overview of the command's commitment to the EO program and reaffirm that unlawful discrimination and sexual harassment will not be practiced, condoned, or tolerated. The policy statements will explain how and where to file complaints. Additionally, the statements shall include complainant's protection from acts or threats of reprisal. These statements are required for each MACOM, installation, separate unit, agency, and activity down to company/troop/battery or equivalent level. For more information on sexual harassment policy statements, see para 7-2b.

(12) Company level commanders will conduct a unit climate assessment within 90 days (180 days for USAR units) of assuming command and annually thereafter. Administration of the Command Climate Survey must be a part of the assessment for battery/company commanders. Information on conducting this assessment may be found in appendix F. Commanders should supplement any survey efforts with individual and group interviews, the analysis of unit records and statistical information (awards, promotions, reenlistment, incidents of misconduct resulting in punishment under the Uniform Code of Military Justice (UCMJ)), and with complaint reports. This assessment will provide a baseline for the commanders to develop action plans and implement program initiatives.

(13) Encourage soldiers to use their chain of command to address issues.

(14) Take appropriate action to prevent incidents of intimidation, harassment, or reprisal against individuals who file an EO complaint.

(15) Take appropriate action against those who violate Army policy.

(16) Monitor the demographics of the Equal Opportunity Representatives (EORs) in their command to ensure it reflects that of the unit as a whole.

(17) Report all EO training at the quarterly training brief.

*h. EOA Responsibilities.* The actual duties of EOAs, relative emphasis, and time allotted to each duty vary according to type of unit or level of command, unit composition, and location. EOAs are agents for cultural change and act as the eyes and ears for the commander. EOAs will not be assigned further duties that may create a conflict of interest. Equal Opportunity Advisors will -

(1) Understand and articulate Department of Defense (DOD) and Army policies concerning equal opportunity.

(2) Assist the commander in implementing a Consideration of Others Program.

(3) Recognize and assess indicators of institutional and individual discrimination in organizations.

(4) Recognize sexual harassment in both overt and subtle forms.

(5) Recommend appropriate remedies to eliminate and prevent unlawful discrimination and sexual harassment.

(6) Continuously assess the command climate through formal surveys, interviews and accessibility to the unit.

(7) Collect, organize, and interpret demographic data concerning all aspects of EO climate assessment.

(8) Assist commanders in assessing, planning, implementing and evaluating the EO program.

(9) Prepare input for the Quarterly Narrative Statistical Review (QNSR), which supports the Army's Military Equal Opportunity Assessment (MEOA).

(10) Train unit EORs and institutional training course\ service school instructors to assist commanders/commandants in meeting their EO responsibilities.

(11) Organize or assist with training sessions that pertain to equal opportunity, unlawful discrimination, prevention of sexual harassment, and the Consideration of Others Program.

(12) Assist in evaluating the effectiveness of unit training conducted by commanders.

(13) Plan and help conduct executive seminars for senior leadership, on EO action plans and affirmative actions, equal opportunity, unlawful discrimination, the Consideration of Others Program and the prevention of sexual harassment.

(14) Receive and assist in processing individual complaints of unlawful discrimination and sexual harassment and conduct EO inquiries according to the commander's guidance.

(15) Provide advisory assistance to commanders and investigating officers in the investigation and resolution of unlawful discrimination and sexual harassment complaints.

(16) Review and comment on investigative reports of equal opportunity complaints for compliance with DoD and DA EO policy and objectives.

(17) Conduct follow-up assessments of all formal EO complaints.

(18) Assist in the planning and conduct of ethnic observances/special commemorations, as outlined in table 6-1.

(19) Assist commanders in developing the EO policy for their unit.

(20) Maintain, where appropriate, informal liaison with community organizations fostering civil rights. If the EOA

decides to become a member of such organizations in his/her private capacity, he/she must coordinate with the servicing judge advocate to preclude possible conflicts of interest.

- (21) Conduct staff assistance visits to subordinate units and other headquarters (equivalent or lower).
- (22) Conduct or attend Equal Opportunity coordination training at least once quarterly at the installation level.
- (23) Assist commanders in the development of realistic affirmative action plans and monitor progress of plans.

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**Table 6-1**

**Special commemorations/ethnic observances timetable**

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**Month:** January

**Dates:** 3d Monday

**Observance:** Martin Luther King, Jr., Birthday

**Authority/comment:** Public Law 98-144, Nov. 83 (Federal holiday)

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**Month:** February

**Dates:** 1-28/29

**Observance:** African-American/Black History Month

**Authority/comment:** First Presidential Proclamation, Feb. 76

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**Month:** March

**Dates:** 1-31

**Observance:** Women's History Month

**Authority/comment:** Public Law 100-9, Mar 87

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**Month:** April/May

**Dates:** Sunday to Sunday for Week Incorporating Yom Hashoah

**Observance:** "Days of Remembrance" for Victims of the Holocaust

**Authority/comment:** Public Law 96-388, Oct. 80

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**Month:** May

**Dates:** 1-31

**Observance:** Asian Pacific Heritage Month

**Authority/comment:** First Presidential Proclamation, May 91

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**Month:** August

**Dates:** 26

**Observance:** Women's Equality Day

**Authority/comment:** First Presidential Proclamation, Aug. 73

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**Month:** September/October

**Dates:** 15 Sep. - 15 Oct.

**Observance:** National Hispanic Heritage Month

**Authority/comment:** Public Law 100-402, Aug. 88

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**Month:** November

**Dates:** 1-30

**Observance:** National Native American Indian Heritage Month

**Authority/comment:** Public Law 102-188, Mar 92

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*i. Equal opportunity representatives/leaders (EORs/EOLs) Responsibilities.* EORs will assist commanders at the battalion-level or equivalent and below in carrying out the EO Program within their units. EORs serve a special duty at small unit level. Commanders must appoint EORs in their units who are members of the chain of command in the rank of SSG through 1LT. Soldiers who are graduates of DEOMI and have been awarded enlisted Skill Qualifying Identifier (SQI) Q or officer Additional Skill Identifier (ASI) 5T are still available to perform as additional unit EORs after successful completion of their special duty tour as an EOA. Brigade or higher headquarters' EOAs are available to train unit EORs using the 80 hour Training Support Package (TSP) published by the EO Proponency Office, Soldier Support Institute. EOAs are authorized to supplement that training package to meet local needs and conditions. Instruction in other subject areas related to, or supportive of EO objectives, such as the Consideration of Others Program, may be provided by personnel from other agencies or program areas during this training. Typical roles and duties of EORs are as follows-

- (1) Assist commanders in the recognition of detractors from a healthy unit EO climate.
- (2) Continuously assist commanders in the conduct of unit climate assessments.
- (3) Prepare and assist the commander in the conduct of EO training.
- (4) Establish and maintain liaison with other EORs and with the EOA at higher headquarters.
- (5) Assist commanders and assigned project officers in preparing and conducting ethnic observances and special commemorations.
- (6) Assist complainants by referring them to an appropriate agency for assistance. Complaints referred to another

agency will be reported to the EOA. EORs may not conduct investigations and are not trained to fully advise AR 15-6 investigating officers in their conduct of EO complaint investigations. Any commissioned officer performing the additional duty of an EOR, may be asked (in the capacity of a commissioned officer and as a disinterested, third party) to conduct investigations. Yet, those situations should not concern EO complaints within their organization.

(7) Serve as a resource person for EO matters in the unit.

### **6–3. Equal Opportunity Policy**

*a.* The U.S. Army will provide equal opportunity and fair treatment for military personnel, family members and DA civilians without regard to race, color, gender, religion, or national origin, and provide an environment free unlawful discrimination and offensive behavior. This policy-

(1) Applies both on and off post, during duty and non-duty hours.

(2) Applies to working, living, and recreational environments (including both on and off-post housing).

*b.* Soldiers will not be accessed, classified, trained, assigned, promoted, or otherwise managed on the basis of race, color, religion, gender, or national origin. The assignment and utilization of female soldiers is partially governed by federal law. AR 600-13, Army Policy for the Assignment of Female Soldiers, prescribes policies, procedures, responsibilities, and the position coding system for female soldiers.

*c.* Rating and reviewing officials shall evaluate each member's commitment to elimination of unlawful discrimination and/or sexual harassment and document significant deviations from that commitment in evaluation reports. Substantiated formal complaints require a "Does not support EO" on the NCOER or the OER. This documentation includes administering appropriate administrative, disciplinary, or legal action(s) to correct inappropriate behavior.

*d.* This chapter does not implement the provisions of either the Age Discrimination in Employment Act of 1967 (Sections 630 through 634, Title 29, United States Code) or Title VII of the Civil Rights Act of 1964 (Section 2000e, Title 42, United States Code). Physical disability and age controls are not addressed due to overriding concerns of medical fitness and deployability of military personnel.

### **6–4. Staffing**

*a. Minimum military staffing requirements.*

(1) EOAs will be assigned to the personal or coordinating staff of commanders at installations, organizations, and agencies that are brigade-level (or equivalent) and higher. Assignments will not be as collateral or part-time duty. Primary duty position authorizations and requirements that comply with this guidance are to be documented in applicable personnel management authorization documents. Authorized positions will not be eliminated without prior approval by the Secretary of the Army.

(2) Active duty military staffing.

*(a)* Each brigade-level or equivalent unit will have, as a minimum, one full-time EOA with the rank of SFC or higher. Each division will have four EOAs: one officer (LTC) and three noncommissioned officers (NCOs) (one MSG and two SFC). Corps staff will have one officer (LTC) and three NCOs (one SGM, one MSG and a SFC). At most Major Army Commands (MACOM), there will be three EOAs: one officer (LTC) and two NCOs (one SGM and one MSG or SFC). FORSCOM, TRADOC and USAREUR will have an additional NCO in the grade of SFC. At HQDA there will be four officers (LTC and three MAJs) and four NCOs (one SGM and three SFCs) At the Soldier Support Institute (SSI) there will be three EOAs: one officer (LTC) and two NCOs (one SGM and one MSG).

*(b)* In addition to the above-stated unit staffing requirements, small installations (less than 10,000 soldiers) or base support battalions (BSBs) are authorized one enlisted EOA (SFC). Large installations (greater than 10,000) and area support groups (ASGs) are authorized two enlisted EOAs (MSG and SFC).

*(c)* Installation EOAs will provide geographic support for units without a dedicated EOA in their specific region. Installation commanders will establish Memoranda of Agreement with tenant units without EOA support to ensure that those tenant units receive EOA support from the installation. Installation EOAs will also support non-deploying soldiers whose unit EOA deployed with their unit.

*(d)* Civilian substitutions for the above minimum staffing requirements are not authorized. Any staffing authorized beyond these minimum requirements may be either military EOAs or civilians officially assigned to and trained for such duties. Assignment of EO duties to civilians must be in strict accordance with applicable position classification standards and guidelines.

(3) US Army Reserve (USAR) staffing. An EOA will be assigned to the staff of each brigade-level unit or brigade equivalent unit. One officer EOA (minimum rank LTC) and one enlisted EOA (minimum rank MSG) will be assigned to the staff of each RSC/GOCOM and division-level or equivalent unit. Civilian substitutions are not authorized.

(4) Army National Guard (ARNG) staffing requirements are established by the CNGB. Civilian substitutions are not authorized.

*b. Location in the organizational structure.* EOAs assigned on the unit's Table of Distribution and Allowances (TDA), should be attached to a specified unit (as described above) for duty, administration, and UCMJ, because they support that specific commander.

*c. The EO Program and the Equal Employment Opportunity (EEO) Program relationship.* The EO program for military personnel and the EEO program for civilian personnel share the same foundations in similar goals and objectives. However, their practice and execution are considerably different. Separate laws and/or regulatory guidance and policy guide each program. The EEO Program implements laws which address employment issues for civilian employees and applicants for employment. The roles and missions of the EOA and EEO officer are not interchangeable. EOAs will not supervise EEO personnel, nor will EEO personnel supervise EOAs. EO and EEO offices will not be consolidated under the direction of one or the other program principals. There are areas in which EO and EEO programs can and should be integrated when doing so promotes understanding, efficiency, economy and common interests of both programs. These areas include the planning and execution of special observances, Consideration of Others Program, development of affirmative action plans, some aspects of training, and coordination of administrative support.

## **6–5. EOA Selection And Assignment Policy**

*a. Selection Policy.* The CG, PERSCOM, will select qualified officers and NCOs for duty as EOAs in accordance with the following selection requirements -

- (1) *Outstanding duty performance.* Includes a review of the individual's evaluation reports.
  - (2) *Stability in personal affairs.* Soldier will not have a recent history of severe domestic or personal problems (excluding divorce), chronic indebtedness, excessive use of alcohol, or any use of illegal drugs. Individuals withdrawn for cause from any Human Reliability or Personal Reliability Program during the two years preceding the nomination will need a waiver from HQDA, ODCS, G-1, ATTN: DAPE-HR-L, 300 Army Pentagon, Washington, DC 20310-0300.
  - (3) Must not have been punished under the provisions of the UCMJ during the 5 years preceding the nomination or have a history of frequent punishments under Article 15, UCMJ.
  - (4) Must have a minimum of 2 years of service remaining upon completion of the DEOMI course.
  - (5) Must meet Army fitness and body composition standards.
  - (6) Must be competitive for promotion.
  - (7) Must have not previously declined or been disenrolled (academic or disciplinary) from NCOES or Officer Professional Development Course.
  - (8) Have a GT score of 110 (waiverable).
  - (9) Maintain a minimum PULHES profile of 111221 (waiverable).
  - (10) Must maintain qualification standards throughout tour. Units will notify PERSCOM through channels when an EOA fails to meet minimum qualification standards.
  - (11) In addition to the above requirements, officers must-
    - (a) Have a bachelor's degree.
    - (b) Be an active duty officer in the grade of LTC or above, except as noted in paragraph 6-4a(2)(a). USAR officers must be at least in the grade of LTC. ARNG officer grade requirements are established by CNGB.
    - (c) Officers assigned to the DEOMI as instructors can be in the grade of CPT or above.
    - (d) Field Grade officers must be graduates of, or have received Military Education Level (MEL) 4 credit for, Command and General Staff College.
  - (12) In addition to requirements (1) through (10) above, active duty and USAR enlisted soldiers (requirements for ARNG enlisted soldiers are established by the CNGB) must-
    - (a) Be a high school graduate (or equivalent) and possess the potential to complete college-level courses. Soldiers who are unable to score at a 12th grade level in all measured areas of the Test of Adult Basic Education (TABE) will not be assigned to EOA duty. The soldier's test results will become part of their out-processing paperwork that will be checked off by the unit commander prior to travel to DEOMI, and taken to DEOMI for inclusion in their student packet.
    - (b) Be a SFC or SSG(P), or above, with less than 18 years time in service upon completion of DEOMI (Waiverable for SGM and MSG).
    - (c) Have served in a leadership position.
    - (d) Not be assigned to back-to-back special duty assignments (e.g., drill sergeant to EOA or recruiter to EOA).
- b. Volunteers.* Any officer or NCO who meets the selection criteria in paragraph 6-5a may volunteer for duty as an EOA by submitting a written request to his/her Branch Manager. Enlisted requests will be submitted through the first LTC in the chain of command, who will endorse the request with a statement of suitability for EOA duties.

*c. Tour lengths for EOAs.*

- (1) *Active Duty Enlisted.* Tours for enlisted personnel assigned to CONUS units will be 24 months (exclusive of training time) with the possibility for extension of one year. Tours for enlisted personnel assigned OCONUS will be the prescribed tour length of that assignment based on status (accompanied/ unaccompanied). Those soldiers assigned to a one-year OCONUS tour will be assigned the additional one-year in CONUS.
- (2) *Active Duty Officer.* Tours for officers assigned to CONUS units will be 24 months (exclusive of training time). Tours for officers assigned OCONUS will be the prescribed tour length for short tours or 18 months (exclusive of training time) for long tours.

(3) *USAR or NGB.* USAR or NGB EOA tours will be a minimum of three years upon completion of DEOMI and a maximum of six years. Reserve Component EOAs will obtain school quotas through the Army Training Requirements and Resource System (ATRRS) for course attendance in either the 15-week resident course or the three-phase Reserve Component (RC) EOA course at the DEOMI within 60 days of assignment as an EOA. USAR soldiers must complete the Reserve Component course within 1 training year of completion of the initial resident phase. Requests to exceed the 1-year completion requirement must be forwarded through the chain of command to the Commandant, DEOMI, Patrick AFB, FL 32925-3399. Each request will be handled on a case-by-case basis and will require justification of the soldier's inability to complete the course within the allotted time. However, commanders must closely monitor training status to ensure course completion is expedited to the maximum extent possible. Army National Guard soldiers must complete the course within 18 months of assignment to duty position. Failure to complete the course will result in removal from the EOA position.

*d. Early Release.*

(1) The Director, Enlisted Personnel Management Directorate (EPMD), PERSCOM is authorized to approve/disapprove the early release of enlisted EOAs from the EO program when:

(a) The EOA has been selected for promotion to SGM and the current unit of assignment cannot place him or her; the EOA will be moving to a command NCO position (1SG); or the EOA is a CSM designee.

(b) The EOA's commander has notified PERSCOM in writing, through the MACOM, that the EOA is being reassigned as a 1SG or CSM.

(c) PERSCOM is able to select, train, and assign a replacement for the outgoing EOA expeditiously to eliminate a gap in coverage.

(d) necessary for cause.

(2) The CG, PERSCOM, is authorized to approve/disapprove the early release of officer EOAs from the EO program when:

(a) The EOA has been selected for promotion and the current unit of assignment cannot place him or her.

(b) The EOA has been selected for a Command Selection List (CSL).

*e. Relieved from EO duty.* The active Army EOA relieved from EO duty will receive a Relief for Cause Evaluation Report. This will occur immediately following the removal from duty.

*f. Removal of the EOA SQI.* The EO SQI or ASI may be withdrawn from the active Army EOA only if approved by HQDA for active Army soldiers, a state AG for ARNG, or the Chief, Army Reserve for USAR. A memorandum signed by the commander, with a copy of the Relief for Cause Evaluation Report will be forwarded through the MACOM and PERSCOM to HQDA, ODCS, G-1, ATTN: DAPE-HR 300 Army Pentagon, Washington DC 20310-0300.

*g. Recurring EOA duty.* EOAs will not serve consecutive EOA duties without prior approval from CG, PERSCOM, a state AG, or OCAR.

## **6-6. Attendance At The Defense Equal Opportunity Management Institute (DEOMI)**

*a. Attendance.*

(1) Enlisted personnel selected for EOA duty by PERSCOM will be programmed to attend the 15-week EO Advisor course at DEOMI. The course is described in paragraph 6-6b below.

(2) Officers in the grade of LTC will attend the 6-week EO Program Manager Course (EOPMC). Officers may attend the 15-week course when space is available.

(3) Reserve Component Full Time Support (FTS) EO personnel filling an authorized, full-time EO Specialist position, who have previously completed one or more phases of the RC EOA Course (resident or non-resident) at DEOMI are eligible to attend and complete the 15-week course. Even if these soldiers are reassigned to another military occupational specialty-enlisted (MOS-ENLD) or specialty skill identifier (SSI), they can complete the course.

*b. Resident Courses.* The DEOMI curriculum consists of two resident courses: a 15-week EO advisor course and a 6-week EO Program Manager course. The 15-week course is designated to train personnel for assignment as full-time EOAs. The 6-week EO Program Manager Course (EOPMC) is intended for those personnel who have supervisory or managerial responsibilities or to train officers serving as EOAs at division level and above. A three-phase Reserve Component EO Advisor Course, consisting of two 2-week resident phases and one nonresident phase, is conducted for ARNG and USAR personnel.

*c. Certification.* Upon successful completion of the 15-week Equal Opportunity Advisor Course and the resident/non-resident RC Equal Opportunity Advisor Course, DEOMI recommends graduates for the awarding of SQI Q (enlisted) and ASI 5T (officers). Officers attending the 6-week EO Program Manager Course will receive course code PAQ in their official records. The CG, PERSCOM, will award the appropriate designator upon the soldiers' successful completion of DEOMI. Only graduates of the DEOMI courses listed above are designated as EOAs.

*d. Scheduling of training.* The CG, PERSCOM, programs qualified active duty officers and NCOs for training and duty as EOAs. The CNGB and CAR program Army National Guard and U.S. Army Reserve soldiers for EOA duty. CG PERSCOM controls DEOMI training seats for active duty and USAR personnel. CNGB controls training seats for

Army National Guard for the DEOMI Reserve Component and EO Program Orientation for Managers Courses.

Commands will use the following procedures to acquire these allocations:

(1) Commanders desiring to send officers and NCOs on temporary duty (TDY) to DEOMI and then return to their units as EOAs will send their requests through their MACOMs. MACOMs will forward applications for officers to CG, PERSCOM, 200 Stovall Street, ATTN: TAPC-OPB-D, Alexandria, VA 22332-0400. For NCOs, forward applications to CG, PERSCOM, ATTN: TAPC-EPM-A, 2461 Eisenhower Ave., Alexandria, VA 22331-0454.

(2) Units must request training seats in writing and requests must arrive at PERSCOM no later than 45 days before the starting date of a requested class.

(3) Reserve Component personnel must have an ATRRS allocation to be considered for attendance. This is applicable to ARNG unit members, and USAR troop program unit (TPU) members, AGR and military technicians assigned to a major Army National Guard or Army Reserve Command (MUSARC) headquarters and performing day-to-day EO duties as listed in their job descriptions or performance standards.

## **6–7. Off-Post Activities, On-Post Activities, And Off-Limit Actions**

*a. Off-post activities.* Title II of the Civil Rights Act of 1964 addresses the practice of discrimination and segregation in public establishments. These public establishments include privately owned establishments such as hotels, restaurants, gasoline stations, theaters, places of entertainment, and community housing (e.g., apartments). The installation commander will ensure that the facts surrounding allegations of discriminatory practices are fully developed. The commander will also ensure those individuals and organizations alleged to practice such unlawful discrimination are given a full and fair opportunity to challenge particular allegations. If all reasonable efforts and alternatives fail to eliminate off-post discriminatory practices in public accommodations, installation commanders are authorized to place those facilities off-limits after requesting such action through the servicing Armed Forces Disciplinary Control Board (AFDCB). Military personnel outside the United States are not protected under the Civil Rights Act of 1964 while offpost. However, the commander will take whatever actions are available and appropriate to eliminate discriminatory practices in public accommodations outside the United States that affect soldiers, civilians or family members of his/her command. Commanders must promote awareness of the pertinent laws of the host nation.

*b. Off-limits sanctions.* Off-limits sanctions may be appropriate for public accommodations and establishments falsely claiming to be private clubs (fraternal or otherwise) with discriminatory policies and practices. If discriminatory practices off-post are found to be directed at selected soldiers in a command and efforts at conciliation prove unsuccessful, imposition of off-limits sanctions according to AR 190-24 may be appropriate.

*c. Off-limits sanctions and private establishments.* An installation commander ordinarily may not apply off-limits sanctions to a bona fide private establishment, club, activity, or organization. However, such an entity may be placed off-limits if the following conditions exist-

(1) It is open to military personnel in general or to soldiers who meet specific objective criteria (such as sergeant and above) but segregates or discriminates against other soldiers solely on the basis of race, color, religion, gender, or national origin.

(2) It is not primarily political or religious in nature.

(3) The installation commander, in consultation with his/her key staff, determines that the available facts support the allegations of unlawful discrimination after affording the management of the establishment, club, activity, or organization a full and fair opportunity to challenge or refute allegations.

(4) Reasonable efforts by the commander to bring about voluntary termination of the discriminatory practices are unsuccessful.

(5) The commander determines that continued unlawful discrimination by the establishment, club, activity, or organization undermines the morale, discipline, or loyalty of soldiers in the command.

*d. On-post activities.* All on-post facilities and official activities are open, as appropriate, to all DoD personnel and family members without regard to race, color, religion, gender, or national origin. Installation commanders are responsible for ensuring that an organization taking advantage of or using on-post facilities (whether on a reimbursable basis or otherwise) does not engage in unlawful discriminatory practices. It is not enough to depend solely on the published bylaws or the constitution of the organization. The installation commander must assess the organization's actual membership practices and their effect upon the command. In cases where the installation commander determines that credible information of discriminatory practices by an on-post private organization has been presented, the organization has the burden of proving it did not engage in discriminatory practices. Failure to substantiate the absence of discriminatory practices will result in a denial of the use of on-post facilities. However, the provisions of this paragraph do not prohibit the installation commander from approving the operation of private organizations that restrict membership to one gender if one or more of the following apply-

(1) The private organization's purpose is philanthropic and, by tradition, its membership has been of one sex

(2) The private organization's purpose and functions is to benefit one sex, and its membership is composed of that sex (Examples are scouting organizations or women's and men's sporting associations.)

(3) The private organization has a specific purpose and function that restricts membership to one sex, but also has a

counterpart organization with the same purpose and function. (Examples are women's and men's sport club, women's and men's civic associations, and boy and girl scouting organizations.)

### **6-8. Procedures For Processing Equal Opportunity Complaints**

*a. Individual rights.* Soldiers, family members and DA civilians have the right to-

- (1) Present a complaint to the command without fear of intimidation, reprisal, or harassment.
- (2) Communicate with the commander concerning their complaints.
- (3) Receive assistance when submitting a complaint.
- (4) Receive training on the Army's Equal Opportunity complaint and appeals process.

*b. Individual responsibility.* Individuals are responsible for:

(1) Advising the command of the specifics of sexual harassment and unlawful discrimination complaints and providing the command an opportunity to take appropriate action to rectify/resolve the issue.

(2) Submitting only legitimate complaints and exercising caution against unfounded or reckless charges.

*c. While not required,* it is recommended that the individual attempt to resolve a complaint by first informing the alleged offender that the behavior must stop.

*d. Filing and Processing Equal Opportunity Complaints.* For filing and processing of EO or sexual harassment complaints, follow the procedures as outlined in appendix E.

### **6-9. Housing complaints**

Complaints of housing discrimination involving unequal treatment because of race, color, religion, gender, or national origin will be forwarded to the local housing division for processing. AR 210-50 provides policy for housing issues.

### **6-10. Evaluation reports**

*a. Entries.* The performance evaluation process provides commanders and supervisors an excellent opportunity to discuss their goals, objectives and expectations of the EO and EEO programs. In counseling session, commanders and supervisors should discuss these programs as expressions of the Army's Values and encourage support of these programs and how they intend to evaluate individual behaviors and actions. When evaluating officers or enlisted soldiers, or Department of the Army civilian employees, rating officials will evaluate those individuals' commitment to the goals and objectives of the EO or EEO program. This includes the individuals' actions or non-actions toward the prevention and elimination of unlawful discrimination and/or sexual harassment. Raters are required to document significant deviations from that commitment and identify instances of reprisal/retaliation taken by the rated individual in that evaluation report. (See AR 623-105, para 4-13; AR 623-205, paras 6-5 and 6-6)

*b. Appeals.* Appeals of officer evaluation reports due to alleged unlawful discrimination, sexual harassment, or reprisal will be conducted according to the procedures specified in AR 623-105. Appeals of noncommissioned officer evaluation reports, based on allegations of unlawful discrimination, sexual harassment, or reprisal, will be submitted according to the procedures outlined in AR 623-205.

### **6-11. Civilian schooling**

Army personnel pursuing an educational program at an institution that unlawfully discriminates in the admission or subsequent treatment of students will not be financially assisted from appropriated fund resources. Exceptions to this policy will be considered when the applicant has previously attended the institution in question and will suffer personal hardship through loss of earned credits if a transfer is required. When soldiers seek continuation of civilian schooling with schools barred from receiving DoD or DA funds because they discriminate in their admission practices or subsequent treatment of students, they will request an exception to policy through command channels.

### **6-12. Legal assistance**

Within the framework of the legal assistance program, legal assistance may be provided to soldiers who believe they have been denied federally protected rights. If the civil rights of soldiers seem endangered and an appearance in court or other legal action beyond the authority of the legal assistance officer is required, the matter will be reported to The Judge Advocate General (HQDA (DAJA-CL), Washington DC 20310-2200) for possible referral to the Department of Justice. (See AR 27-40)

### **6-13. Affirmative Action plans**

Affirmative Action Plans (AAPs) are planned, achievable steps that eliminate practices denying equal opportunity to soldiers and their families, and that monitor progress toward these goals.

*a.* Each MACOM, installation, separate unit, agency, and activity down to and including brigade-level or equivalent will develop and implement AAPs. DA Pam 600-26 is the HQDA AAP that monitors the centralized personnel management processes for which HQDA has responsibility. Heads of staff proponent agencies and their field operating agencies provide input to this AAP. Unit AAPs will be written IAW DA PAM 600-26.

*b.* Units will review AAPs annually to assess the effectiveness of past actions; to initiate new actions, and to sustain, monitor, or delete goals already achieved.

*c.* Commanders will provide a copy of their AAP to the next higher commander.

*d.* Affirmative action plans for civilian employees will be established in accordance with Army Regulation 690-12, Equal Employment Opportunity and Affirmative Action.

## **6-14. Training**

*a.* Minimum criteria for local unit training programs.

(1) The commander will incorporate EO training into the overall training plan for the unit. The Soldier Support Institute publishes training tools (DA Pam 350-20, Unit Equal Opportunity Training Guide, and TC 26-6, Commander's Equal Opportunity Handbook) that may assist commanders in developing required training. Active Army and reserve components commanders of TOE/MTOE/TDA units will add the following topics to their quarterly or yearly training briefings:

*(a)* Type and dates of human relations training conducted by the unit since last Quarterly Training Brief (QTB)/Yearly Training Brief (YTB).

*(b)* Type and dates of human relations training scheduled for the unit before the next QTB/YTB.

*(c)* The number of EOAs/EORs required, authorized, on hand and the training they have completed or scheduled prior to next QTB/YTB.

*(d)* Date last command climate survey was conducted and date next command climate survey is scheduled.

(2) Leaders will conduct mandatory unit EO/sexual harassment training quarterly. Commanders will document training on the unit's training schedule and lead the training. In their training documentation, commanders must include type of training; instructor; date, time and length of training; roster of attendees and issues covered in the session. From time to time, different issues will be of local or Army-wide importance and require special emphasis and attention by unit commanders. As a minimum, two of the quarters will consist of Prevention of Sexual Harassment training. (see paragraph 7-8) The other two quarters will consist of training that is interactive, small group, discussion-based, and can focus on these topics-

*(a)* Objectives of the Army EO program.

*(b)* Army and local command policies on EO and affirmative action.

*(c)* Objectives of AAPs and EO action plans.

*(d)* Behavioral characteristics and other indicators of EO problems, what are and are not appropriate and acceptable behaviors leading to unit cohesion and teamwork.

*(e)* The impact of individual and institutional discrimination on mission accomplishment.

*(f)* Proper handling of EO complaints and the EO complaint system.

*(g)* Identifying, dealing with, preventing, and eliminating racial and ethnic discrimination and sexual harassment.

*(h)* Legal and administrative consequences of participating in acts of unlawful discrimination and sexual harassment.

*(i)* Individual responsibilities of both soldiers and DA civilians concerning equal opportunity and the prevention and eradication of sexual harassment (i.e., identifying inappropriate behaviors, handling complaints, developing techniques in dealing with sexual harassment, developing assertiveness skills, submitting complaints in the event the situation cannot be handled on-the-spot or one-on-one, and reporting incidents to the chain of command).

*(j)* The importance of honest and open interpersonal communications in promoting a healthy unit climate.

*(k)* Unit climate assessment-what it is, what it is used for, what makes it important, how it is done, what its results mean and what to do about various results.

*(l)* Review of actual unit climate assessment findings and amplification of issues raised. If appropriate, the commander will discuss issues that surface from assessment and develop an action plan to improve unit climate with unit members.

(3) The chain of command and other leaders (commander, command sergeant major, sergeant major, first sergeant, civilian supervisors, and others) will be present and participate in unit EO sessions.

(4) Brigade-sized units and higher headquarters will conduct EO and prevention/eradication of sexual harassment training (executive level seminars) twice a year. Training will be small group, interactive and discussion-based. It should emphasize findings determined as a result of unit command climate assessments.

*b.* Generally, training for Army War College (AWC) and Pre-Command Course (PCC) will cover-

(1) Planning and resourcing the implementation of the Army's EO program.

(2) Creating positive command climates that promote fair and equal treatment and that create opportunities for all soldiers, civilians, and family members by-

*(a)* Publishing policies and evaluating subordinate unit EO initiatives.

*(b)* Ensuring that EO training is focused on the roles, duties, and responsibilities for EO and the prevention and eradication of sexual harassment; on leader skills needed to handle soldier issues to include racial, cultural, and gender considerations; and on preventing, detecting, and avoiding conditions and situations that could lead to unprofessional behaviors and acts.

## Chapter 7 Prevention Of Sexual Harassment

### 7-1. Overview

The prevention of sexual harassment is a commander's responsibility. The EOA plays a pivotal role by assisting the commander with policy awareness, training, command climate assessments, complaints processing and overall advisory assistance concerning the prevention of sexual harassment.

### 7-2. Chain Of Command Responsibilities

Commanders and supervisors will –

- a. Ensure that assigned personnel are familiar with the Army policy on sexual harassment.
- b. Publish and post written command policy statements for the prevention of sexual harassment. All statements will be consistent with Army policy. They will include the local command's commitment to the Army's policy against sexual harassment and will reaffirm that sexual harassment will not be tolerated. The statement will explain how and where to file complaints and shall include the fact that all complainants will be protected from acts or threats of reprisal. Each MACOM, installation, separate unit, agency, and activity down to company, troop or battery level will publish a sexual harassment command policy statement. Units should coordinate these policy statements with the servicing staff judge advocate or legal advisor before publishing them.
- c. Continually assess and be aware of the climate of command regarding sexual harassment. Identify problems or potential problems. Take prompt, decisive action to investigate all complaints of sexual harassment. Either resolve the problem at the lowest possible level or, if necessary, take formal disciplinary or administrative action. Do not allow soldiers to be retaliated against for filing complaints. Continually monitor the unit and assess sexual harassment prevention policies and programs at all levels within area of responsibility. Ensure all leaders understand that if they witness or otherwise know of incidents of sexual harassment, they are obligated to act. If they do not, they themselves are also guilty of sexual harassment.
- d. Set the standard.

### 7-3. Policy

- a. The policy of the Army is that sexual harassment is unacceptable conduct and will not be tolerated. Army leadership at all levels will be committed to creating and maintaining an environment conducive to maximum productivity and respect for human dignity. Sexual harassment destroys teamwork and negatively affects combat readiness. The Army bases its success on mission accomplishment. Successful mission accomplishment can be achieved only in an environment free of sexual harassment for all personnel.
- b. The prevention of sexual harassment is the responsibility of every soldier and DA civilian. Leaders set the standard for soldiers and DA civilians to follow.

### 7-4. Definition

- a. Sexual harassment is a form of gender discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when-
  - (1) Submission to, or rejection of, such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, career, or
  - (2) Submission to, or rejection of, such conduct by a person is used as a basis for career or employment decisions affecting that person, or
  - (3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive working environment.
- b. Any person in a supervisory or command position who uses or condones implicit or explicit sexual behavior to control, influence, or affect the career, pay, or job of a soldier or civilian employee is engaging in sexual harassment. Similarly, any soldier or civilian employee who makes deliberate or repeated unwelcomed verbal comments, gestures, or physical contact of a sexual nature is engaging in sexual harassment.

### 7-5. Categories of sexual harassment

- a. *Verbal.* Examples of verbal sexual harassment may include telling sexual jokes, using sexually explicit profanity, threats, sexually oriented jody calls, sexual comments, whistling in a sexually suggestive manner, and describing certain sexual attributes about one's physical appearance. Verbal sexual harassment may also include using terms of endearment such as "honey", "babe", "sweetheart", "dear", "stud" or "hunk" in referring to soldiers, civilian coworkers or family members.
- b. *Nonverbal.* Examples of nonverbal sexual harassment may include staring at someone (i.e. "undressing someone with one's eyes"), blowing kisses, winking, or licking one's lips in a suggestive manner. Nonverbal sexual harassment also includes printed material. Examples may include displaying sexually oriented pictures, cartoons or using sexually

oriented screen savers on one's computer. Further examples include sending sexually oriented notes, letters, faxes, or email.

*c. Physical Contact.* Examples of physical sexual harassment may include touching, patting, pinching, bumping, grabbing, cornering or blocking a passageway, kissing, and providing unsolicited back or neck rubs. Sexual assault and rape, which may be extreme forms of sexual harassment, are serious criminal acts. When these acts occur, report them immediately to the chain of command, military police, or other law enforcement agencies.

## **7-6. Types of sexual harassment**

*a. Quid Pro Quo.* Quid Pro Quo is a Latin term meaning "this for that". This term refers to conditions placed on a person's career or terms of employment in return. It involves implicit or explicit threats of adverse action if the person does not submit or promises of favorable actions if the person does submit. Examples include demanding sexual favors in exchange for a promotion; award or favorable assignment; disciplining or relieving a subordinate who refuses sexual advances and threats of poor job evaluation for refusing sexual advances. Incidents of "quid pro quo" may also have a harassing effect on third persons. It may result in allegations of sexual favoritism or general discrimination when a person feels unfairly deprived of recognition, advancement or career opportunities due to favoritism shown to another soldier or civilian employee based on a sexual relationship. An example would be a soldier who is not recommended for promotion and who believes that his or her squad leader recommended another soldier in his or her squad for promotion based upon provided or promised sexual favors, not upon merit or ability.

*b. Hostile environment.* A hostile environment occurs when soldiers or civilians are subjected to offensive, unwanted and unsolicited comments or behaviors of a sexual nature. If these behaviors unreasonably interfere with their performance, then the environment is classified as hostile. A hostile environment brings interference into the workplace in any one of a number of forms. It does not necessarily include the more blatant acts of "quid pro quo." It normally includes nonviolent sexual behaviors that are gender-biased. Examples include use of derogatory gender-biased terms, comments about body parts, suggestive pictures, explicit jokes and unwanted touching.

## **7-7. Techniques of dealing with sexual harassment**

All soldiers and civilians have a responsibility to help resolve acts of sexual harassment. Examples of how to accomplish this follow:

*a. Direct approach.* Confront the harasser and tell him/her that the behavior is not appreciated, not welcomed and that it must stop. Stay focused on the behavior and its impact. Use common courtesy. Write down thoughts before approaching the individual involved.

*b. Indirect approach.* Send a letter to the harasser stating the facts, personal feelings about the inappropriate behavior and expected resolution.

*c. Third party.* Request assistance from another person. Ask someone else to talk to the harasser, to accompany the victim, or to intervene on behalf of the victim to resolve the conflict.

*d. Chain of Command.* Report the behavior to immediate supervisor or others in chain of command and ask for assistance in resolving the situation.

*e. File a formal complaint.* Details for filing an informal or formal complaint are included in Appendix E.

## **7-8. Training**

The elimination of sexual harassment within a unit begins with a policy of aggressive and progressive training to identify and prevent inappropriate behavior. Conduct progressive, interactive small group sexual harassment training twice each year. Soldiers must understand what sexual harassment is, how to recognize it, how to prevent it, how to report it and the consequences of engaging in sexual harassment.

*a.* The quality and effectiveness of unit training are of primary concern. The most effective approach to training to prevent sexual harassment is through interactive discussion in small groups of mixed gender. Situation vignettes or scenarios should be used to facilitate discussion among unit soldiers and civilians. Role playing is also an effective training means. The training focus should be appropriate to the level of the experience and breadth of responsibilities of each target audience. Unit commanders must attend this training and evaluate its content and quality.

*b.* Unit training for junior enlisted and civilian employees will focus on defining sexual harassment and gender discrimination, sanctions which may be used to punish harassers, techniques for soldiers to deal with sexual harassment and methods of filing a complaint through the complaint system.

*c.* Unit training or professional development training for junior officers, noncommissioned officers and civilian supervisors will reinforce the aforementioned training. In addition, emphasis should be placed on promoting a healthy work environment within the section or unit as well as on techniques for receiving, handling and resolving complaints. Training on the EO complaint system must include leader responsibilities in processing informal and formal complaints. It must emphasize the prevention of reprisal actions against complainants.

*d.* Training at unit level for senior noncommissioned officers, warrant officers, officers, civilian managers and senior executive service will focus on fostering a healthy command climate and using appropriate means for determining a

healthy command climate. This training will also focus on sanctions for offenders. In addition, it will reinforce the elements of training they receive at a more junior level.

*e.* Leaders may enlist the service of their brigade or higher level Equal Opportunity Advisor or DA PAM 350-20 (Unit Equal Opportunity Training Guide), Chapter 4, to help prepare and conduct Prevention of Sexual Harassment (POSH) training.

*f.* Commanders will document POSH training on the unit's training schedule and on individual soldier training records. Documentation will include type, instructor, date, time, length of training, roster of attendees, and issues covered in the session.

*g.* The chain of command and EOA's will attend and participate in POSH sessions.

*h.* Sexual misconduct training is not an Equal Opportunity issue. This training must be conducted by qualified personnel, separately from sexual harassment training, so as not to confuse the two.

### **7-9. Complaints**

Filing and processing of sexual harassment complaints follow the same procedures as outlined in appendix E for EO complaints. Charges of sexual misconduct are to be processed through legal/ law enforcement channels, not equal opportunity channels.

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**D-12.**

The worldwide deployment of United States military forces, the international responsibilities of the United States, and the potential for involvement of the Armed Forces in actual combat routinely make it necessary for members of the Armed Forces involuntarily to accept living conditions and working conditions that are often spartan, primitive, and characterized by forced intimacy with little or no privacy.

**D-13.**

The prohibition against homosexual conduct is a longstanding element of military law that continues to be necessary in the unique circumstances of military service.

**D-14.**

The Armed Forces must maintain personnel policies that exclude persons whose presence in the Armed Forces would create an unacceptable risk to the Armed Forces' high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

**D-15.**

The presence in the Armed Forces of person's who demonstrate a propensity or intent to engage in homosexual acts would create an unacceptable risk to the high standards of morale, good order and discipline, and unit cohesion that are the essence of military capability.

## **Appendix E**

### **EO/Sexual Harassment Complaint Processing System**

#### **E-1. Entering the complaints processing system**

The EO complaints processing system addresses complaints that allege unlawful discrimination or unfair treatment on the basis of race, color, religion, gender, and national origin. Attempts should always be made to solve the problem at the lowest possible level within an organization. Complaints by civilian personnel alleging discrimination should be handled in accordance with the procedures contained in AR 690-600, or as described in DoD and Department of the Army policy implementing 10 U.S. Code 1561, or as provided for in any applicable collective bargaining agreement.

##### *a.* Informal complaint.

(1) An informal complaint is any complaint that a soldier, family member or DA civilian does not wish to file in writing. Informal complaints may be resolved directly by the individual, with the help of another unit member, the commander or other person in the complainant's chain of command. Typically, those issues that can be taken care of informally can be resolved through discussion, problem identification, and clarification of the issues. An informal complaint is not subject to time suspense nor is it reportable. It is recommended that anyone working on the resolution of informal complaints should prepare a memorandum of record (MFR). The MFR would include information indicating nature of complaint and identifying pertinent information to assist in the identification of unit's command climate.

(2) Although the processing of EO complaints through the unit chain of command is strongly encouraged, it will not serve as the only channel available to soldiers to resolve complaints. Should the complainant feel uncomfortable in filing a complaint with his/her unit chain of command, or should the complaint be against a member of that chain of command, a number of alternative agencies exist through which the issues may be identified for resolution. Each of these agencies provides expertise in very specific subject areas. Commanders will not preclude soldiers from using these channels in accordance with the procedures inherent/established by these agencies:

- (a) Someone in a higher echelon of the complainant's chain of command
- (b) Equal Opportunity Advisor
- (c) Inspector General
- (d) Chaplain
- (e) Provost Marshal
- (f) Medical agency personnel
- (g) Staff Judge Advocate
- (h) Chief, Community Housing Referral and Relocation Services Office (CHRRS)

(3) In some informal complaints, the person or agency receiving the complaint may be able to resolve the issue while maintaining the confidentiality of the complainant, as in the case of the chaplain or a lawyer. While maintenance of confidentiality should be attempted, it will neither be guaranteed nor promised to the complainant by agencies other than the chaplain or a lawyer.

(4) Initial actions by these alternative agencies are the same for informal and formal complaints. Any alternative agency that receives an informal complaint of unlawful discrimination or sexual harassment has the obligation to talk

with the complainant. The agency should advise the complainant of his/her rights and responsibilities; listen to the complainant and find out as much information as possible concerning the complaint (including what the reasons are behind the complaint and why the individual is using the alternative agency opposed to his or her chain of command); tell the complainant what role that agency has (e.g., direct action on behalf of the complainant, information gathering, or referral to another agency or the commander for their action); what support services are available from other organizations that may help resolve the issues; explain the complaint system (principally, the differences between informal and formal complaints); and, then attempt to assure resolution of the issue (through mediation, intervention, counseling, training, etc.).

(5) The commander must eliminate underlying causes of all complaints. More members of the unit, other than complainant and alleged perpetrator, are affected by complaints, especially those that go unresolved.

*b. Formal complaint.*

(1) A formal complaint is one that a complainant files in writing and swears to the accuracy of the information.

Formal complaints require specific actions, are subject to timelines, and require documentation of the actions taken.

(2) An individual files a formal complaint using a DA Form 7279-R

(3) In Part I of DA Form 7279-R, the complainant will specify the alleged concern, provide the names of the parties involved and witnesses, describe the incident(s)/behavior(s), and indicate the date(s) of the occurrence(s). For EO complaints, the complainant will also state the equal opportunity basis of the complaint (e.g., unlawful discrimination based upon race, color, religion, gender, or national origin. Complainant will be advised of the importance of describing the incident(s) in as much detail as possible to assist in the investigative process).

(4) The block entitled, “Requested Remedy” serves a variety of purposes for both the complainant and the command. The information in this block can vary in terms of the complainant’s expectations of the investigative process and his or her reasonableness and credibility. If expectations that are not likely to be met come to the surface, they should be dispelled by the receiving agency (during acceptance of the complaint) through an explanation of the process and the possible outcomes. If the complainant’s response is vindictive, vengeful, or malicious, and seems extreme in light of the events or circumstances, this may be helpful to the commander or investigating officer in terms of motive and believability.

(5) Soldiers have 60 calendar days from the date of the alleged incident in which to file a formal complaint. This time limit is established to set reasonable parameters for the inquiry or investigation and resolution of complaints, to include ensuring the availability of witnesses, accurate recollection of events, and timely remedial action. If a complaint is received after 60 calendar days, the commander may conduct an investigation into the allegations or appoint an investigating officer according to paragraph 5 below. In deciding whether to conduct an investigation, the commander should consider the reason for the delay, the availability of witnesses, and whether a full and fair inquiry or investigation can be conducted.

(6) The complainant should file his or her complaint with the commander at the lowest echelon of command at which the complainant may be assured of receiving a thorough, expeditious, and unbiased investigation of the allegations. Depending on the various aspects of the complaint and individuals involved, that lowest level commander may not be the immediate company or even battalion level commander of the complainant.

## **E–2. Actions of alternative agencies**

The agencies listed in paragraph 1a(2) of this Appendix also serve as alternative avenues available to soldiers for registering formal EO complaints. Initial actions by these alternative agencies are the same for informal and formal complaints. Upon receipt of a formal EO complaint of unlawful discrimination or sexual harassment, the alternative agency has the obligation to talk with the complainant, advise him/her of his/her rights and responsibilities, find out as much information as possible concerning the complaint (including what the reasons were for using the alternative agency and what the complainant’s expectations might be for resolution of the complaint). The agency should also tell the complainant what role that agency has (action, information gathering, or referral to another agency or the commander for their action), what support services are available from other organizations, what the complaint processing procedures are (principally, the differences between informal and formal complaints) and what will be done with the individual’s complaint. Receipt of formal complaints by any alternative agency (except Inspector General) will be annotated in writing on the DA Form 7279-R, Part I, item 9b. If the alternative agency decides not to do an inquiry or conduct its own investigation and decides to refer the complaint to another agency or to the appropriate commander for his/her investigation, that referral must be made within 3 calendar days (at the next MUTA 4 or other regularly scheduled training for Reserve components). For the purposes of receiving EO complaints, any commissioned officer is authorized to administer oaths and should do so in block 9a, DA Form 7279-R prior to referring the complaint to the appropriate commander. The commander or agency receiving the referral will acknowledge receipt of the complaint (DA Form 7279-R, Part I, item 10a). In cases where the complaint is best resolved by the chain of command, the alternative agency would refer the complaint to the commander at the lowest echelon of command at which the complainant may be assured of receiving a thorough, expeditious, and unbiased investigation of the allegations.

*a.* If during the course of an inquiry or investigation the receiving agency or commander identifies criminal activity, the complaint will be immediately referred to the proper agency (Provost Marshal or CID) for investigation.

*b.* Incidents of sexual assault and rape will immediately be referred to medical agencies for the procurement of forensic evidence and for assistance in the treatment and counseling of the victim.

*c.* Allegations of unlawful discrimination in housing, both on and off post, will be referred to the housing division for processing under the provisions of AR 210-50.

*d.* If a complaint is filed against a promotable colonel, an active or retired general officer, inspectors general of any component, members of the Senior Executive Service, or Executive Schedule personnel, the allegation will be transferred directly to the Investigations Division, U.S. Army Inspector General Agency, ATTN: SAIG-IN, Pentagon, Washington, DC 20310-1700 by rapid but confidential means within 5 calendar days of receipt.

### **E-3. Complaints filed with the Inspector General**

*a.* Complaints filed with the Inspector General will be processed as Inspector General Action Requests (IGARS) according to AR 20-1, rather than under the procedures outlined in this regulation. As such, no timelines will be imposed on the conduct of the investigation and/or on feedback to the complainant, and DA Form 7279-R will not be maintained.

*b.* Inspector General investigations are confidential and protected from unauthorized disclosure. They will include consultations with persons or activities as deemed appropriate by the Inspector General.

*c.* Receipt of the complaint will be acknowledged to the complainant and an estimated completion date provided. If the action is not completed by that date, the complainant will be notified and given a new estimated completion date.

### **E-4. Actions of the Commander upon receipt of complaint**

*a.* Upon receipt of a complaint, the commander will ensure that the complainant has been sworn to the complaint (Block 9a, DA Form 7279-R). If not, the commander will administer the oath and annotate it on the complaint form. The commander will fill out block 10a acknowledging receipt of the complaint form. All formal complaints will be reported within 72 hours to the first General Courts-Martial Convening Authority (GCMCA) in the chain of command. Additionally, the commander will provide a progress report to the GCMCA authority 20 days after the date on which the investigation commenced and 14 days thereafter until completion.

*b.* The commander will either conduct an investigation personally or immediately appoint an investigating officer according to the provisions of AR 15-6. Depending on the magnitude of the complaint, the commander may deem it necessary to ask the next senior commander in the chain of command to appoint the investigating officer.

*c.* The commander will establish and implement a plan to protect the complainant, any named witnesses, and the alleged perpetrator from acts of reprisal. The plan will include, as a minimum, specified meetings and discussions with the complainant, alleged perpetrator, named witnesses, and selected members of the chain of command and coworkers.

(1) Content of the discussions with the above named individuals will include the definition of reprisal with examples of such behavior; the Army's policy prohibiting reprisal; the complainant's rights and extent of Whistleblower Protection afforded complainants, witnesses, and the alleged perpetrator under DoD Directive 7050.6; encouragement to all the aforementioned individuals to report incidents and/or threats of reprisal; the procedures to report acts and/or threats of reprisal; the consequences of reprisal; possible sanctions against violators; a reminder of the roles and responsibilities of the leadership in the prevention of reprisal and protection of all parties involved; the command's support of a thorough, expeditious and unbiased investigation and good faith in attempting to resolve the complaint; and the need to treat all parties in a professional manner both during and following the conduct of the investigation.

(2) Discretion will be used to determine the extent of information provided and the numbers of personnel addressed in the discussions with the chain of command and coworkers. Investigating officers will treat all those they interview professionally and courteously and will limit their discussion to only those issues relating to the specific complaint.

(3) To prevent the plan from becoming an administrative burden, the plan need only consist of a one-page list (in bullet format) of actions to be accomplished. The commander shall annotate the names of the personnel addressed and initial and date the actions as they are completed. The commander shall provide a copy of the completed plan to the investigating officer and the EOA. The investigating officer will include the commander's plan to prevent reprisal as an exhibit in the investigative findings. The EOA will retain a copy of the commander's plan to prevent reprisal with the completed case file and use the plan to conduct follow-up assessment of the complaint.

### **E-5. Timeliness of action**

Rapid resolution of EO complaints is in the best interest of both the complainant and the command. After receipt of the complaint, the commander to whom the complaint was given has 14 calendar days (or three weekend drill periods for Reserve components) in which to conduct an investigation, either personally or through appointment of an investigating officer. If the complaint was referred to the commander from an alternate agency, or if the commander refers the complaint to an alternate agency, the 14 calendar days begins from the date the complaint was referred. If, due to extenuating circumstances, it becomes impossible to conduct a complete investigation within the 14 calendar days allowed (or three MUTA 4 training drill periods for Reserve components), that commander may obtain an extension

from the next higher commander for usually not more than 30 calendar days (or two MUTA 4 drill periods for Reserve components). After the initial 14-day suspense, all requests for extension must be requested in writing from the next higher echelon commander. Upon receipt of an extension, the commander must inform the complainant of the extension, its duration, and the reasons for which it was requested. Any additional extensions must be approved in writing by the first general officer in the chain of command. Failure to adhere to prescribed timelines will result in automatic referral of the complaint to the next higher echelon commander for investigation and resolution.

## **E-6. Conduct of the investigation**

*a. Investigation.* The purpose of any investigation of unlawful discrimination or sexual harassment is to determine to the maximum extent possible what actually occurred, to assess the validity of allegations made by the complainant, to advise the commander of any leadership or management concerns which might contribute to perceptions of unlawful discrimination and poor unit command climate, and to recommend appropriate corrective actions. The commanding officer is responsible for ensuring the investigation is complete, thorough, and unbiased.

*b. Initial actions.* The commander who acts as the appointing authority shall provide the investigating officer (IO) a copy of orders assigning him or her as the IO officer and the initiated DA Form 7279-R, which identifies the complainant and lists the allegations to be investigated. The IO shall review AR 15-6, Procedure for Investigating Officers and Boards of Officers, and AR 600-20, Army Command Policy, to review procedures applicable to the conduct of the investigation. Should the commander elect to investigate the allegations him or herself, the procedures for investigating officer apply to the commander.

*c. Legal advice.* The investigating officer will meet with the servicing Staff Judge Advocate or legal advisor to review how the conduct of the investigation should be conducted under AR 15-6 and AR 600-20. The discussion should include the specific requirements of both regulations, advice on how investigations are conducted, and advice on how to question an interviewee who is suspected of committing a violation of the UCMJ.

*d. EOA assistance.* The investigating officer (the commander or appointed investigating officer) will meet with the unit's Equal Opportunity Advisor prior to conducting the investigation. The EOA will assist the investigating officer in the development of questions to be addressed to the complainant, the alleged perpetrator, and any witnesses or third parties. The EOA's skills in complaint handling, conflict resolution, and training in the subtleties of discrimination and sexual harassment enable him or her to advise investigative officers in these complex areas. The EOA will ensure the focus of the investigation is placed squarely on assessing the validity of the allegations and avoids shifting the focus of the investigation against the complainant. The EOA will remain available to the investigating officer for consultation and assistance throughout the conduct of the investigation.

*e. Conduct of interviews.* The investigating officer must interview every individual who may have first-hand knowledge of the facts surrounding the validity of the allegations. The investigating officer must also interview everyone who can substantiate the relationship or corroborate the relationship between the complainant and the alleged perpetrator. The investigating officer must interview the person who initially received the formal complaint, the complainant(s), any named witnesses, and the alleged perpetrator. The investigating officer should normally interview the alleged perpetrator after interviewing other witnesses, so that he or she will have a complete understanding of the alleged incident. If needed prior to the conclusion of the investigation, the investigating officer should conduct a second interview of the complainant and the alleged perpetrator. The investigating officer may choose to re-interview certain witnesses for clarification of conflicting statements. Should unit policies or procedures be called into question as contributing factors to perceptions of unlawful discrimination or hostile environment, the investigating officer will interview responsible members of the chain of command. It may be advisable to interview coworkers of the complainant and the alleged perpetrator for knowledge they may have about the alleged incidents or the relationship that exists between the complainant and alleged perpetrator.

*f. Identification of criminal act.* If, when interviewing any soldier, including the alleged perpetrator, the investigating officer reasonably suspects that the individual has committed an offense in violation of the UCMJ, the investigating officer must advise the soldier of his/her rights under Article 31, UCMJ. Investigating officers should consult with their servicing judge advocate or legal advisor before giving Article 31 rights warnings, and should record the suspect's election on DA Form 3881 (Rights Warning Procedure/Waiver Certificate). If the soldier being questioned asks for a lawyer (i.e., asserts his or her right to counsel), questioning must stop immediately and the interview must be terminated. Questioning may resume only in the presence of a lawyer, if the soldier initiates further discussion or if the soldier has consulted with a lawyer and thereafter waives his/her rights pursuant to a proper rights advisement. Similarly, questioning of a soldier must stop immediately if a soldier indicates the desire to remain silent. Once this right is asserted, questioning may resume only if the soldier initiates further questioning or if after an appropriate interval, the soldier waives his or her rights pursuant to a proper rights advisement. (See Article 31, UCMJ; Military Rules of Evidence 304 and 305, Manual for Courts-Martial).

*g. Supporting documents.* The investigating officer should secure copies of any documents that might substantiate or refute the testimony of the complainant, alleged perpetrator, or named witnesses. These documents may include copies of unit and personnel records and the complainant's personal documents. The investigating officer will also procure a

copy of the Commander's plan to prevent reprisal for inclusion in the final report of investigation.

*h.* Unit climate, policies and procedures. During the course of the investigation, the investigative officer should note concerns or observations of unit policy, procedures, and individual leadership or management techniques that may have a dysfunctional effect upon unit climate and foster discriminatory behavior and/or a hostile environment.

*i.* Investigative findings and recommendations. When the investigation is completed, the investigating officer should review the evidence, determine if the investigation adequately addresses allegations, make factual findings about what occurred, and provide recommendations consistent with the findings.

*j.* EOA review. Prior to submission of the report to the appointing authority, the investigating officer and EOA will meet and review the report. The EOA will attach a memorandum documenting his/her review.

*k.* Investigative report. The following items are required enclosures to the report presented to the appointing authority-

- (1) Orders of appointment as investigating officer.
- (2) Copy of the DA Form 7279-R with attached continuation sheets.
- (3) Copy of the completed/initialed Commander's Plan to prevent reprisal.
- (4) List of questions developed with Equal Opportunity Advisor.
- (5) Statements/synopses of interviews with complainant(s), named witnesses, and alleged perpetrator(s) and relevant members of the chain(s) of command.
- (6) Copies of supporting documents.
- (7) Description/assessment of unit policies, procedures which may have contributed to perceptions of unlawful discrimination or sexual harassment within the unit.
- (8) Written approval of next higher echelon commander for any approved extensions.
- (9) Written explanation of extenuating circumstances that prevented the investigating officer from interviewing any named witnesses, complainants, or alleged perpetrators.
- (10) Written review by the Equal Opportunity Advisor.

## **E-7. Actions By The Appointing Authority (Commander) Upon Receipt Of The Report Of The Investigation**

The appointing authority will submit the report of investigation to the servicing Staff or Command Judge Advocate for a determination of legal sufficiency. After the legal review is completed, the appointing authority will decide whether further investigation is necessary or whether to approve all or part of the findings and recommendations. If the appointing authority is senior to the alleged perpetrator's commander, the appointing authority may refer the matter to that unit commander for appropriate action(s), unless the appointing authority or a more senior commander has reserved authority to take action on Equal Opportunity matters.

*a.* Actions to resolve complaints. A complaint is resolved by action to restore benefits and privileges lost because of unlawful discrimination or sexual harassment. Punitive or administrative actions against an offender do not necessarily change offending behaviors or rectify the situation for the individual complainant or unit. Commanders will take corrective action to preclude recurrence of discriminatory or sexually harassing conduct and address any management deficiencies or other contributing factors that caused the allegations to be raised. Commanders will also look at the causes of why complainants raised unsubstantiated complaints. Actions taken (or to be taken) by the commander and the chain of command will be annotated on DA Form 7279-R, Part III. Specific actions taken against the perpetrator will not be annotated on the form. This information will be discussed with the complainant. The commander and/or EOA will also inform the complainant and the subject(s) of the complaint of his/her right to appeal and make them aware of timelines and procedures to file that appeal. The complainant and subject(s) will sign and date the DA Form 7279-R to acknowledge receiving this information. This acknowledgment does not necessarily signify the complainant's agreement with the findings or actions taken to resolve the complaint.

(1) Actions upon substantiated complaint(s). A substantiated EO discrimination or sexual harassment complaint is a complaint that, after the completion of an inquiry or investigation, provides evidence to indicate that the complainant was more likely than not treated differently because of his or her race, color, national origin, gender, or religious affiliation. The standard of proof is a "preponderance of the evidence" standard. This means that the findings of the investigation must be supported by a greater weight of evidence than supports a contrary conclusion, or-in other words evidence which, after considering everything that is presented, points to one particular conclusion as being more credible and probable than any other conclusion. The "weight of the evidence" is not determined by the number of witnesses or volume of exhibits, but by considering all the evidence and evaluating such factors as the witness's demeanor, opportunity for knowledge, information possessed, ability to recall and relate events, and other indications of veracity. When an allegation of discrimination is substantiated, that finding is annotated on the DA Form 7279-R, Part II. The commander must decide what corrective action to take. Corrective action may be administrative or punitive.

*(a)* Administrative action. Offenders will, as a minimum, undergo counseling by a member of the chain of command, presumably their company-level commander. Commanders have the full range of administrative actions available to them to deal with offenders of Army policy on equal opportunity (including the prevention/eradication of

sexual harassment), to include discharge from the Service, bar to reenlistment, adverse performance evaluations and/or specific comments concerning non-support of EO/EEO programs on evaluation reports, relief for cause, administrative reduction, admonition, reprimand, administrative withholding of privileges, and rehabilitative transfer to another unit. Commanders should determine whether the victim desires to be transferred to another unit, but should not subject the complainant to “double victimization” by requiring that he or she be transferred to another unit while leaving the offender in the unit.

(b) UCMJ. Violators of Army policies on equal opportunity and the prevention/eradication of sexual harassment, whose conduct violates a punitive article of the UCMJ, may be charged and prosecuted. Nonjudicial punishments (e.g., Article 15) will be posted in the unit area in accordance with AR 27-10. Courts-Martial convictions may be published in installation newspapers and/or posted in the unit area where deemed appropriate.

(2) Actions upon an unsubstantiated complaint. An unsubstantiated complaint is one for which the preponderance of evidence (i.e., the greater weight of evidence) does not support and verify that the alleged unlawful discrimination or sexual harassment occurred. In this situation, the commander should determine whether the allegations, though unsubstantiated, might be indicative of problems in the unit, which require resolution through EO initiatives or other leadership actions. Should the complaint be found unsubstantiated, the commander will notify the complainant in writing (DA Form 7279-R, Part II) and, consistent with the limitations of the Privacy Act and the Freedom of Information Act (FOIA), provide the complainant with a copy of the results of the investigation. The complainant will sign and date the DA Form 7279-R to acknowledge receiving this information. This acknowledgment does not necessarily signify the complainant’s agreement with the actions taken.

(3) Avoid victim focus. Actions to resolve complaints should focus on changing inappropriate behavior of offending personnel and avoid targeting the complainant. The complainant’s job and status should not be affected unless he or she requests such a remedy, and the chain of command will do so only after weighing the impact on readiness.

b. Feedback. The commander shall provide periodic feedback, throughout the process, to the complainant and the alleged perpetrator on the status of the investigation.

(1) The commander shall provide written feedback to the complainant not later than the 14th calendar day (by the end of the third MUTA 4 period for Reserve components) after receiving the complaint and then provide updates every 14 calendar days (three MUTA 4 drill periods) until final resolution. Written feedback should incorporate any verbal updates provided to the complainant. Written feedback will be as complete as possible consistent with limitations of the Privacy Act and the FOIA. Whenever possible, the commander should meet with the complainant to discuss the status of the investigation to include findings and actions to resolve the issue. Oral feedback should be consistent with the limitations of the Privacy Act and the FOIA.

(2) Commanders shall also provide written feedback to the alleged perpetrator on the outcome of the investigation and subsequent actions to be taken by the chain of command. The chain of command is advised to use discretion in limiting feedback to personnel involved. This feedback should also be consistent with the limitations of the Privacy Act and the FOIA.

## **E-8. Appeals process**

If the complainant perceives the investigation failed to reveal all relevant facts to substantiate the allegations, or that the actions taken by the command on his or her behalf were insufficient to resolve the complaint, the complainant has the right to appeal to the next higher commander in his or her chain of command. The complainant may not appeal the action taken against the perpetrator, if any is taken. If subject(s) of the complaint perceive the investigation has failed to reveal all relevant facts to prove his or her innocence, he or she has the right to appeal to the next higher commander in his or her chain of command. Geographically remote units, field operating agencies, and various other organizations (including tenant units on the installation) shall promulgate Memoranda of Understanding or Installation Standing Support Agreements between the installation (supporting) commander and their units. These documents will serve to provide the necessary guidance to unit personnel for the courses of action to be taken with appeals. EO appeals that may potentially leave the Army chain of command must be forwarded to HQDA, ODCS, G-1, Attention: DAPEHR-L for resolution.

a. The appeal must be presented within 7 calendar days (at the next MUTA 4 drill period for Reserve components) following notification of the results of investigation and acknowledgment of the actions of the command to resolve the complaint. The complainant must provide a brief statement that identifies the basis of the appeal. This will be done in writing on the DA Form 7279-R, Part IV, and the complaint form will be returned to the commander in the chain of command who either conducted the investigation or appointed the investigating officer.

b. Once the appeal is initiated by the complainant, the commander has three calendar days (or one MUTA 4 drill period for Reserve components) to refer the appeal to the next higher unit commander (or installation commander for those tenant units with Memoranda of Understanding that designate an appellate authority).

c. The commander to which the appeal is made has 14 calendar days (or three MUTA 4 periods for Reserve components) to review the case and act on the appeal (i.e. approve it, deny it, or conduct an additional investigation).

Not later than the 14th calendar day following receipt of the appeal (or appropriate RC timelines), this commander shall provide written feedback, consistent with Privacy Act and FOIA limitations, to the complainant on the results of the appeal. This process applies equally to subsequent appeals submitted through the chain of command.

### **E-9. Final Resolution Upon Appeal**

Complaints that are not resolved at brigade level may be appealed to the General Courts-Martial Convening Authority. The only exception to this is where organizations have Memorandums of Understanding or Support that delegate Uniform Code of Military Justice authority to a local commander. Decisions at this level are final.

### **E-10. Follow-up assessment**

The Equal Opportunity Advisor (EOA) will conduct a follow-up assessment of all formal equal opportunity and sexual harassment complaints, both for substantiated and unsubstantiated complaints, 30 to 45 calendar days (four to six MUTA 4 drill periods for Reserve components) following the final decision rendered on the complaint. The purpose of the assessment is to measure the effectiveness of the actions taken and to detect and deter any acts or threats of reprisal. The EOA will also assess the complainant's satisfaction with the procedures followed in the complaint process to include timeliness, staff responsiveness and helpfulness, and resolution of the complaint. The findings of this assessment will be annotated on DA Form 7279-1-R (Equal Opportunity Complaint Resolution Assessment) and maintained by the EOA. The EOA shall present findings and recommendations to the commander for further consideration/action within 15 calendar days (second MUTA 4 drill period for Reserve components). After the commander reviews the EOA findings and recommendation, the assessment is attached to the original complaint and maintained with the rest of the file. DA Form 7279-1-R will be locally reproduced on 8 1/2 by 11-inch paper. A copy for reproduction purposes is located at the back of the regulation. DA Form 7279-1-R will also be available on the USAPA web site and the Army Electronic Library (AEL) CD-ROM.

### **E-11. Documentation/reporting of formal complaints**

*a.* After the complainant's case is closed, the entire complaint packet will be filed by the EOA who is the first in the complainant's chain of command.

*b.* The EOA retains the complaint file. Complaints will be retained on file for 2 years from the date of the final decision on the case, using Army Management and Record Keeping System (MARKS).

*c.* In addition to the completed DA Forms 7279-R and 7279-1-R, the EOA will retain the following information (using the memorandum for record format) for each case:

- (1) The name, rank, and organization of the individual who conducted the inquiry/investigation;
- (2) Complete report of investigation to include written review by EOA and servicing Staff Judge Advocate; and,
- (3) The status or results of any judicial action, nonjudicial punishment, or other action taken to resolve the case.

*d.* Numbers of formal EO and sexual harassment complaints received in units will be reported to and then consolidated by MACOMs. MACOMs will submit a quarterly narrative and statistical report to HQDA, ODCS, G-1, ATTN: DAPE-HR-L, 300 Army Pentagon, Washington, DC 20310-0300.

### **E-12. Actions Against Soldiers Submitting False Complaints**

Soldiers who knowingly submit a false equal opportunity complaint (a complaint containing information or allegations that the complainant knew to be false) may be punished under the UCMJ.

### **E-13. Complaint procedures for reservists serving In the Individual Ready Reserve Or those reservists not assigned to a unit**

*a.* Complaint filed during active duty tour. Complaint procedures will remain the same as for active duty personnel. Active and reserve Army commanders, upon receiving a complaint from members of the Individual Ready Reserve (IRR) or IMA, from soldiers performing active duty for special work or temporary tour of active duty, or from any reservist who is not a member of a troop program unit, will make every attempt to resolve the complaint prior to the completion of the soldier's active duty tour.

(1) Timelines. Should the complaint be filed but not resolved prior to the soldier's release from active duty (REFRAD), the timelines will be modified. The active or reserve component commander will have 30 calendar days from the filing of the complaint to notify the complainant of the results of the investigation/actions taken to resolve the complaint.

(2) Appeals. The complainant and subject(s) of the complaint will have 30 calendar days from notification of the results of the investigation to file an appeal. Appeals filed more than 30 calendar days after notification must be accompanied by a written explanation of the reasons for delay. The commander has the discretion to consider an appeal based on its merits.

(3) Final decision. Notification of the commander's final decision will be provided to the complainant and subject(s) of the complaint with information copies to the next higher headquarters and Army Reserve Personnel Command (ARPERSCOM) within 30 calendar days of the receipt of the appeal.

*b.* Complaint filed subsequent to REFRAD. In the event the complaint is filed after the active duty tour has ended, the complainant will file a sworn complaint on DA Form 7279-R (Part I through item 9a) to the AR-PERSCOM EOA. (Soldiers may contact the AR-PERSCOM EO office for this form at Commander, AR-PERSCOM, ATTN: ARPCZEQ, 9700 Page Boulevard, St. Louis, MO 63132-5200.) Upon the receipt of DA Form 7279-R, AR-PERSCOM will forward the complaint to the appropriate commander of the subject(s) of the complaint active duty unit for investigation.

(1) Timelines. That commander will have 30 calendar days from date of receipt of the complaint to conduct an investigation and to provide feedback to the complainant. (Extensions, not to exceed an additional 45 calendar days, may be granted by higher echelon commander.)

(2) Appeals. Complainants and subject(s) of the complaint will have 30 calendar days from notification of the results of investigation/to appeal/decline appeal. Appeals filed more than 30 calendar days after notification must be accompanied by a written explanation of the reasons for delay. The commander has the discretion to consider an appeal based on its merits.

(3) Final notification. Within 30 calendar days of receipt of appeal, the commander will provide notification of final decision to the complainant and subject(s) of the complaint, next higher headquarters, and AR-PERSCOM.

### Student Handout 3

#### Extract from TSP 121-050-8010, Enforce Compliance with the Army's Equal Opportunity and Sexual Harassment Policies

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This student handout contains 25 pages of extracted material from the following publication: TSP 121-50-8010, Enforce Compliance with the Army's Equal Opportunity and Sexual Harassment Policies, from the Adjutant General School, Equal Opportunity Proponency Office, Fort Jackson, SC. This reading is a verbatim extract presented in paragraph format.

**Disclaimer:** The training developer downloaded this extract from <http://155.217.58.58/atdls.htm>. The text may contain passive voice, misspellings, grammatical errors, etc., and may not be in compliance with the Army Writing Style Program.

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**EO VIOLATIONS SUBJECT TO UCMJ ACTIONS:**

<b>OFFENSE</b>	<b>ARTICLE</b>	
Making racial or sexual comments or gestures	Art. 89 Art. 91 Art. 117 Art. 134	Disrespect toward superior commissioned officer Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer Provoking speeches or gestures General Article
Offering rewards for favors which constitute an EO violation	Art. 134	General Article (Bribery and graft)
Attempts or offers with unlawful force or violence to do bodily harm to another person because of race, color, religion, national origin, or gender	Art. 128	Assault
Making unsolicited and unwelcome sexual contact	Art. 134	General Article (Indecent assault)
Threatening the career, job, or salary of another unless they "cooperate"	Art. 127 Art. 134	Extortion General Article (Communicating a threat)
Engaging in or condoning an EO violation	Art. 92 Art. 133	Failure to obey order or regulation Conduct unbecoming an officer and a gentleman
Influencing or threatening the career, pay, or job of another person in exchange for sexual favors	Art. 93	Cruelty and maltreatment
Making false statements	Art. 107	False official statements

**SEXUAL HARASSMENT BEHAVIORS SUBJECT TO UCMJ ACTIONS:**

<b>OFFENSE/BEHAVIOR</b>	<b>ARTICLE</b>	
Making racial or sexual comments or gestures	Art. 89 Art. 91 Art. 117 Art. 134	Disrespect toward superior commissioned officer Insubordinate conduct toward warrant officer, noncommissioned officer, or petty officer Provoking speeches or gestures General Article
Offering rewards for sexual favors	Art. 134	General Article (Bribery and graft)
Making unsolicited and unwelcome sexual contact with intent to satisfy lust or sexual desire	Art. 134	General Article (Indecent assault)
Threatening the career, job, or salary of others unless they "cooperate"	Art. 127 Art. 134	Extortion General Article (Communicating a threat)
Engaging in or condoning sexual harassment behaviors	Art. 92 Art. 133	Failure to obey order or regulation Conduct unbecoming an officer and a gentleman
Influencing or threatening the career, pay, or job of others in exchange for sexual favors	Art. 93	Cruelty and maltreatment
Sexual intercourse was done by force and without consent (A husband can be punished for raping his wife)	Art. 120	Rape and carnal knowledge
Sexual intercourse with a female under 16 years of age who is not his wife (commonly known as statutory rape)	Art. 120	Rape and Carnal Knowledge
Unnatural sexual intercourse with another person of either gender or animal	Art. 125	Sodomy
Threatening another to obtain unlawfully anything of value—sometimes known as blackmail	Art. 127	Extortion
General Actions	Art. 134	General Article (Adultery; Assault to commit rape or sodomy; Bribery and graft; Wrongful cohabitation; Fraternalization; Indecent acts of liberties with a child; Indecent exposure; Indecent acts with another; Pandering; and prostitution)

**ALTERNATIVE AGENCIES:**

Although handling EO complaints through the chain of command is strongly encouraged, this is not the only channel for addressing EO grievances. Several agencies have specific command responsibilities that make them a viable asset in helping soldiers and family members resolve EO grievances. The following are brief descriptions of frequently used agencies:

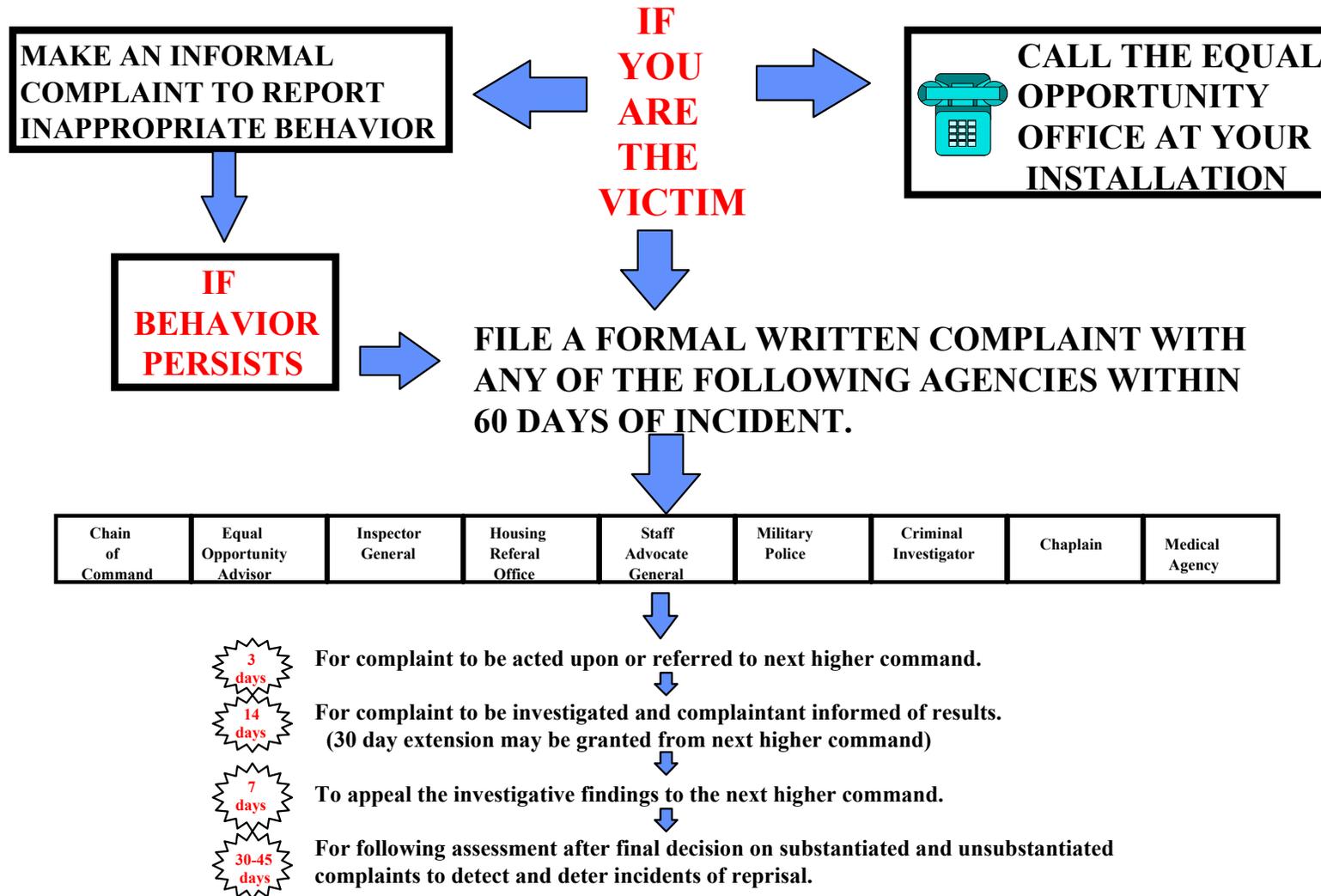
1. **Equal Opportunity Adviser (EOA)**: EOAs are assigned to help commanders at brigade or higher levels to implement their EO program. The EOA is trained to receive, process, and conduct inquiries into complaints of discrimination and sexual harassment. In addition, the EOA has the expertise to make recommendations for corrective actions and sanctions against violators of EO policies.
2. **Chaplain**: The Chaplain serves as advisor to the command on all religious matters and provides guidance on religious practices, family and marital counseling, and other secular or non-secular services. The chaplain is the main subject matter expert on addressing issues about religious discrimination or accommodation.
3. **Provost Marshal (PM)**: The PM is primarily responsible for receiving and investigating violations of the UCMJ which are criminal in nature. The PM is responsible to the Commander for monitoring the treatment of soldiers and investigating complaints of discrimination or unfair treatment by off-post activities.
4. **Staff Judge Advocate (SJA)**: The SJA serves as an advisor in litigating criminal charges and prosecuting soldiers for criminal offenses; assesses trends in administering punishment and allegations of discrimination in administering military justice; may receive complaints about discrimination in legal proceedings or about administering judicial and non-judicial punishment.
5. **Community Homefinding Referral and Relocation Services Office (CHRRSO)**: The CHRRSO is responsible for monitoring and administering the installation's housing referral program. The HRO will receive and investigate complaints of discrimination in rental or sale of off-post residents.
6. **Inspector General (IG)**: The IG serves as advisor to the commander on all matters of command. The IG is responsible for monitoring and inspecting command functions which are essential to mission effectiveness and combat readiness. The IG's office is the principal agency for receiving and investigating complaints about command environment and leadership.
7. **Medical Agency Personnel**: Medical agency personnel are assigned primarily at installation clinics and hospitals, but are also available at separate units, battalions, and brigades up to and including the Command Surgeon. These personnel advise and assist the commander on matters about conserving and replenishing the command's fighting strength, by prevention, curative, restorative care, and other medical related services.

<b>EQUAL OPPORTUNITY COMPLAINT FORM</b> For use of this form, see AR 600-20; the proponent agency is ODCSPER			
<b>AUTHORITY:</b>		Title 10, USC Section 3013(g).	
<b>PRINCIPAL PURPOSE:</b>		Formal filing of allegations of discrimination because of race, color, religion, gender, or national origin	
<b>ROUTINE USES:</b>		This form and the information on this form may be used: (a) as a data source for complaint information for production of summary descriptive statistics and analytical studies of complaints processing and resolution efforts, (b) to respond to requests from legitimate outside individuals or agencies (e.g., Members of Congress, the White House) regarding the status of the complaint or appeal, (c) to adjudicate complaint or appeal, and (d) for any other routine uses listed in AR 340-21, para 3-2.	
<b>DISCLOSURE:</b>		Disclosure is voluntary; however, failure to complete all portions of this form may lead to rejection of complaint on the basis of inadequate data on which to determine if the complaint is acceptable.	
1. NAME	2. RANK	3. SSN	4. UNIT
5. RACE/ETHNIC GROUP		6. GENDER	7. DATE
PART I - COMPLAINT			
8a. NATURE OF COMPLAINT. (Give, in as much detail as possible, the basis for your complaint; describe the incident/behavior(s) and dates(s) of the occurrence(s); the names of parties involved, witnesses, and to whom it may have been previously reported; plus, and additional information that would be helpful in resolving your complaint. Attach additional sheets if needed.)			
8b. REQUESTED REMEDY. (What do you think the final outcome should be?)			
9a. AFFIDAVIT.  I, _____ have read or have had read to me this statement which begins on this page (page 1) and ends on page _____. I fully understand the contents of the entire statement made by me. The statement is true. I have initialed all corrections. I made the statement without threat of punishment, and without coercion, unlawful influence, or unlawful inducement.  <div style="text-align: right; margin-right: 100px;">                         _____                          (Signature of Person Making Statement)                     </div> Subscribed and sworn to before me, a person authorized by law to administer oaths, this  ____ day of _____, 19__ at _____  <div style="display: flex; justify-content: space-between;"> <span>_____</span> <span>_____</span> </div> <div style="display: flex; justify-content: space-between;"> <span>(signature of Person Administering Oath)</span> <span>(Typed Name of Person Administering Oath)</span> </div>			
9b. REFERRAL I acknowledge receipt of this complaint from _____ (name/rank) of _____ (unit) on _____  I understand I have 3 calendar days (next drill period for reserve soldiers) in which to inform the appropriate commander/agency of the complaint and actions I propose to take.			
9c. NAME	9d. GRADE	9e. DATE	
9f. AGENCY		9g. SIGNATURE	

<p>10a. ACKNOWLEDGMENT.                  I acknowledge receipt of this complaint, on behalf of (complainant's name) _____                  submitted to me by (name, rank, alternative agency) _____                  _____                  on _____ . I understand I have 14 calendar days (3 weekend drill periods for Reserve components) in which to initiate an investigation into the complaint, implement a plan to prevent reprisal, complete the investigation, and inform the complainant of the results of the investigation.</p>		
10b. NAME	10c. GRADE	10d. DATE
10e. ORGANIZATION	10f. SIGNATURE	
<b>PART II - RESULTS OF INVESTIGATION</b>		
<p>11a. I (name of commander) _____ reviewed the report of investigation into your allegations. I <input type="checkbox"/> Concur <input type="checkbox"/> nonconcur with the findings of the investigating officer. I find that your allegations are:  <input type="checkbox"/> substantiated <input type="checkbox"/> unsubstantiated. I base my decisions on the following points:                  _____</p>		
11b. SIGNATURE OF COMMANDER		11c. DATE
<b>PART III - ACTIONS TO RESOLVE COMPLAINT</b>		
12a. The command has done (or will do) the following actions to resolve this complaint and continue to prevent acts of reprisal: _____		
<p>12b. ADVISEMENT TO COMPLAINANT: You have the right to appeal these actions to resolve your complaint. You will have 7 days (next weekend drill for Reserve components) to submit your appeal in writing. If you elect not to appeal, your case is considered closed. If you decide to appeal, state the basis of, or grounds for, your appeal in the space below. I will refer you appeal to the appellate authority, who will review your case and provide you feedback when the complaint is completed</p>		
12c. SIGNATURE OF COMMANDER		12d. DATE
12e. ACKNOWLEDGMENT BY THE COMPLAINANT OF FINDINGS, FEEDBACK, AND APPEAL OPTIONS		
12f. SIGNATURE OF COMPLAINANT		12g. DATE
<b>PART IV - APPEAL</b>		
<p>13a. I elect to appeal the outcome of my complaint for the following reasons:                  _____                  _____  <input type="checkbox"/> Continuation sheet(s) is attached <input type="checkbox"/> Continuation sheet(s) is not attached</p>		
13b. COMPLAINANT'S SIGNATURE		13c. DATE
13d. I have reviewed the complaint file, the investigative findings, and other information regarding this case. My findings are: _____		
13e. SIGNATURE OF APPELLATE AUTHORITY		13f. DATE
13e. I acknowledge being counseled concerning the outcome of this appeal.		
13g. SIGNATURE OF COMPLAINANT		13h. DATE

<p><b>EQUAL OPPORTUNITY COMPLAINT RESOLUTION ASSESSMENT</b>                  For use of this form, see AR 600-20; the proponent agency is ODCSPER</p>		
<p>In accordance with AR 600-20, Army Command Policy, 30 TO 45 calendar days (3-4 drill periods for reservists) following final decision on any complaint (substantiated or unsubstantiated) of unlawful discrimination or sexual harassment, an Equal Opportunity Advisor (EOA) will conduct an assessment of the effectiveness of corrective actions and will seek to detect and deter any acts or threats or reprisal. The equal opportunity advisor shall complete the assessment and present his or her findings and recommendations to the commander within 15 calendar days (2d next weekend drill period for Reserve component).</p>		
<p><b>PART I - COMPLAINT</b></p>		
<p>1. CORRECTIVE ACTIONS. The corrective actions taken as a result of the complaint of _____ discrimination/harassment filed by _____ (type) _____ on _____ were: _____ (rank/name) _____ (date)</p>		
<p>2. CONDUCT OF THE ASSESSMENT. (EOA will list the dates and times of actions taken, interview personnel {include complainant, alleged perpetrator, key witness, members of the chain of command, and support chain, sampling of unit members, etc.}, list surveys used, review of applicable unit records, etc.). Add enclosures/memorandums for record to DA Form 7279-1-R as necessary.</p>		
<p>3. EFFECTIVENESS OF CORRECTIVE ACTIONS. I conducted an assessment of the effectiveness of the corrective actions taken on _____ My findings are: _____ (date)</p>		
<p>4. REPRISAL. I also sought to detect any incidents(s) or threats of reprisals(s). My findings are:</p>		
<p><b>PART II - RECOMMENDATION</b></p>		
<p>5a. Based upon my findings, I recommend <input type="checkbox"/> no further action <input type="checkbox"/> the following actions be taken:</p>		
<p>5b. EQUAL OPPORTUNITY ADVISOR'S NAME/UNIT</p>	<p>5c. SIGNATURE</p>	<p>5d. DATE</p>
<p><b>PART III - ACKNOWLEDGMENT</b></p>		
<p>6a. I acknowledge receipt of this assessment and the EOA's recommendation.  <input type="checkbox"/> No further action will be taken <input type="checkbox"/> The following action(s) will be taken:</p>		
<p>6b. COMMANDER'S NAME/RANK AND UNIT</p>	<p>6c. SIGNATURE</p>	<p>6d. DATE</p>
<p>This form will be retained on file with the original DA Form 7279-R</p>		

# THE ARMY EQUAL OPPORTUNITY COMPLAINT PROCESS



## EO PROGRAM COMPONENTS:

The Army's EO Program strives to ensure fair treatment of all based solely on merit, fitness, and capability, which supports readiness. EO is a responsibility of leadership and a function of command. Essential to having a successful EO program a combination of elements must be in place. These elements include a strong commitment by leaders to support the program, sequential and progressive training at all levels, an effective and responsive complaint system, affirmative action plans, feed back mechanisms and Equal Opportunity Advisors.

- 1. Leader Commitment.** As a leader in today's Army, you are obligated to consistently demonstrate your support and commitment for the Army's EO Program. Leaders are the individuals responsible for ensuring a clearly stated policy on equal opportunity and sexual harassment is known by all individuals. Leaders must also ensure the use of prompt and even handed enforcement for discrimination or sexual harassment violations. The commander's personal policy statement should be presented during initial orientation for all incoming soldiers and be available for review at a convenient location within the unit.
- 2. Sequential and Progressive Training.** Training is the primary method used to teach soldiers and civilians new skills and prevent inappropriate behavior. Through training and education, the Army seeks to influence and promote an environment that treats everyone with dignity and respect. Training is also the Army's method for improving communications and awareness that is vital to team building and unit cohesion. The Army wants to ensure that soldiers and DA civilians understand not only the consequences of their actions but also feel assured of command intervention to correct EO problems.
- 3. Effective and Responsive Complaint Process.** A key component of the Army's EO Program is an effective and responsive complaint system. The Army has established a comprehensive complaint system for military personnel. The Army wants to ensure that every soldier and DA Civilian has a readily available system for submitting their grievances without intimidation or threat of reprisal. You will receive additional instruction on the Army's complaint procedures during this period of instruction.
- 4. Affirmative Action Plan.** Affirmative Action Plans (AAP) are planned, achievable steps that are designed to prevent, identify, and eliminate unlawful discriminatory treatment of soldiers. These plans also assist in monitoring the progress of meeting the goals of equal opportunity.
- 5. Feedback Mechanisms.** The Army has various methods of obtaining feedback on how well the EO program is working. These methods include tracking the number of complaints, sensing sessions with soldiers, EO surveys and climate assessments. All of these provide feedback to the chain of command and other senior leaders on the effectiveness of the Army's EO programs and policies.
- 6. Equal Opportunity Advisors.** Another key component of the Army's EO program is the Equal Opportunity Advisor (EOA). Every unit in the Army from brigade level to major commands is required to have an EOA. The EOA is the individual who receives special training in the area of equal opportunity. Their primary responsibility includes receiving and assisting in processing individual complaints of unlawful discrimination or sexual harassment; assisting commanders in assessing, planning, implementing, and evaluating EO action plans; and understanding and articulating Army policy concerning equal opportunity.

**RELATED LEADERSHIP ELEMENTS:**

In addition to the program components there are six leadership elements that have special significance to Army leaders.

1. **Military Discipline and Conduct.** Military discipline is founded on the principles of self-discipline, the professional Army ethics and supporting individual values. You demonstrate your commitment to these values in your leadership, by exhibiting fairness and equity for all soldiers and DA civilians regardless of race, ethnic origin, gender, or religion.

2. **Issues of Appropriate Behavior.** Members of the military services are subject to a different set of behavioral standards than their civilian counterparts. Within the civilian work environment, the pursuit of a romantic relationship may not receive the same level of scrutiny as it would for those in uniform. When such attractions exist between soldiers of unequal rank and position, you, as leaders, must assess if it is appropriate as it relates to senior subordinate relationships. During your military or civilian career, you will receive training on Army policy regarding senior-subordinate relationships, fraternization, standards of conduct, and the Army ethic. The appropriateness of your conduct, with regard to EO and sexual harassment, will always be under close scrutiny, not only by your leaders but also by those you lead.

3. **Extremist Organizations:** As leaders in today's Army, you have additional challenges to deal with than existed a few years before. You must not only reject participation in any organizations that may espouse extremist views, you must also be alert to signs and signals from your soldiers that might warn you to their personal involvement in such organizations. You must thoroughly understand Para 4-12 of Chapter 4 in AR 600-20. Definition of "extremism:" Advocating the supremacy of one race over another; creating or engaging in illegal discrimination based on race, color, gender, religion, or national origin; advocating use of or using force or violence, or unlawful means or laws of the United States or of any state; advocating or seeking to overthrow the government of the United States or any state by unlawful means. Military personnel must reject participation in organizations or activities that advocate any of the activities detailed in Para 4-12 b. of Student Handout # 9. The commander has considerable authority to prohibit a soldier's involvement or participation in extremist organizations.

4. **Army Language Policy.** All soldiers are required to have sufficient proficiency in English to enlist and must maintain or improve that proficiency to perform their military duties. We are all required to speak English on duty when doing so is clearly necessary to perform military functions, promote safety, or other legitimate reasons to accomplish the mission. Speaking a language other than English on the job is in no way totally prohibited. Leaders should not require soldiers to speak English for personal communications that are unrelated to the mission. Your sound judgment in such situations and an ability to communicate policy and rationale clearly will promote a healthy EO climate in your unit and ensure that operational communications are understood by everyone.

5. **Accommodating Religious Practices.** The Army places a high value on the rights of soldiers to observe and practice their respective religions. Therefore, the Army's policy is to grant requests for accommodation of religious practices when they have no adverse impact on readiness. However, as you know, such accommodations cannot be guaranteed and must be considered on a case-by-case basis. Requests for religious accommodation apply to four general areas: worship, dietary practices, medical practices, and religious dress and appearance. Although such requests are approved or denied by the commander, your challenge as a leader is to assist the commander in finding ways to grant accommodation while maintaining a sense of balance and equity and not arousing perceptions of preferential treatment or discrimination based on religion.

6. **Women in the Army.** As a result of the new Secretary of Defense policy on the assignment of women, as of 1 October 1994, ninety-one percent of all Army career fields and 67 percent of all Army positions became open to women. Women are now authorized in 87 percent of the enlisted military occupational specialties, 97 percent of the warrant officer specialties, and 97 percent of the officer specialties.

#### **UNIT CHAIN OF COMMAND:**

As Army leaders, you are responsible not only for establishing acceptable standards of behavior within your areas of responsibility, but you are also responsible for monitoring constantly to ensure that your standards are being maintained. You cannot simply post a policy, or say that soldiers will or will not act or behave in certain ways. You must constantly be alert and aware of what is happening. To this end the Army's EO program calls upon you, as leaders, to perform certain duties and responsibilities in support of the Army EO Program. To make the program effective, you and other unit leaders must take a positive, proactive approach in carrying out your EO duties and responsibilities. This requires that you know and understand your EO role as it relates to those of the commander and other members of the chain of command.

The unit chain of command is designed to assist the commander in achieving primary goals and objectives to successfully accomplish the unit's assigned mission. The command channel extends both upward and downward for transmittal of orders and other official communications between senior and subordinate personnel. Equal opportunity is an integral part of unit leadership and therefore is a responsibility of the chain of command.

1. Your commander is ultimately responsible for everything the command does or fails to do. However to be effective, commanders must subdivide responsibility and authority to subordinate leaders and staff members. This ensures a proper degree of EO responsibility with each member of the chain of command. It is critical to the Army's EO Program, that unit commanders train subordinate leaders on the importance and function of this relationship.

2. The proper use of the chain of command with regard to EO matters is vital to the overall effectiveness of the program. Soldiers must be aware of it's existence and proper functioning within the unit. The relationship between the chain of command and soldiers must be a reciprocal commitment. You must help ensure that effective communications and trust are important cornerstones in this relationship. The chain of command is expected to resolve EO problems or complaints. Therefore, soldiers are also expected to use the chain of command when communicating their issues and concerns about unit EO matters. You have the responsibility to ensure through the chain of command that the commander is aware of problems which can affect discipline, morale and unit readiness.

#### **NCO SUPPORT CHANNEL:**

The NCO support channel parallels and complements the unit chain of command. The NCO support channel represents a line of communication and supervision from the battalion command sergeant major (CSM) to the unit first sergeant (1SG) and then to other NCOs and enlisted personnel of the unit. The scope of responsibility and authority to accomplish assigned tasks are defined by your commander. The support and commitment of the NCO support channel is essential for implementing and maintaining a viable EO program.

1. The role and responsibilities of the unit leadership, whether it is enlisted or officer, is to assist the chain of command in meeting Army EO program objectives and should as a minimum accomplish the following:

- a. Transmit and instill the value and importance of professional Army ethics.
- b. Plan, supervise, and manage day-to-day activities necessary for unit operations.

- c. Train soldiers on EO policies and regulations, to include behaviors that communicates dignity and respect and the unit's EO complaint procedure.
- d. Assist soldiers and their family members in resolving EO issues and complaints of sexual harassment.
- e. Teach soldiers the history of the Army, a national leader in EO, to include military customs, courtesies, and traditions.
- f. Teach soldiers about the mission of the unit and develop individual and team training programs to support the mission.
- g. Administer and monitor NCO professional development programs, ensuring EO is an integral part of the NCO duty and responsibility.
- h. Monitor and evaluate soldiers' performance, unit morale, and discipline. Report EO deficiencies and problems to the chain of command.
- i. Assist the chain of command in identifying and resolving EO issues within the unit.
- j. Provide individual counseling, on-the-spot correction, and team training to correct inappropriate behaviors or violations to EO policies.

**2. Equal Opportunity Representative (EOR).** EORs assist commanders at battalion-level and below in carrying out the EO program within their units. An EOR is tasked to perform EO duties as a part-time or secondary responsibility. In addition the unit EOR assumes a special relationship with the chain of command and the leadership channels. Soldiers who are appointed as unit EORs receive training on a variety of EO subjects and can advise and assist unit leaders in carrying out their EO responsibilities. The EOR's EO duties and responsibilities include the following:

- a. Recognize the detractors from healthy EO climate
- b. Assist in conducting unit climate assessments
- c. Assist unit leaders in conducting EO training
- d. Liaison with other EORs and command/installation EOAs
- e. Assist in planning and conducting ethnic observances
- f. Serve as an EO resource person

**3. Equal Opportunity Advisor (EOA).** Equal Opportunity Advisors are assigned as full-time EO duty positions at brigade or higher echelons. They are trained to assist their commanders in developing their EO programs and assessing program effectiveness. In addition they may be called upon to assist unit commanders in identifying and resolving EO problems and developing appropriate training. Commanders who require EOA support, but do not have a full-time EOA available through their command, may request EO support from the nearest installation commander through an Installation Support Agreement. The actual duties of an EOA and the relative emphasis on each duty varies according to type of unit, level of command, unit composition, location, and commander's guidance. Some of these duties will include the following:

- a. Assess indicators of discrimination
- b. Recognize overt and subtle forms of sexual harassment
- c. Collect and interpret demographic data
- d. Assist in evaluating effectiveness of EO training

- e. Process individual EO complaints
- f. Conduct inquiries IAW commander's guidance
- g. Assist in planning and conducting ethnic observances
- h. Conduct unit command climate assessments
- i. Assist commander in resolving command EO issues and concerns.

### **EO VIOLATIONS:**

These are the three basic concepts that define behaviors or actions which violate the Army's EO policies.

1. **Racism.** Racism is defined as any attitude or action by an individual, group, or institution to subordinate another person or group because of skin color or other physical traits associated with a particular group. As a leader, just being aware of a soldier's race or color, even for decisions about behaviors or other perceptual qualities, is not in and of itself racist. Your behavior is racist when your reaction to such distinctions is to dominate or subordinate an individual or group on the basis of their race, skin color, or other physical traits. There are more than one type of racism.

a. **Personal or Individual Racism.** Personal or individual racism refers to a person's prejudicial belief and discriminatory behavior against certain groups because of their race or skin color. Personal or individual racism is motivated by a belief or assumption of superiority or inferiority based on skin color or some other physical trait associated with race. Generally, minorities, who lack power and institutional support, cannot practice racism. They can, however, act out racist behaviors. As leaders, whether military or civilian, your superiority over your subordinates is derived solely from your rank and position, not your race or other physical characteristics.

b. **Institutional Racism.** Institutional racism refers to the policies of schools, businesses, law enforcement agencies, and other community and governmental activities that restrict the opportunities of certain groups because of race or skin color. Unlike personal racism, institutional racism does not have to be a deliberate or intentional practice on the part of the institution. The mere fact that certain groups are victims of unequal treatment due to their race or skin color is sufficient to classify an institution as practicing a form of racism. Another aspect or way of viewing institutional racism is that the institution assumes no responsibility or blame for its actions or impact on others. Examples of typical reactions or attempts to justify such actions are "These are the rules" or "I was just following orders".

2. **Sexism.** Sexism has many similarities to racism. However, it is based on an attitude of superiority or inferiority because of gender differences. Sexism is defined as an attitude, behavior, or conditioning that fosters stereotypes of social roles based on sex or gender. Another aspect of sexism is the individual or group belief that the differences between genders allow members of one gender rights and privileges that are not extended to the other gender. A leader of either gender can be sexist. However, the greatest number of complaints about sexist behaviors come from women. One of the reasons that sexism is so prevalent within American society is the socialization process. This may also explain why sexual harassment, a by-product of sexism, is so prevalent in our society and so difficult to eliminate. As with racism, it is difficult for women, who lack power and institutional support, to practice sexism. Women leaders, however, just as men, can demonstrate sexist or pro-sexist behaviors. Some types of sexist behavior include:

a. **Ignoring women or women's issues.** The failure to acknowledge contributions made by women in the organizational discussion of a business or duty performance issue. Other issues may typically include privacy in separate latrine facilities or special medical requirements.

b. **Exclusionary language.** Exclusive use of the pronouns "he" and "his," or the word "guys". The habitual use of such expressions as "this man's Army".

(1) **Speaking for women.** This is typically a tendency for a male to interject an answer to a question directed at a female, denying the female the opportunity to answer for herself.

(2) **Paternalism.** This involves the assumption of a role as the "father figure" to a female. A "daddy knows best" attitude. The male attempts to take charge of the female in a fatherly way that is not in keeping with the work environment or any legitimate work relationship between the man and the woman, in the belief that women are the weaker sex, deserving man's care and protection.

3. **Prejudice.** Prejudice is a negative attitude or feeling toward certain groups based upon faulty and inflexible generalizations. A leader is prejudice if he or she holds an unfavorable opinion or feeling formed beforehand without knowledge, thought, or reason. As a leader, you should be on guard against any preconceived opinion or feeling which is favorable or unfavorable toward certain groups. You must also be prepared to combat the existence of such preconceptions among those you lead. Prejudice is a major component of personal racism or sexism which is an over generalization of facts and erroneous beliefs. Prejudice is first developed and manifested with two components: the attitude or thinking component and the emotional or feeling component. Attitudes of superiority and stereotypes are formed at the thinking level by people who believe they are better because of their race or gender. Emotions such as fear, hate, or anxiety caused by close association with other racial or ethnic groups are strong by-products of prejudice at an emotional or feeling level.

a. **Prejudice Behaviors.** Another component of prejudice is the behavior associated with acting out the prejudice. As a leader, you must be careful not to act out your prejudices by discriminating against any group or its individual members. The more intense your prejudice is, the more likely your leadership will, either consciously or unconsciously, be affected by it. The behaviors that you, as leaders, or your soldiers may exhibit in acting out prejudices translate into five basic levels of action:

(1) **Disparaging Terms.** People who are prejudice might act out their feelings in a variety of ways. The first and most common form of prejudicial behavior is using degrading terms or words to describe members of a different gender or racial group. This behavior can be shown in a number of ways such as using phrases of color ("Male, white, and 21" or "barefoot and pregnant"), testimonials ("Some of my best friends are..."), and stereotype language ("We jewed him down"). Ethnic and sexist jokes are the most common and continue to get a lot of attention in the entertainment media. Another common behavior is the use of negative ethnic or gender characteristics as metaphors. Examples of these are: "This whole operation looked like a Chinese fire drill." "The detail was a Mexican showdown." "The 1SG is an Indian giver.", or "The defending force in this exercise didn't have a Chinaman's chance."

(2) **Avoidance.** Another behavior soldiers may exhibit as a result of personal prejudice is the use of avoidance. If the feelings and emotions associated with the prejudice are intense, a leader may feel compelled to avoid contact with the disliked group. A soldier who is prejudiced may not wish to inflict harm upon members of the disliked group but simply withdraw entirely from them. The need to avoid a specific group can come at a high cost in personal inconvenience and professional ineffectiveness.

(3) **Discrimination.** A third method of acting out prejudicial behaviors is discrimination. Prejudiced leaders may make personal distinctions in their treatment of a specific racial or gender group. They often actively strive to exclude or deny opportunities or fair treatment to soldiers and civilians in the disliked group that they offer to more favored groups.

(4) **Physical Attacks.** A fourth type of behavior in acting out prejudice is to engage in physical attacks. Under conditions of heightened emotions, prejudice may lead to acts of direct or indirect violence. Direct violence is the actual assault on a person or group, while indirect violence is focused more at the property or institutions of the disliked group. An example of such behavior would be the race riots that occurred on many installations in the late 1960s. While such violence was once commonplace in the military, an improved EO climate along with a system of training and education has rendered such incidents almost nonexistent. Physical attacks constitute assault and, as such, are violations of the UCMJ.

(5) **Extermination or Genocide.** The final and most extreme form of prejudicial behavior is extermination or genocide. This is the ultimate degree of violent expression because of prejudice. Acts such as lynching, massacres, holocaust, ethnic cleansing, and terrorism are some of the methods used, from a historic perspective, that define types of group extermination based on prejudice. Activities such as these are not usually performed on an individual or personal level. However, as demonstrated by a number of world conflicts, when enough political and cultural pressure is applied to military leaders and they acquire enough power to exercise their perceived ethnic superiority, then genocide is a real possibility.

#### **DISCRIMINATION:**

Discrimination can be defined as "the actions or practices carried out by members of dominant groups, or their representatives, which have a differential and harmful impact on members of subordinate groups." As discussed during the previous learning activity, discrimination is one way individuals "act out" their prejudices. Since prejudice is a mind-set or attitude, it has been suggested by some experts that our most successful strategy might be to prevent the prejudice from being acted on or exhibited in discrimination rather than trying to mount a direct attack on prejudice. Discrimination can be broken down into two types.

1. **Discrimination and Power.** You, as a leader, must be especially sensitive to and understand the direct link between discrimination and power. Without power, discrimination is ineffective; with power, prejudiced individuals can discriminate and maintain the dominance of one individual or group over another. We use the term power in this context to describe the expenditure of energy to control or influence others, or to control resources, to get things done. An Army leader is given power to make decisions or rules which can effectively discriminate and define who belongs and does not. Without power, discrimination is relatively passive. With power, unlawful discrimination is an unethical violation of the Army's policy because it denies fair treatment or any chance for equal opportunity.

2. **Personal Discrimination.** Personal discrimination is the action taken by an individual to deprive a person of a right because of race, color, religion, national origin, sex, or age. Of special concern to you, the leader, is that these actions may be open or hidden, direct or indirect, intentional or unintentional. Such discrimination might involve arbitrary decisions concerning personnel actions, awards, disciplinary actions, or punishments. In your role as a leader, you may find it necessary to take actions which others may perceive as discriminatory. You have the authority to use people effectively to get things done. You may have to assign PVT Sue Blue to clerical work and SPC Jim Slim to a cleanup detail. Although your decision may be based on training, their specific skills, or past performance, both individuals could perceive this as discrimination. As the leader, you may be called upon to show that you had a legitimate reason for your decision and that your purpose was simply to make the most effective

use of your personnel.

**3. Institutional Discrimination.** Discrimination can occur on a personal level or it may exist embedded in an institution. As discussed earlier, prejudiced leaders practice discrimination by making personal distinctions in their treatment of other individuals or groups. When whole organizations or societies practice this behavior, it is called institutional discrimination. Within the military, institutional discrimination could be defined as any systemic or functional practices that discriminate or manifest unequal treatment because of race, color, national origin, religion, or gender. Unlike other forms of discrimination discussed earlier, institutional discrimination is multifaceted and more complex. Institutional discrimination, in most cases, is systemic because the institution's practices are legal and/or supported by the society. Just as with institutional racism, it is irrelevant whether the actions of the institution were intentional or not. What matters is the disparate treatment or impact suffered by members of subordinate groups.

**4. Direct Institutional Discrimination.** There are two basic types of institutional discrimination: Direct and Indirect.

a. **Direct institutional discrimination.** Refers to socially prescribed actions which, by intention, have a differential and adverse impact on members of subordinate groups. In most instances, direct institutional discrimination is shaped by formal laws or informal rules that are imbedded in the routine operations or functions of the institution. Today, such discrimination might be more prevalent in recruiting and hiring practices that are linked to traditional gender roles.

b. **Indirect Institutional Discrimination.** Indirect institutional discrimination refers to institutional practices that have a negative or differential impact even though the policies or regulations guiding those actions were established with no intent to do harm. What is confusing and difficult to understand is that these policies and regulations, which appear to be written in neutral language, would produce unfair practices. As leaders, you have a responsibility to help the Army identify such activities you may discover within your area of responsibility.

**5. Side-Effect Discrimination.** Side-effect discrimination refers to practices in one institutional area which have an adverse impact because they are indirectly linked to discriminatory practices in another institutional area. An example in the military might be the competitive advantage that is recognized for combat experience. For instance, a woman who, during her military career, was excluded from certain combat roles, would be disadvantaged for assignments and promotions at higher levels where combat training or experience gave male competitors an edge for selection. Another example of side-effect discrimination would be a policy that required all MSM award recipients in a particular command to be in the grades of E7 and above. If the racial representation at those upper levels was out of balance, in other words one racial group was predominant, then the awarding of MSMs would be equally disproportionate.

**6. Past-In-Present Discrimination.** Past-in-present discrimination refers to the neutral practices of an institution (or organizational area) which inevitably reflect or perpetuate the effects of intentional discriminatory practices in the past. The most prevalent form of past-in-present discrimination is one in which minorities or women are penalized because they lacked some ability or qualification that was denied to them in the past. As an example: if an organization required its highest level managers to have served in numerous or all lower levels of management in order to be qualified for a certain promotion, and some of those lower levels had previously been closed to minorities, then there would be no minorities (or fewer) who met the criteria for consideration to the highest levels within the organization. They are not excluded today because of their minority status, but they lack the mandated criteria because of past hiring and promotions policies. Another example of this form of discrimination in the civilian arena,

one that receives a great deal of attention today, is the seniority rule used by employers and unions who in the past intentionally discriminated against minorities or women, but no longer do so today. However, when seniority is used as the primary factor for determining who is fired or laid off, minorities and women who were last hired will be the first to go. In the side-effect example given earlier, if the racial imbalance at the designated grades was a result of previous discrimination in promotion practices, then the resulting imbalance in MSM awards would also be a form of past-in-present discrimination.

### **SEXUAL HARASSMENT:**

Sexual harassment is a special form of gender discrimination. Although either gender may be the target of sexual discrimination or harassment, the majority of complaints come from women. Similarly, under Title IX of the 1972 Education Act Amendments, academic advancement conditioned upon submission to sexual demands constitutes sex discrimination in education. The underlying distinction between sexual harassment and other forms of discrimination is that the disparate or differential treatment is based on the demand for or denial of sexual favors. The behavior can be overtly threatening and offensive, such as a demand for sexual favors, or it may be something as seemingly innocent as referring to a co-worker as "sweetie" or "babe". In either event, whether the recipient is offended or not, the behavior is inappropriate for the work place and illegal under both military and civilian law. Sexual harassment will be discussed in more detail later in this lesson.

### **EQUAL OPPORTUNITY AND THE UCMJ:**

As a soldier, and especially as a leader of soldiers, any disobedience or misconduct on your part may have consequences unlike any in civilian life. For example, sexual harassment by you or a soldier can seriously disrupt mission accomplishment. It can also have fatal outcome on the battlefield.

1. Because of the serious consequences, we must approach and carry out the Army's EO program in a spirit of total commitment. As Army leaders, you must ensure that all violations of EO policies are dealt with promptly, effectively and fully investigated when appropriate. You must identify inappropriate behaviors and apply corrective actions which match the severity of the behavior. Less severe acts might be dealt with by training or on-the-spot corrections, while more serious violations may require formal counseling or a recommendation for UCMJ action. Accused persons must have full access to all legal and regulatory protection. Taking these measures will help your soldiers to have trust and confidence in you and the chain of command.

2. The UCMJ provides a number of articles which may be used to deal with EO and sexual harassment violations. Refer students to the Student Handouts for a listing of the UCMJ Articles and actions relevant to EO Violations.

### **LEADER ACTIONS:**

As a leader, you are not only charged with the responsibility to recognize violations of the equal opportunity policies, you are responsible for taking actions to stop them and keep them from being repeated. We will discuss what some of your options are during this block. These are not all inclusive and you may find different alternatives available as time goes on. The important lesson to be gained is that you must take appropriate actions when you observe violations of the equal opportunity policies. It is important for you as leaders to know that there is no one correct way to handle all situations. What might work for one soldier, at a given time may not be how a different soldier in a different situation should be handled. This is where leadership, and supervisory skills must be applied.

1. **On-the-Spot Corrections.** The easiest, and a very effective tool to deal with violations which you observe is immediate confrontation of the offender when you observe something that is wrong. Whether this would serve as a final action depends upon the gravity of the offense. For example, suppose you overheard soldiers making a sexist remark toward another soldier. Directly confronting them, clearly explaining what you found offensive, and explaining that this type of behavior constitutes sexism, or perhaps sexual harassment, and will not be tolerated could very well end the issue. You have put them on notice that you are aware of their behavior and will not accept it. If the soldiers learn from this, and change their behavior, you have solved the problem and it might not be necessary to take it any further.

2. **Counseling - Verbal and/or Written.** Counseling a soldier for violations of EO and sexual harassment policies is another option. This provides the soldier with reinforcement that you find a particular action unacceptable and that you are concerned enough you want to make a record. It demonstrates that he or she is going to be monitored in the future. It also drives home the point that when you are keeping a documented record of their actions and any future violations could incur even more serious consequences.

3. **Training/Education.** As a leader, you should be attuned to the climate in your section or unit. As you develop your impressions over a period of time, you may decide that training is in order to raise the sensitivity level within your area of responsibility. You can contact your unit Equal Opportunity Representative (EOR) and ask for a class to be presented. It can be tailored to fit whatever area you feel is a problem. If you do not have a unit EOR, then your installation or command has a Equal Opportunity Advisor (EOA) who will be able to assist you in presenting training. This can be done over and above the mandatory requirements for equal opportunity training your unit should already be providing.

4. **Deny Promotion/Advancements.** If a soldier has committed actions which constitute violations of the EO or sexual harassment policies, and you have documented them via counseling statements, then the commander can take these past actions into consideration when

deciding who should be selected for promotion and who should wait or not be selected at all. Promotion is not a right but rather a reward for service performed.

5. **Decisions concerning awards, training, or schools.** A soldier who has violated equal opportunity policies - especially more than once - might not be a good candidate for an award. Simply PCSing does not automatically mean you should receive an award. If incidents which have resulted in counseling have occurred during a soldier's tour, not giving an award may be an appropriate response. The soldier should certainly be counseled as to why they are not receiving an award. Decisions involving a soldier attending a specific course or school should take into consideration the soldier's past performance. This would include his or her job performance and any record of counseling statements. Of course, this is not to say the soldier hasn't learned and has modified his or her behavior. A single incident should never disqualify a soldier, only be taken into consideration along with recent behavior.

6. **Changes in duties or responsibilities.** If a soldier has committed violations of the Army's equal opportunity policies, and they are in a leadership position or high profile position, it may be appropriate to remove them from that position. For example, if a soldier is a Squad Leader, then perhaps they should be removed from that position. This is not meant to imply they must be removed. Other actions or solutions might be more appropriate. It simply points out that this is an option that can be reviewed and/or considered.

7. **Transfer or reassignment.** It is possible that a soldier should be transferred to another unit if they are guilty of violating equal opportunity policies. An NCO, for example, might not have

any credibility if they have been found violating policies. If this happens, then transferring them to another unit might be best for the soldier who was violated, the NCO, and the unit in general. This action should not be taken lightly. The supervisory chain and the commander must evaluate the situation and make a determination as to whether this is a reasonable action or not.

**8. Bar to Reenlistment.** If a pattern of behavior is established in which a soldier violates equal opportunity policies, a Bar to Reenlistment may be in order. A Bar to reenlistment can be an extremely affective tool to modify a soldier's behavior. It strongly points out to the soldier that his or her behavior does not meet the Army's standard and continued service would not be appropriate. If however, a soldier modifies their behavior, a Bar can relatively easily be removed and the soldier allowed to remain in the service of the Army. Any consideration of Bar to Reenlistment initiation should be discussed with the commander and appropriate legal channels.

**9. Separation.** If a soldier's actions are severe enough, then mandating exit from the Army may well be warranted. This can be accomplished in several different manners. Leaving an imposed Bar to Reenlistment in place is the easiest means. If the behavior or action which caused the Bar to be implemented have not changed, then the soldier should be permitted to leave at the end of the current term of service. Another means of forcing a separation might be the result of a courts martial proceedings. This action of course would be under the control of the court martial convening authority at the appropriate level. It is also possible that a combination of actions, including such things as Counseling Statements, Article 15s, and other administrative actions could result in sufficient documentation to warrant separation. This is routinely referred to as a 'Chapter Discharge.' Any consideration of separation should be discussed with the commander and appropriate legal channels.

#### **RELATED ELEMENTS OF SEXUAL HARASSMENT:**

There are other elements related to defining sexual harassment which must be understood in order to assess the appropriateness of your behavior and the behavior of those you lead. Two important elements that you should be aware of are: (1) Impact vs Intent, and (2) Reasonable Person Standard.

**1. Impact Vs Intent.** In addition to the policy definition of sexual harassment, it is vital to have a firm understanding of the concept of "impact vs. intent". What soldiers or leaders may consider to be joking or horseplay must be evaluated on its appropriateness or offensiveness as perceived by the recipient. Assessing whether a behavior is appropriate or offensive is a leadership responsibility and must be done from the perspective of the recipient, not the alleged harasser. An excuse such as "I was only joking" is irrelevant. In the event of a complaint, the leader or supervisor must view the impact of an incident or series of incidents from the complainant's perspective. However, whether or not the victim is emotionally effected and/or willingly submitted to the behavior of the harasser is irrelevant in determining whether sexual harassment occurred. The only relevant question to be answered is "Was the behavior appropriate or inappropriate?" As a leader, you must be willing to ask and seek an answer to that question, not only with regard to your behavior but also regarding the behavior of your subordinates and other leaders whose behaviors you will have occasion to observe.

**2. Reasonable Person Standard.** The reasonable person standard is used to predict the expected reaction to or impact of perceived offensive behaviors on the recipient. The standard asks "How would a reasonable person under similar circumstances react or be affected by such behavior?" When the complainant is a woman, the evaluation would pose, "How would a reasonable woman be affected or react?" You, as Army leaders must be aware that, because of our socialization, men and women can watch the same behavior, but have a very different perspective about what they saw and what they were feeling. For example: Only in recent

years have states changed laws which could convict a man of rape because he forced his wife to have sex. The reasonable person standard is an essential tool for leaders at all levels when determining the appropriateness of an individual's behavior.

### **IMPACT OF SEXUAL HARASSMENT:**

As Army leaders, you must have a sense of how sexual harassment affects the victims as well as the organization. You must be familiar with the kinds of behaviors victims may use to cope with sexual harassment. A number of variables exist in assessing the impact on, or expected reactions of the victim. Leaders at all levels must be able to explain to their soldiers and civilians the devastating affects sexual harassment can have on a victim and on organizational readiness. Problems due to sexual harassment can manifest themselves in a number of ways. Some are very obvious, while others may be well hidden and not so visible.

1. The first and most obvious impact sexual harassment has on victims is that it interferes with their work performance. A soldier or civilian who has to fend off offensive and repeated sexual attacks does not perform quality work.
2. Another impact of sexual harassment has on the victim is that it creates a hostile environment by creating unreasonable stress in the work place. Sexual harassment promotes a negative form of stress that can affect everyone in the work place. Sexual harassment also puts a high degree of fear and anxiety into the work place.
3. When the harassment is "quid pro quo," the fear of loss of job or diminishing career opportunities can undermine a unit's teamwork and morale. The bottom line for commanders and their subordinate leaders is clear: Anyone who is sexually harassed is less productive, and the command climate, as well as mission effectiveness, will likely suffer. Soldiers and civilian employees can only reach their full potential in an environment that fosters dignity and respect. There must be zero tolerance for discrimination and sexual harassment.

### **VICTIM REACTIONS TO SEXUAL HARASSMENT:**

To adequately assess the impact that sexual harassment can have on a victim, you must know the kinds of reactions that victims frequently have to a sexual harassment incident. You must learn to recognize the behavior patterns victims show in attempting to cope with a stressful situation.

1. **Denial.** Denial is the most common reaction to a sexual harassment incident. It allows the victim to "write the incident off" as if it did not take place. It provides relief by removing the victim from the incident which keeps the person from feeling negative emotions and the necessity to respond. The incident may occur again, but a victim in complete denial may never acknowledge the existence of the behavior. A person in denial will not admit that the incident ever took place.
2. **Rationalization.** Rationalization is another reaction that allows the victim to avoid dealing with an emotional incident. It gives the victim a logical way of making personal excuses for his or her behavior as well as for the behavior of others. Comments such as "It wasn't really directed at me" and "I'm not that kind of person" are frequently heard. Another version would be a person dealing with a sense of power: "What can I do?" or "I'm just a private." Sometimes the victim will rationalize to excuse the behavior of the harasser: "Surely he isn't really like that" or "She was just having fun." Rationalizing as well as denial precludes or reduces personal feelings of pain and injustice.
3. **Joking.** Joking about the harassment is another form of rationalization used to release tension and strengthen one's self-esteem. Making fun out of a sexually harassing situation allows the victims to consider the actions of the perpetrator as circumstantial and to negate their

own feelings about the incident.

4. **Avoidance.** Avoidance can have a detrimental effect on victims of sexual harassment. Unlike denial and rationalization, the behavior associated with avoidance is easily misinterpreted as abnormal, inappropriate, or bizarre. Victims of sexual harassment will sometimes behave out of character, exhibiting a host of excuses in an attempt to remove themselves from the harasser or, an offensive environment. Claiming illness can keep a soldier on sick-call or in the case of civilians, on sick leave. Depending on the severity of the harassment, avoidance can cause actual physical ailments such as an upset stomach, headaches, or other health problems.

a. Soldiers and civilians who fail to come to work because of sexual harassment increase absenteeism which hinders the Army's ability to accomplish it's mission.

b. The following questions are not meant to be all inclusive, but they can help in clarifying whether a sexual harassment incident has occurred.

- (1) Is the behavior sexual in nature?
- (2) Is the behavior unwelcome?
- (3) Does the behavior create a hostile or offensive environment?
- (4) Have sexual favors been demanded, requested or suggested?

#### **SEXUAL HARASSMENT ASSESSMENT:**

As leaders, you must be able to assess the "totality of circumstances surrounding a sexual harassment incident or event to evaluate the impact of the alleged behavior, judge its severity, and determine corrective actions and/or recommendations for sanctions. Taking into account the "totality of circumstances" of a sexual harassment incident will give you enough information to make an unbiased decision. Assessing all issues of an event allows for you to formulate an action plan to prevent similar incidents from occurring in the future. Here are a few of the issues that you should consider in that assessment.

1. **Nature of the Incident.** What was the actual behavior exhibited by the perpetrator? The nature of the act should be your first priority for assessment. You may take more severe action to correct a soldier or civilian who continually makes jokes of a sexual nature in the work place, even after being asked to stop or having been previously counseled that the behavior was inappropriate, than a person who committed the same offense for the first time. While allegations of verbal abuse are significant, stronger leader action would be in order if it were proven that someone was threatened because they failed to comply with another person's sexual advances.

2. **Frequency of Behavior.** Frequency of the act is the next issue to be addressed in the assessment process. Was this a one-time event or repeated behavior? One act of sexual harassment viewed by itself might seem relatively insignificant and easily resolved by on-the-spot correction. If your inquiry determines that the incident is a culmination of a series of such acts, its impact could logically be assumed to be greater and more severe.

3. **Impact of Behavior on the Victim.** While this issue should have less weight in your determining appropriate corrective actions or punishment, it may give you insight into other extenuating conditions or circumstances that contributed to the harassment. Be aware, however, that just because a victim is not physically or emotionally effected, should not detract from your evaluation of the severity of the behavior. Determine whether the perpetrator intended or succeeded in doing harm.

4. **Appropriateness of Behavior.** The issue of appropriateness as applied to behavior in alleged acts of sexual harassment must be determined in every case. Evaluating appropriateness of behavior forces the question that even if your soldier was not aware that the behavior was inappropriate, military bearing, discipline, and professionalism should have deterred any acts of offensive behavior. In many instances, even when no one is offended or sexual harassment cannot be proven, the violation of military standards and decorum will require you to take corrective action.

5. **Rank and Position.** You, and other unit subordinate leaders, are given the responsibility and authority to take care of soldiers. Leaders are empowered with a great deal of trust and confidence. When leaders elect to violate that trust by misusing their authority or position, then sanctions should be imposed accordingly. On the other hand, supervisors and leaders can also be intimidated by their subordinates on the basis of gender differences. Failure by any leader in a position of authority to correct the offensive behavior of a subordinate is also a misuse of that position and should be challenged regardless of the circumstances.

6. **Past History.** In reviewing the incident, you should also consider other allegations, past or present, directly or indirectly related to the case. Although it is important to consider each complaint on its own merit, the uniqueness of sexual harassment (i.e., one-on-one) may make it necessary to review issues related to past history as well as current behavior characteristics during inquiry. It is sometimes appropriate to draw conclusions and take corrective action even though you may not have sufficient evidence to recommend punishment or other sanctions.

7. **Consequences of Your Actions.** Here you must ascertain such issues as the impact and other potential problems created as a result of the incident. Will the problem be resolved with minor corrective action or should you report it to the chain of command? You must also determine what is the goal or desired outcome of your actions to correct the incident. Do you only want the behavior to stop? What is your next step if desired results are not achieved? It is equally important to consider what consequences and/or repercussions might result if you decide not to take any action.

8. **Environment Assessment.** The environment in which the incident occurred must also be part of your assessment. This entails a number of factors such as the state of your section or squad's EO climate, your support and enforcement of sexual harassment policies, outside influences, and the present state of EO training for your soldiers and civilian personnel. Constant jokes of a sexual nature made by you, your soldiers, or civilians in effect constitute a "hostile environment". Another consideration is whether the alleged harasser was trained that such behavior was inappropriate.

#### **PREVENTION PROGRAM ACTION PLANNING:**

The potential for sexual harassment allegations exists in any work place or duty environment. Both women and men can be victims. Organizations that are highly structured and stratified are more conducive to sexual harassment because the potential for negative consequences is high if the victim fails to "give in" to sexual demands. Those more vulnerable in the organization, such as trainees or those who "need" their jobs, are more likely to be harassed. This fact, combined with other social-cultural factors, makes women the more likely victims.

Sexual harassment occurs when employers, leaders, soldiers, and co-workers confuse employment, or duty expectations with sex-role expectations or when males are threatened because females have invaded what they believe is their territory, the traditionally all-male jobs. The bottom line is that sexual harassment is pervasive and affects both morale and productivity. Therefore, increased emphasis on dealing with sexual harassment in the Army is a leadership

imperative.

The components of a sound unit program to end sexual harassment are the same as those for the Army's EO program. It includes total leadership commitment, career-long mandatory training in the prevention of sexual harassment, clearly established ways to report sexual harassment, and clear demonstration through disciplinary and administrative action that certain behaviors will not be tolerated.

1. **Leadership Commitment.** The effectiveness and success of any Army program is dependent upon leader support. Without your support, the Army's effort to prevent and eradicate sexual harassment will lose its momentum and effectiveness. Your commitment is multifaceted. It starts with your understanding and total support of the commander's published policy. You must provide clarification and ensure that you and your subordinates understand the Army's policy on the Prevention of Sexual Harassment (POSH). You must instill in your subordinates a sense of caring, dignity, and respect one another. The most effective way that you, as a leader, can demonstrate your support for the program is through personal example, ensuring that your behavior is above reproach at all times. You must also demonstrate a commitment to enforcement, especially for those soldiers who "just don't get it", by taking "on-the-spot" appropriate action to correct inappropriate behavior. Counsel subordinates and, if necessary, report incidents.

2. **Progressive Training.** The elimination of sexual harassment begins with a policy of progressive and sequential training to identify and prevent inappropriate behavior. Training in the Prevention of Sexual Harassment (POSH) is required as an integral part of a unit's training program. The most effective approach to training to prevent sexual harassment is through interactive discussion in small groups of mixed gender. Situational vignettes or scenarios can also be used to facilitate discussion among unit personnel. You should ensure that your training focus is equal to the level of experience and breadth of responsibilities for your soldiers.

3. **Complaint Process.** The key to a healthy unit climate that is free of sexual harassment is a caring leadership environment in which complaints are handled fairly and expeditiously. Sometimes unit leaders might treat sexual harassment complaints as a threat to their competency or as a "stain" on the unit's performance. As a result, complaints are implicitly or explicitly discouraged and soldiers who do file complaints may find themselves threatened with intimidating reprisals. This is noticed by other soldiers and civilians and results in a hard-to-erase impression of uncaring leadership that lessens their willingness to use the chain of command as an avenue of redress. Leaders who demonstrate awareness, accept and support the complaint investigation process, improve the unit's climate by creating a sense of openness and caring. Complainants may not always be pleased with the results. However, the fact that you made a sincere effort to resolve their complaint will leave a lasting impression with the individual as well as the unit. Sometimes your effort may reveal the true problem to be a lack of communication rather than deliberate harassment. By bridging this communication gap, you can help eliminate misunderstanding and improve the working environment. Be aware that inquiry or investigation into allegations of sexual harassment require special attention. Unlike other EO complaints, you may find that allegations of sexual harassment may sometimes lack sufficient information for you to take decisive actions. Also, the one-on-one nature of sexual harassment sometimes causes evidence to be in dispute. You should not discharge claims of sexual harassment simply because the victim has failed to make a case by providing you with sufficient evidence. For this reason, your commander may consider an investigation whenever a claim of sexual harassment is raised.

#### **ADMINISTRATIVE/DISCIPLINARY ACTIONS:**

An often quoted maxim in the Army has been, "Never give an order you are not prepared to

enforce." Soldiers and civilian employees quickly ascertain which policies are mere "lip service" and which lines should not be crossed. This is especially true when enforcing sanctions against personnel guilty of sexual harassment. Leaders who clearly support a zero tolerance for sexual harassment and recommend appropriate actions against offenders greatly contribute to a healthy command climate. On the other hand, leaders who fail to support sanctions that are equal to the offense, despite a publicized written policy, send a message that sexual harassment is tolerated.

1. **Administrative Actions.** There are several administrative actions available to commanders, or that you may recommend, in dealing with sexual harassment incidents. These include, but are not limited to: bar to reenlistment, letter of admonishment and reprimand, relief for cause, rehabilitative transfer, additional training, required counseling, and denial of certain privileges.

When commanders administer punishment for sexual harassment violations, the block "Supports EO/EEO" on military rating forms must be marked accordingly.

2. **UCMJ Actions.** Your commander has a wide variety of options available for the punishment of inappropriate behavior. The offenses shown here identify the more severe forms of sexual harassment which are subject to disciplinary actions under the UCMJ. The right combination of punishment and administrative sanctions sends a clear message that sexual harassment will not be condoned or tolerated. When commanders administer punishment for sexual harassment violations, the "NO" block "Supports EO/EEO" on military rating forms should be marked accordingly

3. **Sexual Misconduct.** While sexual harassment is generally not considered criminal in nature, some actions and behaviors clearly "cross the line" and become sexual misconduct and even criminal acts, punishable under one of more Articles of the UCMJ. The obvious examples of these types of actions include sexual abuse, battery, and rape. Another example of sexual misconduct would entail violations of the Army's policy on Homosexual Conduct. Although Equal Opportunity does not normally include issues involving criminal activity, sexual misconduct is related enough to warrant discussion.

4. **Laws and Regulations Governing Sexual Misconduct.** The UCMJ makes some conduct criminal, and some sexual conduct may violate more than one article of the UCMJ. The UCMJ applies to you 24 hours a day, 7 days a week, for as long as you are in the Army. It applies on duty and off duty, in or out of uniform, on or off a military installation, in the United States and overseas, and while you are on pass or leave. The UCMJ applies to you regardless of whether you consider yourself a heterosexual, a homosexual, or a bisexual. The penalties for violating the UCMJ articles are severe. Sex crimes are no joke and the Army takes these matters very seriously, and so should you.

#### **POLICY:**

All Department of the Army personnel are prohibited from taking any action that might discourage soldiers, any family member or DA civilian from filing a complaint or seeking assistance to resolve an EO grievance. Army personnel are prohibited from taking any disciplinary or other adverse action against a complainant, or other DA personnel, seeking assistance, or cooperating with investigating officers, Inspector General or other law enforcement agencies. However, this does not preclude commanders from taking action against soldiers who file fraudulent complaints or give false statements.

#### **DEFINITIONS:**

1. **Reprisal:** Taking or threatening to take an unfavorable personnel action or withholding or threatening to withhold a favorable personnel action, or any other act of retaliation, against a military member for making or preparing a protected communication.

2. **Threatening**: Give signs or warning of, or to announce as intended or possible actions.
3. **Intimidation**: Make timid, frighten, to inhibit or discourage by or threaten with harm or adverse treatment.
4. **Harassment**: Annoy or torment repeatedly and persistently, to wear out, exhaust or impede by repeated attacks.

#### **PROTECTED DISCLOSURE:**

Any lawful communication or disclosure to a Member of Congress, Inspector General of any Service, members of any DOD audit or inspection teams, Chain of Command, investigative or law enforcement agencies in which a military member or DA civilian makes a complaint or provides information that he or she reasonably believe is evidence for the following:

1. A violation of law or regulations.
2. Severe case of mismanagement.
3. Fraud or a gross waste of public funds.
4. An abuse of authority or position.
5. Protected disclosure also includes circumstances where a military member:
  - a. Were preparing to make a lawful communication but it was not actually submitted, or delivered.
  - b. Did not actually communicate or complain, but was believed to have done so.
  - c. Cooperated with or otherwise assisted in an audit, inspection, or investigation by providing information that you believed evidenced wrongdoing. (Example: acted as a witness or responded to request for information in a lawful communication).

#### **UNFAVORABLE ACTIONS:**

Any action taken that might affect or have the potential to affect a persons current position or career opportunity. Such actions include, but are not limited to the following:

1. Promotions or other types of advancement.
2. Administrative disciplinary or other corrective or punitive actions.
3. Transfers or reassignments.
4. Decisions concerning pay, benefits, awards, training, or schools.
5. Counseling, reprimands, or performance evaluation.
6. Other changes in duties or responsibilities inconsistent with military rank or position.

#### **REPORTING INCIDENTS OF REPRISAL:**

It is the responsibility of the chain of command to ensure that all complainants are protected against reprisal or retaliation for filing an EO complaint. Should a military member, civilian, or your family member be threatened with such action they should immediately report the incident to the chain of command, the Inspector General, or higher echelon commander. The following should help as a guide to making that determination:

1. Did the complainant make a protected disclosure or complaint prior to the incident?
2. Was an unfavorable action threatened or taken after the disclosure or complaint was made?
3. Did the person or official taking action know of the complaint or disclosure?

4. Does the complainant believe the action taken would not have occurred if the complaint had not been made?
5. Does the complainant have evidence or other information that supports or indicates reprisal was taken because of the complaint or disclosure? (Not required to report actions of reprisal.)

**FOLLOW-UP ASSESSMENT:**

The Equal Opportunity Advisor (EOA) is required to conduct a follow-up assessment of all formal equal opportunity complaints, both substantiated and unsubstantiated. This assessment will be completed 30-45 calendar days (3-4 weekend drill periods for Reserve Component) after final action of the complaint. The purpose of the assessment is to measure the effectiveness of the actions taken and to detect and deter any acts or threats of reprisal. EOAs will also assess the complainant's satisfaction with the procedures followed in the complaint process to include timeliness, staff responsiveness and helpfulness, and resolution of the complaint. Findings on the assessment is provided to the commander for further consideration or action within 15 calendar days.

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## Student Handout 4

### Situation: Green vs Brown

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This student handout contains a situation you will use to meet the requirements of LS/A 5, Discuss leader actions to resolve EO complaints.

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Situation: You are a section sergeant in first platoon, HHC, 1-5th ADA. SGT Alma Green, a team leader in your section, has come to you and said she wants to submit a complaint against the platoon sergeant, SFC Brown, for sexual harassment. SGT Green said SFC Brown had called her into his office yesterday and told her he needed her to work late last night to get ready for an inspection. After work he took her to get something to eat, and they stopped at a local bar where he supposedly groped her by touching her breasts and her buttocks. She told him to stop, but he didn't. She told him to stop again and said she was going to report him. He told her if she said anything to anybody he would make things very difficult for her.

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