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ALNAV 001/25

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SUBJ/POLICY GOVERNING INVESTIGATION AND HANDLING OF FORMAL SEXUAL
HARASSMENT COMPLAINTS STARTING JANUARY 1, 2025, UNDER 10 U.S.C. 1561//

REF/A/10 U.S.C. 1561//
REF/B/DODI 1020.03, HARASSMENT PREVENTION AND RESPONSE IN THE ARMED
FORCES//
REF/C/DOC/SECNAVINST 5300.26E, DEPARTMENT OF THE NAVY POLICY ON SEXUAL
HARASSMENT, 28MAY20//
REF/D/DOC/SECNAVINST 12735.1 DEPARTMENT OF NAVY CIVILIAN HARASSMENT
PREVENTION AND RESPONSE PROGRAM//
REF/E/SEC. 541 AND 546 PUBLIC LAW 117-263 (FY23 NATIONAL DEFENSE
AUTHORIZATION ACT)//
REF/F/10 U.S.C. 824a//
NARR/REF A REQUIRES INDEPENDENT INVESTIGATIONS OF SEXUAL HARASSMENT
COMPLAINTS.

REF B IS THE DOD POLICY REGARDING SEXUAL HARASSMENT.
REF C IS THE SECNAVINST SETTING FORTH SEXUAL HARASSMENT POLICY.
REF D ESTABLISHES THE CIVILIAN HARASSMENT PREVENTION AND RESPONSE
PROGRAM.
REF E ADDS FORMAL, SUBSTANTIATED COMPLAINTS OF SEXUAL HARASSMENT AS
COVERED OFFENSES AS OF 1 JANUARY 2025.
REF F DESIGNATES THE OFFICE OF SPECIAL TRIAL COUNSEL AS HAVING CERTAIN
AUTHORITY OVER COVERED OFFENSES.//

POC/MS. ANDREA VERDINO/DON OFR/LOC: WASH DC/TEL: (703) 697-8830//
RMKS/1. As your Secretary, I am proud of the continued progress we have
made toward ensuring a safe and inclusive work environment for all
personnel that embodies our core values of Honor, Courage, and
Commitment. A positive and respectful culture is a catalyst for
readiness and sets the conditions necessary to ensure we are fully
prepared to meet the global challenges of the future. Leaders at all
levels must model appropriate behavior and epitomize our high standards
of dignity and respect for all.

2. This ALNAV implements the requirements contained in reference (a),
establishing how formal complaints of sexual harassment will be processed
effective 1 January 2025 and effective 1 January 2025, cancels ALNAV
024/22.

3. A formal complaint of sexual harassment received by a Commander, Commanding Officer, Officer-in-Charge, or the civilian equivalent (collectively referred to as commander in this ALNAV) made against a Service member will be processed, in accordance with paragraphs 3.a. through 3.m. of this ALNAV.

a. To the extent practicable, forward a copy of the formal complaint of sexual harassment to the next higher-level commander (in the grade of O-6) in the chain of command of the alleged offender within 72 hours of receipt of the complaint. If the next higher-level commander is not authorized to convene a general court-martial, the alleged offender's commander must assure notification is also made to the next higher-level commander who is authorized to convene a general court-martial by forwarding the complaint, with a detailed description of the facts and circumstances. Navy Command Climate Specialists (CCS) and Marine Corps Equal Opportunity Advisors (EOA) must document the notification of the next higher-level commander in the Misconduct Report Incident Tracking (MRIT) system.

b. Commanders are responsible for ensuring all personnel involved in an incident of sexual harassment are advised of victim support resources available.

c. To the extent practicable the next higher-level commander must refer the complaint to their servicing Naval Criminal Investigative Services (NCIS) office within 72 hours after receipt of the complaint.

d. Upon receipt of a formal sexual harassment complaint, NCIS must review the complaint for the elements of sexual harassment, prior to assigning the complaint to an NCIS investigator. If the allegations included in the complaint do not contain a minimum factual basis or sufficient details supporting the elements of sexual harassment, NCIS will return the complaint to the referring commander. Once returned, the complaint will no longer be considered a formal sexual harassment complaint, and the command can take appropriate action not limited by this ALNAV.

e. NCIS will provide the completed report of investigation to the next higher-level commander who referred the complaint to NCIS.

f. Upon receipt of a completed investigation and in consultation with their servicing judge advocate, the next higher-level commander will determine whether the allegation is substantiated or unsubstantiated, by a preponderance of evidence.

g. If the formal complaint is unsubstantiated the next-higher level commander will close the complaint. A decision to unsubstantiate a formal complaint of sexual harassment does not preclude the next higher-level commander from returning the matter to the commander who received the complaint for action on other alleged misconduct.

h. If the formal complaint is substantiated and the incident (or, in a case involving a series of incidents, the most recent incident) occurred on or prior to 1 January 2025, the next higher-level commander who referred the complaint to NCIS will take administrative or disciplinary action.

i. If the formal complaint is substantiated and the incident (or, in a case involving a series of incidents, the most recent incident) occurred after 1 January 2025, the next higher-level commander must forward the complaint to the servicing Office of Special Trial Counsel (OSTC) for consideration as a covered offense.

Commanders must not take disciplinary action or initiate the administrative separation process, regarding a substantiated formal complaint unless or until the OSTC defers the offense back to the commander.

j. If OSTC exercises authority and defers the substantiated offense back to the commander, the commander must initiate the involuntary separation process for the alleged offender.

k. The next higher-level commander must advise the complainant and the alleged offender of their decision regarding the complaint and make them aware of their right to appeal the decision as defined in reference (c). A complainant and alleged offender are precluded from appealing the administrative finding until such time as the special trial counsel defers the offense in accordance with Rule for Courts-Martial 306A or 401A. If the special trial counsel decides to prefer charges, the administrative substantiated finding is final for all parties, and neither party has the option to appeal the administrative finding. Parties maintain the right to appeal an unsubstantiated finding in accordance with reference (c).

1. All sexual harassment complaints that are reported directly to NCIS will be considered a formal complaint.

(1) To the extent practicable, NCIS will notify the commander of the complainant and alleged offender within 72 hours of receipt of the report.

(2) NCIS must follow the procedures outlined in paragraphs 3.d. and 3.e. of this ALNAV.

(3) The alleged offender's commander is responsible for notifying the next higher-level commander as defined in paragraph 3.a.

(4) The alleged offender's commander is responsible for fulfilling all service policy formal complaint administrative requirements.

(5) The complainant's commander is responsible for ensuring the complainant is updated on the status of the complaint.

(6) NCIS will provide the completed report of investigation to the next-higher level commander of the alleged offender, or if the next-higher level commander has not been identified, the offender's commander will receive the report and will forward the report to the next higher-level commander.

m. Substantiation decisions, formal adjudication determinations and results, and/or administrative actions must be reported back to the servicing NCIS office for documentation in the appropriate NCIS databases.

4. In accordance with reference (e), OSTC exercises exclusive authority to determine whether a reported offense constitutes a covered offense and has exclusive authority to dispose of those offenses. This revised process is required by reference (e), as formal substantiated complaints of sexual harassment become covered offenses under the exclusive authority of the OSTC effective 1 January 2025.

5. If a commander receives a formal complaint of sexual harassment with a civilian alleged offender, the commander must forward the complaint to the next higher commander as outlined in paragraph 3.a.

Presently, the next higher-level command, not NCIS, will investigate the complaint and must appoint an independent investigator. These complaints will be processed in accordance with Service policy.

6. Additional procedures and obligations for addressing complaints of sexual harassment made by civilian employees are found in enclosure (4) of both reference(c) and (d).

7. These important changes regarding the response to formal complaints of sexual harassment require knowledgeable leaders familiar with the above processes. Unit leaders and Military Equal Opportunity personnel (CCSs and EOAs) are directed to receive training on this revised process from their servicing Staff Judge Advocate, or, in the absence of an assigned Staff Judge Advocate, the supporting legal office prior to 1 January 2025, or as soon thereafter as practicable. Standardized training will be provided to all staff judge advocates and supporting legal offices.

Questions about training should be brought to the servicing Staff Judge Advocate or supporting legal office.

8. I want to reiterate that DON policy, as reflected in reference (c), encourages early intervention at the lowest appropriate level before harmful behavior escalates. All DON personnel who witness sexual harassment are encouraged to intervene and address offensive and unacceptable behavior the first time it occurs. The informal resolution procedures developed by the Services, as directed in enclosure (6) of reference (c), can help to correct such offensive and unacceptable behaviors before they escalate and create a hostile work environment. I expect leaders at all levels to engage in early intervention, to immediately correct inappropriate behavior, to take all reasonable measures to avoid escalation, and to protect our teammates. Early intervention through the DON's informal resolution processes will improve command climates and command performance.

9. The DON remains committed to the principle of keeping faith with all who serve. Sexual harassment and other harmful behaviors constitute a betrayal of our responsibility to our teammates and our Nation.

10. Released by the Honorable Carlos Del Toro, Secretary of the Navy.//

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