



DEPARTMENT OF THE NAVY
NAVAL DENTAL CENTER
2310 CRAVEN ST.
BOX 368147
SAN DIEGO, CALIFORNIA 92136-5596

NAVDENCENS DIEGOINST 5354.1D
00

18 MAY 1998

NAVDENCEN SAN DIEGO INSTRUCTION 5354.1D

From: Commanding Officer, Naval Dental Center, San Diego

Subj: DISCRIMINATION AND SEXUAL HARASSMENT COMPLAINT PROCEDURES

Ref: (a) SECNAVINST 5300.26B
(b) OPNAVINST 5354.1C
(c) CHNAVPERS Washington DC ltr 5354 Ser 612B/01362
of 18 Nov 94

Encl: (1) Definitions
(2) U.S. Navy Grievance Procedures
(3) Informal Grievance Flowchart
(4) Formal Grievance Flowchart

1. Purpose. To disseminate guideline procedures for the proper submission of discrimination and sexual harassment complaints.

2. Cancellation. NAVDENCENS DIEGOINST 5354.1C.

3. Scope. The provisions of this instruction apply to all active duty military personnel, both Regular and Reserve; all civilian personnel; and where applicable, contact personnel.

4. Background. The Navy-Marine Corps Team must be comprised of an optimally integrated group of men and women who must be able to work together to accomplish the mission. Each member of the team is entitled to be treated fairly, with dignity and respect, and must be allowed to work in an environment free of unlawful discrimination.

5. Policy. The Commanding Officer is committed to maintaining a work environment free from unlawful discriminatory practices and inappropriate behavior. Leadership is the key to eliminating all forms of unlawful discrimination. In support of this commitment, it is my policy that:

a. Discrimination/sexual harassment is prohibited. All personnel, military civilian, will be provided a work environment free from discrimination/sexual harassment. Enclosure (1), "Definitions," provides an explanation of terms used in this instruction.

b. All personnel, military and civilian, will be educated and trained upon accession (within 90 days to the extent possible) and annually thereafter in the areas of identification, prevention, resolution, and elimination of discrimination/sexual harassment. Training programs will use a three-tiered behavioral zone approach to explain the spectrum of behavior as outlined in reference (a).



c. Individuals who believe they have been sexually harassed will be afforded multiple avenues to seek resolution and redress. The chain of command will ensure that notification of discrimination/sexual harassment can be made in a command climate that does not tolerate acts of reprisal, intimidation, or further acts of discrimination/sexual harassment. All personnel will be made aware of the avenues of resolution and redress that are available as outline in enclosure (2). Easy reference flowcharts for Informal Grievance and Formal Grievance procedures are included as enclosures (3) and (4). Guidelines for filing a formal complaint is explained in reference (c).

d. All reported incidents of discrimination/sexual harassment will be investigated and resolved at the lowest appropriate level. The nature of the investigation will depend upon the particular facts and circumstances and may consist of an informal inquiry where that action is sufficient to resolve factual issues. All incidents will be resolved promptly and with sensitivity. Confidentiality will be maintained to the extent possible. Feedback will be provided to all affected individuals consistent with the requirements of the Privacy Act and other pertinent laws, regulations, and negotiated agreements.

e. Counseling support or referral services will be made available for all involved in incidents of discrimination/sexual harassment.

6. Accountability

a. Discrimination and sexual harassment are prohibited.

b. No individual shall:

(1) Discriminate against or commit sexual harassment, as defined in enclosure (1);

(2) Take reprisal action against a person who provides information on an incident of alleged discrimination/sexual harassment;

(3) Knowingly make a false accusation of discrimination/sexual harassment; or

(4) While in a supervisory or command position; condone or ignore discrimination/sexual harassment of which he/she has knowledge or has reason to have knowledge.

c. The full range of administrative and disciplinary actions will be used to address discrimination/sexual. In the case of military personnel, these include informal counseling, comments in fitness reports and evaluations, administrative separation, and punitive measures under the UCMJ. In the case of civilians, options include informal counseling, comments in performance evaluations, and disciplinary action including removal from Federal Service.

d. Administrative Separation. Military personnel shall be processed for administrative separation following guidance from high authority, references (a) and (b).

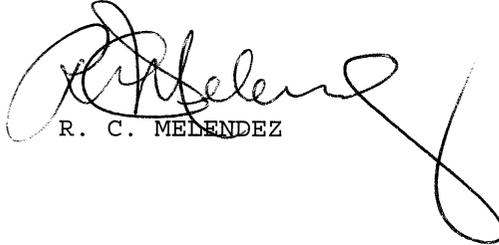
7. Responsibility

a. Branch Directors and Department Heads are responsible for and must be committed to preventing discrimination/sexual harassment in their work environments. They must not ignore or condone discrimination/sexual harassment in any form, and they must take whatever action is required to ensure that a recipient of discrimination/sexual harassment is not subsequently the victim of reprisal or retaliation.

b. Individuals who believe they have been discriminated against or sexually harassed are encouraged to address their concerns or objections regarding the incident directly with the person demonstrating the behavior. Persons who are subjected to or observe objectionable behavior should promptly notify the chain of command utilizing the procedures outlined in reference (a).

c. All personnel are responsible for treating others with mutual respect and dignity. This means fully and faithfully comply with this instruction. All personnel are accountable for their actions.

6. Action. All personnel will comply with this instruction and, to the extent that authority to do so is vested in them by law or regulation, take such action as they consider proper on all alleged violations of this instruction.



R. C. MELENDEZ

Dist:
List I, Case 1, 2

DEFINITIONS

1. Discrimination. For purposes of this instruction, discrimination means the illegal treatment of a person or group based on handicap, race, color, national origin, age, religion, or sex. Sex discrimination refers to the practice of wrongfully treating men or women differently in the workplace, solely because of their sex. The Supreme Court has held that sexual harassment of both men and women is a form of sex discrimination.

2. Sexual Harassment. Sexual harassment is a form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

a. Submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career, or;

b. Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or;

c. 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.

d. The above definition emphasizes that workplace conduct, to be actionable as "abusive work environment" harassment, need not result in concrete psychological harm to the victim, but rather need only be so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as hostile or abusive (Note: "workplace" is an expansive term for military members and may include conduct on or off duty, 24 hours a day.)

U. S. NAVY GRIEVANCE PROCEDURES

1. Informal Grievance Procedures. This is the first step in resolving a complaint and should be started at the lowest level possible.

a. A complainant should first attempt to resolve the complaint/grievance with the person or persons involved. Assistance of the immediate supervisor in resolving the complaint may be requested as the circumstances require. Requests are normally done orally but may be requested in writing. If the object is the complainant's immediate supervisor, present the complaint to the next senior in the chain of command.

b. If the complaint cannot be resolved between complainant and the persons involved or with the help of immediate supervisors, then submit a request either in writing or orally in a timely manner for a Commanding Officer request mast. Reference (b), Section V, states that all members have the right to present a legitimate discrimination complaint to the Commanding Officer at a proper time and place -- this includes discrimination or sexual harassment complaints.

c. If the resolution of the informal complaint is considered unjust, use the formal procedures for redress (relief). In all cases, it is the responsibility of the Commanding Officer to inform the complainant of his/her right to submit a formal complaint and the method for making the submission.

d. In accordance with reference (b), Section II, Page 11-1, the Commanding Officer shall designate a person (officer or senior petty officer) on a collateral duty basis to assist in resolving sexual harassment and EO complaints. This individual is available for assistance in determining the need for a grievance, the proper method of submission and should be consulted prior to submitting a formal complaint.

e. 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 military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment.

f. Reprisal. The wrongful threatening or taking of either unfavorable action against another or withholding favorable action from another solely in response to a report of sexual harassment or violations of this instruction.

2. Formal Grievance Procedures

a. If the grievance is against a superior in the command, other than the Commanding Officer, submit a formal complaint, in accordance with Article

1106, against that superior to the Commanding Officer. If complainant considers the Commanding Officer's resolution unjust see paragraph (3) below. Individuals should be advised of their entitlement to military legal counsel for assistance in submitting this complaint.

b. If the grievance/discrimination complaint is against a superior in another chain of command, submit the complaint to the Commanding Officer. The Commanding Officer will forward the complaint to the superior of the individual against whom the complaint is brought via his/her chain of command to the officer exercising general court-martial jurisdiction over the individual. After review and action by the appropriate authority, a report of proceedings is forwarded to the Secretary of the Navy (Judge Advocate General) for review and final action by the Secretary of the Navy.

c. If the grievance/discrimination complaint is against complainant's Commanding Officer, submit a "complaint of wrongs," against the Commanding Officer, UCMJ Article 138, the complaint of wrong should be submitted via the chain of command to the person exercising general court-martial jurisdiction over the Commanding Officer. The complaint is reviewed and a report of proceedings is forwarded to the Secretary of the Navy (Judge Advocate General) for review and final action by the Secretary of the Navy.

3. Inspector General's Hotline. Sexual harassment allegations may be reported through the Inspector General's "Fraud, Waste, and Abuse Hotline." This alternate means of reporting harassment may be used if the complainant is not reasonably satisfied that the complaint has been/will be properly resolved by the chain of command. The number to call is AUTOVON 288-6743, commercial (202 433-6743, or toll free 1-800-522-3451.

4. Department of the Navy (DON) Toll-Free Sexual Harassment Advice and Counseling telephone line number is 1-800-253-0931 and is staffed 1000-1800 on all working days. This line provides advice and counseling for individuals who have questions or need help with sexual harassment topics. THIS IS NOT AN INVESTIGATING OR REPORTING MECHANISM. Outside the aforementioned hours, an answering machine is on the line.