



BRAD LITTLE
GOVERNOR

STATE OF IDAHO
MILITARY DIVISION

THE ADJUTANT GENERAL
MICHAEL J. GARSHAK

Expires 31 December 2021

NGID-TAG

22 July 2021

MEMORANDUM FOR All Members and Employees of the Idaho Military Division

SUBJECT: Idaho Military Division Sexual Harassment Prevention Policy (IDNG-8)

1. This memorandum establishes my policy: that leaders at all levels are held appropriately accountable for fostering a climate free from sexual harassment and do not tolerate retaliation for reporting sexual harassment allegations; sexual harassment complaints are investigated in an impartial and timely manner; complainants receive access to available victim services and support, and are afforded an opportunity to provide input regarding disposition; complainants receive ongoing timely information regarding the status of their complaints and notice of disposition; and all leaders and supervisors are responsible for ensuring their personnel have received mandatory EEO/EO awareness training on the prevention of sexual harassment. Enclosure 1 contains specific guidelines to aid in the prevention of sexual harassment.

2. As part of the military and public community that institutionalizes excellence in leadership in the areas of equality and fair treatment, we are committed to protecting the individual dignity and human worth of all with which we come in contact. Professionalism is the standard within the IMD and nothing less will be tolerated in this area. Sexual harassment adversely affects everyone's performance – supervisors, peers, subordinates, and senior management alike. It is detrimental to productivity, morale, unit cohesion, and mission readiness. Sexual harassment is illegal, it is wrong, and it will not be tolerated.

3. Identifying Sexual Harassment.

a. **Sexual harassment is a form of gender discrimination covered under Titles VI & VII of the Civil Rights Act of 1964.** Sexual harassment is defined as any unwelcome conduct that involves sexual advances, requests for sexual favors, or other visual, verbal, nonverbal, or physical conduct of a sexual nature, when any of the following occur:

(1) Submission to or rejection of such conduct is made, either explicitly or implicitly, as term or condition of a person's employment (job, pay or career); or

(2) Submission to or rejection of such conduct by an individual is used as a basis for career or employment decisions affecting such individuals, or

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's performance or creates an intimidating, hostile, or offensive environment; and

(4) Is so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the environment as hostile or offensive.

b. **Quid Pro Quo – Sexual harassment.** This occurs when an individual in a supervisory or command position uses their leadership position, or otherwise condones the improper sexual behavior of another, in order to control, influence, or affect the career, pay, or job of a subordinate.

c. **Hostile Work Environment - Sexual harassment.** This occurs when verbal or nonverbal behavior in the workplace creates an inappropriate focus on the sexuality of another person or otherwise occurs because of an individual's gender, when such conduct is unwanted or unwelcome and is sufficiently severe or pervasive enough to affect the person's work environment; or, when any military member or employee makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a 'sexual nature' while in the workplace.

4. **Reporting Sexual Harassment.** Informal sexual harassment complaints should be addressed at the lowest possible level. Formalized processing of sexual harassment complaints will result in a prompt, thorough, and impartial inquiry or investigation, as applicable, with timely, appropriate disciplinary action when it has been substantiated that harassment has occurred. Anonymous complaints will be processed IAW controlling regulations.

a. The Equal Employment Opportunity (EEO) federal civilian reporting process starts by contacting the immediate supervisor, an EEO Counselor or the State Equal Employment Manager (SEEM)/EEO Director. The aggrieved must report within 45 calendar days of the discriminatory event. The EEO Counselors and SEEM/EEO Director information will be posted on the HRO/SEEM website.

b. The Equal Employment Opportunity (EEO) reporting process for IMD State employees starts by contacting the immediate supervisor, state HRO or the SEEM/EEO Director. The aggrieved must report within 45 calendar days of the discriminatory event. State employees also have the option of reporting to the Idaho Human Rights Commission (IHRC) within 365 calendar days of the discriminatory event. I encourage the aggrieved to first report a complaint within the IMD to provide an opportunity for leadership and/or supervisors to resolve the issue at its lowest level.

c. The Military Equal Opportunity (EO) reporting process starts by contacting the immediate chain of command, the unit EO Advisor (EOA), or the SEEM. National Guard Military personnel must report a claim of discrimination to their military or full time supervisory chain of command, within 180 calendar days of the discriminatory event.

5. **Sexual Harassment Hotline:**

a. IMD SH: 208-272-4223-Information on policies, procedures and or reporting.

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b. DoD-wide hotline for Sexual Assault at <https://www.SafeHelpline.org> or call 877-995-5247.

c. Air Force Unlawful Discrimination, Harassment, and Sexual Harassment Hotline 888-231-4058.

6. Questions regarding this policy or the enclosure should be directed to the SEEM/EEO Director, 4794 General Manning Ave., Building 441, Gowen Field.

7. This memorandum IDNG-8 in conjunction with policies IDNG 27, 29 and 38 comprise the basis of enforcement of the IMD Sexual Harassment policy. IDNG-8 policy will be updated annually. This policy letter will be posted on the SEEM website and applicable bulletin boards within the IMD.

Encl



MICHAEL J. GARSHAK
Major General, IDNG
The Adjutant General/Commander



IDAHO MILITARY DIVISION

SEXUAL HARASSMENT PREVENTION

DODI 1020.03 Sexual Harassment defined as conduct that:

Involves unwelcome sexual advances, requests for sexual favors, and deliberate or repeated offensive comments or gestures of a sexual nature when:

- Submission to such conduct is, either explicitly or implicitly, made a term or condition of a person's job, pay, or career
- Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or
- 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.

Is so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the environment as hostile or offensive. Any use or condonation, by any person in a supervisory or command position, of any form of sexual behavior to control, influence, or affect the career, pay, or job of a member of the Armed Forces or a civilian employee of the Department of Defense. Any deliberate or repeated unwelcome verbal comments or gesture of a sexual nature by any member of the Armed Forces or a civilian employee of the Department of Defense. There is no requirement for concrete psychological harm to the complainant for behavior to constitute sexual harassment. Behavior is sufficient to constitute sexual harassment if it is so severe or pervasive that a reasonable person would perceive, and the complainant does perceive, the environment as hostile or offensive. Sexual harassment can occur through electronic communications, including social media, other forms of communication, and in person.

Harassment. Harassment may include offensive jokes, epithets, ridicule or mockery, insults or put-downs, displays of offensive objects or imagery, stereotyping, intimidating acts, veiled threats of violence, threatening or provoking remarks, racial or other slurs, derogatory remarks about a person's accent, or displays of racially offensive symbols. Types of harassment include, but are not limited to, discriminatory harassment, sexual harassment, hazing, bullying, and stalking. Stalking must be reported to the appropriate Military Criminal Investigative Organization.

Means of Harassment. Harassment can be oral, written, or physical. Harassment can occur in person, through electronic communications, including social media; and through wrongful broadcast or distribution of intimate visual images and other forms of communication.

Retaliation. Retaliation encompasses illegal, impermissible, or hostile actions taken by a Service member's chain of command, peers, or coworkers as a result of making or being suspected of making a protected communication in accordance with DoDD 7050.06. Retaliation for reporting a criminal offense can occur in several ways, including reprisal. Investigation of complaints of non-criminal retaliatory actions other than reprisal will be processed consistent with Service-specific regulations. Additional retaliatory behaviors include ostracism, maltreatment, and criminal acts for a retaliatory purpose in connection with an alleged sex-related offense or sexual harassment; or for performance of duties concerning an alleged sex-related offense or sexual harassment

Reprisal. In accordance with Section 1034 of Title 10, U.S.C., as implemented by DoDD 7050.06, reprisal is defined as taking or threatening to take an unfavorable personnel action, or withholding or threatening to withhold a favorable personnel action, for making, preparing to make, or being perceived as making or preparing to make a protected communication.

IMD Retaliation Prevention and Response Strategy (RPRS) Implementation Plan:

- a. Regulatory harassment prevention and response training taught by EO/EEO certified instructors using approved program of instruction (POI). Training includes: information on how to identify SH; information regarding how to identify and report retaliation; information regarding bystander intervention; information on how to submit a SH complaint; and information regarding administrative or disciplinary action that could be taken for substantiated complaints.
- b. Complaint processing IAW EO/EEO regulatory guidance to include reprisal/whistleblower complaint processing.
- c. Establishment of IMD SH hotline

- d. As applicable, determine whether a climate assessment or additional unit training is required.
- e. RPRS database management and reporting IAW DODI 1020.03, Section 7.

Guidelines. The following are a few guidelines on actions to take should you experience inappropriate behavior that you consider to be sexual harassment (both sexual and non-sexual in nature):

a. **Know your rights and agency policy.** Be informed, review agency policy, and ask questions. Know the complaint process for your type of employment (i.e. federal, state, or military).

b. **Communicate.**

- **Direct Approach.** The best time to halt harassment is as soon as it occurs. Confront the harasser and communicate that their behavior or conduct is not appreciated, is not welcome and that it must stop. Be calm, but be firm in telling the harasser you won't tolerate being harassed. In some cases, the harasser might not know the behavior is offensive or unwelcome. Be sure to act professionally. If you feel too intimidated to confront the harasser yourself, find a co-worker or supervisor who will represent you firmly. Anyone, regardless of difference in rank or position, has the right to confront another employee (who is perceived to be engaging in sexual harassment) in an effort to stop the unwelcome or illegal behavior before it rises to the level of a formal complaint.

- **Indirect Approach.** Send a written communication to the harasser and state clearly the specific facts regarding the harasser's behavior or conduct that is not appreciated, is not welcome and that it must stop. Keep your written comments succinct and professional in nature.

c. **Report any incident of sexual harassment,** especially severe harassment you can't curtail by confronting the harasser. Be responsible by taking reasonable effort to eliminate inappropriate behaviors by telling the person he or she is harassing you and that the attention is unwelcome and illegal. Further explain that you are going to report the behavior, if necessary, to get the problem resolved. The behavior still should be reported **immediately** to the supervisor, supervisor's supervisor, or management in your chain-of-command to give them the opportunity to ensure that the behavior is stopped.

d. **Document the harassment.** Begin keeping a detailed record documenting the events. Write down details of the harassment, noting times, places, witnesses, and any actions you took at the time to make the harasser stop. You might want to confide in a trusted friend, but you should also present your issue immediately to the EEO Counselor or military chain-of-command or military Equal Opportunity Advisor (EOA), to stop the behavior and or initiating the complaint process, as applicable.

e. **Bystander Intervention.** A philosophy and strategy for prevention of various types of violence, including bullying, sexual harassment, sexual assault, and intimate partner violence. The goal of prevention (Intervene-Act-Motivate) is to stop incidents from happening as early as possible.

- A bystander is anyone who witnesses or becomes aware of behavior that warrants comment or action. Bystanders can provide favorable feedback or praise in response to positive acts and redirect or de-escalate negative acts.

- Bystanders have the potential to intervene and assist during a crisis including sexual violence, hazing rituals, bullying, or suicide prevention. Bystander intervention is an effective, proactive strategy in the prevention and de-escalation of crises. Bystanders can improve the organization's climate by increasing job satisfaction and unit morale.

- Bystanders who intervene to prevent or report sexual assault or sexual harassment are protected from retaliation, reprisal, ostracism, intimidation, or maltreatment related to the execution of their duties and responsibilities.

- Bystander intervention training is conducted in conjunction EO/EEO training.