



DEPARTMENT OF THE ARMY
U.S. ARMY COMBINED ARMS CENTER AND FORT LEAVENWORTH
415 SHERMAN AVENUE
FORT LEAVENWORTH, KANSAS 66027-2300

ATZL-CG (RN 570)

30 JUL 2021

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Command Policy 3, Military Equal Opportunity (MEO), Sexual Harassment/Assault Response and Prevention Program, and Harassment Prevention and Response

1. References:

a. Department of Defense Instruction (DoDI) 1020.03 (Harassment Prevention and Response in the Armed Forces), 8 February 2018, Incorporating Change 1, 29 December 2020.

b. DoD Instruction (DoDI) 1300.28, Military Service by Transgender Person and Persons with Gender Dysphoria, 4 September 2020.

c. Department of Defense Instruction (DoDI) 6495.02, Volume I (Sexual Assault Prevention and Response (SAPR) Program Procedures), 28 March 2013, Incorporating Change 5, 9 April 2021.

d. Army Regulation 600-20 (Army Command Policy), 24 July 2020.

e. Army Directive 2021-16 (Immediate Actions To Improve the Sexual Harassment/Assault Response and Prevention Program), 5 May 2021.

f. TRADOC Policy Letter 4, Military Equal Opportunity (MEO), Sexual harassment/Assault Response and Prevention (SHARP) Program, and Harassment Prevention and Response Program, 14 October 2020.

2. This policy letter supersedes Policy Letter 3, Equal Opportunity, Sexual Harassment/Assault Response and Prevention Program, and Treatment of Persons, 29 January 2021.

3. Sexual harassment and sexual assault are unacceptable and contradict the values of the Army and our organization. I am fully committed to the Combined Arms Center (CAC) and Fort Leavenworth SHARP Program, and ensuring a safe living and working environment for our entire CAC team (Soldiers, Civilian employees, and Family members). Ultimately, we must ensure our CAC team understands we will not tolerate, condone, or ignore incidents of sexual harassment or sexual assault reports. Sexual harassment and sexual assault destroys teamwork and negatively affects combat readiness and are punishable under the UCMJ and federal and state laws. We must

ATZL-CG (RN 570)

SUBJECT: Command Policy 3, Equal Opportunity, Sexual Harassment/Assault Response and Prevention Program, and Treatment of Persons

~~strive to~~ treat everyone with dignity and respect, consider all allegations of inappropriate behavior with the utmost seriousness, protect the privacy of victims, motivate bystanders to intervene, and hold offenders accountable. Reporting options, victim rights, definitions, and explanations of sexual harassment and sexual assault are attached (Encl 1).

4. Diversity in today's Army is reflective of the changing Nation we serve. I support and am committed to the concepts, policies, and objectives of the Army's MEO Program. I expect all CAC and Fort Leavenworth leaders to ensure a workplace for our Soldiers that is free from harassment and unlawful discrimination on the basis of race, color, religion, national origin, sex (including gender identity and pregnancy) and sexual orientation. Gender identity and pregnancy are not standalone basis of discrimination; it is a subset under sex. I am strongly committed to ensuring discrimination does not exist in our policies, practices, or actions and expect no less than complete support by all within CAC and Fort Leavenworth. Successful mission accomplishment is dependent upon an environment where the respect of our diverse backgrounds, where policies and procedures are transparent, where we practice inclusion, and treat all team members with dignity and respect. Commanders, leaders, and supervisors should encourage Soldiers to first use their chain of command to resolve their concerns and complaints. In the event a Soldier or Family member wishes to file a MEO complaint, procedures for doing so are attached (Encl 2).

5. This policy memorandum implements The Army Harassment Prevention and Response Program and applies to all Soldiers and Department of Army (DA) Civilians assigned or attached to CAC. However, it does not apply to DA Civilians wishing to file a harassment complaint; they should seek assistance with the Equal Employment Opportunity (EEO) Office. This policy covers hazing, bullying, discriminatory harassment, online misconduct as well as other acts of misconduct (Encl 3). This policy is punitive in nature. The Army is a values-based organization where everyone will do what is right by treating all persons with dignity and respect. We are committed to preventing and eliminating all forms of harassment and will not tolerate violations of this policy. Commanders and directors at all levels are responsible for eliminating these behaviors to prevent abusive treatment of others within their organizations. All personnel experiencing or witnessing online misconduct should report the matter to the chain of command or supervisor. If the individual does not feel comfortable doing so, alternative avenues for reporting include: Family Support Services, MEO, EEO Office (DA Civilians), and Sexual Harassment Assault Response and Prevention. Allegations of criminal behavior will be reported to Army law enforcement. Reported incidents of hazing or bullying allegations will be investigated and substantiated incidents are punishable under the UCMJ. Commanders and directors at all levels will publish Harassment Prevention and Response Program policies IAW AR 600-20 and ensure training is conducted annually.

ATZL-CG (RN 570)

SUBJECT: Command Policy 3, Equal Opportunity, Sexual Harassment/Assault Response and Prevention Program, and Treatment of Persons

6. The command will not retaliate against an individual who makes or prepares a protected MEO, SHARP, harassment, or maltreatment related communication.

7. This policy is effective until superseded or rescinded.

3 Encls



THEODORE D. MARTIN
Lieutenant General, U.S. Army
Commanding

DISTRIBUTION:

Commander

U.S. Army Garrison, Fort Leavenworth
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Army University

Civilian Personnel Advisory Center

Chief of Staff, CAC

All Tenant Organizations

SHARP Definitions and Guidance

1. Sexual Harassment.

a. Title 10 USC 1561 defines the term “sexual harassment” to mean any of the following:

(1) Conduct that involves unwelcome sexual advances, requests for sexual favors, and deliberate or repeated offensive comments or gestures 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; and

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

(2) 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 DoD.

(3) Any deliberate or repeated unwelcome verbal comment or gesture of a sexual nature by any member of the Armed Forces or Civilian employee of the DoD.

b. 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.

c. Sexual harassment can occur through electronic communications, including social media, other forms of communication, and in person.

d. The use of disparaging and/or sexualized terms may contribute to an unlawful hostile environment and thus will not be tolerated. Leaders at all levels will protect their teams against sexual harassment and proactively ensure that their environments are free from all forms of sexual harassment.

e. Types of reports:

(1) An informal sexual harassment complaint is a complaint that a complainant

does not wish to file in writing on a DA Form 7746. Typically, those issues that can be taken care of informally can be resolved through discussion, problem identification, and clarification of the issues. The SARC will provide information regarding support services that are available to help resolve the complaint, as appropriate, both on and off-post (health care, counseling, chaplains, legal assistance, and unit or installation trained mediators for alternative dispute resolution).

(2) A formal complaint Soldiers can file formal sexual harassment complaints on the DA Form 7746, documenting the nature of the complaint and the requested remedies. Additionally, when an anonymous complaint is elevated to the commander and the commander determines that the complaint contains enough information to conduct an investigation, these anonymous complaints will be processed formally and will be documented on the DA Form 7746.

(3) An anonymous complaint is defined as a report of sexual harassment, regardless of the means of transmission, from an unknown or unidentified source. The individual reporting the information is not required to divulge any PII. Commanders will publicize and enable anonymous reporting through organizational hotlines, email, or official telephone lines. Anonymous reports of sexual harassment occurring in confinement facilities involving military inmates will adhere to requirements of the Prison Rape Elimination Act of 2003 (PREA).

2. Sexual Assault is a crime defined by intentional sexual contact characterized by the use of force, threats, intimidation, or abuse of authority; or when the victim does not or cannot consent. The term includes a broad category of sexual offenses consisting of the following UCMJ offenses: rape, sexual assault, aggravated sexual contact, abusive sexual contact, or attempts to commit these acts. Sexual assault can occur without regard to gender, spousal relationship, or age of victim.

a. Types of reports: There are two types of reporting options for adult victims of sexual assault; restricted reporting and unrestricted reporting (Family Advocacy addresses assaults involving minors and intimate partners). The Army's exception to policy allowing Department of the Army Civilians to receive SHARP services and file both restricted and unrestricted cases in CONUS ended January 2018. Department of the Army Civilians seeking guidance from SHARP personnel will be referred to community-based crisis services and support organizations. Providing such assistance to Department of the Army Civilians will not generate any SHARP reporting until an extension of the exception to policy is signed. The only exception is at an OCONUS location.

(1) Restricted reporting allows a Soldier or Family member (18 years or older) who is a victim of sexual assault to disclose the details of their assault to a sexual assault response coordinator, victim advocate, chaplain, or healthcare provider and receive medical treatment and counseling on a confidential basis without triggering an official investigation.

(2) Unrestricted reporting allows a Soldier, Family member, or eligible DA

Civilian who is sexually assaulted and desires medical treatment, counseling, and an official investigation of their allegation to use current reporting channels (for example, the chain of command or law enforcement), or they may report the incident to the SARC or SHARP VA. Law enforcement will investigate all unrestricted reports. Details regarding the incident will be limited to only those personnel who have a legitimate need-to-know.

3. Consent is a freely given agreement to the conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal resistance or submission resulting from the use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue does not constitute consent. A sleeping, unconscious, or incompetent person cannot consent.

4. Retaliation is an umbrella term encompassing actions taken by the chain of command or peers/coworkers such as engaging in ostracism or maltreatment, taking or threatening to take an adverse personnel action, or withholding or threatening to withhold a favorable personnel action in response to the protected communication. In certain instances, retaliation is punishable under Article 132 and/or Article 93, Uniform Code of Military Justice.

5. Commanders have a responsibility to ensure community safety and due process of law, but they must also recognize the importance of protecting the privacy of victims under their command. After a report of sexual assault, commanders will also ensure compliance with procedures in Chapter 7, AR 600-20. Additional resource guides for Army leaders are located at <http://sharp.army.mil/>.

6. Victim Rights:

- o The right to be treated with fairness and respect for your dignity and privacy.
- o The right to be reasonably protected from the accused offender.
- o The right to reasonable, accurate, and timely notice of public preliminary hearings, pre-trial confinement hearings, court proceedings, and clemency and parole hearings related to the offense.
- o The right to be present at all public proceedings related to the offense unless the hearing officer or military judge determines that your testimony would be materially altered if you as the victim heard other testimony.
- o The right to reasonably confer with the prosecutor/Trial Counsel in the case.
- o The right to receive available restitution.
- o The right to be reasonably heard at: 1) a public hearing concerning the

continuation of any pre-trial confinement of the accused; 2) a sentencing hearing related to the offense; 3) a public Military Department Clemency and Parole Board hearing related to the offense.

- o The right to submit a written statement for the consideration of the Convening Authority prior to taking action on findings and sentence.
- o The right to proceedings free from unreasonable delay.
- o The right to be provided information, if applicable, about the conviction, sentencing, imprisonment, Convening Authority's action, appellate review, and release of the offender.

7. TRADOC Command Policy Letter 3 (Equal Employment Opportunity Alternate Dispute Resolution, Anti-Harassment, and Providing Reasonable Accommodations for Individuals with Disabilities) details the procedures for dealing with sexual harassment complaints for civilian employees.

8. DoD Safe Helpline (877) 995-5247, Fort Leavenworth SHARP 24/7 Hotline (913) 683-1443, CAC and Fort Leavenworth SHARP Resource Center (913) 684-2810/2818. Additional resources can be provided to support victims and complainants if required.

CAC Procedures for Processing Military Equal Opportunity (MEO) and Harassment Complaints

1. The MEO and Harassment complaint system provides a process for Soldiers and their Family members to seek relief from perceived harassment and unlawful discrimination or unfair treatment on the basis of race, color, national origin, religion, sexual orientation, sex (to include gender identity and pregnancy) and harassment which includes hazing, bullying, and other discriminatory harassment. Sexual orientation is defined as homosexuality, bisexuality, or heterosexuality, whether such orientation is actual or perceived, and includes association with another individual or affinity group associated with a particular sexual orientation. Prior to pursuing a MEO or Harassment complaint, efforts should be made to solve the alleged complaint at the lowest possible level within an organization. Individuals desiring procedural information regarding MEO complaints may also call the 24-hour MEO hotline at (913) 680-7037.
2. Anonymous complaints are where the complainant remains unidentified and may be handled as either a formal or informal complaint. The commander will determine if sufficient information is provided to proceed as either an informal or formal complaint.
3. Informal complaints are when a Soldier or Soldier's Family member does not wish to file in writing. Informal complaints can be resolved directly by the individual with the help of another unit member, the Equal Opportunity leader, commander, or other individuals in the complainant's chain of command. Unlike a formal complaint, informal complaints are not subject to a set timeline but when practical it should be resolved within 60 days.
4. Formal complaints are filed in writing. They are sworn to by the complainant as to the accuracy of the information provided. Formal complaints are filed with the organization or unit's Equal Opportunity Advisor. Formal complaints follow specific procedures, are subject to regulatory timelines, and must include documentation of the actions taken. An individual files a formal complaint using a DA Form 7279 (Equal Opportunity and Harassment Complaint Form).
 - Complaint Clarification: All Formal MEO complaints processing will be complete within 60 days of receipt of DA Form 7279. Normal complaint timeline is as follows:
 - Within 3 calendar days of complaint receipt, MEO professionals will refer complaint to the subject's commander.
 - CDR will commence, or cause the commencement of, an investigation within 5 days
 - IO has a total of 30 days to complete the investigation (can request extension if necessary) and will sit down with the EOA prior to submission to OSJA office.

- Legal sufficiency review will be conducted within 14 calendar days from the date the investigation is completed by the OSJA.

5. Should a Soldier or Family member wish to initiate a formal complaint, they have 60-calendar days from the date of the alleged incident to file the formal complaint. This time limit is established to allow for a prompt inquiry or investigation that ensures reasonable availability of witnesses, accurate recollection of specific events, and preservation of evidence relevant to the complaint and allegations. If a complaint is received more than 60-calendar days after the alleged incident, the commander may, at his or her discretion, still conduct an investigation into the allegations or appoint an investigating officer. 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 still be conducted.

6. Although the processing of complaints through the unit chain of command is strongly encouraged, it will not serve as the only resource 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 that may assist in resolving the potential complainant's concerns. Each of the agencies listed below provide expertise in very specific subject areas that may alleviate the need for initiating a formal complaint. Commanders will not preclude Soldiers from using other options in accordance with the procedures inherent to or established by each agency. Other Army resources available to a Soldier or their Family member are:

- Someone in a higher echelon of the complainant's chain of command
- The Office of the Inspector General
- The Office of the Provost Marshal
- The Office of the Staff Judge Advocate
- The command or installation chaplain
- Medical agency personnel
- Chief, Community Housing Referral and Relocation Services Office

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

Army Harassment Prevention Response Program Definitions

1. Harassment is a broad term that takes many forms and it is imperative that all TRADOC personnel can identify them in order to eliminate them from our formation. Though not a comprehensive list, some types of harassment include: hazing, bullying, discriminatory, and online.

a. Hazing. "A form of harassment that includes conduct through which Soldiers or DA Civilian employees (who haze Soldiers), without a proper military authority or other governmental purpose but with a nexus to military service, physically or psychologically injures or creates a risk of physical or psychological injury to Soldiers for the purpose of: initiation into, admission into, affiliation with, change in status or position within, or a condition for continued membership in any military or DA Civilian organization. Hazing can be conducted through the use of electronic devices or communications, and by other means including social media, as well as in person." Reference, AR 600-20 para. 4-19a (1).

(1) Some examples of hazing include: initiation or congratulatory acts involving striking, beating, paddling, burning, pressing an object into another person's skin (pinning) regardless of whether it pierces the skin, oral or written berating of another with the intent to humiliate, playing abusive or malicious tricks, excessive physical exercises (when performed without proper military authority or government purpose), or forcing another person to consume food, alcohol or drugs/other substances.¹

(2) "Soliciting, coercing, or knowingly permitting another to participate, solicit or coerce such conduct, may be considered hazing. Soldiers will be held responsible for an act of hazing even if there was actual or implied consent from the victim, without regard to the Service, rank, status, or position of the victim." Reference, AR 600-20 para. 4-19a (1) (b).

b. Bullying. "A form of harassment that includes acts of aggression by Soldiers or DA Civilian employees, with a nexus to military service, with the intent of harming a Soldier either physically or psychologically, without proper military authority or other governmental purpose. Bullying is the exposure of an individual or group to physical and/or emotional aggression with the intent to cause distress or harm. Bullying may involve the singling out of an individual from his or her coworkers, or unit, for ridicule because he or she is considered different or weak. It often is indirect or subtle in nature and involves an imbalance of power between the aggressor and the victim. Bullying can be conducted through the use of electronic devices or communications, and by other means including social media, as well as in person." Reference, para. 4-19a (2).

(1) Some examples of bullying include but are not limited to: physically striking another person, teasing, mocking, threats of violence, social exclusion, isolating, oral or written berating with intent to humiliate, and degrading or damaging another's property or reputation.²

¹. This is a non-exhaustive list. For more detailed information, see the reference, AR 600-20 para. 4-19a (1) (a).

². This is a non-exhaustive list. For more detailed information, see the reference, AR 600-20 para. 4-19a (2) (a).

Army Harassment Prevention Response Program Definitions

(2) “Soliciting, coercing, or knowingly permitting another to participate, solicit or coerce such conduct, may be considered bullying. Soldiers will be held responsible for an act of bullying even if there was actual or implied consent from the victim, without regard to the Service, rank status, or position of the victim.” Reference, AR 600-20 para. 4-19a (2) (b).

c. Discriminatory harassment is unwelcome conduct based on race, color, religion, sex (including gender identity), national origin, or sexual orientation.

d. Misconduct may or may not meet the definitions above for hazing or bullying, yet may violate the dignity and respect of others. In accordance with the reference, these acts are categorized as “other acts of misconduct.” Reference, para. 4-19a (4).

e. Online misconduct. The use of electronic communication to inflict harm. Electronic communication is the transfer of information (signs, writing, images, sounds, or data) transmitted by computer, phone or other electronic device. Electronic communications include, but are not limited to: text messages, emails, chats, instant messaging, screensavers, blogs, social media sites, electronic device applications, and Web/video conferencing. Examples of online misconduct include, but are not limited to: hazing, bullying, harassment, discriminatory harassment, stalking, retaliation, or any other types of misconduct that undermines dignity and respect. When using electronic communication devices, Army personnel should apply “Think, Type, and Post”: “Think” about the message being communicated and who could potentially view it; “Type” a communication that is consistent with Army values; and “Post” only those messages that demonstrate dignity and respect for self and others. Reference, para. 4-19a (5).

2. The imposition of necessary or proper duties and the requirement of their performance does not violate this policy even though the duties may be arduous, hazardous, or both. Harassment does not include properly directed command activities that serve a legitimate purpose, or the requisite training activities required to prepare for such activities. When authorized by the chain of command and/or operationally required, the following activities do not constitute hazing or bullying: physical and mental hardships associated with operations or operational training, lawful punishment imposed pursuant to the Uniform Code of Military Justice, administrative corrective measures, physical training (PT) and remedial PT.³ Reference, AR 600-20 para. 4-19a (6).

3. Harassment complaints will be processed through the command MEO Program using the MEO and Harassment Complaint Processing System refer to Encl 2 for Complaint Procedures.

³. This is a non-exhaustive list. For more detailed information, see the reference, AR 600-20 para. 4-19a (2) (a).