

## **B. Sexual Harassment**

### **1. Introduction**

Published 8 June 2015, DoDD 1020.02E Subject: Diversity and Equal Opportunity in the DoD established policy and assigned responsibilities to provide an overarching framework assisting in the prevention of unlawful discrimination by promoting equal opportunity, diversity and inclusion by utilizing the following:

- a) The DoD Diversity and Inclusion Management Program, in accordance with the authority in Executive order 13583.
- b) The DoD Military Equal Opportunity (MEO) Program in accordance with DoDD 1350.2.
- c) The DoD Civilian Equal Employment Opportunity (EEO) Program in accordance with DoDD 1440.1.
- d) The DoD Civil Rights Program in accordance with DoDD 5500.11 and DoDD 1020.1.

### **2. Program Overview**

Any aggrieved individual, covered by the aforementioned directives, who believes that he or she has been illegally discriminated against due to any of the following, has the ability to file an individual complaint of discrimination:

- Race
- Color
- Religion
- National Origin
- Gender (including sexual harassment)
- Reprisal for having engaged in a protected equal opportunity activity, in a matter subject to the control of the VTNG.

A change effective 8 June 2015 by DoDD 1020.02E, directs cases of discrimination based on sexual orientation be considered, along with protected classes, as part of the MEO program. Individuals who have complaints of discrimination based upon sexual orientation now will be processed through the Equal Opportunity (EO) complaint system (governed by National Guard Regulation 600-22). Due to this policy revision, the individuals now have an established process and program in which to seek redress within the military system for this type of discrimination. The advantage of this new right is that the MEO and EEO processes offer remedies through alternate dispute resolution and mediation, which may not be available through the chain of command or IG's office.

The process involves the chain of command as the primary channel for resolving discrimination complaints. Allegations of discrimination will be referred for processing by the lowest appropriate command level in accordance with this regulation. This procedure provides the commander an opportunity to assist the complainant, inquire into the issues and allegations, administer corrective action, and to attempt to resolve the complaint (when at all possible). The sole mechanism for appealing the disposition of an informal complaint shall be to file a formal complaint. A formal complaint will be filed by completing NGB Form 333, Discrimination Complaint in the Army and Air National Guard.

### **3. Statistical Data**

Public Law 112-239, 126 STAT. 1764, Section 579(b) requires the Secretary of Defense to collect and submit to Congress information and data on substantiated incidents of sexual harassment involving members of the Armed Forces for the preceding fiscal year. In May of 2014, the VTNG implemented the Reporting of Sexual Harassment Policy, which requires all Commanders to report incidents involving sexual harassment in which a member opts against choosing an IAW NGR 600-22. EO Leaders at the Unit level will complete an AGO VT Form 333-1 signed by the lowest level commander, which includes information on the steps taken by the command to correct the situation at the lowest level possible. This policy is a reporting requirement only, and does not displace the current regulations (along with other procedural requirements IAW NGR 600-22/ANGI 36-3).

The following data collection template supports the sexual harassment reporting requirement for the fiscal year ending September 30, 2015.



## **DATA COLLECTION TEMPLATE FOR SEXUAL HARASSMENT INCIDENTS**

### **Background**

Public Law 112-239, 126 STAT. 1764, Section 579(b) requires the Secretary of Defense to collect and submit to Congress January annually information and data on substantiated incidents of sexual harassment involving members of the Armed Forces for the preceding fiscal year, as part of the report required pursuant to section 1631 of the Ike Skelton National Defense Authorization Act for Fiscal Year 2011.

### **Sexual Harassment**

The definition of sexual harassment applicable to this report is described in DoD Directive 1350.2, *"Department of Defense Military Equal Opportunity (MEO) Program."* Sexual Harassment is a form of sex discrimination that involves unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature when submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay or career or 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. The data in this template includes information on formal and informal sexual harassment complaints determined by commanding officers to warrant an inquiry or investigation.



<b>A. TOTAL NUMBER OF SEXUAL HARASSMENT COMPLAINTS.</b> <b>In this section, record the total number of formal and informal complaints in each requested sub-category. The total number of formal and informal complaints should equal the sum of the sub-categories (for example, the total number of formal complaints should equal the sum of substantiated, unsubstantiated, and pending formal complaints).</b>	
<b>A1. Formal Complaints</b>	<b>0</b>
# Total formal complaints	
# Substantiated formal complaints	0
# Unsubstantiated formal complaints	0
# Pending formal complaints as of the end of the reporting fiscal year	0
<b>A2. Informal Complaints</b>	<b>7</b>
# Total informal complaints (referred for investigation/inquiry)	7
# Substantiated informal complaints (referred for investigation/inquiry)	7 <sup>9</sup>
# Unsubstantiated informal complaints (referred for investigation/inquiry)	0
# Pending informal complaints as of the end of the reporting fiscal year	0
<b>B. COMPLAINTS INVOLVING THE SAME (REPEAT) OFFENDER.</b> <b>In this section, record the number of formal and informal complaints in each sub-category involving the same or “repeat” offender. The total number of formal and informal complaints should equal the sum of the sub-categories (for example, the total number of formal complaints should equal the sum of substantiated, unsubstantiated, and pending formal complaints).</b>	
<b>B1. Formal Complaints</b>	<b>0</b>
# Total formal complaints involving the same offender	0
# Substantiated formal complaints involving the same offender	0
# Unsubstantiated formal complaints involving the same offender	0
# Pending formal complaints involving the same offender as of the end of the reporting fiscal year	0
<b>B2. Informal Complaints</b>	<b>2</b>
# Total informal complaints involving the same offender	2
# Substantiated informal complaints involving the same offender	2
# Unsubstantiated informal complaints involving the same offender	0
# Pending informal complaints involving the same offender as of the end of the reporting fiscal year	0

<sup>9</sup> One of the 7 cases were reported as a sexual assault and is also accounted for in that section of this report.



<b>C. DISPOSITION FOR REPEAT OFFENDERS IN SUBSTANTIATED COMPLAINTS.</b> <b>In this section, record the corrective action(s) taken for repeat offenders in formal and informal substantiated complaints. Use your analysis section to describe unusual circumstances (e.g., more than one offender in a complaint or more than one type of corrective action administered to one offender).</b>	
<b>C1. Formal Substantiated Complaints</b>	<b>0</b>
# Repeat offenders in formal substantiated complaints	0
# Repeat offenders pending corrective action as of the end of reporting fiscal year	0
# Repeat offenders with completed corrective action as of the end of the reporting fiscal year	0
# Courts-martial	0
# Non-judicial punishments	0
# Discharges in lieu of court-martial	0
# Discharges in lieu of disciplinary action	0
# Referred to agency outside of DoD	0
# Adverse or administrative actions	0
# Other (include comments in the analysis section of your report)	0
<b>C2. Informal Substantiated Complaints</b>	<b>7</b>
# Repeat offenders in informal substantiated complaints	1
# Repeat offenders pending corrective action as of the end of reporting fiscal year	0
# Repeat offenders with completed corrective action as of the end of the reporting fiscal year	0
# Courts-martial	0
# Non-judicial discipline	1
# Discharges in lieu of court-martial	0
# Discharges in lieu of disciplinary action	0
# Referred to agency outside of DoD	0
# Adverse or administrative actions	0
# Other (include comments in the analysis section of your report)	0
<b>D. NOTIFICATIONS TO GENERAL COURT MARTIAL CONVENING AUTHORITY (GCMCA).</b> <b>In this section, record the following: (1) the total number of formal and informal complaints (2) the number of formal and informal complaints that resulted in notification of the GCMCA; (3) the number of formal and informal complaints reported to the GCMCA within 72 hours; and (4) the number of complaints reported to the GCMCA beyond 72 hours</b>	



<b>D1. # Formal Complaints (total from Section A1.)</b>	0
# Formal complaints that resulted in GCMCA notification	0
# Formal complaints reported to GCMCA within 72 hours	0
# Formal complaints reported to GCMCA beyond 72 hours	0
<b>D2. # Informal complaints (total from Section A2.)</b>	7
# Informal complaints resulted in TAG notification	3
# Informal complaints reported to GCMCA within 72 hours	2
# Informal complaints reported to GCMCA beyond 72 hours	1
<b>E. LENGTH OF TIME BETWEEN WHEN THE INCIDENT OCCURRED AND WHEN THE COMPLAINT WAS REPORTED BY COMPLAINANT.</b> <b>DoD MEO policy encourages reporting of complaints within 60 days of the incident. In this section, record the following: (1) the total number of formal and informal complaints (2) the number of formal and informal complaints reported within 60 days following the incident; (3) the number of formal and informal complaints reported beyond 60 days of the incident; and (4) the number of formal and informal complaints where the time is unknown between when the incident occurred and when the complainant reported the incident.</b>	
<b>E1. # Formal Complaints (total from section A1.)</b>	<b>0</b>
# Formal complaints reported within 60 days following the incident	0
# Formal complaints reported beyond 60 days following the incident	0
# Formal complaints where the time is unknown between when the incident occurred and when the complainant reported the incident	0
<b>E2. # Informal Complaints (Total from section A2.)</b>	<b>7</b>
# Informal complaints reported within 60 days following the incident	7
# Informal complaints reported beyond 60 days following the incident	0
# Informal complaints where the time is unknown between when the incident occurred and when the complainant reported the incident	0
<b>F. OCCURRENCE OF SUBSTANTIATED COMPLAINTS.</b> <b>In his section, record the number of formal and informal substantiated complaints occurring On Duty (i.e., during duty hours) and Off Duty (i.e., during time off). Use the analysis section of your report to comment on specific circumstances that will add valuable information to the report.</b>	
<b>F1. # Formal Substantiated Complaints (total from Section A1.)</b>	<b>0</b>
# On Duty (i.e., during duty hours)	0
# Off Duty (i.e., during time off)	0
# Unknown/Unreported	0
<b>F2. # Informal Substantiated Complaints (total from Section A2.)</b>	<b>7</b>
# On Duty (i.e., during duty hours)	3
# Off Duty (i.e., during time off)	4
# Unknown/Unreported	0



<b>G. NATURE OF ALLEGATIONS IN SUBSTANTIATED COMPLAINTS.</b> <b>In his section, record the number of formal and informal substantiated complaints occurring in the sub-categories of allegations identified below. The numbers in this section may not be additive since one complaint may contain several allegations.</b>	
<b>G1. Identify Nature of Allegation(s) in Substantiated Formal Complaints</b>	
# Allegations of Crude/Offensive Behavior	0
# Allegations of Unwanted Sexual Attention	0
# Allegations of Sexual Coercion	0
<b>G2. Identify Nature of Allegation(s) in Substantiated Informal Complaints</b>	
# Allegations of Crude/Offensive Behavior	5
# Allegations of Unwanted Sexual Attention	2
# Allegations of Sexual Coercion	0
<b>H. DISPOSITION FOR OFFENDERS IN SUBSTANTIATED COMPLAINTS.</b> <b>In this section, record the number of offenders in substantiated complaints; the number of offenders pending receipt of corrective actions as of the end of the reporting fiscal year; and the number of the types of completed corrective actions as of the end of the reporting fiscal year. Report this information for formal and informal substantiated complaints. Use your analysis section to describe unusual circumstances (e.g., more than one offender in a complaint or more than one type of corrective action administered to one offender). (G1.-G2.)</b>	
<b>H1. Formal Substantiated Complaints</b>	<b>0</b>
# Offenders in formal substantiated complaints	0
# Offenders pending corrective action as of the end of reporting fiscal year	0
# Offenders with completed corrective action as of the end of reporting fiscal year	0
# Courts-martial	0
# Non-judicial punishments	0
# Discharges in lieu of court-martial	0
# Discharges in lieu of disciplinary action	0
# Referred to agency outside of DoD	0
# Adverse or administrative actions	0
# Other (include comments in the analysis section of your report)	0

<b>H2. Informal Substantiated Complaints</b>	<b>7</b>
# Offenders in informal substantiated complaints	6
# Offenders pending corrective action as of the end of reporting fiscal year	1
# Offenders with completed corrective action as of the end of reporting fiscal year	
# Courts-martial	0
# Non-judicial Discipline	1
# Discharges in lieu of court-martial	0
# Discharges in lieu of disciplinary action	0
# Referred to agency outside of DoD	0
# Adverse or administrative actions	3
# Other (include comments in the analysis section of your report)	2
<b>I. OFFENDER CHARACTERISTICS IN SUBSTANTIATED FORMAL COMPLAINTS.</b>	
<b>I1. Male Offender(s) by Pay Grade and Employment</b>	
# E1-E4	0
# E5-E6	0
# E7-E9	0
# W01-W05	0
# O1-O3	0
# O4-O6	0
# O7-O10	0
# Civilian employee	0
# Contractor	0
<b>I2. Female Offender(s) by Pay Grade and Employment</b>	
# E1-E4	0
# E5-E6	0
# E7-E9	0
# W01-W05	0
# O1-O3	0
# O4-O6	0
# O7-O10	0
# Civilian employee	0
# Contractor	0
<b>J. OFFENDER CHARACTERISTICS IN SUBSTANTIATED INFORMAL COMPLAINTS.</b>	



<b>J1. Male Offender(s) by Pay Grade and Employment</b>	
# E1-E4	3
# E5-E6	1
# E7-E9	1
# W01-W05	1
# O1-O3	0
# O4-O6	0
# O7-O10	0
# Civilian employee	0
# Contractor	0
<b>J2. Female Offender(s) by Pay Grade and Employment</b>	
# E1-E4	0
# E5-E6	0
# E7-E9	0
# W01-W05	0
# O1-O3	0
# O4-O6	0
# O7-O10	0
# Civilian employee	0
# Contractor	0
<b>K. COMPLAINANT CHARACTERISTICS IN SUBSTANTIATED FORMAL COMPLAINTS (J1.-J2.)</b>	
<b>K1. Female Complainant(s) by Pay Grade</b>	
# E1-E4	0
# E5-E6	0
#E7-E9	0
# W01-W05	0
# O1-O3	0
# O4-O6	0
# O7-O10:	0
<b>K2. Male Complainant(s) by Pay Grade</b>	
# E1-E4	0
# E5-E6	0
#E7-E9	0
# W01-W05	0
# O1-O3	0
# O4-O6	0
# O7-O10	0

<b>L. COMPLAINANT CHARACTERISTICS IN SUBSTANTIATED INFORMAL COMPLAINTS (K1.-K2.)</b>	
<b>L1. Female Complainant(s) by Pay Grade</b>	
# E1-E4	3
# E5-E6	2
#E7-E9	0
# W01-W05	0
# O1-O3	0
# O4-O6	0
# O7-O10	0
<b>L2. Male Complainant(s) by Pay Grade</b>	
# E1-E4	0
# E5-E6	0
#E7-E9	0
# W01-W05	0
# O1-O3	0
# O4-O6	0
# O7-O10	0
<b>M. RELATIONSHIP OF OFFENDER(S) TO COMPLAINANT (S) IN SUBSTANTIATED FORMAL AND INFORMAL COMPLAINTS.</b> <b>In this section, record the number of offenders in substantiated formal and informal complaints described in the sub-categories below. Use the "other" sub-category to capture a relationship not described below. Provide an explanation of the number in the other sub-category in your analysis section. (L1.-L2.)</b>	
<b>M1. Relationship of Alleged Offender(s) to the Complainant(s) in Substantiated Formal Complaints</b>	
# Military coworker:	0
# Member chain of command:	0
# Military subordinate:	0
# Military person of higher rank/grade who was not in chain of command:	0
# Other military person(s):	0
# Person in the local community:	
# Civilian:	0
# Contractor:	0
# Same unit:	0
# Same gender:	0
# Different gender:	0
# Other	0



<b>M2. Relationship of Alleged Offender(s) to the Complainant(s) in Substantiated Informal Complaints</b>	
# Military coworker:	4
# Member chain of command:	0
# Military subordinate:	1
# Military person of higher rank/grade who was not in chain of command:	0
# Other military person(s):	1
# Person in the local community:	0
# Civilian:	1
# Contractor:	0
# Same unit:	4
# Same gender:	0
# Different gender:	7
# Other:	0

The incidents reported here involve both on and off-duty, and all were reported hastily to members of the chain of command. A positive trend shows of a confidence in unit members bringing incidents to the chain of command which are considered to be early on the spectrum of sexual violence.

#### **4. Accomplishments**

During FY15, the VTNG continued to emphasize the strong tenants of Equal Opportunity and Diversity through staffing, active councils, training, observances, bi-annual newsletters, diversity board presentations and special events. Vermont TAG continues his representation on the National Joint Diversity Executive Council (NGB-JDEC). The National Guard Bureau's Joint Diversity Executive Council carries out Chief of National Guard Bureau priorities, which are related to the cultural climates of the National Guard.

The October 2014 Professional Development Day (PDD) was a venue for all Officers and Senior Non-Commissioned Officers to gather and be informed of emerging issues, then given an opportunity for discussion. The Adjutant General (TAG) focused the PDD on Diversity and Inclusion, speaking clearly on the real issues we face as an organization regarding sexual harassment, assault and the transformation of our culture from homogenous societies to more diverse units to include women in combat arms units. The TAG invited a prominent Diversity Leader as the key note speaker. Dr. J.W. Wiley helped to reemphasize the importance for leaders to step-up and challenge problematic behavior that exists solely to undermine a person because of a unique dimension of his or her personality. The State Equal Employment Manager and Sexual Assault and Response Coordinator assisted the TAG at the PDD in leading discussions on the prevention and response to sexual harassment and assault as well as preventing and managing hostile work environments and resiliency. Over 500 leaders participated, and the feedback was positive.

Our internal Joint State Diversity Executive Council (VT-JDEC) met quarterly over FY15 and reported efforts through Regional and National processes. The JDEC members include Senior Leaders, Key Staff Officers, Equal Opportunity Advisors, Special Emphasis Program Managers, as well as representatives from each Major Command. The Military Women's Special Emphasis Program Managers maintain an annual gender representation report, which thoroughly details the representation of women at every level and occupation. Recommendations and strategies are discussed with the Joint Senior Leadership Council. Three separate workshops were coordinated over FY15 on the topic of exploring the masculine/feminine traits and managing gender neutral teams. These workshops contribute to the overall strategic imperative of gender equality.

The Adjutant General's Cultural Transformation Task Force (CT-TF) was established in 2013, and augments the VT-JDEC by focusing on the following three areas which are led by internal guard members who set initiatives and report quarterly on progress made towards the Task Force end state:

- Prevention of Sexual Harassment, Assault and Response
- Non-Traditional Roles
- Gender Equality

Ten additional women have been assigned to Combat Arms units in the Vermont Infantry Brigade Combat Team (IBCT). The overall representation rate of the Vermont Army National Guard is 14%, with 19% of that 14% specifically assigned to the IBCT. The Task Force leader for the Non-Traditional Roles group held an information gathering meeting in September 2015 with the 2<sup>nd</sup> Canadian Military to discuss how they have successfully integrated females across their force to include infantry units. In June 2015, Department of Defense opened military occupational specialty (MOS) 12B Combat Engineer, historically only men could hold this MOS. The newly available 12B MOS has provided the Vermont Army National Guard with 150 additional positions available for women.

In the Army Guard, twenty-six Vermont Equal Opportunity Leaders received their initial 60 hour certification course in February, and an additional 24 joined them for two additional days of Diversity Facilitation Training. Currently 51 service members assist the Commanders in carrying out the Equal Opportunity and Diversity program. The Air National Guard Military Equal Opportunity Office qualified two additional officers, and a full staff of four personnel serve the 158<sup>th</sup> Fighter Wing.

The Vermont National Guard Command climate assessments program requires Commanders to conduct assessments within 90 days of command and annually thereafter. Over 50% of all Army units (1,000 personnel), and the entire Air National Guard (1,000 personnel) participated in the annual assessments. Equal Opportunity Advisors are trained to process major command roll-ups, analyze data and provide trends, recommendations and training management priorities to Commanders. Questions pertaining to sexual harassment, assault and equal opportunity provide the State Sexual Harassment Assault and Response Coordinator (SHARP), the Joint Force Headquarter Human Resource Equal Opportunity Officer (HREO) and State Equal Employment Manager (SEEM) opportunity to identify problematic issues of concern and



notify Commanders. There were no glaring problem areas during FY15. Although incidents of sexual harassment occur, the trend of early intervention and Commanders seeking subject matter experts to assist with resolution is apparent.

These collective efforts ensure the most respectful climates embody the men and women of the Vermont National Guard and deter incidents related to sexual violence from occurring. Concurrently, when incidents happen, the most efficient, respectful response hold violators accountable and promote trust in the processes which solidify the laws and policies supporting Equal Opportunity and Diversity.