



DEPARTMENT OF THE NAVY
UNITED STATES NAVAL ACADEMY
COMMANDANT OF MIDSHIPMEN
ANNAPOLIS MARYLAND 21402-1300

COMDTMIDNINST 5354.1B
CMEO
R3V 07 2017

COMMANDANT OF MIDSHIPMEN INSTRUCTION 5354.1B

From: Commandant of Midshipmen, U.S. Naval Academy

Subj: EQUAL OPPORTUNITY AND SEXUAL HARASSMENT PROGRAM FOR THE
BRIGADE OF MIDSHIPMEN

Ref: (a) OPNAVINST 5354.1G
(b) OPNAVINST 5300.13
(b) USNAINST 5354.1series

Encl: (1) Formal and Informal Complaint Process
(2) Sexual Harassment Guidelines and Range of Behaviors

1. Purpose. To establish Equal Opportunity (EO) policy for the Brigade of Midshipmen at the United States Naval Academy (USNA) per references (a) and (b). This policy shall also support USNA policy to prevent and deter sexual harassment, sexual misconduct, and sexual assault per reference (c).

2. Cancellation. COMDTMIDNINST 5354.1A.

3. Scope. This instruction applies to the Brigade of Midshipmen. The EO policy for all other personnel at USNA can be found in reference (b).

4. Discussion. The integration of the EO program is essential to the mission of the Naval Academy. The Commandant is fully committed to actively promoting equal opportunity and treatment for all midshipmen and staff. This instruction provides policy and specific guidelines for the implementation of the Command Managed Equal Opportunity (CMEO) program for the Brigade of Midshipmen per references (a) and (b). The objective of this program is to promote positive command morale by providing an environment in which all personnel can perform to their maximum ability unimpeded by institutional or individual biases based on race, color, national origin, religion, sex, or sexual orientation. To this end, the officer and midshipmen chains of command will employ appropriate resources to:

a. Create, shape, and maintain a positive EO/Sexual Harassment (SH) environment through policy, communication, training, education, enforcement, and assessment.

b. Identify and expediently resolve EO/sexual harassment problems and concerns through appropriate channels of the chain of command.

c. Monitor the EO climate within the Brigade of Midshipmen through the use of the Military Service Academy (MSA) command climate survey annually.

d. Ensure merit, ability, performance, and potential are the factors which affect a midshipman's military aptitude ranking and subsequent billet assignments in the midshipmen chain of command.

e. Further knowledge and understanding of the Navy's EO program by all midshipmen for future use as junior officers in the Naval Service.

5. Definitions. Terms relating to EO in this instruction are defined in reference (a) and enclosure (1). Terms relating to SH in this instruction are defined in reference (c). All midshipmen should become familiar with these terms and definitions to better support the efforts of the EO program both at USNA and as commissioned naval officers.

6. Policy. In accordance with references (a) and (b), unlawful discrimination and SH against persons or groups based on race, ethnicity, national origin, sex, religion, sexual orientation, or gender identity is prohibited. Midshipmen will be evaluated only on individual merit, fitness, and capability.

a. As stated in reference (b), EO, the prevention of SH, and all the elements thereof as discussed in this instruction are gender-neutral concepts. Discrimination, sexual harassment, threats, and other behaviors covered by this instruction involving members of the same sex are prohibited. This includes conduct against midshipmen on the basis of sexual orientation or gender identity.

b. In accordance with reference (b), midshipmen are prohibited from participating in organizations that support supremacist causes. Attempting to create illegal discrimination, encouraging force or violence, or otherwise engaging in efforts to deprive others of their civil rights is prohibited. Participating in public demonstrations or rallies with, fundraising for, recruiting for, training members of, and organizing or leading such organizations are prohibited.

c. Midshipmen may not:

(1) Take reprisal action, as defined in enclosure (2), against a person who provides information about an incident of alleged unlawful discrimination or SH. Reprisals are prohibited regardless of who originates the reprisal action.

(2) Knowingly make a false accusation of discrimination or SH.

(3) While in a supervisory billet or Brigade position, condone or ignore unlawful discrimination or SH.

7. Organization. Per references (a) and (b), a Command Managed Equal Opportunity (CMEO) program will be established to support the principles of the EO program. A CMEO Manager (O-3 or above) will be appointed to administer the program within the Brigade of Midshipmen. A Command Climate Specialist (CCS) will be appointed (E-7 or above) to assist the CMEO

Manager and provide technical advice to the staff to ensure compliance with both the spirit and intent of reference (a). The CMEO Manager and the CCS are required to complete formal EO training sponsored by the Defense Equal Opportunity Management Institute (DEOMI) and as required by Chief of Naval Education and Training (CNET). The CMEO Manager will report to the Commandant of Midshipman and the CCS will report to the Superintendent.

8. Action

a. Navy Pride and Professionalism (NP&P). NP&P workshops for newly reported midshipmen will be conducted for the incoming class during Plebe Summer Training. The Officer-in-Charge of the 4/C Regiment is responsible for scheduling these workshops and ensuring the training is conducted in accordance with CNET requirements.

b. Annual Military Service Academy (MSA) Command Climate Survey

(1) An assessment of the Brigade's climate will be conducted annually by the CMEO Manager utilizing the Defense Equal Opportunity Management Institute (DEOMI) MSA Organizational Climate Survey (DEOCS). The following data will be made available to the CMEO Manager in order to perform the assessment:

- (a) Brigade Conduct Data
- (b) Military Aptitude Data
- (c) Academic Data
- (d) Physical Education Data
- (e) Other data as required

(2) The MSA DEOCS will be administered annually to assess the equal opportunity and organizational climate of the Brigade of Midshipmen.

(3) The USNA Command Assessment Team (CAT) will be utilized by the CMEO Manager to conduct the annual assessment. CAT members may be used to conduct focus groups, review survey data, create the plan of action and milestones, and brief staff and midshipmen on survey results. CAT members should be trained by the CMEO Manager and CCS prior to the start of the assessment.

(4) The accumulated data from the survey and focus groups shall be reviewed and compiled in a formal report to the Commandant of Midshipmen by the CMEO Manager. Once approved by the Commandant, findings shall be briefed to the Brigade of Midshipmen and the Superintendent. A copy will be provided to the Director of Institutional Research.

c. Prevention of Harassment

(1) All Navy personnel have a responsibility to maintain an environment free of SH. This is a leadership issue and we must take an active role in combating this inappropriate behavior at the Naval Academy.

(2) Sexual harassment is defined as a form of sex discrimination which involves unwelcomed sexual advances, requests for sexual favors, or other verbal or physical contact of a sexual nature, when:

(a) Submission to or rejection of such conduct is made either explicitly or implicitly a term or condition of a midshipman's administrative requests, evaluation, ranking, or position.

(b) Submission to or rejecting of such conduct by a person is used as a basis for career decisions affecting this midshipman.

(c) Such conduct has the purpose or effect of interfering with an individual's performance or creating an intimidating, hostile, or offensive work environment.

(d) Any person in a position of authority who uses or condones implicit or explicit sexual behavior to control, influence, or affect the administrative requests, evaluation, ranking, position, or career decision of a midshipman, military member, or civilian employee is engaging in SH. Similarly, any midshipman, military member, or civilian employee who makes deliberate or repeated unwelcomed verbal comments, gestures, or physical contact of a sexual nature is also engaging in SH.

(3) Online bullying, hazing, harassment, stalking, discrimination, retaliation, and any other type of behavior that undermines dignity and respect are not consistent with Navy core values and negatively impact the force. Midshipmen using social media are subject to the Administrative Conduct System and UCMJ at all times, even when off duty. Commenting, posting, or linking to material that violates MIDREGS, the Administrative Conduct System, Navy Regulations, or the UCMJ may result in administrative or disciplinary action. When conducting themselves online and in social media, midshipmen should:

(a) Consider what messages are being communicated and how they could be received;

(b) Only create, share, or link to content that is consistent with Navy values;

(c) Only post messages or content which demonstrate dignity and respect for self and others. Explicit images taken without consent or posted online without consent may be punishable under the Administrative Conduct System or UCMJ.

(4) Sexual harassment affects the morale and productivity of midshipmen and negatively impacts the mission of the Naval Academy. When reported, violations of the SH policy will be handled expeditiously through the informal resolution system, Administrative Conduct System, or the UCMJ in more severe cases.

(5) Annual training will be conducted on the prevention of SH and discrimination. Training will be coordinated by the CMEO Manager and facilitated by the Battalion Officer, Company Officer, and Senior Enlisted Leader.

d. Equal Opportunity (EO) and Sexual Harassment (SH) Grievance Procedures

(1) Policy. A major element of any EO program is the process for resolving an individual discrimination or sexual harassment complaint. All midshipmen have the right to present a legitimate grievance without fear of intimidation, reprisal, or harassment. The chain of command is committed to resolving any issues of EO/SH at the lowest appropriate level and ensuring all midshipmen are treated with dignity and respect. Our goal is to ensure an expedient resolution of EO/SH complaints and reiterate that discrimination, regardless of its form, will not be tolerated.

(2) Procedures. A midshipman experiencing discrimination or sexual harassment has the following avenues available for addressing grievances:

(a) Informal Resolution System (IRS). The midshipman is encouraged to first try to resolve the EO/SH conflict at the lowest appropriate level. Informal resolution allows the complainant to address the unacceptable behavior with the offender and request the behavior stop. This should be done as soon as possible following the conflict. The CMEO Manager must be notified of all EO or SH complaints involving a midshipman, even if the complaint is being successfully handled informally via IRS within the member's chain of command. If a midshipman needs advice on informal resolution procedures or policy, he/she may go to their immediate chain of command or the Commandant's CMEO Manager. Possible actions for informal resolution include:

1. Address the concerns verbally or in writing with the person(s) demonstrating the behavior;
2. Request assistance from another midshipman, Company Officer, Senior Enlisted Leader, or other command member or request mediation to resolve the dispute;
3. Request EO training be conducted in the company;
4. Request informal counseling or a letter of instruction.

(b) Formal Complaint Process. Complaints should be resolved informally whenever possible; however, there is no requirement to attempt informal resolution prior to filing a formal complaint. If the unacceptable behavior continues, and the IRS, if attempted, did not correct the conflict, then the complainant shall follow the formal complaint process using enclosure (1), and NAVPERS 5354/2. Rev 8/17. Submit the formal complaint to the CMEO Manager. This form is in four parts as described below:

1. Part I - Complaint. Must be submitted in writing, within 60 days of the incident. Complaints submitted after 60 days may be accepted at the discretion of the Commandant of Midshipmen.

2. Part II - Complaint Processing. An investigation shall commence within three calendar days of submission of a complaint. The investigator will be appointed by the Deputy Commandant. The Commandant's Legal Advisor should be consulted frequently during the investigation. Once completed, the investigation will be forwarded to the Commandant via the Commandant's Legal Advisor and the Deputy Commandant.

3. Part III - Notification, Review, and Follow-up. The complainant will be notified the same day the investigation commences and will acknowledge such notification in writing. The complainant and alleged offender should be advised of the outcome the investigation within 14 days of completion. The complainant has the right to request a review of the complaint/investigation by the next higher authority, i.e., the Superintendent. The complainant has seven calendar days from the date he or she is notified to request such review. Within 30-45 days after action, the complainant should be debriefed to obtain complainant's views as to the effectiveness of the corrective action, present company climate, and reprisals.

(c) Alternate Avenues. Although the preferred method of reporting equal opportunity and sexual harassment complaints is at the lowest level and via the chain of command, the Navy provides the following hotlines for confidential counseling:

1. Navy Sexual Harassment Advice and Counseling line: 1-800-253-0931, DSN 224-2735.
2. Navy Inspector General Hotline: 1-800-522-3451 or DSN 288-6743.

(d) Records. CMEO Manager will retain copies of all informal and formal EO/SH complaints for three years for tracking and reporting statistics during EO climate review.

(e) Investigation. Nothing in this instruction will limit the chain of command's prerogative to investigate possible instances of SH or other misconduct and take all reasonable and necessary actions to hold the perpetrators of such activities fully accountable under the United States Naval Academy Administrative Conduct System or the UCMJ.

(3) Reprisal. In accord with reference (a), reprisal is defined as taking or threatening to take any act of retaliation against a midshipman or other person for making an allegation of unlawful conduct, behavior, or speech. Reprisal will not be tolerated and will be dealt with through the Administrative Conduct System when reported and substantiated or under the UCMJ if appropriate. Reprisal can be overt or subtle and can include, but are not limited to:

- (a) reduction in aptitude rankings or fitness reports without justification;
- (b) increased duty assignments, watch standing, or workload;

(c) failure to recommend an individual for advancement, an award, recognition, or special programs;

(d) unjustified disciplinary action against the individual, including conduct or honor actions;

(e) silencing.

9. Records Management. Records created as a result of this instruction, regardless of media and format, must be managed per Secretary of the Navy Manual 5210.1 of January 2012.

10. Review and Effective Date. Per reference (d), the CMEO will review this instruction annually on the anniversary of its effective date to ensure applicability, currency, and consistency with Federal, DoD, SECNAV, and Navy policy and statutory authority using OPNAV 5215/40 Review of Instruction. This instruction will automatically expire five years after effective date unless reissued or canceled prior to the 5-year anniversary date, or an extension has been granted.



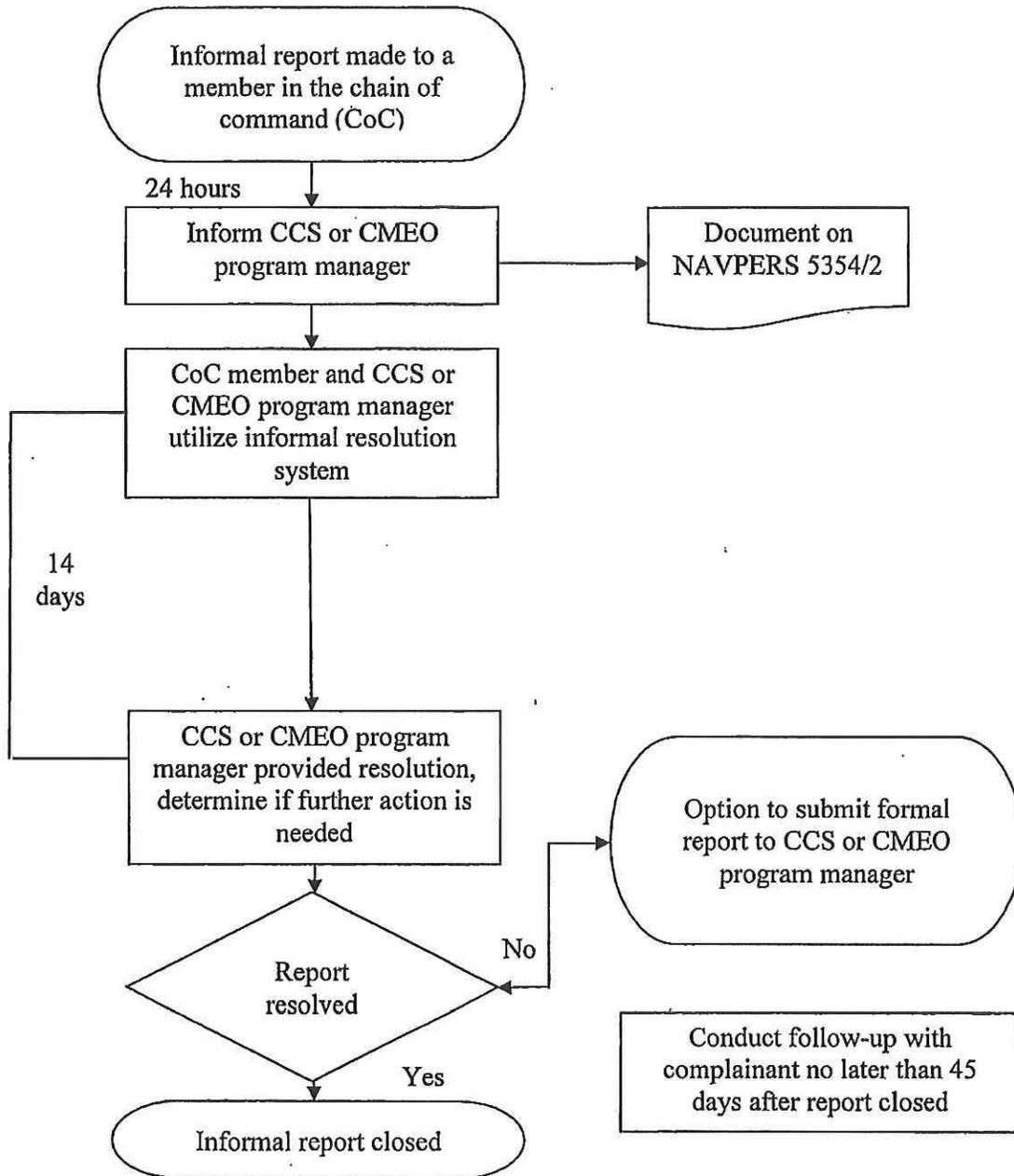
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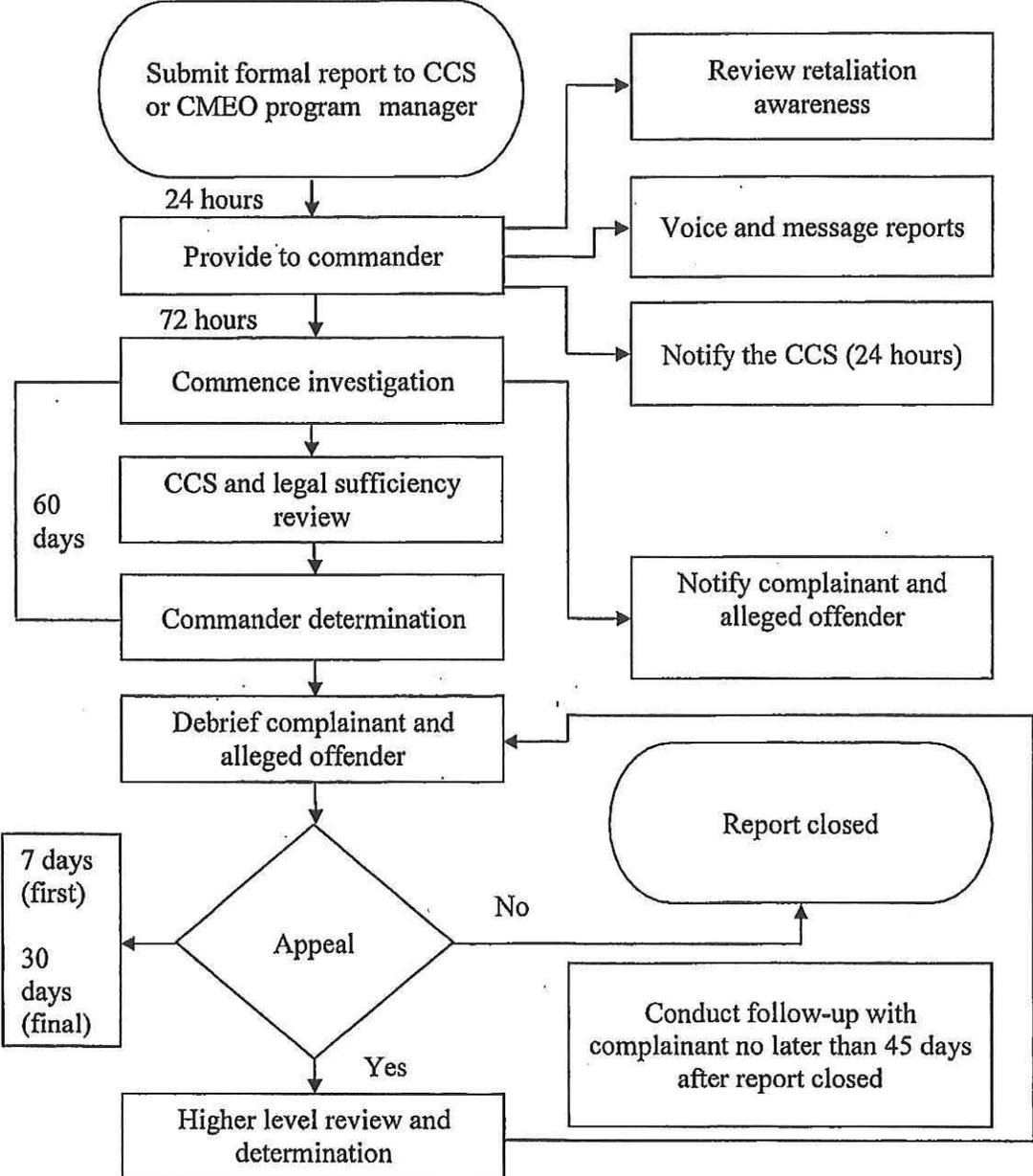
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INFORMAL REPORT PROCESS FLOW CHART



Note: At any time the complainant can stop this process and submit a harassment or unlawful discrimination formal report to the CCS or CMEO program manager.

FORMAL REPORT PROCESS FLOW CHART



Note: There are two levels of review. The first will be to the echelon 2 commander of the command where the report was submitted. The final will be to SECNAV.

SEXUAL HARASSMENT (SH) GUIDELINES AND RANGE OF BEHAVIORS

1. Introduction. This enclosure explains and illustrates behaviors that may constitute SH and is intended to assist midshipmen, military members, and civilian employees in distinguishing between acceptable and unacceptable behavior.

2. Description. SH may consist of a wide range of behaviors that are unwelcome, sexual in nature, and connected in some way with a person's job or work environment. For military members, to include midshipmen, this may include conduct on or off duty, 24 hours a day. At times, it can be difficult to determine whether or not a behavior constitutes SH. When in doubt, consult with the Commandant's CMEO Manager.

a. When recipients are offered or denied something that is work connected in return for submitting to or rejecting unwelcome sexual behavior, they have been subjected to a type of SH known as "quid pro quo," or "this for that." Examples include getting or losing a job, a promotion or demotion, a good or bad performance evaluation, etc. Normally, this is from a senior to a junior, because the senior person has something to offer.

b. When the unwelcome sexual behavior of one or more persons in a workplace interferes with another person's work performance, SH has occurred. If the behavior produces a work atmosphere that is offensive, intimidating, or abusive to another person, whether or not work performance is affected, the type of SH called "hostile environment" has occurred. Witnesses of SH, as well as the recipient of the offending behavior, may experience a hostile work environment. Behavior that could create a hostile environment includes, but is not limited to:

- (1) Using sexually explicit or sexually offensive language;
- (2) Displaying sexually suggestive posters, calendars, or personal computer wallpaper;
- (3) Touching someone or self in a suggestive manner;
- (4) Giving someone unwelcome letters, emails/IMs, messages, photos, or gifts of a personal nature, particularly when these items have sexual overtones;
- (5) Unwanted or uninvited pressure for dates.

c. Unwelcome behavior is behavior that a person does not ask for and which that person considers undesirable or offensive. Sexual conduct is unwelcome when the person subjected to it considers it unwelcome. Not everyone has the same perception of the term "undesirable or offensive." Since the person being subjected to the behavior, "the recipient," is the one being affected, it is the recipient's perception of the behavior which determines if the behavior is unwelcome.

d. SH is a gender neutral concept. The focus is on the detriment to good order, discipline, and military readiness that results when our Navy's core values are not adhered to — not the sex of the members involved. Therefore, sexually harassing behaviors involving members of the same sex, as well as those directed at service members on the basis of alleged homosexuality, are prohibited and all requirements of this instruction apply.