

PROHIBITED ACTIVITIES AND CONDUCT PROCEDURES FOR
RESPONSE

1. In accordance with reference (a), Commanders will ensure prompt, impartial, and thorough investigation of all complaints (as determined by the Command Equal Opportunity Advisor (EOA)) to meet prima facie, of prohibited activities and conduct. Commanders are responsible for ensuring all command actions and complaint processing requirements are accomplished. Upon official notification to the Commander that an allegation has been received, commanders have the following options:

a. Dismiss. If the Commander determines that an investigation cannot be undertaken due to any of the reasons identified in reference (a), a justification for the Commander's decision to dismiss the complaint will be documented in the DASH system utilizing Appendix G.

b. Referral. Claims of conduct not under the purview of reference (a) will be referred to the complainant's chain of command or appropriate agency for redress or further assistance. This includes, but is not limited to, claims of sexual assault; offenses governed by other orders or UCMJ, etc. The preferred method of referral will be a positive turnover of the complainant to their chain of command or the appropriate agency.

c. Accept. Commanders will accept a prima facie complaint alleging prohibited activities and conduct for investigation and processing unless the complaint is dismissed or referred for any of the reasons described in reference (a) and mentioned above. The following are the requirements for acceptance:

(1) Within three duty days, make an initial assessment of a complaint through consult with the Command EOA and SJA to determine the proper handling and follow on requirements.

(a) Forward official notification, with a detailed description of the facts and circumstances, to the next superior officer in the chain of command who has General Court Martial Convening Authority (GCMCA).

(b) Submit all reportable information to the EOA/MEO office and direct the supporting EOA to conduct an intake interview, utilizing Appendix A and B, and open an initial discrimination and sexual harassment (DASH) report.

(c) Submit an OPREP-3 SIR Report to the Marine Corps Operations Center (MCOC) in accordance with reference (d) upon the commander's determination to accept the complaint. Note: OPREP-3 SIR is not required, if the commander dismisses the complaint or refers the complaint in accordance with reference (a).

(d) Commence or cause the commencement of the investigation of the alleged prohibited activity and conduct. All inquiries/investigations will be conducted in accordance with reference (a) and reference (c).

(e) Inform the alleged offender that they are the subject of a complaint, the general nature of the allegation against them and that an investigating officer will be conducting a preliminary inquiry or command investigation into the alleged violation. The notification will be documented on Appendix E (Offender Acknowledgement) of reference (a).

PROHIBITED ACTIVITIES AND CONDUCT PROCEDURES FOR
RESPONSE

(f) Inform the complainant of acceptance utilizing Appendix D of reference (a).

(2) Ensure the safety of the complainant. If the complainant and the alleged offender are coworkers or the alleged offender is the supervisor, consider temporarily reassigning without prejudice either party until the conclusion of the investigation (preferably the alleged offender in an effort to not re-victimize the victim). If reassignment is not appropriate, closely monitor the situation to ensure reprisal actions do not occur.

(3) Forward copies of all associated documentation to the servicing EOA and request inclusion to the associated DASH case.

2. Investigation and Resolution.

a. Ensure PAC complaints, except those related to sexual harassment, are investigated and resolved within 30 calendar days. For complaints involving sexual harassment, ensure the investigation and resolution occurs within 14 calendar days. Commanders will ensure complaints are investigated in a fair and impartial manner. Investigations will be conducted in accordance with reference (a) and (c).

b. Ensure the Investigating Officers submits the report of investigation to the EOA for compliance review. Upon receipt of the EOA compliance review, report of investigation will be sent to the Staff Judge Advocate for the legal sufficiency review. The EOA compliance review and legal review will be completed before submission to the Commander for determination and disposition.

c. Upon Commanders decision to substantiate or not substantiate, notify complainants and subjects of complaints of the commander's disposition utilizing Appendixes C and E and provide the complainant with a report of disposition utilizing a format similar to Appendix F.

d. The commander is responsible for how allegations are addressed and resolved.

(1) At a minimum, substantiated incidents shall be documented on the member's NAVMC 118 (11) "Administrative Remarks" page, via a 6105 or page 11 counseling statement, considered derogatory material for purposes of a member's performance evaluation, and, for those members who do not receive performance evaluations, the conduct will be considered in setting proficiency and conduct markings.

(2) When a substantiated incident is pending non-judicial punishment (NJP), courts-martial, or civil/criminal action, then the substantiated determination will not be documented on a NAVMC 118 (11), considered for performance evaluations or in setting proficiency and conduct until that action is complete.

(3) The method of resolution will be recorded and reported to the GCMCA within three duty days of completion utilizing the format in Appendix H of reference (a). An additional notification will be sent to the servicing EOA for updating the DASH report.

PROHIBITED ACTIVITIES AND CONDUCT PROCEDURES FOR
RESPONSE

3. Appeals.

a. Each party to a complaint (the complainant, to the extent one exists, and subject of the complaint, to the extent that they are a uniformed Service member) has the right, within five duty days of receipt of the commander's decision, to appeal the commander's final decision to substantiate or not substantiate an accepted complaint of prohibited activities and conduct. This will be documented on the Appendix C and Appendix E, provided during the commander's notification.

b. Initial Appeal.

(1) Appeals will be submitted to the Marine's (subject or complainant) Equal Opportunity Representative and forwarded to the EOA, for processing.

(2) Appeals must be in writing, utilizing Standard Naval Letter format, and include the relevant references and enclosures. The appeal letter must state the bases of appeal and provide a justification for the bases.

(3) Upon receipt of the Appeal package, the EOA will make the required DASH entry and forward the package to the Staff Judge Advocate's office.

(4) Initial appeal determination will be returned to the Marine within 20 calendar days of receipt of the appeal. Reference (a) lists the different actions that may occur during this stage of the appeal.

(5) The appellant will be provided a copy of the GCMCA decision and will provide an endorsement stating the information was received and the date received.

c. Final Appeal. The Secretary of the Navy (SECNAV) or designee, is the final appellate authority.

(1) Final appeal must be submitted within 30 calendar days and contain an endorsement from the appellant's commanding officer and the GCMCA who conducted the initial appeal.

(2) The appeal will then be routed via the Office of the Judge Advocate to CMC, for final review.

(3) Upon completion of final appeal, the appellant will be provided a copy of the SECNAV decision and will provide an endorsement stating the information was received and the date received.

4. Closure of Case File. Commanders will request administrative closure of the associated DASH case file, utilizing Appendix I, upon completion of all required Appendices, notifications, appeals and disposition actions.

5. Reprisal Prevention and Response. Personnel that have engaged in the complaint process shall be protected against reprisal. Personnel are encouraged to inform leadership of any actions, real or perceived, as reprisal. Any member who reprises against a member for filing a complaint

PROHIBITED ACTIVITIES AND CONDUCT PROCEDURES FOR
RESPONSE

will be subject to appropriate disciplinary action under the Uniform Code of Military Justice.

5. Privacy Act. All complaints and reports are sensitive in nature and will be handled in accordance with Privacy Act of 1974.

6. Records Management.

a. Records created as a result of this Order shall be managed according to National Archives and Records Administration approved dispositions to ensure proper maintenance, use, accessibility and preservation, regardless of format or medium. Reference (a) requires the complete record of the complaint, investigation and final decision, be retained in the command's correspondence files for a minimum of (2) years.

b. The Command Equal Opportunity Representative and EOA will maintain a complete case file for all complaints processed under reference (a).