



UNITED STATES MARINE CORPS
MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE
PSC BOX 20005
CAMP LEJEUNE NC 28542-0005

MCIEAST-MCB CAMLEJO 5350.1
SJA
20 JUN 2012

MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE CAMP LEJEUNE ORDER 5350.1

From: Commanding General
To: Distribution List

Subj: PROCEDURE FOR HANDLING COMPLAINTS OF OFF-BASE DISCRIMINATION PRACTICED
AGAINST MILITARY PERSONNEL

Ref: (a) MCO P5354.1D w/Ch 1
(b) BO 5354.3A
(c) 42 USC 2000a, et seq. (Civil Rights Act of 1964)
(d) 42 USC 3601, et seq. (Fair Housing Act of 1968)

Encl: (1) Summary of Provisions of the Civil Rights Act of 1964, Titles II
and III
(2) Summary of Provisions of the Fair Housing Act of 1968
(3) Equal Opportunity in Off-Base Housing Policy Sample Letter
(4) Sample Notification to Commander of Member Residing in
Unauthorized Quarters
(5) Sample Notification to Member to Vacate Unauthorized Quarters

1. Situation. It is the policy of this command to foster and actively seek equal opportunity for all service members and dependents stationed aboard Marine Corps Base (MCB), Camp Lejeune. One facet of this policy is to give assistance to service members and their dependents who are alleging discrimination on the basis of race, color, religion, sex, or national origin. This Command will take appropriate action to ensure that neither service members stationed aboard MCB Camp Lejeune nor their dependents are denied access to local establishments, facilities, or housing on the basis of race, color, religion, sex, or national origin.

a. Uniform procedures for the processing and investigation of complaints of discrimination in off-base housing are promulgated by reference (a). Therefore, the applicable provisions of reference (a) shall be used in the investigation and processing of such complaints.

b. References (c) and (d) give citizens the right to institute suits through the U.S. District Courts to obtain relief from certain discriminatory practices. Additionally, the Attorney General of the United States may take action if circumstances so warrant. Enclosure (1) summarizes the relevant provisions of Titles II and III of reference (c). Enclosure (2) summarizes the relevant provisions of reference (d). In addition to the process given in this Order, complaints of discrimination in off-base housing can be filed electronically with the U.S. Department of Housing and Urban Development at <http://portal.hud.gov/portal/page/portal/HUD>.

2. Cancellation. BO 5350.1H.

3. Mission. To implement the provisions, requirements, and policies of reference (a) pertaining to complaints of off-base discrimination against service members and their dependents, and to ensure uniformity in the procedure used in resolving complaints in the MCB Camp Lejeune area of responsibility. Reference (b) establishes the Equal Opportunity Program.

DISTRIBUTION STATEMENT: Approved for public release; distribution is unlimited

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4. Execution

a. Resolving Complaints of Off-Base Housing Discrimination

(1) The Director of Family Housing is designated to receive all complaints of discrimination in off-base housing. Upon receipt, the Director shall inform the complainant of the procedures for processing a complaint under this Order. The Director will also provide the complainant with a copy of enclosure (3).

(2) Additionally, the Director of Family Housing will conduct an initial investigation to determine whether the complaint of discrimination is substantiated. This investigation should include, but is not limited to, an interview of the complainant and an interview of an agent of the off-base housing entity. Once the relevant facts have been gathered, the Director will make a substantiation determination. A complaint is substantiated when there is a reasonable basis to believe that the complainant was discriminated against in the housing process on the basis of race, color, religion, sex, or national origin.

(a) If the initial investigation concludes that the complaint is not substantiated, the Director of Family Housing shall forward a letter summarizing the findings to the Command Inspector General (CIG). This letter will include a summary of the facts gathered during the investigation, the substantiation determination, and the basis for the determination. Additionally, the Director shall inform the complainant of the findings and the option to consult with a legal assistance attorney in the Office of the Staff Judge Advocate (OSJA) if not satisfied with the substantiation determination.

(b) If the initial investigation concludes that the complaint is substantiated, the Director of Family Housing shall forward the investigation packet to the CIG. The investigation packet shall contain a letter summarizing the findings and any additional documentation gathered during the investigation process. The letter shall include a summary of the facts gathered during the investigation, the substantiation determination, and the basis for the determination. Additionally, the Director shall ensure that the complainant obtains suitable civilian housing as soon as practicable, or if this cannot be done within 30 days, that the complainant be given priority status for military housing.

(3) The CIG shall conduct follow-on investigations of all substantiated complaints received from the Director of Family Housing. Once a sufficient follow-on investigation has been conducted, the CIG shall forward the follow-on investigation packet to the SJA. The follow-on investigation packet will consist of copies of the initial investigation packet, any documentation gathered in the course of the follow-on investigation, and a letter summarizing the contents of the follow-on investigation.

(4) The SJA will conduct a legal review of all investigation material and prepare a memorandum. The memorandum shall analyze whether the evidence supports the claim of discrimination and whether the discriminatory acts violated relevant statutory law. The memorandum shall also analyze the impact of the discrimination upon Department of Defense (DoD) personnel, efforts to obtain relief through contact with the off-base housing entity, and assurances, if any, of a future nondiscriminatory policy on the part of

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the entity. Once complete, the memorandum and all investigation material shall be forwarded to the Commanding General (CG), Marine Corps Installations East-Marine Corps Base Camp Lejeune via the CIG.

(5) Additionally, the SJA will draft and submit a letter to the complainant informing them of the determination. The SJA shall assign a legal assistance attorney to explain the determination to the complainant. If the SJA determines that discrimination did not occur, the letter shall be submitted to both the complainant, the off-base housing entity, and shall inform both parties of the determination.

(6) The CIG shall maintain on file all memoranda and investigations prepared under this Order for a period of three years upon receipt. If the SJA determines that discrimination did occur, the CIG will submit the matter to the Armed Forces Disciplinary Control Board (AFDCB) for a determination of whether the off-base housing entity's properties should be declared off limits to service members stationed aboard MCB Camp Lejeune. Additionally, if the SJA determines that the discriminatory act violates federal law, CIG will forward copies of the SJA memorandum and investigation to the Secretary of Housing and Urban Development (HUD) and to the Department of Justice (Civil Rights Division).

(7) Should an off-base housing entity's properties be declared off-limits, the Director of Family Housing shall ensure that service members residing on such properties, before the off-limits declaration, are informed of the declaration. Service members who were living in such properties before they are declared off limits will not be required to move. The Director of Family Housing will also ensure that all service members reporting to the Family Housing Office, upon checking in, are informed of all off-limits declarations.

(8) If the Director of Family Housing discovers that a service member has knowingly moved into a property that has already been declared off-limits, the Director shall inform the service member's commanding officer using a letter similar to enclosure (4). Through a letter similar to enclosure (5), the service member's commanding officer will order the service member to vacate the property within a reasonable time period, and inform them that failure to obey the order is a violation of Article 92 of the Uniform Code of Military Justice, and will result in disciplinary action.

(9) The CIG shall monitor all off-limits housing entities. At least once per calendar year, off-limits housing entities will be contacted for the purpose of explaining Marine Corps policy and encouraging nondiscriminatory practices.

(10) Where there is more than one complainant alleging discrimination by an off-base housing entity, documentation may be consolidated and forwarded to HUD and the Department of Justice by the CIG, if appropriate.

b. Resolving Other Complaints of Off-Base Discrimination

(1) The Regional Legal Assistance Office (RLAO) is designated to receive all complaints of off-base discrimination that occurs in a context other than housing. Upon receipt, the RLAO shall inform the complainant of the procedures for processing a complaint under this Order. The RLAO shall also advise the complainant of the following:

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(a) The application of relevant federal law to the specific facts that form the basis of the complaint; and

(b) Additional avenues that the complainant can pursue to seek recovery. The complainant may file a request for suit with the Attorney General of the United States. The complainant may also file suit directly in U.S. District Court.

(2) Additionally, the RLAO shall conduct an initial investigation to determine whether the complaint of discrimination is substantiated. This investigation should include, but is not limited to, an interview of the complainant and an interview of an agent of the off-base entity. Once the relevant facts have been gathered, the RLAO will make a substantiation determination. A complaint is substantiated when there is a reasonable basis to believe that the complainant was discriminated against on the basis of race, color, religion, sex, or national origin.

(a) If the initial investigation concludes that the complaint is not substantiated, the RLAO shall forward a letter summarizing the findings to the CIG. This letter will include a summary of the facts gathered during the investigation, the substantiation determination, and the basis for the determination. Additionally, the RLAO shall inform the complainant of the findings.

(b) If the initial investigation concludes that the complaint is substantiated, the RLAO shall forward the investigation packet to the CIG. The investigation packet shall contain a letter summarizing the findings and any additional documentation gathered during the investigation process. The letter shall include a summary of the facts gathered during the investigation, the substantiation determination, and the basis for the determination.

(3) The CIG will conduct follow-on investigations of all substantiated complaints received from the RLAO. Once a sufficient follow-on investigation has been conducted, the CIG will forward the follow-on investigation packet to the SJA. The follow-on investigation packet will consist of copies of the initial investigation packet, any documentation gathered in the course of the follow-on investigation, and a letter summarizing the contents of the follow-on investigation.

(4) The SJA will conduct a legal review of all investigation material and prepare a memorandum. The memorandum will analyze whether the evidence supports the claim of discrimination, and whether the discriminatory acts violated relevant statutory law. The memorandum will also analyze the impact of the discrimination upon DoD personnel, efforts to obtain relief through contact with the off-base housing entity, and assurances, if any, of a future nondiscriminatory policy on the part of the entity. Once complete, the memorandum and all investigation material will be forwarded to the CG via the CIG.

(5) Additionally, the SJA shall draft and submit a letter to the complainant informing him/her of the determination. The SJA shall assign a legal assistance attorney to explain to the complainant the determination. If the SJA determines that discrimination did not occur, the letter shall be submitted to both the complainant and the off-base entity and will inform both parties of the determination.

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(6) The CIG shall maintain on file all memoranda and investigations prepared under this order for a period of three years upon receipt. If the SJA determines that discrimination did occur, the CIG will submit the matter to the President of the AFDCB for a determination of whether the off-base entity should be declared off-limits to service members stationed aboard MCB CAMLEJ. Additionally, if the SJA determines that the discriminatory act violates federal law, CIG will forward copies of the SJA memorandum and investigation to the Department of Justice (Civil Rights Division).

(7) The CIG shall monitor all off-limits entities. At least once per calendar year, off-limits entities will be contacted for the purpose of explaining Marine Corps policy and encouraging nondiscriminatory practices.

(8) Where there is more than one complainant alleging discrimination by an off-base entity, documentation may be consolidated and forwarded to the Department of Justice by the CIG, if appropriate.

c. Tasks. All commanding officers are directed to widely disseminate the information contained in this Order. Service members or dependents complaining of off-base discriminatory practices should be referred immediately to the Director of Family Housing or the RLAO, as appropriate.

5. Administration and Logistics. Not applicable.

6. Command and Signal

a. Command. This Order is applicable to Marine Corps Base Camp Lejeune and its tenant commands.

b. Signal. This Order is effective the date signed.



D. L. THACKER, JR.
Deputy Commander

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SUMMARY OF PROVISIONS OF THE CIVIL RIGHTS ACT OF 1964
TITLES II AND III (42 USC 2000a et seq.)

1. Title II - Discrimination in Places of Public Accommodation

a. Title II prohibits discrimination on the basis of race, color, religion, or national origin in any "place of public accommodation." "Places of public accommodation" are businesses that affect commerce or whose discrimination or segregation is supported by state action.

b. Additionally, a "place of public accommodation" under Title II is one of the following business entities:

(1) An inn, hotel, motel, or other transient lodging place with more than five rooms for rent;

(2) A restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or any other facility engaged principally in selling food for consumption on the premises;

(3) A movie theatre, theatre, concert hall, sports arena, stadium, or other facility for exhibition or entertainment; or

c. A "place of public accommodation" is not a private club or other establishment not in fact open to the public.

d. Any individual discriminated against in one of these locations may institute a civil action for preventive relief in an appropriate United States district court. If the United States Attorney General certifies that the case is of general public importance, the court may allow him to intervene in the matter. In certain circumstances, the court may also appoint an attorney to assist the plaintiff and may allow the suit to be commenced without payment of fees, costs, or security.

e. If it is decided that the case is of general public importance, the United States Attorney General may institute a civil action against any person or entity that he has reasonable cause to believe is in violation of Title II.

2. Title III - Desegregation of Public Facilities

a. Title III prohibits any state action that deprives an individual of equal utilization of any public facility owned, operated, or managed by a state on the basis of that individual's race, color, religion, or national origin.

b. An individual who feels that he/she is being denied equal utilization of a public facility can submit a written complain to the United States Attorney General. The Attorney General is authorized to institute a lawsuit for appropriate relief, if it is decided that such a suit will materially further the orderly achievement of desegregation in public facilities.

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SUMMARY OF PROVISIONS OF THE FAIR HOUSING ACT
(42 USC 3601 et seq.)

1. The Fair Housing Act prohibits discrimination on the grounds of race, color, religion, sex, familial status, handicap, or national origin in the sale, rental, or financing of housing or in the terms or conditions upon which such a transaction is based. Also, the Act prohibits an entity from making housing unavailable for inspection or misrepresenting the availability of housing to an individual on the basis of the above categories.

2. The Fair Housing Act covers all housing except single-family homes sold or rented by the owner. The homeowner cannot own more than three single family homes or own the rights to any portion of the proceeds from the sale or rental of over three homes. Further, the homeowner cannot use the services of any broker, real estate agent, salesman, or agent thereof in procuring the sale or rental of the home.

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Equal Opportunity in Off-Base Housing Policy Sample Letter

(LETTERHEAD)

IN REPLY REFER TO:

5354

DFH

(date)

From: Director of Family Housing
To: Complainant

Subj: EQUAL OPPORTUNITY IN OFF-BASE HOUSING

1. It is the policy of the United States Marine Corps, the Department of Defense, and the Government of the United States to encourage equal opportunity in the procurement of family housing for all members of the Armed Forces and their dependents without regard to race, religion, sex, or national origin. Certain statutes have been passed to enhance the ability of all persons in this country to have an equal opportunity to procure housing. However, these statutes do not cover all rentals or sales of housing. As a result, discrimination may occur in certain circumstances without violating the law. Such discrimination is against the policy of the Department of Defense and the Marine Corps and persons discriminating in off-base housing will not be allowed to provide housing for service members or their dependents.

2. If you believe that you have been discriminated against in the procurement of off-base housing, you may file a complaint with the Office of Family Housing. In addition, you may file a complaint with the Department of Housing and Urban Development and/or the Department of Justice. Representatives in our office can assist you in this process; also, we can direct you to a legal assistance attorney at the Office of the Staff Judge Advocate for counsel free of charge. Lastly, you as a complainant may also bring a private civil action in a court of competent jurisdiction. This civil action would be separate from the complaints filed with the Office of Family Housing, the Department of Housing and Urban Development, and/or the Department of Justice. The civil action will in no way prejudice the complaints filed with these federal agencies.

3. We encourage you to arrange a meeting with a legal assistance attorney at the Office of the Staff Judge Advocate to discuss these options.

(name)

Sample Notification to Commander of Member Residing in Unauthorized Quarters

(LETTERHEAD)

IN REPLY REFER TO:
5354
DFH
(date)

From: Director of Family Housing
To: Commanding Officer, (unit)

Subj: NOTIFICATION TO COMMANDER OF MEMBER RESIDING IN UNAUTHORIZED QUARTERS

Ref: (a) MCIEAST-MCB CAMLEJO 5350.1

1. It is the policy of the United States Marine Corps, the Department of Defense, and the Government of the United States to encourage equal opportunity in the procurement of family housing for all members of the Armed Forces and their dependents without regard to race, religion, sex, or national origin. Individuals and businesses practicing such discrimination in the rental or sale of off-base housing will not be allowed to provide housing for service members or their dependents.

2. It has come to my attention that a Marine in your command, (name and rank), is residing in housing that has been declared off-limits by the Commanding Officer, Marine Corps Base, Camp Lejeune. This sanction was in place at the time that (name and rank) commenced occupancy of the property.

3. Pursuant to reference (a), you must order (name and rank) to vacate the off-base housing within a reasonable time period as determined by you. Further, you must inform (name and rank) that failure to comply with this order will be a violation of Article 92 of the Uniform Code of Military Justice, and will result in appropriate disciplinary action.

(name)

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Sample Notification to Member to Vacate Unauthorized Quarters

(LETTERHEAD)

IN REPLY REFER TO:

5354

(unit code)

(date)

From: Commanding Officer

To: (Name, rank, last four of SSN, and MOS of Marine)

Subj: NOTIFICATION TO MEMBER TO VACATE UNAUTHORIZED QUARTERS

Ref: (a) MCIEAST-MCB CAMLEJO 5350.1

1. It is the policy of the United States Marine Corps, the Department of Defense, and the Government of the United States to encourage equal opportunity in the procurement of family housing for all members of the Armed Forces and their dependents without regard to race, religion, sex, or national origin. Individuals and businesses practicing such discrimination in the rental or sale of off-base housing will not be allowed to provide housing for service members or their dependents.

2. It has come to my attention that you are residing in housing that has been declared off-limits by the Commanding Officer, Marine Corps Base, Camp Lejeune. This sanction was in place at the time that you commenced occupancy of the property and was imposed because the leasing/selling entity was discriminating against service members on the basis of race, religion, sex, or national origin.

3. Pursuant to the reference, you will vacate those premises at your own expense within 10 days of receipt of this letter. Failure to obey this order is a violation of Article 92 of the Uniform Code of Military Justice and will result in appropriate disciplinary action.

(name)