



UNITED STATES MARINE CORPS

MARINE CORPS BASE
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CAMP LEJEUNE, NORTH CAROLINA 28542-0004

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BASE ORDER 12720.2

From: Commanding General
To: Distribution List

Subj: SEXUAL HARASSMENT

Ref: (a) SECNAVINST 5300.26B (NOTAL)
(b) MCO 5300.10A (NOTAL)
(c) OCPMINST 12720.1 (NOTAL)

Encl: (1) DON Policy Statement on Sexual Harassment
(2) Glossary of Terms
(3) Range of Behaviors Which Constitute Sexual Harassment

1. Purpose. To promulgate DON and Marine Corps policy and guidance concerning prevention of sexual harassment as it pertains to DON appropriated and nonappropriated fund civilian personnel of Marine Corps Base, Camp Lejeune.
2. Background. Sexual harassment, as defined in enclosures (1) through (3), has a harmful effect on the overall professional development and performance of personnel within the workplace. References (a) and (b) contain policy and guidance from the Secretary of the Navy and Commandant of the Marine Corps which defines sexual harassment, emphasizes its unacceptability in the workplace, and directs its elimination. Reference (c) contains the DON plan for the prevention of sexual harassment.
3. Policy. Sexual harassment is unacceptable behavior which will not be tolerated. Military and civilian managers and supervisors are responsible to ensure a work environment free of sexual harassment. Problems of sexual harassment will be dealt with immediately through the appropriate chain of command or other avenues of redress as contained in enclosure (1).
4. Action. Commanders and heads of command staff sections will ensure all supervisors are thoroughly familiar with the contents of this Order and that this Order is made available to employees upon request.
5. Dissemination. A copy of this Order will be posted on all official bulletin boards.
6. Concurrence. This Order has been coordinated with and concurred in by the Commanding Officer of Marine Corps Air Station, New River.


L. H. LIVINGSTON

DISTRIBUTION: C

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DON POLICY ON SEXUAL HARASSMENT

All military and civilian personnel in the DON have a responsibility for maintaining high standards of honesty, integrity, impartiality, and conduct to assure proper performance of business and maintenance of public trust. Sexual harassment violates those standards, especially with regard to principles of equal opportunity.

Sexual harassment is unacceptable conduct; it undermines the integrity of the employment relationship, harms morale, and interferes with the work productivity of an organization. Sexual harassment will not be tolerated at any level. Substantiated acts of, or conduct which results in, sexual harassment shall result in corrective administrative or disciplinary action.

Sexual harassment is defined as a form of sex discrimination that involves unwelcomed sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

Submission to or rejection of 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 this person; or

Such conduct interferes with an individual's performance or creates an intimidating, hostile, or offensive work environment.

Any military member or civilian employee in a supervisory or command position who uses or condones implicit use of explicit sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment.

Individuals who are sexually harassed by supervisors, coworkers, or peers should make it clear to the individual harassing the person that such behavior is offensive and report the incident to the appropriate supervisory level. The appropriate official will examine the matter and take actions necessary to ensure a work environment free from sexual harassment.

All Navy and Marine Corps civilian personnel and their military and civilian managers shall be made aware of the prohibitions against sexual harassment. All the above personnel shall receive initial orientation and periodic training on the prevention of sexual harassment. This training must be of such quality so as to ensure a thorough understanding of the definition of sexual harassment, sex discrimination, responsibilities of management and the employee when sexual harassment occurs, and avenues of redress available to victims.

Prevention of sexual harassment is the responsibility of all personnel. Managers and supervisors, however, are in an especially important position to prevent sexual harassment. They must take an active role in educating their employees on the seriousness of such behavior, and the employees' rights in the event that they are sexually harassed.

The chain of command shall be fully utilized, and instances of sexual harassment will be resolved at the lowest possible level within the organization. It is the responsibility of every supervisor, military and civilian, to ensure that any instance of sexual harassment is dealt with swiftly, fairly, and effectively.

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Civilian employees may use the Equal Employment Opportunity Discrimination Complaint Process or the appropriate negotiated grievance procedures to present allegations of sexual harassment. In addition, any civilian sexual harassment complaint may be brought to the attention of the Inspector General. Counseling and referral services are available through the Civilian Employee Assistance Program. Substantiated complaints shall result in corrective action as appropriate and may be enforced through disciplinary or administrative action (including punishment in violation of a law).

All members of DON must be concerned about sexual harassment and actively work to eliminate it from their workplace.

ENCLOSURE (1)

GLOSSARY OF TERMS

1. Career or Employment Decisions. A decision that concerns some aspect of the employment, career, pay, duty assignment, benefits, or privileges of another.
2. Condition. That which exists when some aspect of another's employment, career, pay, duty assignment, benefits, or privileges is made contingent upon fulfillment of some requirement the maker thereof has no right to impose.
3. Discrimination. For purposes of this instruction, discrimination means the illegal treatment of a person or group based on handicap, race, color, national origin, age, religion, or sex. Sexual discrimination refers to the practice of wrongfully treating men and women differently in the workplace, solely because of their sex. The Supreme Court has held that sexual harassment of both men and women is a form of sex discrimination.
4. Hostile Environment. A type of sexual harassment that occurs when the unwelcome sexual behavior of one or more persons in a workplace produces a work atmosphere which is offensive, intimidating, or abusive to another person using the reasonable person standard.
5. "Quid Pro Quo" or "This for That". A type of sexual harassment that occurs when submitting to or rejecting such behavior is used as a basis for decisions affecting any person's employment, job, pay, or career. This could be a promise of employment, a promotion, a threat of or an actual demotion, a duty assignment, or a positive or negative performance evaluation.
6. Reasonable Person Standard. An objective test used to determine if behavior constitutes sexual harassment. This standard considers what a reasonable person's reaction would have been under similar circumstances and in a similar environment. The reasonable person standard considers the recipient's perspective and not stereotyped notions of acceptable behavior. For example, a work environment in which sexual slurs, the display of sexually suggestive calendars, or other offensive sexual behavior abound can constitute sexual harassment even if other people might deem it to be harmless or insignificant.
7. Recipient. Anyone subjected to sexual harassment as defined in this instruction.
8. Reprisal. The wrongful threatening or taking of either unfavorable action against another or withholding favorable action from another solely in response to a report of sexual harassment or violations of this instruction.
9. Severe or Pervasive. Terms that derive their meaning in the context of the conduct engaged in and the surrounding facts and circumstances. Obvious examples of severe conduct include indecent assaults or offensive requests for sexual favors. Pervasive conduct is that which is repeated or widespread, or evidences a pattern.
10. Sexual Favors. Sexual privileges that are granted or conceded in the work environment.
11. Sexual Nature. A term used to describe conduct that a reasonable person would find sexual in nature in light of the relevant facts and circumstances. Behavior does not need to be overtly sexual if it creates an offensive work environment. Examples include, but are not limited to, sexist remarks or slurs, sexual advances, displays of pornographic material, touching, language, gestures, mannerisms, and similar behavior.

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12. Unwelcome. A term used to describe conduct that is not solicited and which is considered objectionable by the person to whom it is directed and which is found to be undesirable or offensive using a reasonable person standard.

13. Work Environment. The workplace or any other place that is work-connected, as well as the conditions or atmosphere under which people are required to work. Examples of work environment include, but are not limited to, an office, an entire office building, a DoD base or installation, DoD ships, aircraft or vehicles, anywhere official DON business is conducted, as well as command-sponsored social, recreational, and sporting events, regardless of location.

ENCLOSURE (2)

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RANGE OF BEHAVIORS WHICH CONSTITUTE SEXUAL HARASSMENT

1. Introduction. This enclosure explains and illustrates behaviors which may constitute sexual harassment by describing in layperson's terms what sexual harassment is and how it occurs in the work environment. This enclosure is intended to be used as a guide for developing training programs and to assist military members and civilian employees in distinguishing between acceptable and unacceptable behavior in the work environment.

2. Background

a. The world has changed dramatically in recent years, and America's national security policy has also changed to one that defines a vision for the Navy and Marine Corps to support that policy into the 21st century. The new vision represents a fundamental shift away from open-ocean warfare on the sea toward joint operations from the sea, as part of the nation's "sea-air-land" team. The need to maximize efficiency and teamwork remains firm. The Navy-Marine Corps Team must be comprised of an optimally integrated group of men and women who must be able to work together to get the job done. Each member of the team is entitled to be treated fairly, with dignity and respect, and must be allowed to work in an environment free of discrimination.

b. Sex discrimination in the workplace is not a new problem; however, prior to 1964, there was inadequate legal protection against it. In 1964, the U.S. Congress passed Title VII of the Civil Rights Act, which prohibits various forms of discrimination in employment. In 1972, the Civil Rights Act was made applicable to Federal employees, but it was not until the late 1970's that sexual harassment began to be recognized as a form of sex discrimination. In 1980, the Equal Employment Opportunity Commission, established to enforce Title VII, issued regulations which included a definition of sexual harassment and conditions under which an employer may be held liable for its occurrence. They have been used as a basis for legal actions brought against employers for violating the Civil Rights Act. The EEOC definition of sexual harassment has been upheld by the Supreme Court and has also been used as a basis for DoD policies on sexual harassment.

c. In the 1990's, sexual harassment is receiving increased attention. The costs to resolve incidents of sexual harassment are significant. Even more harmful and costly, however, are the negative effects sexual harassment has on productivity and readiness. These include costs associated with increased absenteeism, greater personnel turnover, lower morale, decreased effectiveness, and a loss of personal, organizational, and public trust. While not easily quantified, these costs are just as real and seriously affect the DON's ability to meet the needs of our Nation.

3. Sexual Harassment. Basically, sexual harassment means bothering someone in a sexual way. In the context of this enclosure, it is behavior that is unwelcome, is sexual in nature, and is connected in some way with a person's job or work environment. A wide range of behaviors can meet these criteria, and therefore, constitute sexual harassment. Even with this rather simplistic way of explaining it, trying to determine exactly what kinds of behavior constitute sexual harassment often is not easy. The policy established by this instruction is not intended to prevent the types of behavior which are appropriate in normal work settings and which contribute to camaraderie.

4. Discussion. For a person's behavior to be considered sexual harassment, it must meet three criteria: it must be unwelcome, be sexual in nature, and occur in or impact on the work environment.

a. Unwelcome behavior is behavior that a person does not ask for and which that person considers undesirable or offensive. Not everyone has the same perception of "undesirable or offensive." What is acceptable for some

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people is not acceptable for others. So whose perception should be used? Since the person being subjected to the behavior--the recipient--is the one being affected, it is the recipient's perception that counts. As long as the recipient is a reasonable person and not overly sensitive, behavior which the recipient finds unwelcome should be stopped. Using this "reasonable person standard," from the perspective of the recipient, is really no more than using common sense.

b. Behavior which is **sexual in nature** is fairly easy to determine. Telling sexually explicit jokes, displaying sexually suggestive pictures, and talking about sex are obviously "sexual in nature." Some people would consider other behaviors, such as touching, to be sexual in some cases but not in others. Not all touching is sexual in nature, but if the touching is to certain parts of the body or is done suggestively, it definitely is. Again, using common sense will normally be enough to determine whether or not a certain behavior is sexual in nature.

c. For sexual harassment to occur, unwelcome sexual behavior must **occur in or impact on the work environment:**

(1) When recipients are offered or denied something that is work-connected in return for submitting to or rejecting unwelcome sexual behavior, sexual harassment is known as "quid pro quo" ("this for that"). Examples include: getting or losing a job, a promotion or demotion, a good or bad performance evaluation, etc. Basically, if any work-connected decisions are made based on the submission to or rejection of the unwelcome sexual behavior, sexual harassment has occurred. Normally, this is from a senior to a junior, because the senior person has something to offer.

(2) When the unwelcome sexual behavior of one or more persons in a workplace interferes with another person's work performance, sexual harassment has occurred. If the behavior produces a work atmosphere which is offensive, intimidating, or affected, a type of sexual harassment has occurred called "hostile environment." The following are a few examples of behavior that could create a hostile environment:

(a) Using sexually explicit or sexually offensive language.

(b) Displaying sexually-oriented posters or calendars of nude or partially-clad individuals.

(c) Touching someone in a suggestive manner (e.g., intentionally brushing against them or pinching).

(d) Giving someone unwelcome letters, cards, or gifts of a personal nature, when these items have sexual overtones.

(e) Unwanted or uninvited pressure for dates.

(3) Certain types of unwelcome sexual behavior do not have to create a "hostile environment" to be considered sexual harassment. If the behavior occurs in the work environment and is unreasonable, such as fondling or groping, it would be considered sexual harassment, even if it were displayed only once. Other less obvious behaviors can become sexual harassment if they are repeated.

5. **Range of Behaviors.** There is a wide range of behaviors, from leering to rape, which can be unwelcome, sexual, and work-connected and can, therefore, constitute sexual harassment. Some behavior may be unwelcome and work-connected, but not sexual (for example, performance counseling). This behavior is not sexual harassment. To make it easier to understand, it is

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helpful to think of the entire range of possible behavior in terms of a traffic light. The traffic light has three colors, and behavior may be divided into three zones. **Green** on the traffic light means "go"; behavior in the green zone means "it's acceptable." It is not sexual harassment. **Red** on the traffic light means "stop"; the red behavior zone means "don't do it." It is sexual harassment. The third color on the traffic light, **yellow**, means "use caution." The yellow behavior zone may be sexual harassment. Just as with a traffic light, if in the yellow zone long enough, the light will turn red. If yellow zone behavior is repeated enough, especially after having been told it is unwelcome, it becomes red zone behavior--sexual harassment. The following examples illustrate these three types of behavior, but they are certainly not all-inclusive:

a. **Green zone.** These behaviors are not sexual harassment: performance counseling, touching which could not reasonably be perceived in a sexual way (such as touching someone on the elbow), counseling on military appearance, social interaction, showing concern, encouragement, a polite compliment, or friendly conversation.

b. **Yellow zone.** Many people would find these behaviors unacceptable, and they could be sexual harassment: violating personal "space", whistling, questions about personal life, lewd or sexually suggestive comments, suggestive posters or calendars, off-color jokes, leering, staring, repeated requests for dates, foul language, unwanted letters or poems, sexually suggestive touching, or sitting or gesturing sexually.

c. **Red zone.** These behaviors are always considered sexual harassment: sexual favors in return for employment rewards, threats if sexual favors are not provided, sexually explicit pictures (including calendars or posters) or remarks, using status to request dates, obscene letters or comments. The most severe forms of sexual harassment constitute criminal conduct, e.g., sexual assault (ranging from forcefully grabbing to fondling, forced kissing, or rape).

Note: Keep in mind that the above examples are used as guidance only, that individuals believe they are being sexually harassed based on their perceptions, that each incident is judged on the totality of facts in that particular case, and that individuals' judgement may vary on the same facts. Therefore, caution in this area is advised. Any time sexual behavior is introduced into the work environment or among co-workers, the individuals involved are on notice that the behavior may constitute sexual harassment.