



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

MCIEAST-MCB CAMLEJ 12700.2  
EEO

JUN 05 2019

MARINE CORPS INSTALLATIONS EAST-MARINE CORPS BASE CAMP LEJEUNE ORDER  
12700.2

From: Commander  
To: Distribution List

Subj: ANTI-HARASSMENT POLICY IMPLEMENTATION AND PROCEDURES

Ref: (a) E.O. 12067  
(b) EEOC Instructions to Federal Agencies for MD-715, Section I, Parts A and B  
(c) EEOC Notice 915.002, Enforcement Guidance on Vicarious Employer Liability for Unlawful Harassment by Supervisors of 18 June 1999  
(d) EEOC Notice N-915.050, Enforcement Guidance on Current Issues of Harassment of 19 March 1990  
(e) EEOC Notice N-92-1168, Enforcement Guidance on Harris v. Forklift Sus, Inc. of 9 November 1993  
(f) EEOC Notice N-915.048, Policy Guidance on Employer Liability under Title VII for Sexual Favoritism of 12 January 1990  
(g) DON Workplace Anti-Harassment Policy Statement of 1 May 2018

Encl: (1) Sexual Harassment and Other Forms of Unlawful Harassment  
(2) Responsibilities of Supervisors and Management Officials  
(3) Responsibilities of Employees  
(4) How to Report Harassment  
(5) Inquiries into Allegations of Harassing Conduct  
(6) Action to Take After an Inquiry  
(7) Filing a Complaint of Discrimination or Harassment in Other Forums

1. Situation. To define harassing conduct (sexual and non-sexual), outline the rights and responsibilities of employees, supervisors, managers and employees, and establish a system of accountability for ensuring a workplace free from unlawful harassment. These procedures ensure that appropriate officials are notified of, and have the opportunity to promptly correct hostile or abusive conduct that is severe or pervasive enough as to constitute a legal claim of harassment in accordance with the references.

2. Cancellation. BO 12720.2.

3. Mission

a. This command will promote and maintain an environment free of all forms of unlawful harassment, sexual and non-sexual, to include age, disability, genetic information, national origin, pregnancy, race/color, religion, sex, reprisal/retaliation, and sexual

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JUN 05 2019

orientation. All employees are entitled to work in an environment that is free of harassment and does not infringe on personal dignity and respect. The expectation is to establish a policy and procedure to quickly address allegations of sexual/unlawful harassment at the appropriate level and maintain a work environment free of harassment in accordance with references (a) through (g).

b. Summary of Revision. This Order has been revised from a Base Order to a Marine Corps Installation East-Marine Corps Base Camp Lejeune (MCIEAST-MCB CAMLEJ) Order. References have been added to be in compliance with current policies and procedures. It must be thoroughly reviewed at all levels within this command.

4. Execution

a. Commander's Intent. All organizations employing civilian personnel shall comply with the instructions contained herein.

b. Concept of Operations. Organizational commanders, heads of command staff sections, and department heads will ensure all subordinate managers, supervisors (military and civilian) and employees are thoroughly familiar with the contents of this Order and the enclosures.

5. Administration and Logistics. The point of contact for this Order is the Deputy Equal Employment Officer at 910-451-5272.

6. Command

a. This Order is applicable to Marine Corps Base Camp Lejeune, its subordinate commands, and Marine Corps Air Station New River.

b. Installation commanders/commanding officers may adapt guidance contained in this Order. Such guidance and policy must be consistent with the provisions of this Order, but commands may adopt more detailed rules to meet specific needs. Tenant commands supported by the MCIEAST-MCB CAMLEJ may elect to comply with this Order in its entirety or may describe more detailed rules to meet specific needs as required.

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



S. A. BALDWIN

Acting

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JUN 05 2019

Sexual Harassment and Other Forms of Unlawful Harassment

1. While not all acts of harassing behavior may be sufficiently severe or pervasive enough to trigger a violation of the law, all harassing behavior destroys teamwork and negatively affects organizational readiness. Sexual and other forms of unlawful harassment will not be tolerated at any level in this command.

2. Sexual Harassment

a. Sexual harassment violates Title VII of the Civil Rights Act of 1964. It is defined as a form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when; 1) 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 2) submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or 3) such conduct interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment.

b. Hostile work environment occurs when employees are subjected to a pattern of unwanted sexual behaviors that has either the purpose or effect of unreasonably interfering with their work performance. Examples include, but are not limited to; 1) unwelcome sexual remarks, jokes or taunting, 2) referring to a woman or a man as a doll, babe, hunk, stud, or honey, 3) whistling or making catcalls at someone, 4) telling sexually suggestive remarks within earshot of others, 5) persisting in unwanted attention, 6) use of derogatory terms with sexual connotations, 7) displaying pornographic or sexually explicit material, 8) repeated requests for sexual favors, 9) repeated requests for dates, 10) unnecessary physical contact, 11) hanging around, standing close or brushing up against someone, 12) touching or rubbing oneself sexually around another person, 13) following or blocking a person's path, 14) leering, staring or making suggestive gestures, and 15) distributing sexually oriented cartoons or offensive jokes by e-mail.

3. Other Forms of Unlawful Harassment

a. Unlawful harassment occurs when employees are subjected to a pattern of unwelcome conduct that intimidates, ostracizes, threatens (psychologically or physically), embarrasses, ridicules, insults, unreasonably overburdens or precludes employees from reasonably performing their work because of their race, color, sex (whether sexual or non-sexual), religion, national origin, age (over 40), disability (whether mental or physical), genetic information, or reprisal when an employee's acceptance or rejection of such conduct

JUN 05 2019

explicitly or implicitly forms the basis for a tangible employment action affecting the employee, or the conduct is sufficiently severe or pervasive enough to alter the terms, conditions, or privileges of the employee's employment or otherwise create a hostile or abusive work environment.

b. Examples include, but are not limited to; 1) obscene, rude, or threatening phone calls, e-mails or letters, 2) public humiliation, mocking or ridicule, 3) denial of support, exclusion or isolation, 4) disrespect, rudeness or sarcasm, 5) work sabotage, 6) bashing due to gender or sexual orientation, 7) initiating or spreading gossip or rumors, 8) use of racially derogatory and demeaning words, phrases and epithets, 9) distributing offensive ethnic or religious cartoons or jokes by e-mail, 10) making negative, demeaning or stereotypical comments regarding an employee's age, and 11) derogatory comments regarding an employee's mental or physical disability.

c. Whether sexual or non-sexual, the harasser can be a person's supervisor, a supervisor in another area, a coworker or someone who is not an employee of the Agency, such as a contractor or customer. The subject, as well as the harasser may be of the same or opposite sex. The subject does not have to be the person harassed, but could be anyone affected by the offensive conduct in the workplace. Sexual and unlawful harassment may occur without economic injury to or discharge of the victim and the harasser's conduct must be unwelcome.

#### 4. Liability

a. The Agency may be liable for unlawful harassment by a supervisor that results in a tangible (negative) employment action, such as termination or a failure to promote. If the supervisor's harassment results in a hostile work environment, but not in a tangible employment action, the Agency may nevertheless be liable, unless:

(1) Management reasonably tried to prevent and promptly correct the harassing behavior, and;

(2) The employee unreasonably failed to take advantage of any preventive or corrective opportunities within the Agency's avenues of redress.

b. The Agency may be liable for harassment by nonsupervisory employees or non-employees, if the employer has control over the individual (for example, independent contractors or customers on the premises), and if management knew or should have known about the harassment and failed to take prompt and appropriate corrective action.

JUN 05 2019

Responsibilities of Supervisors and Management Officials

1. Supervisors and managers, both civilian and military supervisors of agency employees, have a responsibility to maintain a workplace free of harassment. Supervisors will make reasonable efforts to prevent and promptly correct harassing behavior in the workplace. In applying this policy, the focus is slightly broader than the legal definition of unlawful harassment, as the goal is to avoid harm to any employee and limit the liability to the Agency before the conduct becomes severe or pervasive enough to violate the law, or as soon as possible thereafter.

2. When an employee makes a complaint to a management official about alleged harassment, the Agency will conduct a preliminary inquiry into the allegations regardless of whether the alleged harassment rises to the level of being severe or pervasive enough to alter the conditions of employment.

a. A preliminary inquiry serves as an analytical tool to help the Agency determine whether an investigation is warranted and, if so, how it should be conducted. Although a preliminary inquiry is not intended to develop findings of fact, it can serve as the basis for taking appropriate actions to identify, prevent and eliminate harassing behaviors before an investigation is conducted. Allegations of harassment do not need to conform to any particular format or be in writing. When investigating allegations of sexual harassment/unlawful harassment, the Agency will consider the totality of the circumstances, such as the nature of the alleged harassing behavior and the context in which the alleged harassing behavior occurred. A determination on the allegations is made from the facts on a case-by-case basis.

b. When conducting preliminary inquiries and investigations, managers and supervisors will address all allegations quickly, swiftly and effectively preserving objectivity, fairness and integrity of the process. The confidentiality of the employee making the report, witnesses, and the subject(s) of the complaint will be protected to the maximum extent possible.

c. Employees and witnesses are protected against reprisal or retaliation for raising allegations under this policy and procedure.

3. Supervisors and managers of Department of Navy civilian employees will promptly address allegations of harassment with the employees directly involved in the incident, along with any witnesses who might have firsthand information of the harassing conduct and/or allegations of harassment. Managers must take prompt preventive and corrective action, including discipline, as appropriate in consultation with the servicing Labor Employee Relations (LER) staff and Office of General Counsel.

4. Prevention is the best tool to eliminate sexual/unlawful harassment in the workplace. Employers must clearly communicate to employees that sexual/unlawful harassment of any kind will not be tolerated. They can do so by enforcing command policy statements, ensuring employees receive a copy of such command policy statements, and taking immediate and

Enclosure (2)

MCIEAST-MCB CAMLEJO 12700.2

**JUN 05 2019**

appropriate actions when sexual/unlawful harassment occurs in the workplace. Supervisors and managers will ensure all employees (supervisory and non-supervisory) complete EEO mandatory training annually and make employees aware of the command's anti-harassment policy and procedures and their role in the anti-harassment process.

JUN 05 2019

Responsibilities of Employees

1. Although employees have full access to this Anti-Harassment Policy and Procedure, managers and supervisors cannot correct harassing conduct unless they are made aware of it. Employees are encouraged to communicate day-to-day issues through their immediate chain of command for discussion, clarification and problem-solving. The effectiveness of this Anti-Harassment Policy and Procedure is undermined when issues are raised as harassing and unlawful behavior when they are the result of pettiness, personal discontent, disagreements, and/or miscommunication.
2. However, any conduct that is discriminatory or harassing is contrary to Marine Corps core values and may be unlawful. An employee engaging in such conduct is subject to appropriate corrective action, including discipline.
3. Employees must report any behavior they view as sexual/unlawful harassment before it becomes severe or pervasive enough to alter the conditions of employment. Although isolated incidents of harassment generally do not violate Federal law, a pattern of such incidents may become unlawful. A report of harassment is not the same as filing a formal EEO complaint of discrimination.

JUN 05 2019

How to Report Harassment

1. An employee who believes another person has subjected them to unwelcome harassing conduct should inform the person(s) responsible for the conduct and communicate that his/her conduct is unwelcome and offensive and request that it must stop.
2. If the conduct continues, or if the employee is uncomfortable confronting the responsible person(s) about the conduct, he or she should immediately report the matter to his or her immediate supervisor, the supervisor of the harasser, or any other management official in the chain of command. The employee may also report the matter to other officials, including the Command Inspector General, EEO or the Civilian Human Resources Office-East (CHRO-E) or Marine Corps Community Services (MCCS) LER personnel, union officials, or chaplains. If using these alternative options to report harassing conduct, the employee should give the official permission to notify the employee's management or supervisory chain of command.
3. Employees who witness or become aware of harassing conduct directed at another employee should report the matter to the supervisor of the offending employee(s) or other management officials in their chain of command.



JUN 05 2019

Inquiries into Allegations of Harassing Conduct

1. Initial response. A supervisor or management official who receives notice of an allegation or witnesses harassing conduct will contact the CHRO-E or the MCCS LER Office within two business days for guidance on the appropriate type of inquiry and response necessary to promptly address and resolve the matters at issue. If the results of an initial inquiry are insufficient to determine whether the issue requires corrective action, the supervisor or management official responsible for taking disciplinary action against the alleged harasser may request further investigation.

2. Investigations. Management should make such requests on a case-by-case basis and in consultation with their servicing LER Office and the Eastern Area Counsel Office. Upon completion of the investigation and legal sufficiency review, management may use the information obtained, including the findings and recommendations, in determining corrective or disciplinary action, as appropriate. Inquiries and/or investigations must be completed within 14 calendar days of reporting. Special circumstances requiring an extension to the investigative timeline may be granted by the office of the Chief of Staff, in writing, on a case-by-case basis.

3. Confidentiality. The agency will maintain all reported information, including results of inquiries and investigations on a confidential basis to the greatest extent possible. The identity of the employee alleging the violation will remain confidential, except as necessary to conduct an appropriate investigation into the alleged violations or when the law or regulation requires otherwise. Confidentiality is not guaranteed as management may not be able to conduct an effective investigation without disclosing certain information to the alleged harasser and potential witnesses. Management may also have to disclose information to an employee being disciplined as a result of an inquiry or investigation. Also, the agency may have to disclose the information as part of any litigation for which the information may be relevant and necessary. However, the maintenance of investigative records and any disclosures of information from those records will be in compliance with the references.

JUN 05 2019

Action to Take After an Inquiry

1. Upon completion of the inquiry or investigation, the management official who is responsible for taking disciplinary action against the alleged harasser will promptly evaluate the evidence and determine the appropriate action to take in consultation with the servicing LER specialist and Office of General Counsel. This responsibility normally rests with the first-line supervisor of the employee alleged to have engaged in the harassing conduct, unless the supervisor is involved in the allegation. In those cases, the record of the investigation will be provided to the senior management official in the supervisor's chain of command.
2. When the inquiry establishes that an employee engaged in harassing conduct, that employee is subject to appropriate disciplinary or other corrective action. If the alleged harasser is a military member, that individual is subject to the provisions of the Uniform Code of Military Justice in coordination with the Staff Judge Advocate (SJA) Office. When the inquiry establishes that a manager or supervisor did not properly carry out their responsibility as provided in these procedures, the manager or supervisor is subject to appropriate corrective action or disciplinary actions, as appropriate.
3. No further action is necessary under these procedures once management, in consultation with the servicing LER, Office of General Counsel and/or SJA is satisfied that appropriate corrective action(s) has been taken and is effective at deterring harassing conduct and its recurrence. The same is true when the findings of the inquiry or investigation identify that sexual/unlawful harassment did not take place as alleged. In this case, training should be considered as part of management's action(s), at a minimum.

JUN 05 2019

Filing a Complaint of Discrimination or Harassment in Other Forums

1. Reporting harassment in accordance with these procedures does not replace or voids employee rights to file an EEO Complaint or initiating the negotiated grievance procedure, nor does it delay or waive the time limits for initiating claims in such forums.

a. To seek monetary and nonmonetary remedies for unlawful harassment, an employee may file in one of the following forums:

(1) EEO. Employees may file an EEO Complaint through their servicing EEO office. The employee must, however, initiate contact with an EEO Counselor within 45 calendar days of the alleged incident or when the employee knew or should have known of the discriminatory or harassing conduct. When doing so, EEO officials must preserve an aggrieved person's right to anonymity, to the greatest extent possible, during the informal processing of the EEO complaint unless the aggrieved employee waives his or her right to anonymity (see also 29 CFR Part 1614).

(2) Negotiated Grievance Procedure. Employees covered by a collective bargaining agreement may file a grievance under the Combined Master Labor Agreement instead of filing an EEO Complaint if the agreement provides for the option. Bargaining unit employees should contact their union steward or appropriate union official for information about their rights and responsibilities under the negotiated grievance procedure. Refer to Article #11 for Grievances and Article #23 for EEO.

(3) Merit System Protection Board (MSPB). Eligible Federal employees may appeal an adverse agency personnel action (such as a removal or suspension of more than 14 days) with the MSPB if the personnel action is within the jurisdiction of the MSPB. The employee must file an appeal within 30 days of the effective date of an appealable adverse action or within 30 days of the date of receipt of the Agency's decision, whichever is later. 5 CFR Part 1201 outlines the procedures for filing appeals, including appeals that include a claim of discrimination or harassment.

b. If an employee pursues a claim of harassment through the EEO process, the negotiated grievance procedure or an MSPB appeal, the EEO/LER official who receives notice of the claim will promptly notify the appropriate responsible management official. The management official will treat the notification as a report and follow the procedures outlined by this policy and procedure.