

CHAPTER 14

SEXUAL HARASSMENT/DISCRIMINATION

14-1. Purpose. To provide guidance and implement a sexual harassment and discrimination policy. All Indiana Guard Reserve personnel (military and civilian) are entitled to a work environment free from sexual harassment and discrimination. Each IGR action will be free of discrimination based on race, national origin, religious or political preference, or sex.

14-2. Leadership:

a. This is clearly a leadership issue and a form of misconduct that requires personal awareness and immediate attention of every supervisor and commander.

b. The negative impact on the morale and productive of our personnel cannot be overstated; positive leadership in the prevention of sexual harassment and discrimination is vital.

c. A sexual harassment and discrimination class will be conducted each year in the month of October and documented on the AAR submitted for that drill.

d. Each Command will designate an Equal Employment Opportunity (EEO) Counselor in writing and forward a copy to Headquarters Indiana Guard Reserve.

14-3. Description: Sexual harassment is a form of discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct 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 person's job, pay, or career, or,

b. Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or,

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

d. Any person in a supervisory or command position uses or condones implicit or explicit sexual behavior to control, influence or affect the career or job of a Indiana Guard Reserve member or civilian employee, or,

e. Any military member or civilian employee makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature.

14-4. Responsibilities:

Commanders and supervisors will ensure that soldiers and civilian employees are informed that sexual harassment is prohibited by law and will not be tolerated. Immediate corrective or disciplinary action will be taken whenever improper sexual behavior or sexual harassment is displayed. Such action may include counseling, written reprimand, suspension, demotion, or termination.

14-5. The complaint process for Indiana Guard Reserve personnel is:

a. **First Step. Contact an EEO Counselor.** The counselor will do an inquiry and try to resolve the complaint. If not resolved in 30 days you can go to step 2 or step 3.

b. **Second Step. Participate in a Dispute Resolution Process.** This involves your commander who can direct the changes necessary to resolve your complaint. If not resolved in 60 days, you can go to step 3.

c. **Third Step. File a Formal Complaint.** Your EEO Counselor will assist you in preparing NGB Form 713-5 to file with the Indiana Guard Reserve EEO Manager.

d. **Fourth Step. Your complaint will be investigated.** The Indiana Guard Reserve will gather facts or send an investigator to conduct an investigation. You will receive a report of the investigation within 180 days of filing your complaint.

e. **Fifth Step. Ask for a JFHQIN Decision.** After you read the report of investigation, you must decide whether to ask for an immediate JFHQIN decision or to ask for a hearing before the decision. A decision without a hearing will be issued within 180 days.

f. **Sixth Step. Hearing and Decision.** If an Administrative Judge hears your case, he or she will make a recommendation to the National Guard Bureau within 180 days. Then the JFHQIN will issue a decision. You may appeal the decision, whether or not a hearing was held.

g. **Seventh Step. Appeal to EEOC.** The Equal Employment Opportunity Commission reviews your case file and makes a decision on your appeal.

h. **Eighth Step. File a Civil Action.** You may file a civil action in the appropriate Federal District Court. The court will hear your case and render a decision.

14-6. Any person who believes they have been the victim of sexual harassment, or who has observed inappropriate behavior, is urged to report such conduct immediately to your unit EEO Counselor.

14-7. Any act of reprisal, restraint, interference, or coercion against an individual because of his or her involvement with a sexual harassment/discrimination complaint during any stage of presentation and procession, including testifying, assisting, or participating in an inquiry or investigation is prohibited and may result in a second complaint.