



ALASKA NATIONAL GUARD INSTRUCTION

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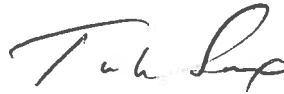
AKNGI 9623.14
02 August 2023

ALASKA NATIONAL GUARD STATE ACTIVE DUTY DISCRIMINATION COMPLAINT INSTRUCTION

References: See Enclosure E

1. **Purpose.** This instruction establishes procedural guidance for maintaining the State Active Duty (StAD) Discrimination Complaint Process.
2. **Superseded/Canceled.** None.
3. **Applicability.** This instruction applies to the processing and resolution of discrimination and harassment complaints arising from Army National Guard and Air National Guard personnel serving on StAD status with the Alaska National Guard.
4. **Procedures.** All NG members serving in StAD status, who believe they have been discriminated against based on race, color, national origin, religion, sex-gender (pregnancy, gender identity, sexual orientation), or who believe they have been the victim of sexual harassment, bullying, hazing or of reprisal for prior engagement in the discrimination complaint process or related activity, may file a complaint to resolve discrimination or harassment allegations.
 - a. **Alternative Dispute Resolution (ADR).** ADR is available throughout the complaint process.
 - b. **Remaining Anonymous.** All StAD members who wish to remain anonymous must notify the State Equal Employment Manager (SEEM), when first initiating an informal complaint under Enclosure A of this instruction. The claimant cannot remain anonymous when filing a formal complaint under Enclosure B of this instruction.
 - c. **State Representatives.** The State or the claimant may have a representative to advocate for their interests throughout the resolution process as long as that person is willing and available to serve and is not otherwise disqualified. The State representative may or may not be an attorney.
 - d. **Individual Protection.** The lowest level commander will initiate a Commander's Reprisal Prevention Plan when informed of a complaint being filed. See Enclosure D.
 - e. **Additional Guidance.** See Enclosures A and B for resolution procedures.
5. **Definitions.** See Glossary.

6. Summary of Changes. None.
7. Releasability. This instruction is approved for public release; distribution is unlimited.
8. Effective Date. This manual is effective upon publication and must be reissued, cancelled, or certified as current every five years.



TORRENCE W. SAXE, Maj Gen, AKNG
The Adjutant General

Enclosures:

- A--StAD Informal Complaint Resolution Procedures
- B--StAD Formal Complaint Resolution Procedures
- C--StAD Complaint Form
- D--Reprisal Prevention Plan, Leadership Inquiry Report and Notice of Proposed Resolution
- E--References
- GL--Glossary

ENCLOSURE A

STATE ACTIVE DUTY INFORMAL COMPLAINT RESOLUTION PROCEDURES

1. **StAD Informal Complaint Request.** A National Guard (NG) member may initiate an Informal Complaint Request (ICR) with the State Equal Employment Manager (SEEM) verbally or in writing. An informal complaint of discrimination, although it may be initially verbal, shall be put in writing on the StAD Complaint Form. The SEEM will determine if a member's allegations are acceptable for processing, for example, meeting filing time limits. The ICR will be recorded on the StAD Complaint Form. See Enclosure D.

a. The SEEM will acknowledge, in writing, receipt of an ICR within 7 calendar days of its receipt.

b. The SEEM will provide a tracking number and provide it to the complainant in the written acknowledgment.

c. The SEEM will notify the commander at the lowest level of the alleged discrimination in the ICR to obtain a possible remedy.

2. **Time Limit for Filing StAD Informal Complaint Requests.** NG members must file a StAD ICR within 60 calendar days from the date of the alleged discrimination or harassment, or the date the member was made aware of the alleged discriminatory event or action.

3. **Timeframe for Processing StAD Informal Complaint Requests.** The State NG should take no more than 60 calendar days to process a StAD ICR.

4. **Inquiry Official (IO).** State NG leadership will appoint an IO with equal to-or higher rank than the complainant and the alleged discriminating official and the training to conduct an expedited inquiry into the facts.

a. The IO will obtain summarized witness statements and relevant documents. A Leadership Inquiry Report (LIR) will be completed and forwarded to the appropriate commander through the SEEM within 30 calendar days of the IO's appointment and after a legal sufficiency review has been completed by the State Judge Advocate (SJA) office. See Enclosure D.

b. The commander at the lowest level will review the LIR to determine the appropriate resolution. The commander at the next higher level will review the decisions by the lower-level commander. The review process must be completed within 30 calendar days from the issuance of the LIR.

5. **Notice of Proposed Resolution (NPR).** The commander or SEEM will conduct a final interview with the member and provide them with an NPR. The notice will inform the member of the Leadership Inquiry Report findings and conclusions, and the commander's proposed disposition and remedy, if any.

a. Ensure the complainant is aware that a complaint is resolved by action to make the complainant whole and to restore benefits and privileges lost because of the discrimination or harassment.

(1) Compensatory damages and/or attorney fees are not authorized in a military complaint.

(2) Disciplinary action against the individual responsible for substantiated discrimination is within the discretion of the commander and not the right of the complainant to demand as part of a resolution. While punitive action may be appropriate and should be considered by the commander as a means of maintaining good order and discipline, it does nothing in terms of restoring any benefits or privileges lost by the complainant as a result of the discrimination.

b. The NPR informs the member that an StAD Formal Complaint Request (FCR) must be filed within 30 calendar days for any claimed discrimination or harassment not resolved by the proposed resolution. The final interview concludes the informal resolution process.

c. Members will indicate on the NPR, in writing, their acceptance of the proposed resolution, the withdrawal of their complaint, or their intent to file a StAD FCR.

ENCLOSURE B

STATE ACTIVE DUTY FORMAL COMPLAINT RESOLUTION PROCEDURES

1. StAD Formal Complaint Request. NG members must file a StAD Formal Complaint Request (FCR) with the SEEM, within 30 calendar days of receipt of the NPR, or the final interview. A StAD FCR will be filed on the StAD Complaint Form.
2. A formal complaint will be filed at the next higher command level above where an informal complaint resolution attempt was unsuccessful. For example, if an ICR was filed at the company or squadron level, and resolution was not successful, the formal complaint, if filed, will be filed at the battalion or group level of command. If the next level of command is located outside the state, then the formal complaint would be filed with the next higher level of command that is available within the state.
3. At whatever level of command, a formal complaint is filed, the commander at that level will initiate a Commander's Reprisal Prevention Plan.
4. Timeframe for Processing StAD Formal Complaint Requests. The commander shall have 60 calendar days from the date of the filing to process the complaint.
5. Commander StAD Formal Complaint Requests Processing Responsibilities:
 - a. Complete a procedural review of the complaint to determine whether the complaint will be: Accepted; Dismissed (in whole or in part); or Referred (in whole or in part).
 - b. Complete an investigation of all accepted issues in a complaint in accordance with NGB PAM 600-22, Investigating Military Discrimination Complaints.
 - c. Commanders will appoint only impartial investigators who are not otherwise involved in the processing of the complaint and who are outside the chain of command of either the complainant or the named responsible person(s) and is equal to or higher in rank than either party.
 - d. Request a legal review of the investigation for legal sufficiency.
 - e. Attempt resolution and take corrective action where appropriate.
 - (1) If the complaint is resolved, the commander will forward the case file to the State Equal Employment Manager. The case file will include the FCR form, the Appointment of the Investigator, the Report of Investigation (ROI), the legal review of the ROI, any resolution agreement, any correspondence related to the complaint and a report of corrective action or disciplinary action taken, where appropriate.
 - f. If the complaint is unresolved at the end of 60 days, the case file will be automatically forwarded on appeal to the next level of command unless the complainant withdraws the complaint in writing.

g. All successive level commanders will have 30 days to review the case and attempt resolution of the complaint. If the complaint is resolved to the satisfaction of the complainant or withdrawn at any command level, the complainant will so indicate by signing the StAD Complaint Form and the entire case file will be forwarded to the SEEM for final disposition.

6. Upon receipt of any formal complaint case file by the SEEM, wherein the formal complaint was dismissed, in whole or in part, the SEEM will review the dismissal to determine compliance with paragraph 7. below.

a. If the SEEM does not concur with the dismissal, he/she will remand the dismissed issue(s) back to the appropriate commander for processing of the complaint. In cases of dismissal of a complaint in whole, the same process applies.

7. Acceptance, Dismissal, or Referral, of StAD Formal Complaint Requests.

a. FCRs of discrimination will be accepted for processing under this instruction unless they are dismissed or referred for procedural reasons described below. Such dismissal or referral will not be based on the merit of the complaint. Determination as to whether any allegation in the complaint has validity and merit will be made only after conducting the investigation.

b. Any allegations of discrimination in a complaint or the complaint in its entirety will be dismissed for the following reasons.

(1) Untimely. If the complaint is filed more than 60 calendar days from the date of the alleged discrimination or the date that the individual became aware or reasonably should have become aware of the discriminatory event or action.

(2) Duplicative. If the allegations are identical to the complainant's allegations that have already been filed or decided.

(3) Not in purview. Allegations by persons not covered by this regulation.

(4) Failure to state a claim of discrimination. When it is determined that one or more allegations in a complaint does not affect a term, benefit, or condition of membership or is not based on illegal discrimination or harassment because of race, color, national origin, religion, gender -sex (pregnancy, gender identity, sexual orientation) or who believe they have been the victim of sexual harassment, bullying, hazing or of reprisal for prior engagement in the discrimination complaint process or related activity.

(5) The Complaint or Issue is Moot. Even if discrimination or harassment were substantiated, no actions beyond those already taken would be required. A moot issue or complaint is defined as one without legal significance, through having been previously decided or settled.

(6) A complaint that has been accepted may be dismissed at any stage of processing if the complainant fails to cooperate with the inquiry, investigation, or requests for information. A

complainant must be notified in writing. Proof of receipt of the notice by the complainant is required, either by signature of the complainant acknowledging receipt or by a certified mail receipt. When a complaint is dismissed on the basis of this paragraph, the case file, to include the notices to the complainant and the proofs of receipt, will be forwarded to the SEEM.

8. A complaint may be withdrawn at any stage of processing by the complainant. Such withdrawal must be voluntary, and so indicated in writing, by signature of the complainant and date of withdrawal on the StAD Complaint Form.

a. Dismissal or withdrawal of a complaint does not lessen responsibility of the chain of command to determine the merits and validity of the allegations that had been raised and to take corrective action as appropriate. Commanders will attempt to assist and resolve the military member's problems, take appropriate corrective action, when required, and advise the member of other proper sources of assistance, such as chaplains, legal advisors, personnel officers, or inspectors general. When appropriate, commanders will refer such allegations to these other offices. If a military member disagrees with the commander's determination that an allegation raised by them is not based on discrimination, they may appeal that determination to the next level of the chain of command.

ENCLOSURE C

STATE ACTIVE DUTY COMPLAINT FORM

DISCRIMINATION COMPLAINT IN THE ARMY AND AIR NATIONAL GUARD		SEEM USE Case Number: _____	
PRIVACY ACT STATEMENT			
<p>Authority: 42 U.S.C. Section 2000d</p> <p>Principal Purpose: To document the formal filing of a military complaint of discrimination in the Army National Guard or the Air National Guard</p> <p>Routine Use: None</p> <p>Disclosure: Voluntary. However, failure to complete all portions of this form could affect the timely processing or result in the rejection or dismissal of your complaint.</p>		<input type="checkbox"/> Informal <input type="checkbox"/> Formal	
INSTRUCTIONS			
PART I - TO BE COMPLETED BY COMPLAINANT Submit to Your Unit Commander			
<p>Any Army or Air National Guard member serving on State Active Duty who believes that they have been discriminated against because of race, color, national origin, religion, gender (pregnancy, gender identity, sexual orientation), or who believe they have been the victim of sexual harassment, bullying, hazing or of reprisal for prior engagement in the discrimination complaint process or related activity, may file a complaint to resolve discrimination or harassment allegations. You are encouraged to discuss the complaints with and to seek assistance from your immediate supervisor, unit commander, members of the chain of command or the State Equal Employment Manager (SEEM). Fill out Part I of this form and file the complaint within 60 days of the date of the alleged discrimination or the date that you became aware of the discriminatory event or action. The complaint should be filed with the unit commander (if the commander is not the alleged discriminating official) or with the SEEM. However, regardless of where the complaint is filed, it will be referred to the lowest applicable command level for action.</p>			
1. COMPLAINANT			
a. NAME		b. RANK	c. POSITION
2. GENDER	3. RACE	4. NATIONAL ORIGIN	
5. HOME ADDRESS (Including Zip Code)		6. TELEPHONE NUMBERS	
		a. BUSINESS	b. HOME
7. ACTIVITY OR UNIT IN WHICH ALLEGED DISCRIMINATION OCCURRED		8. ARE YOU (Check One)	
		<input type="checkbox"/> PART TIME MILITARY MEMBER <input type="checkbox"/> AGR TITLE 32/ADSW TITLE 32 <input type="checkbox"/> APPLICANT FOR NG/AGR MEMBERSHIP <input type="checkbox"/> FORMER MILITARY MEMBER <input type="checkbox"/> BENEFICIARY OF NG	
9. PERSON YOU BELIEVE DISCRIMINATED			
a. NAME		b. TITLE	
10. REPRESENTATIVE (If any)			
a. NAME		b. ADDRESS	
11. CHECK BELOW THE BASIS (Reasons) FOR ALLEGED DISCRIMINATION			
<input type="checkbox"/> R RACE (Check Your Race) <input type="checkbox"/> Black <input type="checkbox"/> White <input type="checkbox"/> American Indian/Alaskan Native <input type="checkbox"/> Asian/Pacific Islander			
<input type="checkbox"/> C COLOR (State Your Color) _____			
<input type="checkbox"/> L RELIGION (State Your Religion) _____			
<input type="checkbox"/> G GENDER (Not Sexual Harassment) (Check Your Gender)		<input type="checkbox"/> Male <input type="checkbox"/> Female	
<input type="checkbox"/> S SEXUAL HARASSMENT (Check Your Gender)		<input type="checkbox"/> Male <input type="checkbox"/> Female	
<input type="checkbox"/> O REPRISAL (Based Upon EO/EEO Activity)		<input type="checkbox"/> Yes <input type="checkbox"/> No	
<input type="checkbox"/> N NATIONAL ORIGIN (State Your National Origin)		<input type="checkbox"/> Hispanic <input type="checkbox"/> Other (Specify) _____	

ENCLOSURE C

STATE ACTIVE DUTY COMPLAINT FORM

PAGE 2 OF 5 PAGES

12. CHECK FOR SPECIFIC ALLEGATIONS AND ISSUES:		
Appointment/Enlistment	Evaluation/Appraisal	Reassignment
Assignment of Duties	Harassment	Retirement
Awards/Decorations	a. Non-Sexual	Time and Attendance
Disciplinary Action	b. Sexual	Training/Education
Duty Hours	Promotion/Non-Selection	Other
<p>13. STATE ALLEGATION AND ISSUES (Explanations, background, and evidence can be attached as supporting material; they are NOT issues).</p> <p>Issues: A. Number each issue B. Briefly list the alleged act of discrimination, the basis, and the date(s) it took place. C. Indicate the name(s) of the alleged discriminating official(s) (ADO).</p> <p>SAMPLE: I was discriminated against on (date) on the basis of (Race, Religion, or other basis) when (name the ADO) and briefly list the discriminatory event(s) or personnel action(s). Attach additional blank sheets, if necessary.</p> <p>1.</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>2.</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>3.</p> <p>_____</p> <p>_____</p> <p>_____</p> <p>_____</p>		
<p>14. WHAT CORRECTIVE ACTION DO YOU WANT TAKEN TO RESOLVE YOUR COMPLAINT?</p> <p>_____</p> <p>_____</p> <p>_____</p>		
15a. SIGNATURE OF COMPLAINANT		15b. DATE
16. OFFICIAL RECEIVING COMPLAINT		
a. NAME		b. TITLE
c. SIGNATURE		d. DATE

ENCLOSURE C

STATE ACTIVE DUTY COMPLAINT FORM

PART II - COMPLAINT MANAGEMENT PROCESSING					
TO BE COMPLETED AT THE LOWEST APPICABLE COMMAND LEVEL					
COMPLETE AS APPROPRIATE					
1. WHEN DID YOU RECEIVE THE COMPLAINT?					DATE (YYYY/MM/DD)
2. WAS THE COMPLAINT:					
a.	Accepted		All	In Part	
b.	Referred		All	In Part	TO WHOM
c.	Dismissed		All	In Part	(State Reason)
3. WHAT WAS THE RESULT OF THE COMMANDER'S INQUIRY?					
<input type="checkbox"/> Discrimination Confirmed <input type="checkbox"/> Discrimination Not Confirmed <input type="checkbox"/> Discrimination Undetermined					
4. DID YOU ATTEMPT RESOLUTION OF THIS COMPLAINT?					DATE (YYYY/MM/DD)
<input type="checkbox"/> Yes <input type="checkbox"/> No					
5. IF YES, WAS THE COMPLAINT					
<input type="checkbox"/> Settled <input type="checkbox"/> Withdrawn					
6. WAS COMPLAINANT SATISFIED WITH THE RESOLUTION?					
<input type="checkbox"/> Yes <input type="checkbox"/> No					
a. SIGNATURE OF COMPLAINANT					b. DATE (YYYY/MM/DD)
7. IF NOT SATISFIED WITH RESOLUTION OR WITHDRAWN THE COMPLAINT WILL AUTOMATICALLY APPEAL TO NEXT COMMAND LEVEL.					
<input type="checkbox"/> Withdraw the Complaint		SIGNATURE OF COMPLAINANT			DATE (YYYY/MM/DD)
8. THIS FORM AND ALL ATTACHMENTS, AND INQUIRIES IS FORWARDED TO THE NEXT COMMAND LEVEL ON					DATE (YYYY/MM/DD)
9. REMARKS					
10a. SIGNATURE OF COMMANDER					10b. DATE (YYYY/MM/DD)

ENCLOSURE C

STATE ACTIVE DUTY COMPLAINT FORM

PART III - COMPLAINT MANAGEMENT PROCESSING		
TO BE COMPLETED AT THE INTERMEDIATE COMMAND LEVEL		
COMPLETE AS APPROPRIATE		
1. WHEN DID YOU RECEIVE THE COMPLAINT?		DATE (YYYYMMDD)
2. WAS AN ADDITIONAL INQUIRY CONDUCTED?	<input type="checkbox"/> Yes <input type="checkbox"/> No	DATE (YYYYMMDD)
If yes, what was the result?		
<input type="checkbox"/> Discrimination Confirmed	<input type="checkbox"/> Discrimination Not Confirmed	<input type="checkbox"/> Discrimination Undetermined
3. WAS AN INVESTIGATION CONDUCTED?	<input type="checkbox"/> Yes <input type="checkbox"/> No	DATE (YYYYMMDD)
If yes, what was the result?		
<input type="checkbox"/> Discrimination Confirmed	<input type="checkbox"/> Discrimination Not Confirmed	<input type="checkbox"/> Discrimination Undetermined
4. DID YOU ATTEMPT RESOLUTION OF THIS COMPLAINT?	<input type="checkbox"/> Yes <input type="checkbox"/> No	DATE (YYYYMMDD)
5. IF YES, WAS THE COMPLAINT	<input type="checkbox"/> Settled <input type="checkbox"/> Withdrawn	
6. WAS COMPLAINANT SATISFIED WITH THE RESOLUTION?	<input type="checkbox"/> Yes <input type="checkbox"/> No	
a. SIGNATURE OF COMPLAINANT		DATE (YYYYMMDD)
7. IF NOT SATISFIED WITH RESOLUTION OR WITHDRAWN THE COMPLAINT WILL AUTOMATICALLY APPEAL TO NEXT COMMAND LEVEL.		
<input type="checkbox"/> Withdraw the Complaint	SIGNATURE OF COMPLAINANT	DATE (YYYYMMDD)
8. THIS FORM AND ALL ATTACHMENTS, INQUIRIES IS FORWARDED TO THE NEXT COMMAND LEVEL ON		DATE (YYYYMMDD)
9. REMARKS		
10a. SIGNATURE OF INTERMEDIATE COMMANDER		10b. DATE (YYYYMMDD)

ENCLOSURE C

STATE ACTIVE DUTY COMPLAINT FORM

PART IV - COMPLAINT MANAGEMENT PROCESSING		
TO BE COMPLETED AT THE ADJUTANT GENERAL LEVEL		
COMPLETE AS APPROPRIATE		
1. DID THE ADJUTANT GENERAL (or designated representative) REVIEW THE CASE? <input type="checkbox"/> Yes <input type="checkbox"/> No		DATE (YYYYMMDD)
a. Did the State Equal Employment Manager review the case? <input type="checkbox"/> Yes <input type="checkbox"/> No		DATE (YYYYMMDD)
b. Did the Judge Advocate review the case? <input type="checkbox"/> Yes <input type="checkbox"/> No		DATE (YYYYMMDD)
2. WAS A RESOLUTION ATTEMPTED AT THIS POINT? <input type="checkbox"/> Yes <input type="checkbox"/> No		DATE (YYYYMMDD)
a. If yes, what was the result? <input type="checkbox"/> Settled <input type="checkbox"/> Withdrawn		
b. Was the complainant satisfied with the resolution? <input type="checkbox"/> Yes <input type="checkbox"/> No		
SIGNATURE OF COMPLAINANT		DATE (YYYYMMDD)
c. If Not Satisfied With Resolution Or Withdrawn The Complaint Will Automatically Appeal To Next Command Level.		
<input type="checkbox"/> Withdraw the Complaint	SIGNATURE OF COMPLAINANT	DATE (YYYYMMDD)
3. WAS AN INVESTIGATION CONDUCTED? <input type="checkbox"/> Yes <input type="checkbox"/> No		DATE (YYYYMMDD)
If yes, what was the result? <input type="checkbox"/> Discrimination Confirmed <input type="checkbox"/> Discrimination Not Confirmed <input type="checkbox"/> Discrimination Undetermined		
a. Name of Investigating Officer		Rank
b. Did the SEEM review the Report of Investigation (ROI)? <input type="checkbox"/> Yes <input type="checkbox"/> No		DATE (YYYYMMDD)
c. Did the JA review the ROI? <input type="checkbox"/> Yes <input type="checkbox"/> No		DATE (YYYYMMDD)
4. WAS A REDACTED COPY OF ROI SENT TO THE COMPLAINANT? <input type="checkbox"/> Yes <input type="checkbox"/> No		DATE (YYYYMMDD)
5. DID THE ADJUTANT GENERAL ATTEMPT A RESOLUTION OF THE COMPLAINT? <input type="checkbox"/> Yes <input type="checkbox"/> No		DATE (YYYYMMDD)
a. If yes, what was the result? <input type="checkbox"/> Settled <input type="checkbox"/> Withdrawn		
b. Was the complainant satisfied with the resolution? <input type="checkbox"/> Yes <input type="checkbox"/> No		
SIGNATURE OF COMPLAINANT		DATE (YYYYMMDD)
SIGNATURE OF ADJUTANT GENERAL		DATE (YYYYMMDD)

ENCLOSURE D
LEADERSHIP INQUIRY REPORT

LEADERSHIP INQUIRY REPORT
SAMPLE OUTLINE

A. IDENTITY OF COMPLAINANT

Name

Employment or Military Status of Complainant:

- 1) M-Day (Drill/AT)
- 2) AGR/ADOS
- 3) Military Technician (Dual-Status)
- 4) Military Technician (Non-Dual-Status)
- 5) Applicant for employment
- 6) Applicant for service
- 7) Former military member
- 8) Former employee

Place of Employment

Work Phone No

Home Phone No

Home Address

B. CHRONOLOGY OF INFORMAL DISCRIMINATION COMPLAINT

Date of Initial Contact with EO Professional

Date of Initial Interview with Inquiry Officer:

Date of Alleged Discriminatory Event:

Reason for delayed contact beyond 180 days, if applicable:

Date Leadership Inquiry Report Requested:

Date Leadership Inquiry Report Submitted:

C. BASIS(ES) FOR ALLEGED DISCRIMINATION

- 1) Race (Specify) _____
- 2) Color (Specify) _____
- 3) National Origin (Specify) _____
- 4) Sex (Specify) _____
- 5) Sexual Orientation _____
- 6) Disability (Specify) _____
- 7) Religion (Specify) _____
- 8) Genetic Information _____

- 7) Disability (Specify) _____
- 8) Religion (Specify) _____
- 9) Genetic Information _____

- D. DETAILED DESCRIPTION OF ALLEGED ACTS OF DISCRIMINATION
- E. LOCATION WHERE ALLEGED ACTS OF DISCRIMINATION OCCURRED
- F. RELEVANT PROCEDURES OF THE STATE NG (IN CASES OF DISPARATE TREATMENT)
- G. IDENTITY OF PERSONS WITH KNOWLEDGE OF ALLEGED ACTS OF DISCRIMINATION
- H. LOCATION OF THE PRINCIPALS OF THE COMPLAINT AND THEIR FUTURE AVAILABILITY
- I. LOCATION OF FILES RELATED TO THE ALLEGED ACTS OF DISCRIMINATION
- J. SUMMARY OF WITNESS STATEMENTS
- K. FINDINGS OF FACT
- L. REMEDIES SOUGHT

(Signature)

Date

INQUIRY OFFICER (Print or Type)

Telephone Number

ENCLOSURE D

NOTICE OF PROPOSED RESOLUTION

Insert Letterhead

Office Symbol

Date

MEMORANDUM FOR (Name of Claimant and/or Representative)

SUBJECT: Right to File National Guard StAD Formal Complaint Request (FCR) – enter case number

1. This Notice is provided in conjunction with your final interview. It includes the pre-decisional proposed resolution established by your command leadership and your formal notice of your right to file a StAD FCR if you feel the matter has not been resolved to your satisfaction.
2. You initiated an Informal Complaint Request (ICR) with the State Equal Employment Manager (SEEM) on enter date, attached hereto as Enclosure 1. An inquiry into the facts was conducted enter date through enter date. Based on the pre-decisional inquiry, a Leadership Inquiry Report (LIR) was completed on enter date.
3. Your command leadership reviewed the LIR and proposed pre-decisional resolution as follows:
 - (a) Findings:
 - (b) Conclusions:
4. Based on the above, you now have the right to accept the proposed resolution and remedy, withdraw your ICR, or file an FCR. You must complete the Notice of Acknowledgement and Election form, attached hereto as Enclosure 2, and submit it to the SEEM.
5. If you choose to initiate an FCR it must be filed with the SEEM within 30 calendar days from any claimed discrimination not resolved by the Notice of Proposed Resolution.
6. This concludes the ICR process. Please let the SEEM know if you have any questions.

Commander Signature Block

ENCLOSURE E

REFERENCES

- a. Title 32, United States Code
- b. Title 10, United States Code
- c. Title 29, Code of Federal Regulations
- d. CNGB Instruction 9601.01, 27 September 2015, "National Guard Discrimination Program"
- e. CNGB Manual 9601.01, 25 April 2017, "National Guard Discrimination Complaint Process"
- f. NG Pam 600-22/ANGP 36-3, 26 April 2002, "Investigating Military Discrimination Complaints"

GLOSSARY

PART 1—ABBREVIATIONS AND ACRONYMS

ADR	Alternate Dispute Resolution
ANG	Air National Guard
ARNG	Army National Guard
FCR	Formal Complaint Request
ICR	Informal Complaint Request
IO	Investigating Officer
ROI	Report of Investigation
SEEM	State Equal Employment Manager
SJA	Staff Judge Advocate

PART 2—DEFINITIONS

Alternative Dispute Resolution (ADR)-- Any procedure that is used to resolve issues in controversy, including but not limited to the services of a neutral third party through facilitation, mediation, fact-finding, mini-trial, arbitration, and the use of ombuds, or any combination.

Harassment--Any unwelcome conduct that is based on race, color, religion, sex (including pregnancy) or sexual orientation, national origin, age (40 or older), disability, or genetic information. Harassment becomes unlawful where enduring the offensive conduct becomes a condition of continued employment or the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Hostile Work Environment--Discriminatory conduct or behavior in the workplace that is unwelcome and offensive to an employee or group of employees based on race, color, religion, sex (including pregnancy) or sexual orientation, national origin, age (40 or older), disability or genetic information. The conduct or behavior must be pervasive and constitute a pattern rather than consist of one or two isolated incidents. The pattern of behavior has to be of a degree severe enough to cause disruption beyond a reasonable degree in the work of the targeted employee such as when the employee becomes disturbed because of intimidation or due to fear of loss of employment. The complainant must have reason to believe that such behavior patterns are likely to continue indefinitely. Offensive conduct may include, but is not limited to, offensive jokes, slurs, epithets, or name calling, physical assaults or threats, intimidation, ridicule or mockery, insults or put-downs, offensive objects or pictures, and interference with work performance. The harasser can be the victim's supervisor, a supervisor in another area, an agent of the employer, a co-worker, or a non-employee. The victim does not have to be the person harassed but can be anyone affected by the offensive conduct. The discrimination may occur without economic injury to, or discharge of, the victim.

Sexual Harassment-- Any unwelcome conduct that is based on sex or sexual orientation, including unwelcome advances for sex or physical contact, requests for favors involving sex or other verbal or physical conduct of that nature, particularly when submission to such conduct is made directly or indirectly as a term or condition of employment, or when submission to or rejection of such conduct

is used as a basis for an employment decision affecting the person. The conduct must be pervasive or severe enough to significantly and adversely alter the conditions of the victim's employment and create an abusive working environment. The behavior in question is evaluated from the standpoint of a reasonable person, taking into account the particular context in which it occurred. Unless the conduct is very severe, a single incident or group of isolated incidents will not be regarded as discriminatory.

Unlawful Discrimination-- Unfair or unequal treatment of an individual or group on the basis of race, color, religion, sex or sexual orientation, national origin, age (40 or older), disability, reprisal, or genetic information. It may take the form of a hostile work environment.