



ALASKA NATIONAL GUARD INSTRUCTION

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HARASSMENT PREVENTION AND RESPONSE PROGRAM

References: See Enclosure D.

1. Purpose. This instruction establishes policy prohibiting harassing conduct in the workplace and assigns responsibilities for implementing and maintaining the Harassment Prevention and Response (HPR) Program in accordance with (IAW) references in enclosure D. This instruction also provides details on internal administrative process to implement the policy. Reports made pursuant to this policy do not replace, substitute, or otherwise satisfy the separate obligation of an Equal Employment Opportunity (EEO) complaint, negotiated or administrative grievance, Merit Systems Protection Board (MSPB) appeal, or other process.
2. Superseded/Canceled. None
3. Applicability. This instruction applies to all civilian members of the Alaska National Guard (AKNG) serving in Title 5 or Title 32 (technician status), and applicants for employment. The instruction also applies to commanders, supervisors, and managers of personnel in the above status. Reporting requirements and procedures apply to all AKNG leaders, supervisors, managers, and the Harassment Prevention and Response Coordinator (HPRC).
4. Policy. It is AKNG policy that:
 - a. The AKNG is firmly committed to providing and maintaining a model work place that is free of harassment. Such behavior or misconduct disrupts mission readiness, impedes force lethality, and takes a human toll.
 - b. The AKNG will not tolerate inappropriate behavior or conduct that is considered harassment or any type of reprisal against individuals who engage in protected activity such as opposing unlawful discrimination, filing a complaint, being a witness in a complaint, and participating in climate surveys, focus groups, interviews, and etc.
 - c. To every extent possible confidentiality must be exercised. The identity of the individual who submits a report, a witness who provides information regarding a report and the target of the complaint will be kept confidential and

disclosed only to personnel who are in the official need to know. Confidentiality will also be exercised on the information collected and only disclosed to those personnel in the official need to know.

d. For purposes of this instruction, “harassing conduct” is defined to include:

1. Harassing conduct based on race, color, religion, sex (including pregnancy, sexual orientation, and gender identity), national origin, age (40 and over), disability, genetic information (including family medical history), marital status, parental status, political affiliation, and retaliation for protected EEO activity that is unlawful under federal employment civil rights laws and related federal authorities. Harassing conduct based on any of these protected categories that is unwelcome, but may not rise to the level of unlawful under federal employment civil rights laws and related federal authorities, is included as well.

e. This policy prohibits unwelcome conduct, as well as unlawful harassment. The goal of this policy is to stop unwelcome conduct before it rises to the level of unlawful harassment and to prevent unwelcome conduct from recurring. This policy seeks to ensure that appropriate officials are notified of, and have the opportunity to promptly correct and prevent the recurrence of unwelcome conduct before it becomes severe or pervasive as to violate the law.

f. The goal of an inquiry or investigation under this policy is not to make a determination of whether any laws were violated. Rather, the goal is to determine whether harassing conduct (even if not unlawful) is taking place, to stop and address it as swiftly as possible, and to prevent it from recurring.

g. All AKNG personnel will take proactive steps to prevent, correct, and eliminate inappropriate behavior or conduct that may lead to harassment. Take immediate and appropriate action, including conducting an impartial inquiry or investigation and resolve allegations of harassment. Further, the AKNG will take appropriate action against any individual, military or civilian, who engages in harassment behaviors or unlawful practices.

h. Employees who believe that they have experienced harassment are encouraged (only if he or she is comfortable) to inform the offender that such behavior is offensive, unwelcome, and must stop immediately. Anyone who observes or is made aware of alleged harassment has an obligation to immediately report it to an appropriate supervisor or HPRC.

i. The AKNG has determined that the most effective way to reduce or eliminate harassing behavior is to treat it as misconduct, even if it does not rise to the level of unlawful harassment actionable under Title VII of the Civil Rights

Act of 1964, as amended. A hostile environment claim under Title VII usually requires a pattern of displayed offensive conduct. AKNG leaders, supervisors and managers will not wait for such pattern to emerge. Rather, they will act before the harassing conduct is as pervasive and offensive as to constitute a hostile environment.

j. In assessing whether the harassment is sufficiently severe or pervasive to trigger a violation of the law, the conduct must be viewed in context and its circumstances to include the frequency of the discriminatory conduct, its severity, whether it is physically threatening or humiliating, or mere offensive utterance of ethnic, sexual, or racial epithet, and whether it unreasonably interferes with an employee's work performance. A single utterance that offends an employee, although it may not be considered severe enough to constitute unlawful harassment is violation of Title VII; it is AKNG's view that such conduct is inappropriate and must be stopped.

5. Conduct Covered by this Policy.

a. Examples of harassing conduct. Examples of harassing conduct covered by this policy, when based on a person's protected characteristic(s), include the following, whether it occurred in person, on social media, or in any other manner: offensive jokes, comments, objects, or pictures; unwelcome questions about a person's identity; undue and unwelcome attention; ridicule or mockery; insults or put-downs; unwelcome touching or contact; slurs or epithets; threats or other forms of intimidation; or physical or sexual assault. Harassing conduct on the basis of sex does not need to be sexual in nature.

b. Unwelcome conduct. Harassing conduct is unwelcome conduct under this policy if it is based on a person's protected characteristic(s) and is unwanted or undesired, viewed subjectively (the target of the conduct finds it unwelcome).

c. Unlawful harassment. Harassing conduct is unlawful harassment if it is based on a person's protected characteristic(s) and is; linked to an actual change to the terms or conditions of employment (e.g., firing an employee because he/she rejected sexual advances); or sufficiently severe or pervasive to create a hostile work environment, viewed both subjectively and objectively. A threatened adverse action is generally sufficient to create a hostile work environment.

d. Retaliatory harassment. Retaliatory harassment may be unlawful even if it is not severe or pervasive enough to create a hostile work environment, as long as it might deter a reasonable person from asserting his/her EEO rights.

e. Conduct not covered by this policy. Not all unwelcome conduct is harassing conduct under this policy. For example, it is not harassing conduct for a supervisor to tell an employee that he/she is not performing a job adequately. Of course, the supervisor may not treat employees who are similar in their work performance differently because of a protected characteristic.

f. In carrying out the procedures under this policy, management officials should be familiar with and consider the need for application of other AKNG policies that may affect the outcome of a report or investigation under this policy, even though the conduct at issue may not have risen to the level of unlawful.

6. Definitions. See glossary.
7. Responsibilities. See Enclosure A.
8. Summary of Changes. This is the initial publication.
9. Releasability. This instruction is approved for public release; distribution is unlimited.
10. Effective Date. This instruction is effective upon publication.



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

Enclosures:

- A – Responsibilities
- B – Procedures
- C – Harassment Summary and Complaint Forms
- D – References
- GL – Glossary

ENCLOSURE A

RESPONSIBILITIES

1. The Adjutant General (TAG). TAG or his designee, will:
 - a. Establish and administer the Harassment Prevention and Response Program with the AKNG IAW references in enclosure D.
 - b. Enforce AKNG-wide policies pertaining to the ARNG and ANG HPR Program.
 - c. Provide guidance, oversight, training, and enforce compliance regarding the HPR Program and the associated Complaint Process.
 - d. Provide adequate resources to ensure the timely processing of harassment complaints and to execute a comprehensive HPR Program.
 - e. Ensure all leaders understand that the AKNG is vicariously liable for actionable discrimination caused by a supervisor, manager, or team lead.
 - f. Hold senior leaders accountable who fail to provide a work environment free from any type of harassment and comply with the policy or requirements set forth in this instruction.
 - g. Appoint a certified individual as primary or as additional duty, this person will be assigned to the Joint Force Headquarters as the Harassment Prevention and Response Coordinator (HPRC).
 - h. Ensure a distinct firewall exists between the State Equal Employment Manager (SEEM) and the HPR complaint process, both complaint processes (EEO/HPR) are distinctively separate processes. To ensure a firewall exists between the EEO Program and the HPR Program, the SEEM cannot be the manager or principal staff advisor as it relates HPR complaint management.
2. HPRC. The HPRC will:
 - a. Report directly to the Head of the Agency and manage the HPR Program for the ARNG and ANG civilian personnel.
 - b. Advise the Head of the Agency regarding issues, merits, validity, and procedures for the processing of harassment complaints.

c. Advise commanders, supervisors, and managers regarding issues, merits, validity, processing of harassment complaints (except sexual harassment complaints these are handled by the SEEM).

d. Must notify leadership/management of all harassment complaints within 72 hours of the alleged complaint regardless if an official complaint has or has not been filed. Organizations must take action and start a fact finding inquiry within 5 business days of the initial complaint report date.

e. Meet reporting requirements mandated by the National Guard Bureau-Equity and Inclusion (NGB-EI) office.

f. Prepare an annual report and forward to NGB-EI no later than 15 November each year, for the Head of the Agency.

g. Monitor State HPR training requirements for programmatic accountability.

h. Assist commander with conducting and assessing DEOCS results and implementing an action plan.

i. Analyze and provide feedback on reports and recommend corrective actions.

j. Develop and conduct HPR training within 60 days of hire of new civilian and those promoted/hired as civilian supervisors.

k. Counsel the employee(s) on the HPR complaint process.

l. Assist the complainant in processing a complaint, particularly in clarifying the issues and bases of the complaint.

m. Counsel complainants that they have the option to obtain assistance from the State IG or DoD IG at any time during the complaint process when the complaint involves any form of reprisal or retaliation for reporting or assisting a case of protected communication.

n. Provide timely feedback to the complainant on the status of the complaint at each step of the process and advise the complainant of the next step.

o. Ensure an inquiry or investigation is started within 5 business days of the complaint date.

p. Promote the use of Alternate Dispute Resolution (ADR) to resolve disputes under the commander's, supervisors, and manager's jurisdiction.

q. Provide technical assistance to investigators conducting inquiries/investigations.

r. To the extent possible confidentiality must be exercised. The identity of the individual who submits a report, a witness who provides information regarding a report and the target of the complaint will be kept confidential and disclosed only to personnel who are in the official need to know. Confidentiality will also be exercised on the information collected and only disclosed to those in the official need to know.

s. Assist in evaluating the effectiveness of unit training conducted by commanders, and assist commanders in assessing, planning, and evaluating the unit climate.

t. Advise leadership and commanders of human relations issues (real or perceived) that have a negative impact on morale, mission, or unit effectiveness.

u. Assist the commander in developing a policy on Harassment prevention.

v. Serve as an advisor for special observances to ensure that unit members annually receive cultural awareness training.

3. Commanders, Supervisors, and Managers. Commanders, supervisors, and managers at all levels will:

a. Adhere to the AKNG HPR program policies and procedures and serve as the accountable authority for the program and the climate within their unit.

b. Brief unit members and employees annually on their right to file an HPR complaint. A retaliation plan will be implemented to protect reporters, witnesses or anyone who participates in the reporting process. Any form of retaliation will not be tolerated.

c. Immediately notify the HPRC that a harassment complaint has been brought to your attention. The HPRC will provide guidance and manage the complaint process.

d. Ensure a timely, thorough and impartial inquiry or investigation is initiated within 5 business days of the reporting date. The

inquiry/investigation will be completed within 14 days following the initial report.

e. Allow complainants and their representative's reasonable amounts of duty time during the fact-finding and investigatory phases of the complaint process to investigate the complaint.

f. To the extent possible confidentiality must be exercised. The identity of the individual who submits a report, a witness who provides information regarding a report and the target of the complaint will be kept confidential and disclosed only to personnel who are in the official need to know. Confidentiality will also be exercised on the information collected and only disclosed to those personnel in the official need to know.

g. Take appropriate and proportionate disciplinary action to end harassing behaviors or misconduct, when the inquiry or investigation identifies that the harassing behavior or misconduct occurred.

h. Disseminate, in writing, and display, procedures for obtaining remedy through a complaint process, including those against members of the chain of command, along with corresponding process hierarchy to maintain an equitable process and program.

ENCLOSURE B

PROCEDURES

1. Reporting Harassing Conduct.

a. In general, anyone who is subjected to conduct he/she experiences as harassing should tell the person who engaged in the conduct to stop. If the target of the perceived harassing conduct is uncomfortable confronting the person who engaged in the conduct, or if the conduct continues, the target of the conduct should come forward quickly and report the conduct to any of the following: the target's immediate supervisor; the supervisor of the person who engaged in the conduct; any management official with supervisory authority; and/or the Agency Harassment Prevention and Response Coordinator.

b. Non-management employees who know of apparent harassing conduct directed at others are encouraged to report the conduct, as soon as possible, to any individual set forth in the procedures section 1.a.

c. Contract workers who have been subjected to harassing conduct by an AKNG employee, or who know of apparent harassing conduct directed at others by a AKNG employee, are encouraged to report the conduct as soon as possible, to any individual set forth in the procedures section 1.a. The contract worker may also report the conduct to the contractor, who should notify the Agency Harassment Prevention and Response Coordinator.

2. Management Official's Immediate Response to Alleged Harassing Conduct.

a. Receipt of report of alleged harassing conduct. If a supervisor, manager, or the HPRC receives a report of alleged harassing conduct, the report must be acknowledged, in writing, as soon as possible upon receipt.

b. Immediate documentation of alleged harassing conduct. If a supervisor, manager, or the HPRC receives a report/complaint form or becomes aware of alleged harassing conduct, he/she must, as soon as possible, document the alleged conduct by completing the Harassment Conduct Summary Form. The Harassment Conduct Summary Form is attached as Enclosure C.

3. Notifying Appropriate Officials.

a. A supervisor or manager who receives a report or becomes aware of alleged harassing conduct within his/her chain of command must, as soon as possible but no later than 3 business days, notify the HPRC. The manager or

supervisor must then notify his/her supervisor. If the conduct implicates an office director or senior leadership notify the HPRC and the TAG.

b. A supervisor or manager who receives a report or becomes aware of alleged harassing conduct outside of his/her chain of command must, as soon as possible but no later than 3 business days, notify the alleged harasser's immediate supervisor and the HPRC. The alleged harasser's immediate supervisor must then follow the procedure's set forth in the procedures section 1.a.

c. If a complainant contacts the Agency Harassment Prevention and Response Coordinator directly, the Agency Harassment Prevention and Response Coordinator must notify the complainant's supervisor; or, if the conduct implicates the supervisor, then notify the Chief of Staff.

d. The notifications described in (a)-(c) above shall be in writing and include as an attachment the initially completed Harassing Conduct Summary Form. The notifications shall also include any additional steps taken, and any additional relevant information received, since the Harassing Conduct Summary Form was initially completed.

e. The requirements of (a)-(c) above shall apply even if the complainant asks that the information be kept confidential or that there be no action taken. The supervisor, manager, or HPRC shall explain to the complainant that the AKNG takes seriously its responsibility to stop harassing conduct in the workplace, and that he/she has a responsibility to report the conduct to keep all employees safe and free from harassing conduct.

4. Notification of Procedures and Rights.

a. Upon receiving a report or becoming aware of alleged harassing conduct, the supervisor, or HPRC shall inform the complainant (and the target of the alleged conduct, if different from the complainant) about the procedural steps that will follow pursuant to this policy. This includes an assurance that the investigation of the alleged conduct will be as timely as possible, depending on the complexity of the case and available resources. This also includes an assurance that the alleged conduct and all related information will be maintained on a confidential basis to the greatest extent possible, except as necessary to conduct a thorough and fair investigation, or except as required by law. The individuals shall be assured that only individuals who need to know about the alleged conduct and related information will be informed.

b. If the complainant was the target of the alleged harassing conduct, the supervisor, or HPRC shall also advise the complainant of his/her other

avenues of redress, including: the right to file a complaint under the EEO process, which includes informing the complainant of the related deadlines for the EEO complaint process; the rights under the Collective Bargaining Agreement, the right to seek relief through the alternative dispute resolution, the right to go to the Office of Special Counsel, if the conduct is alleged to be based on marital status or political affiliation; and the right to go to the Merit Systems Protection Board, if the conduct results in an adverse personnel action such as suspension, demotion, or termination for more than 14 days (see 5 C.F.R. § 1201.3(a)).

c. The HPRC shall ensure that all individuals who are involved in carrying out the procedures under this policy, including, but not limited to, the complainant (and the target of alleged harassing conduct, if different from the complainant), the alleged harasser, individuals who participate in investigations of alleged harassing conduct, and relevant supervisors and management officials, are informed about the prohibition against retaliation.

d. If alleged harassing conduct is not alleged to be based on an employee's race, color, religion, national origin, sex (including pregnancy, sexual orientation, or gender identity), age, disability, genetic information, marital status, parental status, political affiliation, or retaliation for protected EEO activity, the supervisor, or HPRC shall promptly inform the complainant that the conduct does not constitute harassing conduct under the terms of this policy. The supervisor, manager, or HPRC shall advise the complainant to contact his/her first or second-line supervisor, union representative, and shall offer assistance, when possible, to reach an expeditious resolution to the problem presented.

5. Interim Relief.

a. Interim relief is recommended in situations where an employee reports fear of physical threat because of alleged harassing conduct; or when there is a concern that based on the alleged conduct, specific circumstances may present a hardship to the employee. Interim relief may be used to minimize contact between the complainant (and the target of the alleged conduct, if different from the complainant) and the alleged harasser until the matter is concluded.

b. In determining whether interim relief is appropriate, the Human Resources Office and supervisors, in consultation with the HPRC, shall determine whether any immediate interim action is required to insulate employees from potential additional harassing conduct. If the supervisor is implicated, the HPRC shall consult with the Human Resources Office. The Human Resources Office, supervisor, and HPRC shall also consult with the

Labor and Employee Relations Specialist. When there is disagreement between the Human Resources/supervisor and the HPRC they shall consult with the Chief of Staff.

c. Kinds of interim relief that may be employed include, but are not limited to: temporary reassignment, temporary transfer to a different physical location, placement in telework status; and administrative leave in those circumstances when reassignment of an employee would present a hardship. When using administrative leave, the Human Resources Office or the HPRC shall consider the amount of leave time required to resolve the investigation and shall confer with Labor and Employee Relations Specialist for guidance before implementing it as a measure of interim relief.

d. Interim relief shall be applied in a manner so as not to unduly burden the complainant (and the target of the alleged conduct, if different from the complainant). Except in very limited circumstances, the alleged harasser, rather than the complainant or the target of the conduct, shall be the person who is temporarily reassigned or transferred, placed in telework status, or placed on administrative leave.

6. Investigating Alleged Harassing Conduct.

a. Timeline for Investigations. Once the HPRC receives notification of alleged harassing conduct, he/she must make all reasonable efforts to complete an investigation as quickly as possible, but at most within 30 calendar days, unless there are extenuating circumstances.

b. Standards for investigations. Investigations must be prompt, thorough, and fair. A report of alleged harassing conduct shall not be presumed true and an alleged harasser shall not be presumed guilty unless until a complete investigation determines that harassing conduct occurred.

c. Scope of investigations. The HPRC shall determine the necessary scope of investigations. These determinations are fact-specific and shall be made on a case-by-case basis.

7. Determining the Investigator.

a. The HPRC shall determine who will conduct the investigation.

b. External Investigative Services. If the HPRC determines that an external investigative service or external entity is necessary and appropriate for

an investigation, he shall provide the reason(s) for the determination to the Chief of Staff. The AKNG shall pay the cost for an external investigator to conduct an investigation.

c. If an AKNG employee reports alleged harassing conduct by a contract worker, the HPRC shall bring the report to the attention of the contractor as soon as possible, but no later than within 3 business days. The HPRC shall request that the contractor conduct a prompt, thorough, and fair investigation, and, as appropriate, take preventive and/or corrective action in a meaningful manner. If the contractor fails to initiate contact with the complainant within 3 business days of receiving the report from the HPRC, as required, the HPRC shall immediately contact the complainant and conduct an investigation in accordance with this policy.

d. If a current employee alleges harassing conduct by a person who is no longer an employee of the AKNG, the HPRC shall conduct the investigation.

e. If the complainant leaves the AKNG before an investigation is completed, the HPRC shall ensure that the investigation is completed and a final report is prepared.

8. Conducting Investigations.

a. To conduct an investigation, the Agency Harassment Prevention and Response Coordinator (or assigned investigator) must:

1. Initiate contact with the complainant within three 3 business days of receiving notification of the alleged conduct to interview the complainant;

2. Initiate contact with the alleged harasser within five 5 business days of receiving notification of the alleged conduct to interview the alleged harasser;

3. Explain to the complainant and alleged harasser what will happen throughout the course of the investigation, including an assurance that the investigation will be as timely as possible, depending on the complexity of the case and available resources, as well as an assurance that the report and investigation, as well as all related information, will be maintained on a confidential basis. The investigator will: collect relevant evidence, determine who else may have relevant information and interview them, determine whether preventive and/or corrective action is needed to address the conduct, and

prepare the report on the investigation, as described in the program procedures section.

4. Cooperation. All parties—including the complainant (and the target of the conduct, if different from the complainant), the alleged harasser, and any others involved—will be expected to cooperate with an investigation so that it can be conducted in a prompt, thorough, and fair manner.

5. Reporting on Open Investigations. The HPRC shall report to the Chief of Staff within 5 business days of the commencement of an investigation, and shall provide updates on investigations as requested by the TAG.

6. Updates on Delayed Investigations. If an investigation exceeds 30 calendar days, the complainant and alleged harasser, and any other parties involved, shall be provided with regular updates on the status of the investigation. Such updates shall include an explanation of the delay to the investigation (e.g., due to unavailability of witnesses), and such explanations shall be included in the investigation report.

7. Final reports on investigations. At the conclusion of an investigation, the HPRC (or assigned investigator) shall prepare, and submit to the TAG, a report on the investigation, including the individuals and conduct involved, a description of the collected evidence, the steps taken to conduct the investigation, the findings of the investigation, a determination of whether preventive and/or corrective action is needed to address the conduct, and any other relevant information.

8. Disclosing Findings of Investigations. If the HPRC conducts an investigation, he shall provide a summary of the findings of the investigation to the complainant (and the target of alleged harassing conduct, if different from the complainant), the alleged harasser, the alleged harasser's immediate supervisor. Other management officials shall only receive a summary of the findings of an investigation if they have a need to know such information. If an assigned investigator conducts an investigation, he/she shall provide the HPRC with the investigation report as well as copies of documents and other tangible evidence collected or created during the investigation. The HPRC shall then share a summary of the findings of the investigation with the complainant (and the target of alleged harassing conduct, if different from the complainant), the alleged harasser, the alleged harasser's immediate supervisor, and the Director(s) of the office(s) implicated. Other management officials shall only receive a summary of the findings of an investigation if they have an official need to know.

9. Resolving Conflict of Interest Investigations.

a. If harassing conduct is alleged against a high-ranking appointee, non-career Senior Executive Service employee, Director, or similar high-ranking official, notice of the conduct shall be directed to the TAG who may delegate responsibility for investigating the conduct to the HPRC.

b. To coordinate an investigation, the Chief of Staff or his/her designee shall draw on the expertise of the Office of the Human Resources Office, as appropriate.

c. To conduct an investigation under the program procedures section, the Chief of Staff or his/her designee may utilize an external investigator, to ensure neutrality and integrity of the process.

d. During an investigation under the program procedures section, the Chief of Staff or his/her designee shall consult with the Labor and Employee Relations Specialist and the Human Resources Office and TAG before implementing any interim relief.

e. If harassing conduct is alleged against a high-ranking official in the Office of the Inspector General, notice of the allegation should be directed to the Council of the Inspectors General on Integrity and Efficiency.

f. If staff within the AKNG alleges harassing conduct, a staff designee in the Office of the TAG should be assigned to conduct the investigation.

g. Any dispute between an office subject to an investigation and the HPRC (or an assigned investigator) shall be resolved by the Chief of Staff.

10. Preventive and Corrective Action.

a. If it is determined that harassing conduct occurred, proportionate preventive and/or corrective action shall be taken promptly. Such action may include disciplinary action, as called for by the facts of the case and applicable conduct rules. The penalty imposed for harassing conduct shall be selected the same as for any other violation of workplace rules, considering the severity and frequency of the conduct, the response required to end such conduct and prevent it from recurring, the offender's disciplinary/conduct history, and other relevant factors. The penalty may include suspension, demotion, or removal. Any discipline may be challenged through the negotiated or administrative grievance procedures, or a Merit Systems Protection Board appeal.

b. Proportionate Preventive and/or Corrective Action

1. The severity and frequency of harassing conduct shall be considered when determining the level of preventive and/or corrective action. More egregious harassing conduct shall merit more severe action. For example, the use of an epithet, a threat or other intimidation, or a sexual or physical assault would very likely warrant more severe action than a first-time inappropriate comment or joke.

2. Proportionate preventive and/or corrective action may include counseling. An employee shall be counseled for harassing conduct consistent with this instruction and applicable conduct rules. After counseling has been imposed, the conduct of the counseled employee shall be monitored to ensure that the conduct does not continue.

3. For the most serious harassing conduct, corrective action shall include disciplinary action applicable to violations of conduct standards, such as suspension, demotion, or termination. Such corrective action shall be in proportion to the seriousness of the harassing conduct.

c. If the preventive and/or corrective action is to separate the employee who engaged in the harassing conduct from the injured party, in general, this should not be accomplished by transferring the injured party. If the injured party, without having been asked or prompted, specifically requests a transfer, a management official shall inform him/her that he/she need not leave, and that instead the employee who engaged in the harassing conduct may be transferred. Nonetheless, to the extent possible, the injured party's request should be honored.

d. Office-wide training may be appropriate in certain circumstances. For example, office-wide training is likely appropriate if more than one employee in the office has engaged in harassing conduct, if there is other evidence that employees in the office do not know what conduct is appropriate and permissible, or if employees in the office appear unaware of how to properly respond to harassing conduct.

e. Appropriate corrective action, up to and including removal, shall be taken against any management official who fails to perform his/her obligations as set forth in this instruction regarding harassing conduct that the official knew or should have known about. Conversely, appropriate positive reinforcement, up to and including awards and positive feedback on

performance appraisals, shall be provided to any management official who handles harassing conduct in an exemplary manner.

f. Determining and Implementing Preventive and/or Corrective Action

1. If it is determined that harassing conduct occurred, the HPRC shall determine the preventive and/or corrective action to recommend to the Chief of Staff. To determine the recommendation, the Agency Harassment Prevention and Response Coordinator shall consult with the Directors of Employee and Labor Relations and Equal Opportunity, as well as with the office(s) implicated.

2. The Chief of Staff shall make a decision on preventive and/or corrective action within 10 business days of receiving the HPRC's recommendation of such action.

3. The responsible management official shall implement preventive and/or corrective action within 5 business days of receiving the Chief of Staff's decision on such action.

4. Once corrective and/or preventive action is implemented, the investigation report shall be amended to describe the action taken.

5. Any delay in implementing preventive and/or corrective action shall be explained to those involved, and the investigation report shall be amended to include an explanation of the delay.

g. Disclosing preventive and/or corrective action. In accordance with the requirements of the Privacy Act of 1974, 5 U.S.C. § 552a, as amended, following the implementation of preventive and/or corrective action, the HPRC shall, unless there is good reason not to, inform the complainant (and the injured party, if different from the complainant) of the preventive and/or corrective action taken. In addition, the HPRC shall provide information regarding the preventive and/or corrective action taken to management officials with an official need to know.

h. All reports and investigations of alleged harassing conduct, as well as all related information, shall be maintained on a confidential basis to the greatest extent possible, except as necessary to conduct a thorough and fair investigation, or except as required by law. Only individuals with an official need to know will receive the information.

11. Documentation and Record Keeping.

a. If a supervisor, manager, or the HPRC receives a report or becomes aware of alleged harassing conduct, he/she must, as soon as possible, document the alleged conduct by completing the Harassing Conduct Summary Form.

b. All actions taken on alleged harassing conduct shall be documented, even when alleged conduct does not constitute harassing conduct under the terms of this instruction.

c. The HPRC (and assigned investigator, if used) shall keep documents and other tangible evidence collected or created during an investigation, including interview notes, emails, and photographs. If an assigned investigator conducts an investigation, he/she shall, at the conclusion of the investigation, provide the HPRC with copies of documents and other tangible evidence collected or created during the investigation.

d. The HPRC (and assigned investigator, if used) shall maintain investigation files and written reports in a secure electronic file. If there also are physical copies, such copies shall be stored in locked filing cabinets to which only authorized personnel have access. Access to computerized or physical records is limited, through use of access codes and entry logs, to those whose official duties require access. These written reports are protected by the Privacy Act and subject to the record retention requirements.

12. Tracking and Scheduled Reporting.

a. Tracking reports and investigations. The HPRC shall track reports and investigations of harassing conduct, including the basis of reports, the office locations from which reports originated, the status of investigations, how reports were resolved, and how long it took to resolve them.

b. Scheduled Reporting Under This Instruction

1. The HPRC will complete an annual report that assesses the reports of alleged harassing conduct received in the past year, including the number of actual findings of harassing conduct and whether there are patterns associated with the substantiated reports. The annual report shall not contain confidential information about specific reports, such as the names of complainants or others involved. Rather, the annual report shall provide only general aggregate information, such as the number and types of reports received. The HPRC shall submit the annual report to the Chief of Staff and the TAG.

c. Monitoring compliance with this instruction and the work environment. Human Resources Office and Supervisors are responsible for ensuring that their offices are in full compliance with the requirements of this instruction. Where an office is found to have violations of this instruction, the Chief of Staff, in partnership with the HPRC and management officials, is responsible for monitoring the work environment to ensure that there are no (repeat) violations or incidents of retaliation against anyone who has reported harassing conduct or participated in an investigation, and to take further corrective action if needed.

13. Procedures Under this Instruction are Separate from Other Processes.

a. This instruction is designed to address unwelcome conduct in the workplace before it rises to the level of unlawful harassment. The purpose of this instruction is to ensure that management officials are notified of and have the opportunity to prevent and/or correct harassing conduct. Employees may file a report pursuant to this instruction, regardless of whether the employee has filed an EEO complaint, negotiated or administrative grievance, or Merit Systems Protection Board appeal. However, preventive and/or corrective action taken pursuant to this instruction does not provide the remedies available in the EEO or other processes, such as compensatory damages. Filing a report under this instruction does not satisfy the requirements for filing an EEO complaint, negotiated or administrative grievance, or other processes, or for obtaining remedies pursuant to them. Nor does filing a report under this instruction delay the time limits for initiating other processes. Thus, even if an employee has filed a report under this instruction, the employee may still choose to pursue statutory, administrative, or collective bargaining remedies regarding an alleged act of harassment and must, if the employee chooses to do so, select one of the following available forums:

1. For an EEO complaint pursuant to 29 C.F.R. § 1614, contact the SEEM within 45 days from the most recent incident of alleged harassment (or personnel action, if applicable), as required in 29 C.F.R. § 1614.105(a)(1);

2. For a collective bargaining claim, file a written grievance in accordance with the provisions of the Collective Bargaining Agreement;

3. For alleged harassment based on marital status or political affiliation, file a written complaint with the Office of Special Counsel;

4. For an appeal to the Merit Systems Protection Board pursuant to 5 C.F.R. § 1201.22, file a written appeal with the Board within 30 days of the

effective date of an appealable adverse action as defined in 5 C.F.R. § 1201.3; or, to file a mixed case complaint, file within 30 days of the date of receipt of the agency's decision on the mixed case complaint.

b. All bargaining unit employees may file either a grievance in accordance with the provisions of the Collective Bargaining Agreement or a formal EEO complaint regarding an alleged act of harassment, but not both.

c. Non-bargaining unit employees may file an administrative grievance regarding an alleged act of harassment.

14. Interaction between this Instruction and Other Processes.

a. The AKNG's liability for an EEO complaint, grievance, or other action may depend on whether it was aware of and promptly corrected conduct at issue under this instruction.

b. Because of their potentially overlapping roles, and to clarify with the complainant which forum he/she wishes to pursue, the Human Resources Office, and the SEEM shall, as appropriate, notify each other promptly, but no later than within 3 business days of when they become aware of an allegation of harassing conduct.

c. If an employee files a claim of harassment through the EEO process, the negotiated or administrative grievance procedures, the Office of Special Counsel, or the Merit Systems Protection Board appeal process, the SEEM shall promptly notify the HPRC. The HPRC shall treat the notice as a report, unless inconsistent with applicable regulatory or statutory requirements.

d. The HPRC shall provide the record of actions taken under this instruction to the office handling a parallel statutory or collective bargaining claim.

15. Any AKNG employee or employee representative seeking further information concerning this instruction may contact the Agency Harassment Prevention and Response Coordinator at (907) 428-6102.

ENCLOSURE C

For Internal Distribution Only

Harassing Conduct Summary Form



To be completed by a Manager, Supervisor, or the Harassment Prevention and Response Coordinator

Name, job title, office address, and contact information of the complainant (and the target of the alleged conduct, if different from complainant)

Summary of alleged conduct (please provide a concise statement of: the individuals who may be involved, including the name, position, and office/work location of the alleged harasser(s) and any witness(es) or others who may have knowledge of the conduct; the alleged conduct at issue, the date(s) the conduct occurred, and whether the conduct is alleged to be based on a protected characteristic; any initial steps taken in response to the conduct; and any other relevant information):

Completed by (print): _____

Job title and contact information: _____

Signed: _____ Date: _____

Harassment Complaint Form For National Guard Civilian Employees		HPRC Use (Only)	Filing State/ Territory: AKNG
		Case Tracking Number:	
PRIVACY ACT STATEMENT			
Authority: 29 CFR 1614, MD-110 Principal Purpose: To document allegations of harassment in the Alaska National Guard Routine Uses: None 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.		<input type="checkbox"/> Initial Counseling Date: _____ <input type="checkbox"/> ADR Date: _____	
INSTRUCTIONS			
PART I - TO BE COMPLETED BY COMPLAINANT			
Submit to Your State Harassment Prevention and Response Coordinator (HPRC)			
<p>All NG civilian employees to include the NG technicians/Title 5 Civilian employees who believe are or have experienced a form of harassment based on race, color, national origin, religion, sex-gender, or sexual orientation, or who believe they have experienced reprisal/retaliation for any prior engagement in a complaint process or related activity, may file a request to resolve harassment allegations.</p> <p>You are encouraged to discuss your complaint with the alleged harasser immediate supervisor, unit commander, members of the chain of command or Harassment Prevention and Response Coordinator (HPRC). Fill out Part I of this form and file the complaint within 30 days of the date of the alleged harassment or the date that you became aware of the event or action. The complaint can be filed with the immediate supervisor or with your organization's HPR Coordinator. You may file with any other commander in the chain of command, Inspector General Office, Chief of Staff, and the Adjutant General. Regardless of where the complaint is formally filed, an applicable supervisor or command level member will be informed of the harassment.</p> <p>NOTE: The purpose of this policy is to stop harassing conduct that has occurred and deter its occurrence in the future. However, corrective action under this policy does not provide the remedies available in the EEO, grievance, or other processes, such as compensatory damages. Filing a report under this policy does not satisfy the requirements for filing an EEO complaint.</p>			
1. CIVILIAN COMPLAINANT			
a. NAME (Last, First, MI)		b. GRADE	c. COMPONENT (ARNG/ANG)
d. POSITION			
2. SEX-GENDER (M/F)	3. RACE	4. NATIONAL ORIGIN	
5. ORGANIZATIONAL ADDRESS (Including Zip Code)		6. TELEPHONE NUMBERS	
		a. BUSINESS	b. HOME or CELL
7. ACTIVITY OR UNIT IN WHICH ALLEGED DISCRIMINATION OCCURRED		8. ARE YOU (Check ALL THAT APPLY)	
		<input type="checkbox"/> PART TIME EMPLOYEE <input type="checkbox"/> FULL-TIME EMPLOYEE TITLE <input type="checkbox"/> 5 CIVILIAN EMPLOYEE <input type="checkbox"/> TITLE 32 MILITARY TECHNICIAN	
9. ALLEGED HARASSER			
a. NAME (Last, First, MI)		b. RANK or GRADE AND TITLE	
10. REPRESENTATIVE (If any)			
a. NAME (Last, First, MI)		b. ADDRESS	
11. CHECK BELOW THE BASIS (Reasons) FOR ALLEGED DISCRIMINATION			
<input type="checkbox"/> HAZING <input type="checkbox"/> BULLYING <input type="checkbox"/> HOSTILE OR OFFENSIVE WORK ENVIRONMENT <input type="checkbox"/> DISCRIMINATORY HARASSMENT <input type="checkbox"/> STALKING <input type="checkbox"/> RETALIATION <input type="checkbox"/> OTHER: _____			

PART II - COMPLAINT MANAGEMENT PROCESSING						
TO BE COMPLETED AT THE APPLICABLE SUPERVISOR/COMMAND LEVEL						
COMPLETE AS APPROPRIATE						
1. WHEN DID YOU RECEIVE THE COMPLAINT?					DATE (YYYY/MM/DD)	
2. WAS THE COMPLAINT						
a.	Accepted	<input type="checkbox"/>	All	<input type="checkbox"/>	In Part	
b.	Referred	<input type="checkbox"/>	All	<input type="checkbox"/>	In Part	TO WHOM?
c.	Dismissed	<input type="checkbox"/>	All	<input type="checkbox"/>	In Part	(Reason)
3. AFTER REVIEW OF THE LEADERSHIP INQUIRY REPORT I FIND THAT YOUR HARASSMENT ALLEGATION(S) ARE (Circle One) AND THAT THE MATTER HAS BEEN (Circle One).						
FOUNDED			UNFOUNDED			
RESOLVED			UN-RESOLVED			
4. DID THE NOTICE OF PROPOSED RESOLUTION (NPR) CONCUR WITH THE FINDINGS OF THE INQUIRING OFFICIAL?					Yes	No
5. NAME/DATE NEXT HIGHER LEVEL COMMANDER/SUPERVISOR REVIEWED NPR: a. NAME (Last, First, MI)					b. DATE (YYYY/MM/DD)	
6. DID THE JUDGE ADVOCATE REVIEW THE ENTIRE REPORT?				Yes	No	DATE (YYYY/MM/DD)
7. DID THE HPRC REVIEW THE ENTIRE REPORT?				Yes	No	DATE (YYYY/MM/DD)
8a. WAS THE REPORT REVIEWED BY THE ADJUTANT GENERAL (or designated representative)?				Yes	No	DATE (YYYY/MM/DD)
8b. DID COMPLAINANT'S ELECT TO PARTICIPATE IN ADR:				Yes	No	DATE (YYYY/MM/DD)
9. DATE THE HPRC MET WITH MEMBER AND PROVIDED THEM WITH NPR:					DATE: (YYYY/ /DD)	
10a. SIGNATURE OF COMPLAINANT					10b. DATE (YYYY/MM/DD)	
11. FINAL REMARKS BEFORE CLOSING THE CASE:						
12a. SIGNATURE OF HPRC					12b. DATE CASE WAS CLOSED (YYYY/MM/DD)	

ENCLOSURE D

REFERENCES

1. Title 5 United States Code Section 2302
2. Title VII of the Civil Rights Act of 1964
3. Age Discrimination Employment Act of 1967 (ADEA)
4. Rehabilitation Act of 1973, as amended
5. 29 CFR 1604
6. 29 CFR 1614
7. 7 CFR Part 15
8. Equal Employment Opportunity Commission (EEOC) Management Directive 110
9. EEOC Management Directive 715
10. Department of Defense Instruction 1020.03

ENCLOSURE GL

GLOSSARY

PART I - ABBREVIATIONS AND ACRONYMS

ADR	Alternative Dispute Resolution
ANG	Air National Guard
AKNG	Alaska National Guard
ARNG	Army National Guard
EEO	Equal Employment Opportunity
HPR	Harassment Prevention and Response
HPRC	Harassment Prevention and Response
Coordinator	
NGB-EI	National Guard Bureau Equity & Inclusion
SEEM	State Equal Employment Manager

PART II – 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, arbitration, or any combination.

Bullying - A form of harassment that includes acts of aggression by NG members (military or civilian), with the intent of harming, either physically or psychologically, without a proper military or other governmental purpose. Bullying may involve the singling out of an individual from his or her coworkers, or unit, for ridicule because he or she is considered different or weak. It often involves an imbalance of power between the aggressor and the victim. Bullying can be conducted through the use of electronic devices and by other means including social media, as well as in person. This behavior is usually sustained for an undetermined amount of time.

a. Bullying is evaluated by a reasonable person standard and includes, but is not limited to the following when performed without a proper military or other governmental purpose:

1. Physically striking another person in any manner or threatening to do the same.

2. Intimidating, teasing, or taunting another person;

3. Oral or written berating of another person with the purpose of belittling or humiliating.

4. Encouraging another person to engage in illegal, harmful, demeaning or dangerous acts.

5. Playing abusive or malicious tricks.

6. Branding, handcuffing, duct taping, tattooing, shaving, greasing, or painting another person.

7. Subjecting another person to excessive or abusive use of water.

8. Forcing another person to consume food, alcohol, drugs, or any other substance.

9. Degrading or damaging another's property or reputation.

10. Soliciting, coercing, or knowingly permitting another person to solicit or coerce acts of bullying.

b. Bullying does not include properly directed command or organizational activities that serve a proper military or other governmental purpose, or the requisite training activities required to prepare for such activities (e.g., command-authorized physical training).

c. Supervisors, managers, civilian employees, or contractors may be responsible for an act of bullying even if there was actual or implied consent from the victim and regardless of the grade or rank, status, or position of the victim.

d. Bullying is prohibited in all circumstances and environments, including off-duty or "unofficial" unit functions and settings.

Discriminatory Harassment – A form of harassment that is unwelcome conduct based on race color, religion, sex (sexual or non-sexual an example - gender identity, sexual orientation and pregnancy), national origin, age (40 or older), disability or genetic information. This type of harassment may become unlawful when there is a civilian employee nexus.

Harassment – Behavior that is unwelcome or offensive to a reasonable person, whether oral, written, or physical, that creates conditions that may interfere with work performance or creates a hostile work environment. Harassment can occur through electronic communications, including social media, other forms of communication, and in person. Harassment may include unwanted physical

contact, offensive jokes, epithets or name-calling, ridicule or mockery, insults or put-downs, displays of offensive objects or imagery, stereotyping, intimidating acts, veiled threats of violence, threatening or provoking remarks, racial or other slurs, derogatory remarks about a person's accent, or displays of racially offensive symbols.

Hazing -- A form of harassment that includes conduct through which NG members (military or civilian), without a proper military or other governmental purpose but with a nexus to military Service, physically or psychologically injures or creates a risk of physical or psychological injury to a NG member for the purpose of: initiation into, admission into, affiliation with, change in status or position within, or a condition for continued membership in any military or DoD civilian organization. Hazing can be conducted through the use of electronic devices or communications, and by other means including social media, as well as in person. This behavior is usually displayed in an event that has an established start and end timeframe.

a. Hazing is evaluated by a reasonable person standard and includes, but is not limited to, the following when performed without a proper military or other governmental purpose:

1. Any form of initiation or congratulatory act that involves physically striking another person in any manner or threatening to do the same.

2. Oral or written berating of another person with the purpose of belittling or humiliating.

3. Encouraging another person to engage in illegal, harmful, demeaning or dangerous acts.

4. Playing abusive or malicious tricks.

5. Piercing, branding, handcuffing, duct taping, tattooing, shaving, greasing, or painting another person.

6. Subjecting another person to excessive or abusive use of water.

7. Forcing another person to consume food, alcohol, drugs, or any other substance.

8. Soliciting, coercing, or knowingly permitting another person to solicit or coerce acts of hazing.

b. Hazing does not include properly directed command or organizational activities that serve a proper military or other governmental purpose.

c. Supervisor, managers, and civilians may be responsible for an act of hazing even if there was actual or implied consent from the civilian and regardless of the grade, rank, status or position of the civilian.

d. Hazing is prohibited in all circumstances and environments including off-duty or “unofficial” unit functions and settings.

Hostile or offensive work environment – A form of harassment that includes an act or series of acts which are severe or pervasive as to alter the terms and conditions of employment. The acts which make up the hostile environment may be discreet acts or may be acts which taken alone do not rise to the level of an adverse employment action.

Retaliation -- A prohibited behavior wherein the employer punishes job applicants, civilian employees, or contractors for asserting their rights to complain of harassment, provide information related to such complaints, or oppose harassing behaviors.

a. It is prohibited to retaliate against applicants or employees for:

1. Filing or being a witness in a charge, complaint, investigation, or lawsuit.
2. Communicating with a supervisor or manager about harassment.
3. Answering questions during an employer investigation of alleged harassment.
4. Refusing to follow orders that would result in harassment.
5. Resisting sexual advances or intervening to protect others.

b. Participating in a complaint process is protected from retaliation under all circumstances. Other acts opposing harassment are protected as long as the civilian employee or contractor was acting on a reasonable belief that something in the workplace may violate laws or policy, even if he or she did not use legal terminology to describe it.

c. Retaliation encompasses illegal, impermissible, or hostile actions taken by a civilian employee’s manager or supervisor, peers, or coworkers as a result of complaining, or being suspected of complaining of harassment. In addition to reprisal (defined in the next paragraph) retaliatory behaviors include but are not limited to:

1. Ostracism

2. Maltreatment
3. Criminal acts for a retaliatory purpose

Reprisal. A form of retaliation that involves taking, threatening, or recommending taking an unfavorable personnel action (demote, fire, negative administrative actions, not given same opportunities as peers), or withholding, threatening, or recommending withholding a favorable personnel action, for making, preparing to make, perceived as being engaged in the harassment process.

Sexual Harassment (SH) -- A form of harassment that is:

- a. Conduct that:
 1. Involves unwelcome sexual advances, requests for sexual favors, and deliberate or repeated offensive comments or gestures of a sexual nature when:
 - (a) Submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay, or career;
 - (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 has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive environment; and
 2. Is so severe or pervasive that a reasonable person would perceive, and the civilian employee does perceive, the environment as hostile or offensive.
 - b. Any use or condonation, by any person in a supervisory or command position, of any form of sexual behavior to control, influence, or affect the career, pay, or job of a Service m Member, civilian employee, or contractor of the Department of Defense.
 - c. Any deliberate or repeated unwelcome verbal comments or gestures of a sexual nature by any Service m Member, civilian employee, or contractor of the Department of Defense.

Stalking. A form of harassment that includes harassing, unwanted, or threatening conduct that causes an individual to fear for his or her safety or the safety of a family member.

- a. Stalking conduct may include, but it is not limited to:
1. Following, spying on, or waiting for an individual in places such as home, school, work, or recreational places.
 2. Leaving unwanted items for the individual being stalked.
 3. Making direct or indirect threats to harm an individual, an individual's children, relatives, friends, pets or property.
 4. Posting information or spreading rumors about an individual on the internet, in a public place, or by word of mouth.
 5. Obtaining or using personal information about an individual accessed through public records, using internet search services, hiring private investigators, going through an individual's garbage, following an individual, or contacting an individual's friends, family, work, or neighbors.
- b. Stalking may occur through use of technology, including but not limited to, email, telephone, voicemail, text messaging, drones, cameras, microphones, and use of electronic tracking and monitoring, and social networking sites.