



DEPARTMENT OF THE NAVY
HEADQUARTERS UNITED STATES MARINE CORPS
3000 MARINE CORPS PENTAGON
WASHINGTON DC 20350-3000

MCO 5354.1F
M&RA (MPE)
20 APR 2021

MARINE CORPS ORDER 5354.1F

From: Commandant of the Marine Corps
To: Distribution List

Subj: MARINE CORPS PROHIBITED ACTIVITIES AND CONDUCT (PAC) PREVENTION
AND RESPONSE POLICY

Ref: See enclosure (1)

Encl: (1) References
(2) Prohibited Activities and Conduct Prevention and Response

1. Situation. We are an elite institution of warriors. It is our shared responsibility to ensure the continued health of our collective soul and identity. All Marines and Sailors will treat one another with dignity, care, and concern. We must all have a clear and common understanding of PAC and their corrosive effects on our institution in order to prevent and respond to them appropriately. We will take care of our Marines and Sailors to ensure all are mentally and physically equipped for the rigors of combat, and uphold our high professional standards of performance, conduct, and discipline. Although this policy provides commanders the necessary tools to effectively respond to these behaviors, it also serves as a primary educational tool to help commanders and leaders proactively prevent these behaviors from occurring.

2. Cancellation. MCO 5354.1E W/ADMIN CH-1; MARADMIN 113/13, 464/13, 242/18, and 250/20

3. Mission. This Order updates Marine Corps policy, procedures, and responsibilities for preventing and responding to prohibited conduct involving sexual harassment, prohibited discrimination, harassment, hazing, bullying, dissident and protest activities, and wrongful distribution or broadcasting of intimate images. These behaviors are referred to collectively as prohibited activities and conduct (PAC) throughout this Order. This revised Order implements and aligns with Department of Defense (DOD) and Department of the Navy (DON) policies on Military Equal Opportunity (MEO) and Harassment Prevention and Response programs and activities (references (a) through (d)), and recent updates to the Uniform Code of Military Justice (UCMJ) (reference (e)).

DISTRIBUTION STATEMENT A: Approved for public release; distribution is unlimited.

4. Execution

a. Commander's Intent and Concept of Operations

(1) Commander's Intent

(a) Military Equal Opportunity (MEO) is a function of command. Marine Corps leaders must ensure their people are well-led and cared for physically, emotionally, and spiritually, in and out of combat. "Taking care of Marines" means vigorously enforcing our high standards of performance and conduct. We will hold each other accountable and address violations expeditiously, at the lowest appropriate level.

(b) The responsibility of a successful MEO program rests with the commander. Commanders have earned special trust and confidence and are accountable for all of their decisions, actions, and inactions. The PAC prevention and response measures in enclosure (2) provide commanders the discretion to assess, investigate, and take corrective action to ensure unit cohesion and warfighting effectiveness.

(c) Marine Corps small unit leaders, company-grade officers and mid-grade staff noncommissioned officers (SNCOs) have experience, maturity, and close daily connection to our most junior Marines. These leaders are in the best position to lead, educate, train, supervise, and instill our high standards.

(2) Policy. Prohibited discriminatory and harassment practices within the Marine Corps are counter-productive, unacceptable, and will not be tolerated. The Marine Corps will maintain a culture of dignity, care, and concern in which all members of the organization are afforded equal treatment and opportunity to achieve their full potential based upon individual merit, fitness, intellect, and ability. All Service members will cultivate an environment free from PAC. The PAC identified in this Order undermine morale, reduce combat readiness, and prevent maximum utilization and development of the Marine Corps' most vital asset: its people. Terms that have special significance and meaning to this Order are defined in the Glossary.

(3) Concept of Operations. We will take deliberate actions necessary to prevent and respond to PAC. To ensure standards are clearly understood and upheld, we will pursue two lines of effort (LOEs): prevention and response.

(a) Prevention. Chapters 1 and 2 prescribe basic guidance and responsibilities for the Prevention LOE. Through the prevention LOE, we will:

1. Ensure all Service members assigned to Marine Corps commands understand this Order and uphold our standards to foster a climate of dignity, care, and concern for all.

2. Promote the chain of command as the primary and preferred channel to prevent and respond to PAC. The chain of command is the most effective avenue to address PAC violations and uphold our standards.

3. Ensure all Service members assigned to Marine Corps commands receive recurring standardized training to build skills to promote positive behaviors and provide clear, easy-to-understand descriptions of PAC. Training will be specific to rank, position, and responsibility.

4. Enable commanders to evaluate risk and protective factors through various techniques to include, but not limited to, conducting specific qualitative and quantitative analysis of complaints and survey data collected via authorized command climate surveys. The Defense Organizational Climate Survey (DEOCS) is the congressionally-mandated instrument to assess command climate.

5. Focus prevention efforts on research-based programs, policies, and practices.

6. Implement the DOD integrated primary prevention policies and programs to foster healthy behaviors, life skills, and stress management early on, and reinforce these behaviors and skills using appropriate educational strategies to maintain proficiency throughout a Marine's military career in accordance with reference (u).

7. Leverage existing capabilities, where possible, to establish a Marine Corps wide prevention system that facilitates data-informed actions to integrate primary prevention activities to prevent self-directed harm and prohibited abusive or harmful acts.

(b) Response. Chapters 3 through 5 provide basic guidance and responsibilities for appropriate PAC complaint reporting, assessment, and resolution. Through the Response LOE, Commanders shall:

1. Facilitate appropriate, responsive care and services for those who are adversely impacted by PAC.

2. Direct the use of Conflict Management when appropriate. This new informal mediation process can help Marines and Sailors develop inter-personal communication and awareness of issues that, if not appropriately addressed, may negatively impact command

climate and unit cohesion. Conflict Management is facilitated by an Equal Opportunity Advisor (EOA) at a commander's direction. Conflict Management is not a prerequisite for the complaint resolution process in Chapter 4 of this Order. Conflict Management provides commanders a means to direct informal resolution of PAC complaints at the lowest appropriate level.

3. Provide an easily accessible and effective complaint system that welcomes questions, concerns, and complaints; encourages Marines to report potentially problematic conduct early; treats alleged victims, complainants, witnesses, alleged offenders, and others with respect; operates promptly, thoroughly, and impartially; and imposes appropriate consequences for prohibited discrimination, harassment or related misconduct, such as retaliation.

4. Ensure complainants who, in good faith, engage in protected communications are protected from retaliatory actions. A complainant who, in good faith, engages in the Conflict Management or PAC Complaint Resolution processes in this Order may be engaged in a protected communication. See the Glossary for amplification of protected communications.

5. Ensure individuals who believe they have been the victim of retaliatory action as defined by reference (f) and provided in the Glossary, are aware that they can make a complaint of retaliatory actions to their chain of command, local Inspector General (IG), the IGMC, or the DODIG.

6. Commanders should consult with their supporting legal advisor (staff judge advocate (SJA)) to determine the appropriate investigative authority for retaliation complaints.

(a) Any reprisal complaints shall be forwarded to an Inspector General (IG).

(b) Commander will promptly investigate allegations of non-reprisal retaliatory action (ostracism and maltreatment). In some cases, retaliatory actions may involve serious criminal misconduct (e.g. retaliatory actions involving serious bodily injury) in such cases a Military Criminal Investigative Organization should be informed and consulted.

b. Subordinate Element Tasks

(1) Deputy Commandant for Manpower and Reserve Affairs
(DC M&RA)

(a) Administer and maintain this Order consistent with DOD MEO policy. Maintain overall cognizance for execution of the policies identified within this Order. Review and publish updates as required.

(b) Ensure the MEO program is funded and resourced appropriately.

(c) Serve as the appellate authority for formal Complaint Resolution appeals when the first General Court-Martial Convening Authority (GCMCA) in the chain of command to the investigation convening authority (CA) is the Commandant of the Marine Corps (CMC) or Assistant Commandant of the Marine Corps (ACMC).

(d) Resource the Marine Corps' electronic case management system for data collection and reporting requirements.

(e) Provide a cadre of full-time qualified equal opportunity professionals to execute the Marine Corps' MEO mission.

(f) Serve as the initial appellate authority for formal Complaint Resolution appeals when the first GCMCA in the chain of command to the investigation convening authority (CA) is the CMC or ACMC.

(2) Director, Manpower, Plans and Policy Division (MP)

(a) Serve as the Marine Corps' Principal member to the Defense Equal Opportunity Management Institute (DEOMI) Board of Advisors (BOA).

(b) Develop aggregated data sharing agreement with other HQMC agencies in order to provide command climate assessment information/trends.

(c) Serve as the Initial Denial Authority (IDA) for all Freedom of Information Act (FOIA) requests for records related to DEOCS.

(3) Branch Head, Opportunity, Diversity, and Inclusion Branch (MPE)

(a) Serve as the Marine Corps office of primary responsibility (OPR) to track and report completion of required command climate assessments (CCA).

(b) Serve as the Marine Corps OPR for authorized sharing DEOCS results and data.

(c) Serve as the Marine Corps liaison to Defense Equal Opportunity Management Institute (DEOMI).

(d) Create and maintain the Functional Area Checklist for use by commands, Command Inspectors General, and IGMC when executing

the IGMC Inspection Program (IGMCIP) to verify compliance with this Order. Designate MEO subject matter experts (SMEs) to augment the Inspector General of the Marine Corps as required.

(e) Serve as the Occupational Field Sponsor for AMOS 0147. Review and approve training and readiness requirements.

(f) Prepare and publish a MEO Program Self-Assessment annually that evaluates the six essential elements of the model MEO program outlined in reference (b).

(g) Plan, develop, and execute the annual Senior Executive Equal Opportunity Seminar (SEEOS) as required by reference (b).

(h) Plan, develop, and deliver training to officers in the grade of major general and above, and DOD civilians serving in Senior Executive Service positions as required by reference (b).

(i) Maintain a minimum of one toll-free or local hotline (or advice line) that provides information on PAC policies and procedures covered by this Order, including how and where to file complaints.

(j) Prepare and submit required annual reports to the Office for Opportunity, Diversity, and Inclusion as required by references (a) and (b).

(k) Develop standardized program of instruction for the Marine Corps service specific portion of the Equal Opportunity Advisor Course at DEOMI.

(l) Develop a standardized evaluation measurement tool to assess trainings covered by this Order.

(4) Commanding General, Training and Education Command (CG TECOM) in coordination with MPE, shall:

(a) Ensure Marines receive common military skills training annually that supports PAC prevention and response by strengthening individual knowledge, skills, and capacity to prevent and respond to PAC. Ensure annual training occurs across the Total Force in accordance with this Order.

(b) Ensure commanders and senior enlisted advisors receive training on command climate assessment requirements and methodologies before assuming senior leadership or command positions in accordance with reference (b).

(c) Ensure training requirements outlined in references (a) and (b) are included in officer and enlisted PME courses.

(d) Ensure the curriculum on PAC is delivered during entry-level training for all Marines, officer and enlisted.

(e) Develop a standardized course for Equal Opportunity Representatives (EOR) in support of this Order.

(5) Inspector General of the Marine Corps (IGMC)

(a) It is the IGMC's responsibility to evaluate implementation of, and compliance with references (f), (g), (h), and (j). All complaints alleging reprisal or restriction as they relate to protected communications shall be governed by references (f), (g), (h), and not governed by this Order. Additionally, per references (j) and (k), all allegations against a Senior Official (defined as O-7 (select) and above, current or former members of the Senior Executive Service (SES)/equivalent, and current or former civilian Presidential appointees) will be forwarded to the IGMC for appropriate action.

(b) Support MEO program compliance during regular and no-notice inspections (reference (b)). Ensure only an MPE-identified subject matter expert (SME) inspects the MEO program during IGMC inspections.

(c) Evaluate compliance with this Order during all IGMCIP inspections (Comprehensive Command Inspections, Independent Command Inspections, and the Commanding General's Inspection Program (CGIP) Inspections).

(d) In October of each year, provide MPE with compliance statistics for the preceding fiscal year for inclusion in the MEO Program Annual Self-Assessment to CMC.

(e) Conduct a compliance assessment of the HQMC MEO program office every 36 months to ensure compliance with DOD and DON requirements.

(6) Deputy Commandants, Fleet Marine Force Commanders, Commanding Generals, Officers in Charge in the Grade of O-5/O-6, and Slated O-5/O-6 Commanders shall:

(a) Ensure compliance with the policy and procedures prescribed in this Order.

(b) Provide appropriate oversight of local MEO programs, and ensure a professional work environment for all personnel.

(c) Complete a Command Climate Assessment (CCA) as prescribed in Chapter 3 of this Order.

(d) As applicable, track completion of required CCA. Include a statement in the Deputy Commandant or commander's annual fitness report annotating if the Deputy Commandant or commander has conducted the required CCA. Failure of a Deputy Commandant or commander to conduct the required CCA must be noted in the Deputy Commandant or commander's annual fitness report per reference (b).

(e) Ensure formal complaints received by the chain of command are promptly forwarded to the servicing EOA for processing, investigated in a fair, impartial and timely manner, and are appropriately resolved without fear of reprisal, intimidation, or retaliation. Procedures for processing complaints are located in Chapters 3 through 5 of this Order.

(f) Ensure the first Marine GCMCA in the chain of command with administrative control over the CA tracks and monitors the aging and life-cycle of complaints.

(g) Conduct an annual compliance self-assessment of local MEO programs for adherence to this policy. Compliance self-assessments are not required for the year when a command receives an official inspection conducted by either the local Command Inspector General or the IGMC. To the extent practicable, assessments should be conducted by the servicing EOA. Self-assessments will be retained on file for a period of two years.

(h) Ensure all personnel receive annual training as outlined in reference (w). All unit training will have command team participation.

(i) Deputy Commandants and commanders are responsible for fostering a climate of inclusion within their organization that is free from prohibited discrimination and does not tolerate retaliation for reporting prohibited discrimination allegations.

(j) Ensure PAC policies and programs are prominently posted on command intranet sites, including information about complaint procedures.

(k) Appoint a Staff Non-commissioned Officer (SNCO) or above to serve as your Equal Opportunity Representative (EOR). EORs must attend and complete training sponsored by your supporting EOA.

(l) Ensure that Service Members assigned to their commands who make an allegation(s) of retaliatory action are advised of their rights under references (f) through (h). Document provisions of such advice and offer to forward the complaint to IG.

(m) Receive a command team brief from the servicing EOA.

(7) Supervisors. Marines in a supervisory role are entrusted to uphold and model our Core Values. Although the responsibility for an effective MEO program rests ultimately with the commander, every supervisor in the command shares this responsibility. All supervisors shall:

(a) Share the responsibility for an effective MEO program, despite the responsibility ultimately rests with the commander.

(b) Develop effective communication skills. Clearly communicate expectations and provide transparency within the bounds of privacy to assure all subordinates that Marine Corps Core Values and standards will be upheld.

(c) Enable reporting of alleged PAC and inspire trust by responding to PAC complaints with impartiality, fairness, and urgency. Ensure the chain of command is aware of requests for command-directed resolution in accordance with this Order.

(d) Supervisors are responsible for fostering a climate of inclusion within their organizations that is free from prohibited discrimination and does not tolerate retaliation for reporting prohibited discrimination allegations.

(e) Supervisors must not delay forwarding the NAVMC Form 11512 in order to address the issue themselves. Instead, they will focus their efforts on making the Marine available to the commander and provide assistance to ensure the process is efficient and completed without delay.

c. Coordinating Instructions. Allegations of Retaliatory Actions. Complainants, witnesses, and alleged offenders are encouraged to participate in the complaint process (to include the investigative process). Participants may make allegations of retaliatory actions as a result of engaging in protected communications to either a commander or IG. Reference (f) defines whistleblower reprisal, restriction, ostracism, and maltreatment, and those definitions are provided in the Glossary.

(1) Per reference (f), commanders may process ostracism or maltreatment complaints made directly to them, in accordance with their command authorities to investigate allegations of misconduct within their command.

(2) Multiple statutory and DOD/DON issuances prohibit retaliatory actions (references (f) through (k)). Retaliation is also covered by Article 132, UCMJ (reference (e)). Commanders should consult with their supporting legal advisor (Command Judge Advocate(CJA)/Staff Judge Advocate (SJA)) to determine the appropriate

investigative authority and process (MCIO, IG, or CI) upon receipt of an allegation of retaliatory action.

(3) Allegations involving reprisal or restriction and allegations against Senior Officials are governed by references (f) through (i), and (j) and (k), respectively and shall be referred to the IGMC (reference (f)).

(4) Refer questions regarding the content of this Order and any requests for waivers or exceptions to policy to the DC M&RA, Attention: Opportunity, Diversity, and Inclusion Branch (MPE) (www.manpower.usmc.mil/MarineEO) or the MPE Advice Line (844) 818-1674.

5. Administration and Logistics

a. Records Management. Records created as a result of this directive shall be managed according to National Archives and Records Administration (NARA)-approved dispositions per SECNAV M-5210.1 CH-1 to ensure proper maintenance, use, accessibility and preservation, regardless of format or medium. Records disposition schedules are located on the Department of the Navy/Assistant for Administration (DON/AA), Directives and Records Management Division (DRMD) portal page at: <https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/Records-and-Information-Management/Approved%20Record%20Schedules/Forms/AllItems.aspx>. Refer to MCO 5210.11F for Marine Corps records management policy and procedures.

b. Privacy Act. Any misuse or unauthorized disclosure of Personally Identifiable Information (PII) may result in both civil and criminal penalties. The DON recognizes that the privacy of an individual is a personal and fundamental right that shall be respected and protected. The DON's need to collect, use, maintain, or disseminate PII about individuals for purposes of discharging its statutory responsibilities shall be balanced against the individuals' right to be protected against unwarranted invasion of privacy. All collection, use, maintenance, or dissemination of PII shall be in accordance with the Privacy Act of 1974, as amended (5 U.S.C. 552a) and implemented per SECNAVINST 5211.5F.

c. Equal Opportunity Advisor (EOA). The Equal Opportunity Advisor is the Marine Corps primary advisor on matters related to this policy. As such, EOAs must maintain proficiency with the provisions of this Order and associated policy and directives. EOAs should be considered special staff officers responsible to the commander for PAC matters. For more information about the EOA Program go to the PAC toolkit.

d. Web Resources. The PAC Toolkit is available at <https://www.manpower.usmc.mil/webcenter/portal/PACToolkit> is an

extension of this policy that provides additional resources in support of this Order.

e. Recommendations. Recommendations concerning the contents of this Order may be forwarded to Manpower and Reserve Affairs (M&RA), Opportunity, Diversity, & Inclusion Branch (MPE) via the chain of command to MPE_EO@USMC.MIL.

6. Command and Signal

a. Command

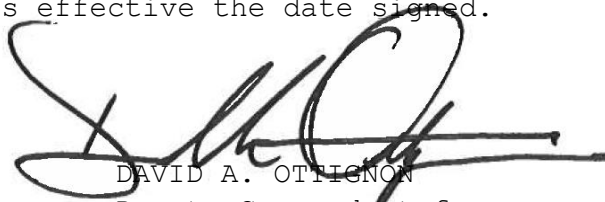
(1) Chapter 1 of this Order constitutes a lawful general order or regulation within the meaning of Article 92 of reference (e), is punitive, and applies without further implementation. In addition to prosecution by court-martial under the UCMJ, violations of these provisions may also subject the individual to adverse administrative action (references (p) and (l)). Reserve Component (RC) Service members not in an active duty status, who violate this Order, may be subject to appropriate administrative action.

(2) The prohibitions under this Order extend to PAC committed through electronic communications and social media, as well as in person and through other means (references (s) and (t)).

(3) The policies and procedures governing DOD civilian employees are provided in separate issuances and are not otherwise altered by this Order.

(4) This Order is applicable to the Active and Reserve Components, and to other Service members under the administrative control of the Marine Corps.

b. Signal. This order is effective the date signed.



DAVID A. OTHIGNON
Deputy Commandant for
Manpower and Reserve Affairs

DISTRIBUTION: PCN 10207973900

TABLE OF CONTENTS

<u>IDENTIFICATION</u>	<u>TITLE</u>	<u>PAGE</u>
Chapter 1	PUNITIVE PROVISIONS.....	1-1
1.	Punitive Provisions.....	1-1
2.	General.....	1-1
3.	Bullying.....	1-1
4.	Dissident and Protest Activities.....	1-2
5.	Harassment.....	1-3
6.	Hazing.....	1-4
7.	Prohibited Discrimination.....	1-6
8.	Sexual Harassment.....	1-7
9.	Wrongful Distribution and Broadcasting of an Intimate Image.....	1-7
Chapter 2	COMMAND CLIMATE ASSESSMENTS.....	2-1
1.	General.....	2-1
2.	Objective.....	2-1
3.	Survey Administration.....	2-1
4.	Collaboration.....	2-1
5.	Use of DEOCS Rollup Reports.....	2-2
6.	Other Assessment Tools.....	2-2
7.	Release of DEOCS Information to Internal DOD Organizations.....	2-2
8.	Release of DEOCS Information to External DOD Organizations.....	2-2
9.	Extension.....	2-2
10.	Corrective Action Plan.....	2-3
11.	Compliance Tracking.....	2-4
12.	DEOMI DEOCS Support to Commanders.....	2-4
13.	EOA Support to Commanders.....	2-4
Figure 2-1	Command Climate Assessment Guidance....	2-5
Chapter 3	PAC COMPLAINTS.....	3-1
1.	General.....	3-1
2.	Commander Discretion.....	3-1
3.	Complaint Submission.....	3-1
4.	Fact-Finding Determination.....	3-1
5.	EOA Consultation.....	3-2
6.	Support Services.....	3-2
7.	Commander's Legal Advisor.....	3-2
8.	Complaints in Joint Service Environment.....	3-2
9.	Protected Communication.....	3-2
10.	Privacy.....	3-3
11.	Security of Information.....	3-3
12.	Who Can Use the PAC Complaint Process..	3-3
13.	Complaint Submission Timeline.....	3-4
14.	Avenues to Initiate a Complaint.....	3-4

<u>IDENTIFICATION</u>	<u>TITLE</u>	<u>PAGE</u>
15.	Commander Action Upon Receipt of.....	3-5
	Complaint.....	3-5
16.	Dismissed Complaints.....	3-5
17.	Accepted Complaints.....	3-7
18.	Commanders' PAC Assessment Tool.....	3-7
19.	Cross-Over Complaints.....	3-8
Chapter 4	Commander Directed Conflict Management.4-1	
1.	Conflict Management.....	4-1
2.	Exclusions.....	4-1
3.	Timeline for Conflict Management Process.....	4-1
4.	Record Outcome of Conflict Management..	4-1
5.	Commander Acknowledgement.....	4-1
6.	Conflict Management Case Closure.....	4-2
7.	Records Retention.....	4-2
8.	Reporting Requirements.....	4-2
Chapter 5	Commander-Directed Complaint Resolution.....	5-1
1.	General.....	5-1
2.	Intake Personnel Responsibilities.....	5-1
3.	Commander Actions.....	5-2
4.	Investigating Officer Responsibilities.	5-3
5.	Complaint Processing Timelines.....	5-3
6.	Commander Actions Upon Substantiation..	5-5
7.	Notifications and Acknowledgements.....	5-6
8.	Supervised Reviews.....	5-6
9.	GCMCA Review and Closeout.....	5-6
10.	Appeals of Administrative Findings.....	5-7
11.	Review of an Investigation that is Appealed.....	5-7
12.	Appeal of Complaints Related to Prohibited Discrimination and Sexual Harassment.....	5-8
13.	Other Appropriate Remedies.....	5-9
14.	Other Appeal Process.....	5-9
15.	Complaint Closure.....	5-10
16.	DASH Updates.....	5-10
17.	Final DASH Submission to MPE.....	5-10
Chapter 6	Data Collection and Reporting.....	6-1
1.	General.....	6-1
2.	Service-Level Reporting and Tracking System.....	6-1
3.	Command-Level DASH System Management...	6-2
4.	Initial DASH Report.....	6-2
5.	Commander's Required DASH Updates.....	6-3
6.	GCMCA DASH Responsibilities.....	6-3
7.	Required Attachments.....	6-4

<u>IDENTIFICATION</u>	<u>TITLE</u>	<u>PAGE</u>
8.	DASH Report Closure by HQMC (MPE).....	6-5
9.	Adverse Screening.....	6-5
10.	Release Authority for DASH Reports.....	6-5
APPENDIX A	GLOSSARY OF TERMS AND ABBREVIATIONS....	A-1
APPENDIX B	SUMMARY OF CHANGES.....	B-1

REFERENCES

- (a) DOD Instruction 1020.03, "Harassment Prevention and Response in the Armed Forces," updated 29 December, 2020
- (b) DOD Directive 1350.02, "DOD Military Equal Opportunity (MEO) Program," 4 September 2020
- (c) SECNAVINST 5350.16A
- (d) SECNAVINST 5300.26E
- (e) Uniform Code of Military Justice (UCMJ)
- (f) SECNAVINST 5370.7E
- (g) 10 U.S.C. § 1034
- (h) DOD Directive 7050.06, "Military Whistleblower Protection," 17 April 2015
- (i) ALNAV 30/14
- (j) DOD Directive 5505.06, "Investigations of Allegations Against Senior DOD Officials," 6 June 2013
- (k) SECNAVINST 5800.12C
- (l) Manual for Courts-Martial (2019. Ed)
- (m) SECNAV M-5210.1 CH-1
- (n) 5 U.S.C § 552a
- (o) SECNAVINST 5211.5F
- (p) MCO 1900.16 CH2
- (q) MCO 3504.2A (OPREP-3)
- (r) 10 U.S.C. § 1561
- (s) MCO 5430.1A
- (t) DODI 5400.11
- (u) DODI 6400.09 "DOD Policy on Integrated Primary Prevention of Self-Directed Harm and Prohibited Abuse or Harm"
- (v) JAGINST 5800.7G
- (w) MCO 1500.63
- (x) DOD Manual 5400.07 "DOD Freedom of Information Act (FOIA) program
- (y) DOD Office of the Deputy Chief Management Officer memorandum of 17 March, 2015
- (z) DODI 1325.03 "Handling Dissident and Protest Activities Among Members of the Armed Forces," 27 November 2009

PAC PREVENTION AND RESPONSE

CHAPTER 1

PUNITIVE PROVISIONS

1. Punitive Provisions. This Chapter is a lawful general order or regulation within the meaning of Article 92 of reference (e), is punitive, and applies without further implementation. Any violation, attempted violation, or solicitation of another to violate this Chapter may subject involved members to adverse disciplinary action under the UCMJ (reference (e)), or adverse administrative action to include, but not limited to, processing for administrative separation in accordance with reference (p). Commanders shall consult with their supporting CJA/SJA and coordinate with the appropriate MCIO or IG for investigations, as appropriate. Procedural guidance is provided in Chapter 3 of this Order.

2. General. Consistent with references (a), (b), and (e), this Order prohibits specific conduct as defined in this Chapter as prohibited activities under this Order.

3. Bullying. A form of harassment that includes knowing, reckless, or intentional conduct that includes acts of aggression by a Service member, with a nexus to military service, with the intent of harming a Service member or DOD civilian employee 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 or communications, and by other means including social media, as well as in person.

a. Bullying is evaluated by a reasonable person standard and includes, but is not limited to, the following knowing, reckless, or intentional conduct 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;
and

(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. Service members 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 Service of the victim.

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

Note 1: There are many similarities between bullying, hazing and harassment. These similarities can make it difficult for complainants and leaders to differentiate between the behaviors. In general, for behavior to be considered bullying under this policy, the evidence should show that the acts of aggression displayed by the subject were done for the purpose of exclusion, e.g., intimidating or rejecting the recipient from acceptance into the group or unit because he or she is considered different or weak. If the inquiry or investigation fails to establish intent, the event should not be considered bullying.

Note 2: See Note 5 for more information related to Extra Military Instruction (EMI).

4. Dissident and Protest Activity. In accordance with this Order and reference (z), Service members are prohibited from the following:

a. Knowing and wrongful conduct that involves actively advocating supremacist, extremist, or criminal gang doctrine, ideology, or causes, including those that advance, encourage, or advocate illegal discrimination based on race, creed, color, sex (including pregnancy), religion, ethnicity, national origin, gender identity, or sexual orientation or those that advance, encourage, or advocate the use of

force, violence, or criminal activity, or otherwise advance efforts to deprive individuals of their civil rights.

b. Knowing and wrongful conduct that involves actively participating in criminal gangs, or in other organizations that advocate supremacist, extremist, or criminal gang doctrine, ideology, or causes; including those that attempt to create illegal discrimination based on race, creed, color, sex (including pregnancy), religion, ethnicity, national origin, gender identity, or sexual orientation; advocate the use of force, violence, or criminal activity; or otherwise engage in efforts to unlawfully deprive individuals of their civil rights. Active participation in such gangs or organizations is prohibited. Active participation includes, but is not limited to, fundraising; demonstrating or rallying; recruiting, training, organizing, or leading members; distributing material (including posting on-line); knowingly wearing gang colors or clothing; having tattoos or body markings associated with such gangs or organizations; or otherwise engaging in activities in furtherance of the objective of such gangs or organizations that are detrimental to good order, discipline, or mission accomplishment or are incompatible with military service. The prohibition extends to acts committed through electronic communication and social media, as well as in person and other means.

c. Commanders should remain alert for signs of potential dissident activities. They should intervene early, primarily through counseling, when observing such signs even though the signs may not rise to active advocacy or active participation, or may not threaten good order and discipline, but only suggest such potential. The goal of early intervention is to minimize the risk of future prohibited activities.

(1) Examples of such signs, which, in the absence of the active advocacy or active participation addressed in paragraphs 4a and 4b above are not prohibited, could include mere membership in criminal gangs and other organizations covered under paragraph 4a. Signs could also include possession of literature associated with such gangs or organizations, or with related ideology, doctrine, or causes. While mere membership or possession of literature normally is not prohibited, it may merit further investigation. The command may consider counseling the Service member to emphasize the importance of adherence to Marine Corps values and to ensure that the Service member understands what activities are prohibited.

(2) Commanders are encouraged to work in coordination with their SJA and in certain cases the local MCIO to determine whether the conduct of the Service member is considered a potential violation of paragraph 4a. or 4b, or such other Articles of the UCMJ (reference (e)), as applicable. Commanders shall not use non-federal entities/sources (e.g. Southern Poverty Law Center or Anti-Defamation League) to determine if a Service member's participation is considered a violation of this policy.

5. Harassment. Any conduct, whereby a Service member knowingly, recklessly, or intentionally and with a nexus to military service engages in behavior that is unwelcome or offensive to a reasonable person that creates an intimidating, hostile, or offensive environment.

a. Harassment may include, but is not limited to, unwanted physical contact; offensive jokes; epithets or name calling; ridicule or mockery; insults or putdowns; displays of offensive objects or imagery; offensive non-verbal gestures; stereotyping; intimidating acts; veiled threats of violence; threatening or provoking remarks; racial or other slurs; derogatory remarks about a person's accent or disability; displays of racially offensive symbols; and interference with work performance (to include unwillingness to train, evaluate, assist, or work with an individual).

b. Harassment can occur in a variety of circumstances, including, but not limited to, the following:

(1) The harasser can be the victim's supervisor, a supervisor in another area, a coworker, or a Service member that is not part of the unit.

(2) The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct.

c. Harassment can be oral, visual, written, physical, or electronic. Harassment can occur through electronic communications, including social media, other forms of communication, and in person.

d. Harassment does not include: activities or actions undertaken for a proper military or governmental purpose, such as combat survival training, assignment of work related to the duties and responsibilities of the Service member, and performance counseling. Moreover, this policy prohibiting harassment is not a "general civility code". Behavior that is rude, ignorant, abrasive, or unkind, but does not adversely affect the work environment, is not harassment.

Note 3: Activities or actions undertaken for a proper military or governmental purpose, such as combat survival training, assignment of work related to the duties and responsibilities of the Service member, and performance counseling, are not harassing behaviors. Moreover, this policy prohibiting harassment is not a "general civility code." Behavior that is rude, ignorant, abrasive, or unkind, but does not adversely affect the work environment as described in Chapter 1, paragraph 4, is not harassment.

6. Hazing. A form of harassment that includes knowing, reckless, or intentional conduct through which Service members, 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 Service member or DOD civilian employee 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.

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 (such as bloodstripping) in any manner or threatening to do the same;

(2) Pressing any object into another person's skin, regardless of whether it pierces the skin, such as "pinning" or "tacking on" of rank insignia, aviator wings, jump wings, diver insignia, badges, medals, or any other object;

(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; and

(9) 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, or the requisite training activities required to prepare for such activities (e.g., administrative corrective measures, extra military instruction, or command-authorized physical training).

c. Service members may be responsible for an act of hazing even if there was actual or implied consent from the victim and regardless of the grade or rank, status, or Service of the victim.

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

Note 4: There are many similarities between hazing, bullying, and harassment. These similarities can make it difficult to accurately identify a hazing event. In general, for an allegation to be considered hazing under this policy, it must show that the behavior was conducted for the purpose of **inclusion**, e.g., initiation into, admission into, affiliation with, change in status or position within, or continued membership in any military or DOD civilian organization. If the evidence fails to identify the above intent, the allegation should not be considered hazing.

Note 5: Extra Military Instruction (EMI). EMI may at times may be misunderstood or misidentified as hazing or bullying. Properly executed EMI is not hazing, bullying, or harassment. It is an authorized means to correct military deficiencies. However, when improperly executed, it can cause affects that can be harmful to its victims. In general, when commanders receive allegations related to improperly executed EMI, those issues should not be classified as hazing or bullying unless the intent to either include or exclude the victim has been established. If not, commanders, EOAs, and legal advisors are encouraged to apply the harassment definition to determine if a violation has occurred. If it becomes clear that the alleged offender's actions were misguided and without malice, the issue should be redressed as a non-PAC issue by the commander. Refer to Chapter 3 paragraph 16 for how to properly closeout a complaint without merit.

7. Prohibited Discrimination. Any conduct whereby a Service member knowingly, recklessly, or intentionally and with a nexus to military service discriminates, including disparate treatment, of an individual or group on the basis of race, color, national origin, religion, sex (including pregnancy), gender identity, or sexual orientation that is not otherwise authorized by law or regulation and detracts from military readiness. Prohibited discrimination includes actions or efforts that detract from equal opportunity, with respect to the terms, conditions, or privileges of military service including, but not limited to, acquiring, assigning, promoting, disciplining, scheduling, training, evaluating, compensating, discharging, or separating. This definition excludes justifiable conduct that discriminates on the basis of characteristics (including, but not limited to, age, height, and weight) that serve a proper military or other governmental purpose as set forth in other military policies. Prohibited discrimination is evaluated by a reasonable person standard.

8. Sexual Harassment

a. Knowing, reckless, or intentional conduct with a nexus to military service 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;

(1) Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or

(2) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating or offensive working environment.

b. Is so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as intimidating or offensive.

c. Any knowing, reckless, or intentional 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 member or DOD civilian employee; or

d. Any conduct whereby any Service member knowingly, recklessly, or intentionally, and without proper authority, but with a nexus to military service makes deliberate or repeated unwelcome verbal comments or gestures of a sexual nature.

e. There is no requirement for concrete psychological harm to the complainant for behavior to constitute sexual harassment. Behavior is sufficient to constitute sexual harassment if it is so severe or pervasive that a reasonable person would perceive, and the complainant does perceive, the environment as intimidating or offensive.

f. Sexual harassment can occur through electronic communications, including social media, other forms of communication, and in person.

g. Any of the conduct described in paragraph 3 of this Chapter may constitute sexual harassment. It is not necessary that all three be present to constitute sexual harassment.

9. Wrongful Distribution or Broadcasting of an Intimate Image. In accordance with this Order and reference (e) the following conduct is prohibited.

a. The distribution or broadcasting of an intimate image is wrongful if the person making the distribution or broadcast does so without legal justification or excuse, knows or reasonably should know that the depicted person did not consent to the disclosure, and the intimate image is distributed or broadcast:

(1) With the intent to realize personal gain;

(2) With the intent to humiliate, harm, harass, intimidate, threaten, or coerce the depicted person; or

(3) With reckless disregard as to whether the depicted person would be humiliated, harmed, intimidated, threatened, or coerced.

b. Distribution means the act of delivering to the actual or constructive possession of another, including transmission by electronic means. Broadcasting means the act of electronically transmitting a visual image with the intent that it be viewed by a person or persons. An intimate image is any visual depiction, including by electronic means, that:

(1) Includes another person who is identifiable from the depiction itself or from information conveyed in connection with the depiction;

(2) Depicts that person engaging in sexually explicit conduct or depicts the private area of that person; and

(3) Taken under the circumstances in which the person depicted has a reasonable expectation of privacy.

c. "Sexually explicit conduct" and "private area" have the meaning assigned to them in part IV of the Manual for Courts Martial (reference (1)).

d. Wrongful distribution or broadcasting of an intimate image is also covered by the UCMJ under Article 117a (reference (e)). Convening authorities pursuing punitive action are strongly encouraged to consult with their CJA/SJA.

PAC PREVENTION AND RESPONSE

CHAPTER 2

Command Climate Assessments (CCA)

1. General. The Command Climate Assessment (CCA) process is a planned, systematic, data-driven endeavor that helps to detect, identify, and understand risks and strengths that a unit can leverage to continue improving the organization's health and performance. It is part of a comprehensive prevention strategy that employs a mixed method approach of quantitative and qualitative data collection strategies. Based on the organization's CCA results, the commander or organizational leaders listed in Table 2-1 will determine if additional topics will be included in annual PAC training.
2. Objective. The benefit of conducting a comprehensive organizational assessment provides leadership with a keen awareness of organizational issues from multiple sources. Moreover, understanding the sources of those concerns helps leaders craft an action plan to directly address them. Executing the plan, and modifying it as needed throughout its execution helps leaders sustain or improve their organization's climate. The objective of the CCA is to provide commanders with insight into positive and negative factors that may impact unit/organizational effectiveness and readiness.
3. Survey Administration. Commands or organizational leaders with fewer than 50 survey participants will conduct the survey portion of their CCA with another unit or organization, such that at least 50 people are surveyed, to ensure that survey respondents are not individually identifiable in the results. Commanders should appoint their EOR to serve as the Defense Equal Opportunity Climate Survey (DEOCS) administrator. The survey administrator is responsible for executing DEOCS requirements on behalf of the commander or organizational leader. The commander or organizational leader should consider adding additional locally developed or short answer questions to address command specific concerns not already addressed in the DEOCS.
4. Collaboration. As a best practice, the commander or organizational leader should collaborate and share their climate assessment information with other offices that play an integral part of the unit/organizational climate. These offices include, but are not limited to, EOA, CJA/SJA, EEO, IG, Civilian Human Resources, Suicide Prevention, Substance Abuse, Marine Corps Community Services, chaplain, SARC, and so forth. These offices offer a wealth of information and knowledge to help commanders and organizational leaders assess and improve their command climate.

5. Use of DEOCS Roll-Up Reports. When a senior level commander wishes to assess the climate of all subordinate organizations, they may request roll-up reports from their supporting EOA. The EOA maintains access to the data retrieval system (DRS) database to obtain subordinate roll-up reports. In order to reduce survey fatigue, commanders will not re-survey subordinate commands.

6. Other assessment tools. The survey is only one component of a complete CCA. Commanders or organizational leaders should consider other tools to provide depth and clarification on concerns raised in the survey results. Other tools include: interviews, focus groups, records reviews and analysis. Commanders or organizational leaders should consult their servicing EOA to determine the best methods for their unit/organization.

7. Release of DEOCS Information to Internal DOD organizations. Director, Manpower Plans and Policy Division is the release authority for DEOCS results and data sharing requests generated within DOD, the White House, or Congress. The following guidance applies to special inquiries from investigative officials requesting copies of a DEOCS report. Local investigative officials will submit a written request to MPE at mpe_eo@usmc.mil. Request will include justification and the surveyed organization's name, survey report number and/or survey window, and the requesting official's rank, first and last name. Investigating officials will also include appointing order.

8. Release of DEOCS Report to External Organizations. Individuals or organizations external to the DOD may request a copy of DEOCS reports through the FOIA office. The Director, Manpower Plans and Policy Division is the Initial Denial Authority (IDA) for DEOCS results and data sharing requests generated outside of DOD, the White House, or Congress. Per reference (y), to protect the integrity of the survey process, the Marine Corps will not normally release sections of the climate surveys containing personal comments under Exemptions 5 and 6 of the FOIA (5 U.S.C. § 552 (b) (5) and (b) (6)). This withholding does not necessarily apply to other sections of the survey reports.

9. Extensions. Extensions are not permitted.

10. Corrective Action Plan (CAP). Within 30 days of receiving the results of the survey, all commanders and organizational leaders are responsible for developing a CAP as part of their comprehensive command climate assessment. Conducting a climate assessment without creating and executing a plan to correct identified conditions that diminish climate will do nothing for the organization's climate. In fact, inaction itself can prove corrosive to morale, and will likely discourage members from completing the DEOCS in the future. In order to correct identified conditions that diminish organizational climate commanders will:

a. At a minimum, develop a corrective action plan to addresses the top three DEOCS risk factors identified in the report. Use other assessment tools to better understand the perceptions surrounding the identified risk factors.

b. Prioritize the organization's more compelling concerns. For example, issues involving members' safety and well-being clearly warrant immediate attention. Priority should also be made for those concerns that can directly and negatively impact the organization's mission success.

c. Explicitly identify the individuals responsible for each step in the published action plan. Commanders must also actively track each step to ensure progress realizing specific milestones. Adopting this strategy illustrates leadership's active execution of climate-enhancing actions to the organization's members.

d. Include a listing of each issue to be addressed along with the action to be taken for each issue, the action's status, and the responsible party.

11. Compliance and Tracking. The DEOCS report and Corrective Action Plan will be evaluated during all IGMCIIP inspections (Comprehensive Command Inspections, Independent Command Inspections, and the Commanding General's Inspection Program (CGIP) Inspections). Assumption of Command (AOC) compliance will be assessed as (1) completion of survey requirement within 120 days of AOC; (2) plus 60 days for CAP debrief to next higher level commander and members of the command. Total time will not exceed 180 days. Annual assessment compliance will be assessed as (1) Annual survey completed by the anniversary date of the AOC; (2) plus 60 days for CAP debrief to next higher level commander and members of the command. The commander or organizational leader will notify the servicing EOA office upon completion of all CCA requirements listed in Table 2-1. The commander, organizational leader or designee will ensure the following information is submitted to the EOA for inclusion into the command climate assessment tracking system: the completed DEOCS report and written corrective action plan. Inclusion of a statement in the commander's annual fitness report annotating if the commander has conducted the required CCA. Failure of a commander to conduct the required CCAs must be noted in the commander's annual fitness report.

Example 1 Assumption of Command Assessment: Commander assumes command on 1 Jun, 2020. The command has until 30 September, 2021 to complete the survey portion of the climate assessment. The command has an additional 60 days for CAP debrief to next higher level commander and members of the command. Total time 180 days.

Example 2 Annual Assessment: Commander assumed command on 1 Jun, 2020. The command must complete the survey portion of the assessment NLT 31 May, 2021. The command has an additional 60 days for CAP debrief to next higher level commander and members of the command. Total time 14 months.

12. DEOMI DEOCS Support to Commanders. DEOMI offers an array of information designed to support commanders, supervisors, and survey administrators. For more information, go to:
<https://www.defenseculture.mil/Assessment-to-Solutions/A2S-Home/>

13. EOA Support to Commanders in the CCA Process. EOAs have received extensive training in the command climate assessment process. Commanders or organizational leaders should consider consulting with their supporting EOA prior to conducting their required command climate assessments. EOAs can provide assistance in the development of the corrective action plan, selecting locally developed or answer survey questions, recommending follow-on assessment actions (i.e. interviews, focus groups, and records analysis).

Commanders and Organizational Leaders Required to Conduct a Command Climate Assessment

Table 2-1. Command Climate Assessment Guidance

Command Level	Frequency (days)	Requirements
Slated O-5 Level Commanders	USMC and USMCR: 120 days upon assumption of command and annually thereafter	<ol style="list-style-type: none"> 1) Inform the members of the organization of the upcoming assessment 2) Survey for entire organization 3) Use other assessment tools, as needed to help validate perceptions 4) Prepare a written Corrective Action Plan 5) Brief next higher level commander (no later than 30 days after receipt of survey results) 6) Conduct formal feedback session(s) with members of the command (within 60 days after receipt of survey results) 7) EOR enters data into CCA tracking system
Slated O-6 Level Commanders	USMC and USMCR 120 days upon assumption of command and annually thereafter	<ol style="list-style-type: none"> 1) Inform the members of the organization of the upcoming assessment 2) Survey for entire organization 3) Use other assessment tools, as needed to help validate perceptions 4) Prepare a written Corrective Action Plan 5) Brief next higher level commander (no later than 30 days after receipt of survey results) 6) Conduct formal feedback session(s) with members of the command (within 60 days after receipt of survey results) 7) EOR enters data into CCA tracking system 8) If applicable, request roll-up report of subordinate commands
Commanding Generals See Note #6	USMC and USMCR 120 days upon assumption of command and annually thereafter	<ol style="list-style-type: none"> 1) Inform the members of the organization of the upcoming assessment 2) Survey staff personnel only

		<ul style="list-style-type: none"> 3) Use other assessment tools, as needed 4) Prepare a written Corrective Action Plan 5) Brief next higher level commander (no later than 30 days after receipt of survey results) 6) Conduct formal feedback session(s) with members of the command (within 60 days after receipt of survey results) 7) EOR enters data into CCA tracking system 8) Roll-up of subordinate organizations (all levels)
<p>Deputy Commandants/HQMC GO/SES lead organizations See Note #6</p>	<p>USMC: 120 days upon assumption of office and annually thereafter</p>	<ul style="list-style-type: none"> 1) Inform the members of the organization/staff of the upcoming assessment 2) Survey staff personnel only 3) Use other assessment tools, as needed 4) Prepare a written Corrective Action Plan 5) Brief the DC/GO/SES leader of the organization (within 30 days after receipt of survey results) 6) Conduct formal feedback session(s) with members of the organization/staff (within 60 days after receipt of survey results) 7) EOR enters data into CCA tracking system

Note 6: Survey administration may be delegate to the Deputy Commander, Executive Assistant (EA), Chief of Staff (CoS) or equivalent. However, the commander or organizational leader overall responsible for the climate must be identified as the higher level supervisor on the survey and be responsible for reviewing the CAP.

Example: DC, M&RA delegates survey administration authority to their EA. The EA will ensure requirements 1 through 4 are completed. The EA will debrief the results of the survey and CAP to the DC. The EA will ensure requirements 6 and 7 are completed.

PAC PREVENTION AND RESPONSE

CHAPTER 3

PAC Complaints

1. General. The PAC complaint process supports the Response LOE. The PAC complaint process is not intended to replace small unit leadership roles and responsibilities. Service members who want to request commander-directed resolution of their complaint or allegation of PAC shall submit a NAVMC Form 11512 using the avenues provided in this Chapter. Commanders must make every effort to adhere to the timelines identified throughout this Order and document any delays appropriately.

2. Commander Discretion. Due to the various ways a PAC violation may be identified, commanders have the discretion to initiate an inquiry or investigation without a complainant (e.g., anonymous reports, third-party reports from relatives, co-workers, etc.), if an aggrieved party does not want to participate in the complaint process, or if potential PAC violations are identified during an investigation of other misconduct. Commanders may take appropriate actions within their authorities necessary to maintain good order and discipline within the command. In such cases, if a PAC inquiry or investigation is initiated, the commander will process and report the violation and subsequent outcomes in accordance with this Order. Commanders will use NAVMC Form 11512 to document the issue and actions taken. If there is no complainant listed, then no signature is required in the complainant's signature block.

3. Complaint Submission. Any Service member assigned to a Marine Corps unit may submit a complaint for command-directed resolution using a NAVMC Form 11512. Service members may request commander-directed resolution through either Conflict Management (informal) or Complaint Resolution (formal). Commanders will consider the complainant's requested remedy/outcome, but ultimately are responsible for determining and directing the appropriate resolution process in accordance with this Order. Any personnel within the chain of command who receives a NAVMC Form 11512 requesting commander-directed resolution will forward the NAVMC Form 11512 immediately to the subject's commander or designee.

4. Fact-finding Determination. Upon receipt of a completed NAVMC Form 11512, the subject's commander has three duty days to determine whether or not any additional information is needed. If more information is needed, the commanding officer may direct an appropriate inquiry in accordance with this Order. If more than one subject or command is involved in an incident requiring an investigation, a single investigation should be conducted in accordance with paragraph 0205.c of reference (v). The commander of one of the concerned activities should convene the investigation as

the convening authority (CA) and coordinate appropriately with the other commands/activities. In general, the subject of the complaint's commander is the most appropriate CA. In such cases, all of the activities shall cooperate in the investigation. If difficulty arises in determining the appropriate CA, then the matter shall be referred to a common superior for determination.

5. EOA Consultation. EOAs provide advice and guidance to supported commanders and complainants on matters related to PAC. EOAs have received specialized training in PAC behaviors. They are considered the Marine Corps' subject matter experts (SME) on behaviors covered under this policy. Service members or commanders should consider contacting an EOA for advice, guidance, or information regarding this policy.

6. Support Services. Commanders must ensure Service members have access to support services. Support services include, but are not limited to, mental health counseling, medical, EOA, Victim and Witness Assistance Personnel, and Victim Legal Counsel in limited circumstance (Wrongful Broadcast or Distribution of Intimate Images). In cases where the complainant is not the recipient of the behavior, commanders will ensure the recipient, if identified, has access to support services.

7. Commander's Legal Advisor. Many complaints may involve de-confliction of a multitude of orders and determination of which organization has primary jurisdiction to resolve the subject complaint. Involvement of the assigned CJA/SJA upon the initial receipt of a PAC complaint is critical to the successful and efficient resolution of the complaint. CJA/SJAs are the primary source for legal advice to commanders and EOAs in reference to this Order. Commanders and EOAs should seek command CJA/SJA advice and guidance for any legal interpretations in reference to this Order.

8. Complaints in Joint Service Environment. Complaints will be processed through the command or Service that has disciplinary authority over the subject of a complaint. The process and timelines will be in accordance with this Order and references (a) and (b). Initial notifications may need to be made in writing if the responsible CA does not have DASH access. All notifications, to include updates and final disposition of the complaint, will be entered into DASH by the first Marine Corps command in the administrative chain of command. All notifications, to include updates and final disposition of the complaint, will be provided to both the complainant's and subject's commander for proper tracking, documentation, and records management.

9. Protected Communication. Complainants who, in good faith, engage in protected communications are protected from retaliatory actions. Complainants who, in good faith, request the Conflict Management or Complaint Resolution processes in this Order may be engaged in a

protected communication. Communications with EOAs and EORs, provided they cover the appropriate subject matter, may qualify as protected communications as defined in the Glossary and reference (h). Protected communications are not the same as privileged, or confidential, communications. Communications received from third parties (e.g. spouse, relative, co-worker, IG, a Member of Congress, or any designated official) may also be considered protected communications under certain circumstances. For example, participation of a witness during an official investigation may qualify as protected communication. See the Glossary for the complete definition of protected communication as provided by reference (h). See the coordination instructions paragraph of this Order for guidance regarding allegations of retaliatory actions for engaging in protected communications.

10. Privacy. Commanders must ensure all PAC complaints will be handled in accordance with the Privacy Act. Any complaint that has not been resolved shall be restricted to personnel with a need-to-know. Individual privacy, to the maximum extent possible, must be protected through all stages of the investigation and resolution of the complaint. This is not only required by references (d), (n) and (o), but is also necessary if all personnel are to have trust in their command's handling of PAC issues. Once a complaint has been resolved, commanders may release certain information, in accordance with the Privacy Act, to publicize the potential consequences of violating this Order.

11. Security of Information. All PAC complaint records (NAVMC Form 11512) shall be maintained in a secure location that restricts and limits access. Agencies or individuals seeking copies of a case resolution shall submit a formal request to the commanding officer that directed the investigation. Commanders may provide information or copies to those agencies or individuals who have a lawful requirement for access. All other requests must be submitted in accordance with the Freedom of Information Act (FOIA).

12. Who Can Use the PAC Complaint Process. Any Service member under the administrative jurisdiction of the Marine Corps can use this complaint process. An eligible Service member, or complainant, who seeks a resolution of a PAC complaint must submit a signed NAVMC Form 11512 to their commander, their commander's designee, or the EOA. If an eligible Service member makes allegations but does not want to file a complaint, a signature is not required on the NAVMC Form 11512. The commander, the commander's designee, or EOA will summarize the Service member's intentions in the description section of the NAVMC Form 11512. No further processing is required until and unless the NAVMC Form 11512 is signed and submitted as a PAC complaint. However, per paragraph 1 of this Chapter, the commander may take appropriate actions necessary to maintain good order and discipline.

13. Complaint Submission Timeline. Service members should file their complaint within 90 calendar days of the offending incident; or, in the case of a series of incidents, within 90 calendar days from the most recent incident. Service members are highly encouraged to consult with an EOA prior to submitting a complaint. Late reporting may impact the subject's commander's ability to effectively investigate the allegation. In the case of a complaint filed by a Reserve Component (RC) Service member not in an active duty status, or in which a RC Service member not in an active duty status is the subject of the complaint, the complaint should be filed within 120 calendar days of the offending incident; such a complaint is also referred to as a "Reserve complaint". Regardless of whether a complainant submits a PAC complaint within the above time limits, a commander has the discretion to take appropriate actions necessary to maintain good order and discipline. For example, a commander may accept the complaint for further inquiry or command investigation, or a commander may dismiss the complaint in order to refer it to the appropriate authorities. Commanders may take appropriate follow-on actions within the scope of their authorities.

14. Avenues to Initiate a Complaint. There are several avenues to initiate a PAC complaint. The most effective avenue depends upon the particular circumstances and the personnel involved. The individual Service member, or complainant, may select the avenue to initiate their complaint.

a. Immediate Chain of Command. The primary and preferred avenue to file a complaint is the immediate chain of command or designated representative (i.e. EORs). All complaints will be forwarded to the commander for appropriate action.

b. Equal Opportunity Advisor (EOA) Office. EOAs may receive complaints of PAC. Within three duty days, the EOA will forward the complaint to the subject's commander for action via a completed NAVMC Form 11512.

c. Article 138, Uniform Code of Military Justice (UCMJ) Complaint. An individual who alleges wrong(s) committed by their commanding officer may file a complaint under Article 138, UCMJ. Commanders should consult with their supporting CJA/SJA when processing a complaint under Article 138.

d. Anonymous Reporting. Anonymous reports may be communicated by several means, including, but not limited to, organizational hotlines or advice lines, electronic mail, or official telephone lines. Actions taken regarding anonymous complaints will depend upon the extent of information provided by complainants. Service members who file a complaint in-person cannot choose to remain anonymous.

(1) If an anonymous complaint contains sufficient information to permit the initiation of an inquiry or investigation, the commanding officer shall convene an inquiry or investigation in

accordance with this Order. All command actions shall be recorded on the NAVMC Form 11512.

(2) If an anonymous complaint does not contain sufficient information to permit the initiation of an investigation, the reported information will be documented on NAVMC Form 11512 and maintained in the command's correspondence files for a period of two years (reference (m)).

(3) If the anonymous complaint identifies additional complainants, the EOA will explain the investigation process and provide complainants information regarding complainant support resources available, such as counseling and referral services, on and off base, and any appeal rights.

(4) A memorandum for record or other written form of data collection will be used to record the following information: date and time information was received, a detailed description of the facts and circumstances included in the complaint; date the complaint was closed and by whom; and any other pertinent information. Anonymous sexual harassment complaints will be processed in accordance with Section 1561 of Title 10, U.S.C. when there are sufficient details to conduct an investigation.

(5) Naval Criminal Investigative Service (NCIS) WEB & APP TIP LINE. The NCIS WEB & APP Tip Line is a partnership between NCIS and the Marine Corps that provides a safe, discreet, and anonymous option to report allegations of PAC. Reporters can file an anonymous report alleging PAC at <https://www.ncis.navy.mil/Resources/NCIS-Tips/>.

15. Commander Actions Upon Receipt of Complaint. In accordance with par 1 of this chapter, a completed NAVMC 11512 will be forwarded without delay to the subject's commander. Upon receipt of a signed NAVMC Form 11512, the commander with jurisdiction over the subject of the complaint has three duty days to evaluate the complaint and determine to either dismiss or accept the complaint for appropriate action.

16. Dismissed Complaints. A commander with jurisdiction over the subject of the complaint, in consultation with the supporting EOA and CJA/SJA, may determine that dismissal of a complaint is appropriate under one of the bases below. A previously accepted complaint may be dismissed if, at any point following acceptance of the complaint, the commander deems it appropriate to dismiss the complaint under one of the following bases for dismissal. Commanders shall annotate the reason for dismissal in block 10a of the NAVMC Form 11512. Additionally, commanders shall provide a more detailed justification for their decision to dismiss in block 11a on the NAVMC Form 11512 and provide a copy of the completed NAVMC Form 11512 to the complainant. The completed NAVMC Form 11512 will be retained in the local command

correspondence files for two years. No DASH report is required for dismissed complaints. The bases for dismissal are:

a. Not Under the Purview. Complaints submitted by persons not covered by this Order, or of which neither the command nor the Marine Corps has jurisdiction or the authority to remedy, will be referred to the relevant agency/agencies with personnel and subject matter jurisdiction to adjudicate the case.

b. Complaint without Merit. A complaint that fails to allege facts that, if true, would constitute a violation of a law, rule or regulation.

c. Duplicative. If the complainant's claims are identical to claims that were previously filed, or resolved, to include complaints previously resolved through other avenues (e.g., IG complaint, Congressional Inquiry), the complaint may be dismissed. In cases where Conflict Management had been attempted but not satisfactorily resolved, a complaint should not be automatically dismissed as duplicative. The commander must assess if all appropriate means to resolve the complaint has been taken in the Conflict Management, and if the behaviors have not ceased prior to determining the appropriate action.

d. Claims of Institutional Discriminatory Practices/Policies. Complaints of institutional discriminatory practices/policies cannot be resolved at the command level. Contact MPE for guidance regarding how to submit claims of institutional discriminatory practices.

e. Failure to Cooperate. A complaint that has been accepted for investigation may be dismissed at any stage of processing if the complainant fails to cooperate with the investigation or with repeated requests for information. Commanders shall ensure there is no retaliatory action influencing a complainant's decision not to participate in the complaint.

f. Lateness. A report received after 90 days is considered late, or 120 days in the case of a Reserve complaint. Late reporting may impact a commander's ability to gather evidence and interview witnesses. A commander, in consultation with his/her supporting CJA/SJA, may determine that an investigation cannot be undertaken due to the lateness of the report.

g. Voluntary Withdrawal. A complainant may voluntarily withdraw their complaint at any time prior to the commander's determination that an accepted complaint is substantiated or not substantiated. In such cases, the commander may continue to take actions necessary to maintain good order and discipline within the command. Blocks 12a - 12c of the NAVMC Form 11512 will be completed and signed by the complainant if they choose to voluntarily withdraw the complaint. Commanders shall ensure there is no retaliatory action influencing a complainant's decision to withdraw a complaint.

17. Accepted Complaints. Commanders may direct either informal Conflict Management or formal Complaint Resolution. The commander shall assess the complaint and direct the appropriate complaint resolution process in accordance with this Order. A Commander's PAC Complaint Assessment Tool is provided to assist commanders in determining the appropriate resolution process for accepted complaints. See Chapters 4 and 5, respectively, for each resolution process.

18. Commander's PAC Complaint Assessment Tool. Commanders should use their education and experience to determine if an alleged violation of this Order has occurred and whether verbal counseling, training, or other informal corrective measures would be adequate to appropriately address the PAC violation. Commanders will consider the totality of the circumstances and the evidence available to them in making this determination. The below assessment questions are provided to assist commanders in determining the appropriate resolution process from the objective standpoint of a "reasonable person". Complaints are analyzed on a case by case basis.

a. Commanders should consider the following factors when determining how to direct complaint resolution:

- (1) Whether there is credible evidence of the alleged prohibited conduct
- (2) Whether the conduct was verbal or physical or both;
- (3) Whether it was an isolated incident or a pattern of behavior;
- (4) The period of time the conduct occurred;
- (5) Whether the subject targeted the recipient;
- (6) Whether the recipient participate in the conduct;
- (7) Whether the recipient themselves committed prohibited conduct;
- (8) Whether the conduct was hostile and patently offensive;
- (9) Whether the subject was a co-worker or supervisor;
- (10) Whether other personnel joined in perpetrating the prohibited activity; and
- (11) Whether the conduct was directed at more than one individual.

Note 7: As a best practice, commanders should ensure appointed IO address questions 1-11 within their report of investigation to help ensure the commander has the information necessary to make an informed complaint resolution decision.

b. If a commander needs more information, the accepted complaint should be processed using the formal Complaint Resolution process in Chapter 5 of this Order.

19. Cross-Over Complaints. Commanders may receive reports of alleged PAC involving both Service members and non-Service members, for example DOD civilian employees. In such cases, this Order is applicable to those Service members over whom the commander exercises appropriate authority. Only an aggrieved Service member will be considered a complainant and able to seek administrative redress under this Order and its implementing process (See Appendix C). Commanders may determine the appropriate actions to investigate complaints of alleged PAC committed by assigned Service members against a non-Service member in consultation with their CJA/SJA in accordance with their appropriate authorities. DOD civilians, and all other non-Service members shall pursue any complaints in accordance with separate issuances regarding applicable Equal Employment Opportunity (EEO) regulations for appropriate redress. For example, if a civilian employee files a PAC complaint of sexual harassment against a Service member, the civilian complaint does not fall under the purview of this Order and will be referred to the EEO office. This Order does not provide for redress of the civilian employee. However, the commander shall take appropriate actions to investigate and resolve allegations with respect to the assigned Service member to maintain good order and discipline within their command.

PAC PREVENTION AND RESPONSE

CHAPTER 4

Commander-Directed Conflict Management

1. General. Conflict Management is a commander-directed informal resolution process. Commanders may determine Conflict Management is the appropriate resolution process for an accepted PAC complaint. The Conflict Management process gives the parties involved an opportunity to seek resolution at the lowest level outside the formal Complaint Resolution process. Conflict Management is not a prerequisite for the Complaint Resolution process in Chapter 5 of this Order. Conflict Management is not intended to replace small unit leadership.

2. Exclusions. Commanders shall not direct Conflict Management for complaints of alleged severe and pervasive behaviors that are contrary to good order and discipline. Examples of severe and pervasive behaviors not appropriate for conflict management are: seeking sexual favors in return for favorable evaluation, making supervisory decisions based on race, color, national origin, religion, sex (including pregnancy), gender identity, or sexual orientation; unwanted sexual contact, unlawful distribution or broadcasting of an intimate image, hazing, or those behaviors deemed by the commander as detrimental to good order and discipline. Local commanders have discretion to exclude additional behaviors from resolution via Conflict Management.

3. Timeline for Conflict Management Process. Within three duty days of commander accepting the complaint for Conflict Management, the commander or designee will initiate actions to resolve the issue(s) that led to the complaint. Issues addressed via Conflict Management should be resolved at the lowest level within 30 calendar days. If, after 30 days the complaint is still not resolved, the commander should consider initiating a formal resolution to resolve the issue.

4. Record Outcome of Conflict Management. The commander or designee who facilitated the Conflict Management is responsible for ensuring Part II of the NAVMC Form 11512 is sufficiently detailed in order for the commander to have an accurate account of the actions taken to resolve the complaint. The complainant will sign block 11f indicating they have been briefed on the resolution of their complaint.

5. Commander Acknowledgment. The Commander will acknowledge the outcome of the Conflict Management process by signing block 11c on the NAVMC Form 11512 and:

a. Determine if all appropriate means to resolve the complaint have been taken; or

b. If the behaviors have not ceased, the commander may take appropriate actions as necessary. Commanders are encouraged to consult their supporting EOA and CJA/SJA as needed.

6. Conflict Management Case Closure. All completed actions will be recorded on the NAVMC Form 11512. The commander will sign block 11c and close the NAVMC Form 11512.

7. Records Retention. The completed NAVMC Form 11512 will be retained in local command files in accordance with Record Schedule 1000-34.

8. Reporting Requirements. There is no DASH reporting required for complaints resolved using Conflict Management. An exception to this is in the case of an accepted complaint that is commander-directed to be resolved via Conflict Management following a preliminary inquiry (PI) or a command investigation (CI). In such a case, all DASH actions are required in accordance with paragraphs 16 and 17 of Chapter 5.

PAC PREVENTION AND RESPONSE

CHAPTER 5

Commander-Directed Complaint Resolution

1. General. Complaint Resolution is the commander-directed, formal PAC complaint resolution process. Commanders may direct Complaint Resolution if, based upon their initial assessment, they determine a formal resolution is appropriate, or more information is needed in order to determine the appropriate commander-directed complaint resolution process. See Chapter 6 for commander's DASH reporting requirements for all complaints accepted for further fact-finding. All commander-directed complaint resolution must be processed in accordance with any applicable privacy requirements of references (t) and (x). Formal PAC complaints will be processed by the commander using the procedures in this Chapter. Formal PAC complaints submitted outside the chain of command to alternative agencies (i.e. local Inspector General's office, SARC, or staff designated by the Military Department and Military Service concerned to receive MEO complaints) will be forwarded to the servicing EOA for processing.

2. Intake Personnel Responsibilities:

a. Review the NAVMC 11512 for completeness and accuracy prior to referring the issue to the commander. To the extent practicable, ensure the complainant provides as much detail as possible in block 7 of the NAVMC 11512 to assist the commander in the proper identification of the issue(s). Ensure the complainant provides a desired outcome/requested remedy in block 8 of the NAVMC 11512.

b. Ensure the complainant is counseled on the investigation process, provided information regarding available support services, and any appeal rights. Ensure complainant initials all items under block 9 of the NAVMC 11512.

c. Forward the completed NAVMC 11512 to the appropriate commander within three duty days. Ensure a command representative signs block 10e of the complaint form acknowledging receipt of the complaint.

d. If the complaint is accepted for inquiry or investigation, generate a DASH report number in block 10b and initiate the GCMCA notification via the DASH system on behalf of the commander.

e. Monitor the progress of the investigation and keep the complainant informed of the status, to include delays in the investigation.

f. Monitor the case and facilitate the timely, efficient, and accurate processing of the complaint through the chain of command.

g. Upon completion of all required command actions, the commander or designee will review the NAVMC 11512 for completeness prior to uploading into the DASH system.

3. Commander Actions. If the commander accepts a complaint for resolution under this Chapter, the commander will:

a. Ensure the safety and wellbeing of the complainant.

b. Ensure the complainant receives appropriate counseling in accordance with references (a) and (b). The commander should consider referring complainants to their servicing EOA to complete this requirement.

c. Within three duty days, convene a CI to determine whether a violation occurred and the appropriate resolution of the complaint. Commanders should select an IO from a unit other than the subject's unit. Direct the IO to consult with the supporting EOA who has received specialized training in PAC violations.

d. Within three duty days of accepting a PAC complaint for further inquiry or investigation and resolution, the commander will generate and submit the initial DASH report to the first Marine GCMCA in the chain of command with administrative control of the commander. The commander may designate individuals to accomplish DASH entry notifications. An initial DASH report will contain as much detail as possible to include: date(s) the incident occurred; the name(s) of the complainant and subject(s) involved (to the extent this information is known); type(s) of PAC behavior being investigated; name of the investigating officer; name of the commander responsible for the subject of the complaint; and a brief description of the alleged incident.

e. Following the investigation, the commander must either substantiate or not substantiate the accepted complaint unless the complaint is otherwise dismissed per paragraph 16 of Chapter 3. Complete block 11a as appropriate. Sign and date blocks 11c and 11d of the NAVMC Form 11512.

f. Upon disposition of the complaint, complete block 11b of the NAVMC Form 11512. Commanders will provide sufficient details on all actions taken to resolve the complaint. The commander will sign and date blocks 11c and 11d of the NAVMC Form 11512.

g. The commander or designee will ensure the complainant is briefed on the disposition of the complaint and actions taken. The commander must ensure the complainant signs and dates blocks 11f and 11g of the NAVMC 11512 acknowledging being advised of the disposition decision.

h. See paragraphs 16 and 17 of Chapter 5 for DASH update requirements.

4. Investigating Officer (IO) Responsibilities. Per reference (v), IO's of administrative investigations will:

a. Upon appointment, consult with the supporting EOA with respect to any alleged PAC, and the CJA/SJA as directed by the CA.

b. Advise the EOA when an investigation begins.

c. Submit a final report on the results of the investigation to the commander within 30 calendar days (14 days for sexual harassment) of the start of the investigation, as practical.

d. If the investigation cannot be completed within 30 calendar days (14 calendar days for sexual harassment), the IO will submit a report on the progress of the investigation to the commander and the EOA every 14 duty days until the investigation is completed.

e. Ensure the completed investigation is submitted to the servicing EOA for an EOA Advisory Opinion followed by the CJA/SJA for a legal sufficiency review.

f. Upon completion of required reviews, the IO officer will provide the commander with the completed report of investigation.

5. Complaint Processing Timelines

a. Timeline for Administrative Investigations Not Involving Sexual Harassment. Commanders will make every effort to investigate accepted PAC complaints not involving sexual harassment via an administrative inquiry or CI within 30 calendar days after the date on which the commander accepts the signed NAVMC Form 11512 (reference (a)).

(1) Extensions. The CA may grant extensions of a reasonable amount of time as the CA deems appropriate. If the CA grants an extension beyond the 30 duty day timeline, the commander or designee will update the DASH report to the first Marine GCMCA in the chain of command with administrative control of the commander on the progress made in completing the investigation that day and every 14 calendar days thereafter until the investigation is completed in accordance with requirements directed by reference (a). Requests and authorizations need not be in writing but must be documented in the final CI and endorsements, as applicable. The CA must inform the complainant and the alleged offender of any extension, its duration, and the reasons for such an extension (reference (b)).

(2) Required Reviews. All CIs require an EOA Advisory Opinion and CJA/SJA Legal Sufficiency Review prior to closeout by the CA. The appointed IO will provide the investigation to the EOA for review. To the extent practicable, the EOA will have three duty days to complete their required EOA Advisory Opinion. The supporting CJA/SJA will, to

the extent practicable, have seven duty days to complete their review. The CJA/SJA will review the command investigation and return it with the Legal Sufficiency Review and EOA Advisory Opinion to the CA for final disposition.

Note 8: Commands which do not have a supporting EOA assigned may coordinate with the closest geographic EOA for an EOA Advisory Opinion. If this is not feasible, the CJA/SJA will complete the EOA Advisory Opinion in accordance with this Order.

(3) Disposition Decision. Upon receipt of the completed CI, the CA has six duty days to make a decision to either substantiate or not substantiate the complaint, otherwise referred to as administrative findings. The CA will state their administrative findings in the endorsement to the investigation and on the NAVMC Form 11512. To the extent practicable, the total time for the administrative investigation and disposition of PAC complaints not involving sexual harassment is 45 calendar days. The disposition will be recorded in block 11a of the NAVMC Form 11512 and signed by the commander/CA.

b. Timeline for Processing Sexual Harassment Complaints. Section 1561 of Title 10, U.S.C. directs commanders to make every effort to investigate a complaint involving sexual harassment within 14 calendar days (references (a) and (r)). Commanders will make every effort to investigate a PAC complaint involving sexual harassment via an administrative inquiry, or CI, within 14 calendar days after the date on which the command accepts the signed NAVMC Form 11512.

(1) Extensions. The CA may grant extensions of a reasonable amount of time as the CA deems appropriate. If the CA grants an extension beyond the 14 calendar day timeline, the commander or designee will update the DASH report to the first Marine GCMCA in the chain of command with administrative control of the commander on the progress made in completing the investigation that day and every 14 calendar days thereafter until the investigation is completed in accordance with requirements directed by reference (a). All extensions must be documented in the CI and endorsements, as applicable. The CA must inform the complainant and the alleged offender of any extension, its duration, and the reasons for such an extension (reference (b)).

(2) Required Reviews. All CIs require an EOA Advisory Opinion and CJA/SJA Legal Sufficiency Review prior to closeout by the CA. The appointed IO will provide the investigation to the EOA for review. To the extent practicable, the EOA will have three duty days to complete the required EOA Advisory Opinion. The supporting CJA/SJA will, to the extent practicable, have seven duty days to complete their review. The CJA/SJA will review the command investigation and return it with the Legal Sufficiency Review and EOA Advisory Opinion to the CA for final disposition.

Note 9: Commands which do not have a supporting EOA assigned may coordinate with the closest geographic EOA for an EOA Advisory Opinion. If this is not feasible, the CJA/SJA will complete the EOA Advisory Opinion in accordance with this Order.

(3) Disposition Decision. Upon receipt of the completed CI, the commander has six duty days to make a decision to either substantiate or not substantiate the complaint, otherwise referred to as administrative findings. The commander will state their administrative findings in the endorsement to the investigation and on the NAVMC Form 11512. To the extent practicable, the total time for the administrative investigation and disposition of a sexual harassment complaint is 30 calendar days. The disposition will be recorded in block 11a of the NAVMC Form 11512 and signed by the commander/CA.

c. Criminal Investigations into PAC Violations. A commander may notify a military criminal investigative organization (MCIO) such as NCIS or Criminal Investigation Division (CID) in certain circumstances. Commanders should seek advice of their supporting CJA/SJA to make this determination. Notification of a MCIO does not constitute a dismissal of the complaint. MCIO investigations will likely exceed the administrative investigation timelines in paragraph 5 of this Chapter. In such a case, the commander should accept the complaint for further inquiry or investigation, and provide DASH updates throughout the period of investigation. The commander is responsible for appropriately adjudicating any findings resulting from a criminal investigation. Upon completion of the MCIO investigation and receipt of a record of investigation, the commander will continue the administrative investigation process, as appropriate, to resolve the complaint. A summary of the MCIO investigation will be included in the CI case file.

6. Commander Actions Upon Substantiation. If the PAC complaint is substantiated, commanders may take any authorized adjudicative action they deem appropriate as described below based upon substantiation of a PAC complaint. Commanders must carefully consider all of the facts and circumstances in reaching a disposition that is warranted and appropriate. Commanders shall consult with their supporting CJA/SJA to determine authorities and actions upon substantiation. Command actions may range from administrative to punitive adjudication. Commanders may dispose of substantiated PAC violations by referring charges to a court-martial for disposition, or by taking administrative action. Administrative action may consist of formal and informal actions such as, but not limited to: adverse evaluation report(s), 6105/MARCORSEPMAN counseling entries, non-judicial punishment, administrative separation, non-recommendation for reenlistment, promotion denial, relief for cause, verbal counseling,

non-punitive letter of caution, order to cease, re-assignment, command directed Conflict Management, and training. The commander will determine the appropriate means of disposition for substantiated PAC violations under his/her jurisdiction. All commander-directed resolution and actions that have been taken shall be recorded in block 11b of the NAVMC Form 11512, and in DASH in accordance with Chapter 6 of this Order. **Commanders shall ensure that all substantiated PAC violations are documented in the DASH system. The DASH is the Marine Corps Service-level reporting and tracking system that meets the requirements outline in reference (a).**

7. Notification of Disposition. The CA will notify both parties, complainant and subject of complaint, in writing within three duty days of the CA's administrative findings, their rights to a supervised review of the CI, and to appeal the CA's administrative findings. Upon notification of the administrative findings, both the complainant and subject will be given the opportunity to acknowledge notification of the CA's administrative findings, their rights to a supervised review of the CI, and to appeal the administrative findings. For the complainant this will be annotated in block 11f of the NAVMC Form 11512. For the subject, this will be annotated on the Offender Notification Record NAVMC Form 11513.

8. Supervised Review. Upon request, the command will provide the subject or complainant (anonymous complainants and third party reporters do not have standing) a reasonable opportunity for a supervised review of copies of the CA's final decision and the complete CI with all enclosures and endorsements provided to the first GCMCA. Reasonable opportunity for review depends on but is not limited to complexity and length of the CI report. Complainants or subjects will not be provided a hard copy, but may take notes during their review, nor be allowed to photograph/record any of the documents to take with them and keep for their records. Additional matters considered by the GCMCA (results from additional GCMCA inquiry or additional matters provided to the GCMCA for consideration based on the appeal) outside of matters outlined in this paragraph need not be provided to either party for notification or rebuttal prior to GCMCA's decision. Commanders are not the release authority for MCIO investigations. The individual submitting an appeal may make a direct request to the MCIO for a copy of the report of investigation which will be governed by the MCIO's regulations. Such a request will not be a cause for delay in submitting an appeal. A summary of the MCIO investigation is required to be included in the CA's final report of the CI, which will be made available for a supervised review. If desired, appellants may request a hard copy via the FOIA/Privacy Act site (<https://foiaonline.gov/foiaonline/action/public/home>). Such a request will not be a cause for delay in submitting an appeal.

9. GCMCA Review and Closeout. All accepted PAC investigations will be submitted through the chain of command to the first Marine GCMCA in the CA's administrative chain of command for review of the investigative findings. The GCMCA must review and appropriately

endorse the investigation. The purpose of this review is to provide the GCMCA awareness of the complaint and its resolution. It does not require any action by the GCMCA but for documentation of GCMCA's review unless there is an appeal, or the GCMCA upon review determines follow action is necessary. The GCMCA's review will be recorded in block 13a on the NAVMC Form 11512. Commanders will notify the subject and complainant of all GCMCA review decisions in writing. The completed PAC investigation case file will be submitted for GCMCA review. A completed PAC investigation case file includes: the completed NAVMC Form 11512, the complete investigation with all endorsements and enclosures, appropriate EOA Advisory Opinion and Legal Sufficiency Review, and any applicable statements or requests for appeal. If not appealed, the case is considered closed after completion of the GCMCA review and approval.

10. Appeal of Administrative Findings. Either party may appeal the CA's administrative findings on the following bases: any legal or equitable grounds based upon a good faith belief that existing DOD or DON regulations were incorrectly applied in the particular case; that facts were ignored or weighed incorrectly; that remedial action ordered by a commander was insufficient under the circumstances; or on any other good faith basis. Such an appeal is not automatic, and must be submitted in writing. Written appeals of the administrative findings must be submitted within 30 calendar days of notification of the findings for inclusion in the case file for GCMCA review.

a. The individual making the appeal bears the burden of providing evidence that establishes the basis for the rebuttal of facts.

b. Dissatisfaction with the disposition of a complaint does not constitute a valid basis of appeal.

11. Review of an Investigation that is Appealed. The GCMCA must review and appropriately endorse the investigation, and specifically address a complainant's or subject's appeal of the administrative findings. The GCMCA's decision will be recorded in block 13a on the NAVMC Form 11512. Commanders will notify the subject and complainant of all GCMCA review and appeal decisions in writing. The GCMCA's decision is the final appellate decision on PAC complaints that do not involve prohibited discrimination and/or sexual harassment. (See paragraph 12 of this Chapter for additional appellate review for complaints that involve prohibited discrimination and sexual harassment.)

a. Standard of Review. The GCMCA will use the "Clear and Convincing" evidence standard as the basis for disapproving the administrative findings (reference (v)).

b. Appellate Authority Decision. The Appellate Authority may approve the CA's administrative findings. However, if the Appellate Authority determines a complainant's or subject's appeal of the

administrative findings to be valid, the Appellate has the following options:

- (1) Return the investigation to the CA for further fact-finding;
- (2) Disapprove the subordinate commander's substantiation or non-substantiation of a complaint; or
- (3) Order a new investigation by a different CA.

12. Appeal of Complaints Related to Prohibited Discrimination and Sexual Harassment. The opportunity to appeal prohibited discrimination and sexual harassment administrative findings is required by DOD policy (references (a) and (b)). Unlawful discrimination and sexual harassment appeals will be handled in accordance with enclosure (3) of reference (c) which directs that the first appeal will be to the first Marine GCMCA in the CA's administrative chain of command. This appeal must be requested in writing within 30 calendar days of being provided notice of the CA's administrative findings on the complaint. The GCMCA's decision is the initial appeal decision. If a further appeal is requested, the final resolution of an appeal on a formal complaint will rest with the Secretary of the Navy (SECNAV) or designee.

a. Timeline. In accordance with reference (c), the complainant and subject may submit a written request within 30 calendar days. This final appeal should be requested within 30 calendar days of written notification of the GCMCA's decision on the initial appeal. A SECNAV appeal requested after 30 calendar days, may be returned as untimely, unless unusual circumstances contributed to the delay.

b. Supervised Review. Upon request, the command will provide the appellant, subject or complainant (anonymous complainants and third party reporters do not have standing) a reasonable opportunity for a supervised review of copies of the GCMCA's appeal decision and the complete command investigation with all enclosures and endorsements. Reasonable opportunity for review depends on but is not limited to complexity and length of the CI report. Additional matters considered by the SECNAV outside of matters outlined in this paragraph need not be provided to the appellant for notification and rebuttal prior to SECNAV review and decision. Appellants will not be provided a hard copy but may take notes during their review, nor allowed to photograph/record any of the documents to take with them and keep for their records. Commanders are not the release authority for MCIO investigations. The individual submitting an appeal may make a direct request to the MCIO for a copy of the report of investigation which will be governed by the MCIO's regulations. Such a request will not be a cause for delay in submitting an appeal. A summary of the MCIO investigation is required to be included in the CA's final report of the CI, which will be made available for a supervised review. If

desired, appellants may request a hard copy via the FOIA/Privacy Act site (<https://foiaonline.gov/foiaonline/action/public/home>).

c. Appeals to the Secretary of the Navy (SECNAV) Routing Procedure. The appeal will be forwarded via the appellant's commanding officer and the initial appellate authority who conducted the initial appeal of the PAC complaint in accordance with references (c) and (v). The initial appellate authority will forward a complete case file to HQMC, JAD (JCA). Marine Corps Appellate Authorities should submit the report electronically using the DOD Safe Access File Exchange system or by encrypted e-mail to HQMC, JAD (JCA). Reports may also be mailed to the Commandant of the Marine Corps (JCA), Headquarters, United States Marine Corps, 3000 Marine Corps Pentagon, Washington, DC 20350-3000.

d. Appeals to SECNAV. In the event that a complaint is further appealed, the SECNAV or their designee shall make the final determination. A SECNAV appeal involving prohibited discrimination or sexual harassment may be submitted on any legal or equitable grounds based upon a good faith belief that existing DOD or DON regulations were incorrectly applied in the particular case, that facts were ignored or weighed incorrectly, that remedial action ordered by a commander was insufficient under the circumstances, or on any other good faith belief. The individual making the appeal bears the burden of providing evidence that establishes the basis for the rebuttal of facts.

e. Both the initial and the final appellate authority may determine whether the initial complaint and/or the appeal were made in good faith, and if not, to take appropriate corrective measures, including punitive measures.

13. Other Appropriate Remedies. The PAC appeals process does not preclude eligible individuals' pursuit of other appropriate remedies that may be available under other statutes or regulations (e.g., petition to the Board for Corrections of Naval Records (BCNR)).

14. Other Appellate Processes. The PAC appeal process is not applicable to, nor appropriate for, appeals of corrective command actions taken as a result of a substantiated complaint such as court martial, NJP, administrative separation processing, adverse fitness report, etc. which have their own inherent appeal or rebuttal processes. See section 304c. of reference (v) for amplifying details on improper subjects for complaints of wrongs to SECNAV.

a. When a commander initiates or has previously initiated action under the UCMJ or an administrative process, that action takes precedence over any ongoing or contemplated PAC appeal in accordance with the appropriate process or policy.

b. To avoid delaying or impeding the prompt and effective resolution of complaints, commanders are not required to withhold appropriate administrative action while an appeal is pending.

15. Complaint Closure. After all appellate options have been exhausted, the case is considered closed.

16. DASH Updates. Within ten calendar days of the disposition or adjudication, the responsible commander (CA) will provide a DASH update to the first Marine GCMCA in the chain of command with administrative control of the CA. This update will contain all required information regarding the investigation, commanders' administrative findings and completed disposition of the complaint, all identified subjects, and any information not previously reported that is related to the conclusion of administrative or judicial actions taken (i.e., NJP, court-martial, or other administrative actions).

Note 10: Multiple allegations of inappropriate behavior or wrongdoing may be presented to the commander. Therefore, when reporting, commands will provide only the information and action taken that is relevant to the alleged behavior that is considered a violation of PAC as defined by this Order. The GCMCA, supporting EOA, or designee will review the report for accuracy and completeness prior to submission to MPE. If incomplete, the report will be returned to the command for correction and resubmission.

17. Final DASH Submission to MPE. The first Marine GCMCA in the chain of command with administrative control over the CA will ensure a final DASH report with the completed NAVMC Form 11512 attached is submitted to MPE within five calendar days of receiving the CA's notification that all final disposition or adjudication actions are complete. The supporting EOA or designee will review all DASH input to ensure the information is complete in accordance with this Order. If incomplete, the DASH report will be returned to the CA for correction and resubmission. MPE will conduct final review and closure of the DASH.

PAC PREVENTION AND RESPONSE

CHAPTER 6

Data Collection and Reporting

1. General. MPE maintains the DASH system to track all accepted complaints of PAC from initial reporting until final command action is taken. DASH is a system of record with a registered SORN number M01040-3. DASH access can be requested through a command's supporting EOA. Commands not supported by an EOA need to contact the office of Opportunity, Diversity, and Inclusion (MPE), at commercial phone number (703) 784-9371, DSN 278-9371, or via email at mpe_eo@usmc.mil for assistance. A DASH User's Manual is provided in the PAC Toolkit at <https://www.manpower.usmc.mil/webcenter/portal/PACToolkit>.

2. Service-Level Reporting and Tracking System. The DASH system is the Marine Corps Service-level reporting and tracking system that supports DOD reporting requirements per reference (a), and enables oversight of the PAC reporting and processing across the Service. All information submitted to MPE pursuant to the following paragraphs will be placed in the DASH and will be provide to those with a need to know. DASH entries are not included in a Marine's OMPF.

a. The DASH system is not intended to be a repository for military justice records collection and reporting.

b. A number of PII entries are collected and maintained within DASH in order to meet Marine Corps data collection and reporting requirements. Only demographic information regarding the recipient and subject as defined by this Order will be recorded in DASH. In the event the recipient or subject cannot be identified or is not a Marine or other Service member under the jurisdiction of the Marine Corps, commands will record the demographic information in DASH as "unavailable".

c. DASH reporting does not supersede existing OPREP3/SIR reporting requirements published in reference (q). Commanders may determine that an incident which includes an alleged PAC violation requires an additional notification as directed by existing OPREP3/SIR reporting requirements prescribed in reference (q).

d. DASH reports are not required when: a PAC complaint is dismissed by the commander; a PAC complaint is reported against personnel not under the administrative jurisdiction of the Marine Corps; or a PAC complaint is resolved using commander-directed Conflict Management. An exception to this is in the case of an

accepted complaint that is command-directed to be resolved via Conflict Management following a PI/CI. In such a case, all DASH actions are required in accordance with paragraphs 4017 and 4018 of this Order (reference (a)).

3. Command-Level Discrimination and Sexual Harassment (DASH) System Management

a. Commanders will designate, in writing, personnel within their command authorized to generate and review DASH reports. This list will be provided to and maintained by the servicing EOA.

b. Commanders are authorized to conduct record searches of the DASH database for assigned members of their command. DASH screenings are recommended for the following reasons: upon submitting for reenlistment; special duty assignment; collateral duty assignment as a EOR; UVA; or upon being named as a subject in a complaint. These DASH screening results will only reflect assigned Service members listed as subjects with substantiated PAC incidents.

4. Initial Discrimination and Sexual Harassment (DASH) Report.

Commanders are required to initiate a DASH report to HQMC (MPE) via the first Marine GCMCA in the chain of command upon acceptance of a PAC complaint involving assigned Service members. For Marines assigned to joint commands that lack a Marine GCMCA, the Marine GCMCA geographically closest to the officer's joint command shall make the required reports.

a. Circumstances that Trigger an Initial Report. A DASH report is required when a commander accepts a PAC complaint for further fact-finding or formal Complaint Resolution, in accordance with Chapter 5 of this Order. If doubt exists as to whether an initial report is required, contact HQMC (MPE) for guidance.

b. Timeline for an Initial Report. Commanders are required to submit the initial DASH report within three duty days of accepting a PAC complaint for investigation or formal Complaint Resolution. This initial DASH report serves two purposes. First, it satisfies the DOD requirement to notify the GCMCA of the incident. Second, it provides a complete record of the processing timeline from inception to disposition.

c. Initial DASH Required Information. An initial DASH report will contain as much detail as possible to include: date(s) the incident occurred; the name(s) of the complainant and subject(s) involved (to extent information is known); type(s) of PAC behavior being alleged; name of the IO; name of the commander responsible for the subject of the complaint; and a detailed description of the alleged offense. Although all of the facts may not be immediately available to the command, every effort must be made to provide a detailed account of the allegation.

d. Law Enforcement Involvement. If the incident included involvement by law enforcement, the initial report must include the name of the city/county/state/federal law enforcement agency.

e. Updating Information. Initial allegations may change following an investigation. Additional information, must be reflected in a separate paragraph, rather than altering the initial account.

5. Commanders' Required DASH Updates. The responsible commander/CA is required to provide update information via DASH to ensure that HQMC (MPE) is apprised of the most current status of the case. The responsible commander/CA must provide an update on the following occasions:

a. Upon Disposition of Prohibited Activities and Conduct (PAC) Complaints. Within ten calendar days of the disposition or adjudication, the responsible commander/CA will provide a DASH update to the first Marine GCMCA in the chain of command with administrative control of the CA. This update will contain all required information regarding the investigation, commanders' administrative findings and completed disposition of the complaint, all identified subjects, and any information not previously reported that is related to the conclusion of administrative or judicial actions taken (i.e., NJP, court-martial, or other administrative actions).

Note 11: Multiple allegations of inappropriate behavior or wrongdoing may be presented to the commander. Therefore, when reporting, commands will provide only the information and action taken that is relevant to the alleged behavior that is considered a violation of PAC as defined by this Order.

b. Significant Events Triggering Discrimination and Sexual Harassment (DASH) Update Reports. The following significant events require immediate DASH Updates to the incident description section. A significant event is one that may affect the disposition of a reported case or increase the public attention drawn to it. Significant events include, but are not limited to: the signing of recommendations, reports, or endorsements; new allegations of misconduct; pre-trial confinement; the preferral, referral, withdrawal, or dismissal of charges; acceptance of NJP; acceptance of a pre-trial agreement; the delay or conclusion of a court-martial; BOI, or civilian court proceeding; and a finding that misconduct did not occur.

6. GCMCA DASH Responsibilities

a. Final Discrimination and Sexual Harassment (DASH) Submission to Headquarters Marine Corps (MPE). The first Marine GCMCA in the chain of command with administrative control over the CA is

responsible for tracking and monitoring the aging and life-cycle of complaints. The GCMCA's EOA or designee must ensure a final DASH report with the completed NAVMC Form 11512 attached is submitted to HQMC (MPE) within five calendar days of receiving the CA's notification that all final disposition or adjudication actions are complete. The supporting EOA or designee will review all DASH input to ensure the information is complete in accordance with this Order. If incomplete, the DASH report should be returned to the CA for correction and resubmission. HQMC (MPE) will conduct final review and closure of the DASH.

b. Timeline for Final Discrimination and Sexual Harassment (DASH) Submission to Headquarters Marine Corps (MPE). The GCMCA's EOA or designee will ensure a final DASH report with required attachments is submitted to HQMC (MPE) as follows:

- (1) 30 calendar days from the imposition of NJP, if not appealed; or
- (2) 30 calendar days from final action on an appealed NJP; or
- (3) 30 calendar days from the signing of the CA's action following court-martial; and
- (4) 30 calendar days after all non-punitive administrative actions have been completed.

c. Monthly Certification of All Open Discrimination and Sexual Harassment (DASH) Cases. The EOA or designee, on behalf of their GCMCA, are required to update and certify all of their open DASH cases by the 20th of each month. This certification ensures all open cases are reviewed and certified to reflect all known information each month. When an EOA or designee "certifies" an entry, he or she is endorsing the current case status on behalf of the GCMCA and approving the release of the updated information to HQMC (MPE).

d. The GCMCA's EOA or designee will monitor each of their open cases and work with commanders to facilitate timely, efficient, and accurate processing of PAC complaints through the chain of command.

7. Required Attachments. All DASH reports must contain the following attachments, as applicable, prior to closure and submission to HQMC (MPE). This information is required to validate Service-level reports to DOD and Congress.

a. Complete Command Investigation File. All DASH reports must include a copy of the complete command investigation case file. A completed PAC investigation case file includes: the completed NAVMC Form 11512, the complete investigation with all endorsements and enclosures (unless classified), EOA Advisory Opinion, CJA/SJA Legal Sufficiency Review, and any applicable statements or requests for

appeal. A summary of any MCIO (e.g., CID, NCIS, or PMO) investigation will be included in the CI case file, and any civilian police reports.

Note 12: The completed NAVMC Form 11512 must be sufficiently annotated to ensure the complainant has an accurate account of how their case was resolved. Any missing signatures will require the DASH to be returned for correction.

b. Appellate Decision (if appealed). If appealed, a copy of the appellate authority decision must be included in the DASH case file.

c. Report of Non-Judicial Punishment (NJP) (if applicable). For enlisted personnel the report can be the actual completed UPB form (NAVMC 10132). The UPB will not be used in officer NJP cases. Instead, for officers, a Report of NJP per Volume 15 of MCO 5800.16 is required.

d. Report of Court-Martial Conviction (if applicable). In addition to the general requirements set forth above, the Report of Court-Martial Conviction will include the record of trial, which includes, but is not limited to, the preferred and referred charges, pre-trial agreement, results of trial, and convening authority's action.

8. Discrimination and Sexual Harassment (DASH) Report Closure by Headquarters Marine Corps (MPE). The DASH system is not intended to be a repository for military justice records collection and reporting. Upon validation and closure, all military justice documents will be deleted from the DASH system by HQMC (MPE).

9. Adverse Screenings. DASH is the authoritative source for identifying any adverse or reportable PAC information involving a Marine that is not entered into the Marine's official service record.

10. Release Authority for Discrimination and Sexual Harassment (DASH) Reports. The Director, Manpower Plans and Policy Division, M&RA is the release authority for all DASH data. All data will be released consistent with FOIA/Privacy Act requirements. Requests for DASH data will be submitted to <https://foiaonline.gov/foiaonline/action/public/home>.

PAC PREVENTION AND RESPONSE

APPENDIX A

Glossary of Terms and Definitions

1. General. Consistent with the references, and supplemented, as necessary, this Order prohibits specific conduct as defined in Chapter 1 of this Order. The definitions used in this Order for specific conduct are not contingent on or connected to definitions of the specific conduct in any other Order, unless otherwise indicated. To ensure uniform understanding of the terms that have special significance and meaning relative to this Order, the following definitions are provided.

adverse administrative action. Adverse administrative action may include, but is not limited to, processing for administrative separation, NJP, 6105/MARCORSEPMAN counseling entry, adverse fitness report, etc.

allegation. A claim or assertion that someone has committed an offense.

anonymous report. Information received by the commanding officer or other persons in charge of the organization, regardless of the means of transmission, from an unknown/unidentified source. The command may receive an anonymous report alleging certain prohibited activities and conduct. The individual reporting the information is not required to divulge any personally identifiable information. Anonymous reports may be communicated by several means, including, but not limited to, organizational hotlines or advice lines, electronic mail, or official telephone lines.

appropriate authority. The following are appropriate authority to receive a protected communication in accordance with references (f), (g), (h), and (s):

1. A member of Congress;
2. An IG;
3. A member of a DOD audit, inspection, investigation, or law enforcement organization;
4. Any person or organization in the chain of command;
5. A court-martial proceeding;
6. Any other person or organization designated pursuant to regulations or other established administrative procedures for such communications; or

7. Any person conducting an investigation or proceeding related to a protected communication.

beliefs. Judgments or expectations one may hold.

bias. A mental leaning or inclination; a preconceived opinion.

bullying. A form of harassment that includes knowing, reckless, or intentional conduct that includes acts of aggression by a Service member, with a nexus to military service, with the intent of harming a Service member or DOD civilian employee 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. It often involves an imbalance of power between the aggressor and the victim. Bullying can be conducted through the use of electronic devices or communications, and by other means including social media, as well as in person.

a. Bullying is evaluated by a reasonable person standard and includes, but is not limited to, the following knowing, reckless, or intentional conduct 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;
and

(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. Service members 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 Service of the victim.

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

calendar days. Calendar days are counted inclusive of leave or liberty periods. For example, a week, Monday through Sunday, consists of seven calendar days.

category. A legally defined protected classification from discrimination.

chain of command. The succession of commanding officers from a superior to a subordinate through which command is exercised.

civilian employee. As defined in Section 2105 of Title 5, U.S.C.

climate assessment. An assessment based on information obtained about the positive and negative factors that may have an impact on unit effectiveness and readiness by measuring matters relating to human relations, such as prevention and response to equal opportunity related issues. This is accomplished through some or all of group or individual interviews, observations, surveys or questionnaires, and reviews of records and reports.

commander. Marine Force Commanders, Commanding Generals, Officers in Charge in the grade of O-5/O-6, and slated O-5/O-6 Commanding Officers.

command climate assessment. A complete command climate assessment requires completion of the following steps:

1. Prepare: Establish the commander's or organizational leader's intent and provide it to the members of the command.

2. Conduct: After compiling the list of required information the administrator will request the DEOCS and the unit's members can complete the DEOCS.

3. Interpret: The Survey Administrator receives and interprets the DEOCS. The administrator validates the DEOCS findings (as required by the Commander) by conducting focus groups and interviews, observations, and a records and reports analysis. The Survey

Administrator develops a comprehensive assessment report based on findings from all assessment methods.

4. **Develop:** Using the comprehensive assessment report based on findings from all assessment methods, the administrator develops an out-brief to the commander or organizational leader. The commander or organizational leader develops a Command Action Plan (cap). The commander or organizational leader briefs findings and planned actions to the next senior commander. The commander or organizational leader develops and briefs findings and planned actions to unit members.

5. **Execute:** The command team implements solutions and remedies to address assessment concerns. The commander or organizational leader assesses progress and modifies actions as necessary until the next assessment.

complaint of prohibited activities and conduct. Complaints under this Order may include a claim or assertion alleging prohibited activities and conduct submitted orally or in writing to the commanding officer or other person in charge of the organization (e.g., commander or head of the vessel, agency or organization), or to person the commanding officer has designated in writing to receive such complaints. The reporter or complainant's identity may not be apparent.

complainant. An aggrieved Service member who makes a claim or assertion alleging prohibited activities and conduct via a completed NAVMC Form 11512 in accordance this Order.

complaint without merit. A complaint that fails to allege facts that, if true, would constitute a violation of a law, rule or regulation.

condition. To make some aspect of another's employment, career, pay, duty assignment, benefits, or privileges contingent upon fulfillment of some requirement the maker thereof has no right to impose.

Conflict Management. Conflict Management is the command-directed informal resolution process available to Service members to resolve interpersonal conflicts at the lowest appropriate level. EOAs can provide the necessary information and skills to encourage and facilitate resolving interpersonal conflicts in the workplace at the lowest appropriate level. Conflict Management is not a prerequisite for the complaint resolution process in Chapter 4 of this Order.

consent. A freely given agreement to the conduct at issue by a competent person. An expression of lack of consent through words or conduct means there is no consent. Lack of verbal or physical resistance or submission resulting from the use of force, threat of force, or placing another person in fear does not constitute consent. A current or previous dating or social or sexual relationship by itself or the manner of dress of the person involved with the accused in the conduct at issue shall not constitute consent.

continuum of harm. the continuum of harm that frequently results in sexual assault includes hazing, sexual harassment, and related behaviors (including language choices, off-hand statements, jokes, and unconscious attitudes or biases) that create a permissive climate for sexual assault as defined in Section 540D of P.L. 116-92.

creed. A set of fundamental beliefs. A system, doctrine, or formula of religious belief, as of a denomination.

cross-over complaints. Commanders may receive reports of alleged PAC involving both Service members and non-Service members, for example DOD civilian employees. In such cases this Order is applicable to those Service members over whom the commander exercises appropriate authority. Only an aggrieved Service member will be considered a complainant and able to seek administrative redress under this Order and its implementing process. Commanders may determine the appropriate actions to investigate complaints of alleged PAC committed by assigned Service members against a non-Service member in consultation with their CJA/SJA in accordance with their appropriate authorities. DOD civilian employees and all other non-Service members shall pursue any complaints in accordance with separate issuances regarding Equal Employment Opportunity (EEO) regulations for appropriate redress.

culture. The learned and shared behaviors, attitudes, beliefs, and perceptions of a group which have been transmitted from generation to generation through a shared symbol system.

cultural diversity. A condition in a group of people or organization brought about by the gender, religion, racial, cultural, and social differences that the individuals naturally bring to the group or organization.

data-informed actions. Decisions based on the collection and analysis of available data.

Defense Organizational Climate Survey (DEOCS). The Defense Organizational Climate Survey (DEOCS) is a confidential, command-requested organization development survey focusing on issues of organizational effectiveness, equal opportunity, and sexual assault response and prevention.

disparaging terms. Terms used to degrade or imply negative connotations based on an individual's or group's color, national origin, race/ethnic group, religion, sex (including pregnancy), gender identity or sexual orientation. Such terms include insults, and may be expressed by means including, but not limited to, printed material, visual material, signs, symbols, posters, or insignia.

dissident and protest activities. In accordance with this Order and reference (z):

a. Knowing and wrongful conduct that involves actively advocating supremacist, extremist, or criminal gang doctrine, ideology, or causes, including those that advance, encourage, or advocate illegal discrimination based on race, creed, color, sex (including pregnancy), religion, ethnicity, national origin, gender identity, or sexual orientation or those that advance, encourage, or advocate the use of force, violence, or criminal activity, or otherwise advance efforts to deprive individuals of their civil rights.

b. Knowing and wrongful conduct that involves actively participating in criminal gangs, or in other organizations that advocate supremacist, extremist, or criminal gang doctrine, ideology, or causes; including those that attempt to create illegal discrimination based on race, creed, color, sex (including pregnancy), religion, ethnicity, national origin, gender identity, or sexual orientation; advocate the use of force, violence, or criminal activity; or otherwise engage in efforts to unlawfully deprive individuals of their civil rights. Active participation in such gangs or organizations is prohibited. Active participation includes, but is not limited to, fundraising; demonstrating or rallying; recruiting, training, organizing, or leading members; distributing material (including posting on-line); knowingly wearing gang colors or clothing; having tattoos or body markings associated with such gangs or organizations; or otherwise engaging in activities in furtherance of the objective of such gangs or organizations that are detrimental to good order, discipline, or mission accomplishment or are incompatible with military service. The prohibition extends to acts committed through electronic communication and social media, as well as in person and other means.

duty day. A duty day is a day in which a Service member is expected to be at their place of work for some portion of the day, and includes partial days on which periods of leave or liberty begin or end. For example, when a holiday period begins at noon on Friday and ends at noon on Tuesday, both Friday and Tuesday are duty days; Monday is not.

electronic communication. Refers to any communication done via electronic device or apparatus and includes, but is not limited to, the transfer of signs, signals, writing, images, sounds, and data of any nature, transmitted in whole or in part by a wire, radio, or mobile service provider.

Equal Employment Opportunity (EEO) Program. The comprehensive program through which the Marine Corps implements its policy to provide equal opportunity in employment for all qualified civilian personnel. (MCO 12713.6)

Equal Opportunity (EO). The right of all persons to participate in, and benefit from, programs and activities for which they are qualified. These programs and activities will be free from social, personal, or institutional barriers that prevent people from rising to the highest level of responsibility possible. Persons will be

evaluated on individual merit, fitness, intellect, and ability; regardless of race, color, national origin, religion, sex (including pregnancy), gender identity or sexual orientation.

Equal Opportunity Advisor (EOA). Marines assigned to major Marine Corps installations whose duty is to provide information, assistance, and advice on all EO matters to installation and tenant commanders. EOAs are the Marine Corps' primary personnel for advice, guidance, and complaint management regarding prohibited activities and conduct under this Order. EOAs are the Marine Corps' SMEs on all command climate and prohibited activities and conduct matters. They have received extensive training on the dynamics of human relations and command climate. An EOA's primary duty is to provide subject-matter advice and guidance on all matters related to command climate and unprofessional conduct under this Order.

Equal Opportunity Advisor (EOA) Advisory Opinion. Upon completion of the prohibited activity and conduct complaint investigation, and prior to the Legal Sufficiency Review, the IO will submit the investigation for an EOA Advisory Opinion. EOAs will note any discrepancies and return to the IO. A template is provided in the PAC Toolkit. The EOA Advisory Opinion will ensure:

- All accepted allegations of prohibited activity and conduct are thoroughly addressed in the investigation.
- The investigation includes a thorough review of the circumstances under which the alleged prohibited activity and conduct occurred.
- The investigation includes an analysis of how the victim was treated compared to others within the complainant's demographic group and with those of other demographic groups.
- There is no evidence of bias (a highly personal and unreasoned distortion of judgment; partiality) by the IO.
- There is no evidence the complainant rather than the alleged prohibited activity and conduct was investigated.

Equal Opportunity Advisor (EOA) consultation. Complainants may request or the commander may direct consultation with the EOA at any time during the complaint process. It is recommended individuals consult with their supporting EOA. The purpose of the consultation is to seek guidance and advice from a SME. During the EOA consultation, a complainant is given the opportunity to review their complaint or interpersonal issue.

Equal Opportunity Representative (EOR). Marines assigned at the battalion and squadron level. They are screened and selected by the commander. EORs are their command's primary asset to monitor command climate. They serve as the command liaison with the EOA.

equal opportunity climate. An atmosphere in which all individuals are treated fairly and equitably without regard to race, color, national origin, religion, sex (including pregnancy), gender identity, or sexual orientation.

ethnicity. That which sets off a group by race (defined as genetic), religion (preferred denomination), national origin (country of one's ancestors), or some combination of these categories.

ethnic group. A segment of the population that possesses common characteristics and cultural heritage.

ethnic and racial categories. Basic ethnic and racial categories for DOD reporting are defined as follows:

1. American Indian or Alaska Native. A person having origins in the original peoples of North and South America (including Central America), and who maintains tribal affiliation and/or community attachment.

2. Asian. A person having origins in any of the original peoples of the Far East, Southeast Asia, and/or Indian subcontinent.

3. Black or African American. A person having origins in any of the original peoples of Africa.

4. Hispanic or Latino. A person having origins in any of the original peoples of Mexico, Puerto Rico, Cuba, or Central or South America, or of other Spanish culture or origin, regardless of race.

5. Pacific Islander. Native Hawaiian or Other Pacific Islander. A person having origins in any of the original peoples of Hawaii, Guam, Samoa, or other Pacific Islands.

6. White. A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

gender identity. Gender identity is the individual's internal sense of being male or female. The way an individual expresses his or her gender identity is frequently called "gender expression," and may or may not conform to social stereotypes associated with a particular gender.

General Court-Martial Convening Authority (GCMCA). With respect to the appropriate processing and reporting of PAC throughout this Order, the GCMCA is the first Marine GCMCA in the CA's administrative chain of command.

harassment. Any conduct, whereby a Service member knowingly, recklessly, or intentionally and with a nexus to military service engages in behavior that is unwelcome or offensive to a reasonable

person, whether oral, written, or physical, that creates intimidating, hostile, or offensive work environment.

a. Harassment may include, but is not limited to, unwanted physical contact; offensive jokes; epithets or name calling; ridicule or mockery; insults or putdowns; displays of offensive objects or imagery; offensive non-verbal gestures; stereotyping; intimidating acts; veiled threats of violence; threatening or provoking remarks; racial or other slurs; derogatory remarks about a person's accent or disability; displays of racially offensive symbols; and interference with work performance (to include unwillingness to train, evaluate, assist, or work with an individual).

b. Harassment can occur in a variety of circumstances, including, but not limited to, the following:

(1) The harasser can be the victim's supervisor, a supervisor in another area, or a coworker.

(2) The victim does not have to be the person harassed, but can be anyone affected by the offensive conduct.

c. Harassment can be oral, visual, written, physical, or electronic. Harassment can occur through electronic communications, including social media, other forms of communication, and in person.

d. Harassment does not include: activities or actions undertaken for a proper military or governmental purpose, such as combat survival training, assignment of work related to the duties and responsibilities of the employee, and performance counseling, are not harassing behaviors. Moreover, this policy prohibiting harassment is not a "general civility code." Behavior that is rude, ignorant, abrasive, or unkind, but does not adversely affect the work environment as described in paragraph 3 of this Chapter, is not harassment. Authorized incentive training permitted exclusively at the Marine Corps Recruit Depots; Extra military instruction; command authorized physical training; or similar activities properly authorized by the chain of command.

hazing. A form of harassment that includes knowing, reckless, or intentional conduct through which Service members, 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 Service member or DOD civilian employee 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.

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 (such as bloodstripping) in any manner or threatening to do the same;

(2) Pressing any object into another person's skin, regardless of whether it pierces the skin, such as "pinning" or "tacking on" of rank insignia, aviator wings, jump wings, diver insignia, badges, medals, or any other object;

(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; and

(9) 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, or the requisite training activities required to prepare for such activities (e.g., administrative corrective measures, extra military instruction, or command-authorized physical training).

c. Service members may be responsible for an act of hazing even if there was actual or implied consent from the victim and regardless of the grade or rank, status, or Service of the victim.

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

high-risk group. Those individuals at highest risk for a certain outcome owing to some risk factor.

hostile work environment. An intimidating or offensive duty environment that has the purpose or effect of unreasonably interfering

with the work performance of Service members, civilian employees, or both.

incidence. The frequency of new occurrences of self-directed harm or prohibited abusive or harmful acts within a defined time interval.

Integrated Primary Prevention. Refers to prevention activities that simultaneously address multiple self-directed harm and prohibited abusive or harmful acts or the inclusion of prevention activities across self-directed harm and prohibited abusive or harmful acts into a cohesive, comprehensive approach that promotes unity of effort, avoids unnecessary duplication, and lessens training fatigue.

institutional discrimination. Policies, procedures, and practices that, intentionally or unintentionally, lead to differential treatment of selected identifiable groups and which, through usage and custom, have attained official or semiofficial acceptance in the routine functioning of an organization and institution.

interpersonal conflict. A disagreement between two or more people that raises serious concerns and needs to be resolved.

investigation. An examination into allegations of wrongdoing or misconduct.

Joint Service environment. A locality from which operations of two or more of the Military Departments are projected or supported and which is manned by significant elements of two or more Military Departments or in which significant elements of two or more Military Departments are located. Includes joint commands, joint bases, Defense Agencies, and joint field activities that involve more than one branch of Military Service.

knowing, reckless, or intentional conduct. With respect to this Order and the PAC:

1. "Knowing" means that the Service member engaged in PAC with the knowledge that the harm the PAC was designed to prevent was practically certain to occur.

2. "Reckless" means the Service member acted with a degree of carelessness greater than simple negligence. It means that the Service member knew that there was a substantial and unjustifiable risk that the harm the PAC was designed to prevent would occur, and the Service member ignored this risk when engaging in the PAC.

3. "Intentional" means that the conduct was done voluntarily, not because of a mistake or accident or other innocent reasons, and with the specific intent to cause the harm the PAC was designed to prevent.

4. A Service member's intent, knowledge, or recklessness, like any other mental state, may be shown through circumstantial evidence. For

example, if a Service member engaged in behavior that a reasonable person would consider PAC, it could be inferred from all the facts and circumstances that the Service member either intended to cause the harm this Order was designed to prevent, or knew there was a substantial and unjustifiable risk that such harm would occur.

Legal Sufficiency Review. A review by the CJA/SJA of an investigation into a complaint alleging prohibited activities and conduct under this Order to determine whether any errors or irregularities exist, and, if so, their legal effect, if any (10 U.S.C. § 801 et seq). The review will determine whether:

1. The investigation complies with all applicable legal and administrative requirements;
2. The investigation adequately addresses the matters complained of;
3. The evidence supports the finding of the investigating officer or board; and
4. The conclusions and recommendations of the investigating officer or board are consistent with the findings.
5. If an MCIO investigation was used to support the investigation officer's findings, a summary of the MCIO investigation is included in the final report.

Note 13: In cross-over complaints, if the subject of the investigation is a civilian employee or contractor, a civilian Counsel may conduct the Legal Sufficiency Review in accordance with the appropriate separate regulation (see Equal Employment Opportunity Program).

Military Criminal Investigative Organization. The U.S. Army Criminal Investigation Command, Naval Criminal Investigative Service, Air Force Office of Special Investigations, and Marine Corps Criminal Investigation Division.

minority. A group which differs from the predominant section of a larger group in one or more characteristics- e.g., ethnic background, language, culture, or religion- and, as a result, is often subjected to differential treatment. Race and ethnic codes of minorities are published in MCO P1080.20M CH-2 (MCTFSCODESMAN).

national origin discrimination. Involves treating people unfavorably because they are from a particular country or part of the world, because of ethnicity or accent, or because they appear to be of a certain ethnic background (even if they are not). National origin discrimination also can involve treating people unfavorably because they are married to (or associated with) a person of a certain

national origin. Discrimination can occur when the victim and the subject of a complaint are the same national origin.

offense. A breach of law, rule or regulation; an illegal act. A violation of the punitive provisions of this Order or the commission of any prohibited activities and conduct identified in this Order would constitute an offense.

professional development. Engagement in progressively advanced levels of learning that prepare individuals to fulfill their next level of leadership or that focus on earning or maintaining professional or subject matter expertise. Includes usage of training, tools, and/or technical assistance to advance subject matter expertise.

personnel action. Any action taken on a Service member that affects, or has the potential to affect, that Service member's current position or career. Such actions include, but are not limited to, a promotion; a written disciplinary or corrective action; a transfer or reassignment; a performance evaluation; a decision on pay, benefits, awards, or training; relief and removal; referral for mental health evaluations under DODD 6490.04; and any other significant change in duties or responsibilities inconsistent with the Service member's position/grade.

prejudice. An attitude, judgment, or opinion, without regard to pertinent fact, that is typically expressed in suspicion, fear, hostility, or intolerance of certain people, customs, and ideas.

prevention activities. Policies, programs, or practices that aim to prevent self-directed harm and prohibited abusive or harmful acts.

prevention community of practice. A group of prevention personnel who interact regularly to advance their individual and collective prevention efforts.

prevention personnel. Military members or DOD civilian personnel whose official duties (to include collateral and additional duties) involve prevention of self-directed harm and prohibited abusive or harmful acts and who attain and sustain prevention-specific knowledge and skills (e.g., chaplains, suicide prevention program managers, equal opportunity advisor).

prevention stakeholders. Individuals or organizations with equity in prevention of self-directed harm and prohibited abusive or harmful acts.

prevention system. Organizational factors that constitute the prevention system include human resources, such as equipped and empowered leadership and prevention personnel; infrastructure, such as prevention-specific policy, resources, and data systems; and, collaborative relationships within and across organizations. In an optimized prevention system, human resources attain and sustain

prevention-specific knowledge and skills, productive and collaborative relationships form and strengthen, and infrastructure facilitates and institutionalizes effective planning, execution, evaluation, and quality improvement.

primary prevention. Stopping a self-directed harm and prohibited abusive or harmful act before it occurs. Can be implemented for an entire group or population without regard to risk (universal primary prevention) or can be implemented for individuals, groups, or a population that is at risk (selected primary prevention).

prohibited abuse or harm. Behaviors characterized by the intentional use of physical force or power, threatened or actual, against a person or group that results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation. Includes behaviors such as sexual assault, harassment, retaliation, stalking, and domestic abuse. In this issuance, prohibited abusive and harmful acts do not include forms of violence that may be required as part of the Profession of Arms. Military Services have flexibility in how this is termed or referenced within their Service policies.

problematic behaviors. Behaviors that are counterproductive to Marine, family, and attached Service member readiness and may cause harm.

proposed corrective action. Plan of action developed to resolve identified areas of concern after the commander's careful review and consideration of the facts and circumstances involved.

protected communication. The following table describes when a communication is protected.

Type of Communication:	Conditions on Protection:	When made to:
Any communication	Must be a lawful communication	-A member of Congress or - An IG
<p>Any communication in which a Service member communicates information that he or she reasonably believes evidences:</p> <ul style="list-style-type: none"> • A violation of law or regulation, including a law or regulation prohibiting rape, sexual assault, or other sexual misconduct in violations of section 920 through 920c of Reference (c) (articles 120 through 120c of the UCMJ), sexual harassment or unlawful discrimination; • Gross mismanagement, a gross waste of funds or other resources, an abuse of authority, or a substantial and specific danger to public health or safety; or • A threat by another Service member or employee of the Federal Government that indicates a determination or intent to kill or cause serious bodily injury to Service members or civilians or damage to 	<p>A communication will not lose its protected status because:</p> <ul style="list-style-type: none"> • The communication was made to a person who participated in the activity that the Service member complained of; • The communication revealed information that had been previously disclosed; • Of the Service member's motive for making the communication; • The communication was not in writing; • The communication was made while the Service member was off duty; or • The communication was made during the normal course of the Service member's duties 	<ul style="list-style-type: none"> • A member of Congress; • An IG; • A member of a DOD audit, inspection, investigation, or law enforcement organization; • Any person or organization in the chain of command; • A court-martial proceeding; or • Any other person or organization designated pursuant to regulations or other established administrative procedures to receive such communications.

<p>military, federal, or civilian property.</p> <ul style="list-style-type: none"> • Testimony, or otherwise participating in or assisting in an investigation or proceeding related to a communication as described above; or • Filing, or causing to be filed, participating in, or otherwise assisting in a military whistleblower reprisal action. 		
--	--	--

Protective factors. Individual or environmental characteristics, conditions, or behaviors that reduce the effects of stressful life events (e.g., inclusion, help-seeking behavior, financial literacy). These factors increase the ability to avoid risks and promote healthy behaviors to thrive in all aspects of life.

race. A division of human beings identified by the possession of traits that are transmissible by descent and that are sufficient to characterize persons possessing these traits as a distinctive human genotype.

race/color discrimination. Involves treating people unfavorably because they are of a certain race or because of personal characteristics associated with race (such as hair texture, skin color, or certain facial features). Color discrimination involves treating someone unfavorably because of skin color complexion. Race and color are not synonymous. Color discrimination can occur between persons of different races or ethnicities, or between persons of the same race or ethnicity.

race/ethnic groups. The race/ethnic groups for Marine Corps reporting are the same as listed under Ethnic and Racial Categories.

racial/ethnic incidents. An incident that involves members of two or more racial/ethnic groups, and racial/ethnic factors were the precipitating cause, or became a motivating factor. If an incident involves members of only one racial/ethnic origin but is directed at another racial/ethnic group, it should be considered a racial/ethnic incident.

racism. A belief or attitude that race determines an individual's traits and capabilities and that racial difference produces a natural

superiority of a particular race. Behavior or conditions that foster stereotypes of social roles based on race.

reasonable person standard. This standard considers what a reasonable person's reaction would have been under similar circumstances and in a similar environment.

recipient. Any person subjected to the prohibited activities and conduct identified in this Order.

religion. A personal set or institutionalized system of attitudes, moral or ethical beliefs, and practices that are held with the strength of traditional religious views, characterized by ardor and faith, and generally evidenced through specific religious observances.

religious discrimination. Involves treating a person unfavorably because of his or her religious beliefs, or the lack of any religious belief. The policy protects not only people who belong to traditional, organized religions, such as Buddhism, Christianity, Hinduism, Islam, and Judaism, but also others who have sincerely held religious, ethical, or moral beliefs. Religious discrimination can also involve treating someone differently because that person is married to (or associated with) an individual of a particular religion.

reporter. A person who submits an allegation alleging prohibited activities and conduct under this Order. A reporter may be a witness or third party who has knowledge of alleged prohibited activities and conduct under this Order (i.e., not aggrieved) and thereby not be deemed a recipient. A reporter may also be a non-Service member and thereby not be deemed a complainant.

research based prevention policies, programs, and practices.

Prevention activities selected based on research evidence that they have shown promise in evaluations to decrease the behavior of interest for a specific population or that the activity affected one or more contributing factors to the behavior of interest in settings similar to those being considered for the activity and that positive effects were sustained over time.

retaliatory action. Retaliatory action is an umbrella term encompassing illegal, impermissible, or hostile actions taken by the chain of command or peers/coworkers as a result of making or being suspected of making a protected communication. The following DON definitions are provided in reference (f):

- **reprisal.** The most severe form of retaliation. Taking or threatening to take an unfavorable personnel action, or withholding or threatening to withhold a favorable personnel action, for reporting or planning to report a criminal offense, or for making or planning to make a protected communication. Reference (f) also prohibits the

following personnel actions: making or threatening to make a significant change in the duties or responsibilities of a Service Member not commensurate with the member's grade; the failure of a superior to respond to any retaliatory action or harassment (of which the superior had actual knowledge) taken by one or more subordinates; or conducting a retaliatory investigation of a Service Member.

- **restrict (restriction).** Preventing or attempting to prevent a Service Member from making, or preparing to make, a lawful communication to a member of Congress or an IG.

- **retaliation.** Retaliation encompasses any illegal, impermissible, or hostile actions taken by a Service Member's chain of command, peers, or coworkers with the intent to retaliate against that person for reporting or planning to report a criminal offense, or for making or planning to make a protected communication. Pursuant to references (a), (e), (g) through (i), and (ff), retaliatory behaviors include:

- o **reprisal.** Defined above.

- o **ostracism.** The exclusion of a military member from social acceptance, or membership in, or association with a group of which such military member was a part or a reasonable person would conclude wanted to be a part, with the intent to inflict emotional distress on the military member, discourage reporting of a criminal offense, or otherwise discourage the due administration of justice. Ostracism requires a nexus to military service.

- o **maltreatment.** Treatment by peers or by other persons, that, when viewed objectively under all the circumstances, is abusive or otherwise unwarranted, unjustified, and unnecessary for any lawful purpose, that is done with intent to discourage reporting of a criminal offense or otherwise discourage the due administration of justice, and that results in physical or mental harm or suffering, or reasonably could have caused, physical or mental harm or suffering. Maltreatment under this instruction does not require a senior-subordinate relationship as is required for maltreatment under reference (e).

risk factors. Factors that increase the likelihood of self-directed harm and prohibited abusive or harmful acts.

Senior Executive Equal Opportunity Seminar(SEEOS). SEEOS is a mandatory training event for all newly selected brigadier generals and SES members (reference (b)). SEEOS is held annually in conjunction with the Executive Leadership Orientation and Warfighting Course (ELOWC). SEEOS training is organized by MPE. SEEOS focuses on gaining a greater awareness of Diversity, Equity, and Inclusion issues impacting military readiness. The seminar is facilitated by academic and business leaders who are SMEs in the field. The training

includes interactive presentations on Diversity, Equity, and Inclusion to effectively establish these integral components of mission effectiveness and accomplishment. SEEOS consists of an eight-hour period of instruction.

Service member. An Active or Reserve Component officer (commissioned or warrant) or enlisted member of the Army, Navy, Air Force, Marine Corps, Space Force, or the Coast Guard (when it is operating as a Service in the Navy) on active duty or inactive duty status.

sex. Refers to the biological distinction between males and females.

sex discrimination. Involves treating someone unfavorably because of that person's sex. Discrimination against an individual because of gender identity, pregnancy, or because of sexual orientation is a form of sex discrimination in violation of DOD policy.

sexism. Behavior, conditions, or attitudes that foster stereotypes of roles, prejudice, or discrimination based on the sex of an individual.

sexual assault. Intentional sexual contact characterized by the use of force, threats, intimidation, or abuse of authority or when the victim does not or cannot consent. As used in DOD policy, the term includes a broad category of sexual offenses consisting of the following specific UCMJ offenses: rape, sexual assault, aggravated sexual contact, abusive sexual contact, forcible sodomy (forced oral or anal sex), or attempts to commit these offenses (reference (a)).

sexual harassment.

a. Knowing, reckless, or intentional conduct with a nexus to military service that:

(1) Involves unwelcome sexual advances, requests for sexual favors, and deliberate or repeated offensive comments or gestures of a sexual nature when:

(2) Submission to such conduct is made either explicitly or implicitly as a term or condition of a person's job, pay, or career;

(a) Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person; or

(b) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating or offensive working environment; and

(c) Is so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as intimidating or offensive.

(3) Any knowing, reckless, or intentional 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 member or DOD civilian employee.

(4) Any conduct whereby any Service member knowingly, recklessly, or intentionally, and without proper authority, but with a nexus to military service makes deliberate or repeated unwelcome verbal comments or gestures of a sexual nature.

b. There is no requirement for concrete psychological harm to the complainant for behavior to constitute sexual harassment. Behavior is sufficient to constitute sexual harassment if it is so severe or pervasive that a reasonable person would perceive, and the complainant does perceive, the environment as intimidating or offensive.

c. Sexual harassment can occur through electronic communications, including social media, other forms of communication, and in person.

d. Any of the conduct described in paragraph 3 of this Chapter may constitute sexual harassment. It is not necessary that all three be present to constitute sexual harassment.

sexual orientation. Defined as homosexuality, bisexuality, or heterosexuality, whether such orientation is actual or perceived.

special interest item (inspection checklists). An item deemed to be of special interest to the Commandant of the Marine Corps on readiness and inspection checklists.

social media. Web-based tools, websites, applications, and media that connect users and allow them to engage in dialogue, share information, collaborate, and interact (reference (a)).

subject. With respect to a PAC complaint, the subject is the individual Service member alleged to have committed the prohibited activity or conduct. For the purposes of DASH reporting, if an alleged subject is not a Service member, see DASH User Manual available in the PAC Toolkit for guidance.

substantiate/substantiation. A determination by a commander (O-5 and above), as that term is used in this Order, that a preponderance of the evidence supports the truth of a complainant's allegation.

supervisor. A commissioned officer, warrant officer, non-commissioned officer, or DOD civilian employee in a supervisory or command position.

prohibited discrimination. Any conduct whereby a Service member knowingly, recklessly, or intentionally and with a nexus to military service discriminates, including disparate treatment, of an individual

or group on the basis of race, color, national origin, religion, sex (including pregnancy), gender identity, or sexual orientation that is not otherwise authorized by law or regulation and detracts from military readiness. Prohibited discrimination includes actions or efforts that detract from equal opportunity, with respect to the terms, conditions, or privileges of military service including, but not limited to, acquiring, assigning, promoting, disciplining, scheduling, training, evaluating, compensating, discharging, or separating. This definition excludes justifiable conduct that discriminates on the basis of characteristics (including, but not limited to, age, height, and weight) that serve a proper military or other governmental purpose as set forth in other military policies. Prohibited discrimination is evaluated by a reasonable person standard.

unwelcome. Conduct that is not solicited and which is found to be undesirable or offensive.

workplace/work environment. The workplace or any other place that is work-connected, as well as the conditions or atmosphere under which people are required to work. An expansive term for Service members that includes conduct on or off duty (e.g., while in a liberty status), 24 hours a day.

wrongful distribution or broadcasting of an intimate image.

a. The distribution or broadcasting of an intimate image is wrongful if the person making the distribution or broadcast does so without legal justification or excuse, knows or reasonably should know that the depicted person did not consent to the disclosure, and the intimate image is distributed or broadcast:

(1) With the intent to realize personal gain;

(2) With the intent to humiliate, harm, harass, intimidate, threaten, or coerce the depicted person; or

(3) With reckless disregard as to whether the depicted person would be humiliated, harmed, intimidated, threatened, or coerced.

b. Distribution means the act of delivering to the actual or constructive possession of another, including transmission by electronic means. Broadcasting means the act of electronically transmitting a visual image with the intent that it be viewed by a person or persons. An intimate image is any visual depiction, including by electronic means, that:

(1) Includes another person who is identifiable from the depiction itself or from information conveyed in connection with the depiction;

(2) Depicts that person engaging in sexually explicit conduct or depicts the private area of that person; and

(3) Taken under the circumstances in which the person depicted has a reasonable expectation of privacy.

c. "Sexually explicit conduct" and "private area" have the meaning assigned to them in part IV of the Manual for Courts Martial (reference (l)).

d. Wrongful distribution or broadcasting of an intimate image is also covered by the UCMJ under Article 117a (reference (e)). Convening authorities pursuing punitive action are strongly encouraged to consult with their CJA/SJA.

whistleblower. A Service member who makes, prepares to make, or is perceived as making or preparing to make a protected communication (reference (h)).

wrongfully. With respect to this Order and PAC, "wrongfully" means without legal justification or excuse.

Glossary of Acronyms and Abbreviations

ACMC	Assistant Commandant of the Marine Corps
BCNR	Board for Corrections of Naval Records
BOI	Board of Inquiry
CA	Convening Authority
CAP	Corrective Action Plan
CCA	Command Climate Assessment
CCI	Comprehensive Command Inspections
CGIP	Commanding General's Inspection Program
CHR	Civilian Human Resources
CI	Command Investigation
CID	Criminal Investigations Division
CJA	Command Judge Advocate
CMC	Commandant of the Marine Corps
DASH	Discrimination and Sexual Harassment
DC	Deputy Commandants
DC, M&RA	Deputy Commandant, Manpower and Reserve Affairs
DEOCS	Defense Equal Opportunity Climate Survey
DEOMI	Defense Equal Opportunity Management Institute
DOD	Department of Defense
DODI	Department of Defense Instruction
DON	Department of the Navy
DRS	Data Retrieval System
EEO	Equal Employment Office
EOA	Equal Opportunity Advisor
EOR	Equal Opportunity Representative
FOIA	Freedom of Information Act
GCMCA	General Courts-Martial Convening Authority
ICI	Independent Command Inspections
IDA	Initial Denial Authority
IG	Inspector General
IGMC	Inspector General of the Marine Corps
IGMCIP	Inspector General of the Marine Corps Inspection Program
IO	Investigating Officer
JAGMAN	Judge Advocate General Manual
LOE	Line of effort
MCIO	Military Criminal Investigative Organization
MCM	Manual for Courts Martial
MEO	Military Equal Opportunity
NCIS	Naval Criminal Investigative Service
NJP	Non-Judicial Punishment
OIC	Officer in Charge

OMPF	Official Military Personnel File
PAC	Prohibited Activities and Conduct
PI	Preliminary Inquiry
PME	Professional Military Education
PMO	Provost Marshal Office
RC	Reserve Component
SARC	Sexual Assault Response Coordinator
SECNAV	Secretary of the Navy
SES	Senior Executive Service
SIR	Serious Incident Report
SJA	Staff Judge Advocate
SME	Subject Matter Expert
SNCO	Staff Non-Commissioned Officer
UCMJ	Uniform Code of Military Justice
UPB	Unit Punishment Book
USMC	United States Marine Corps
USMCR	United States Marine Corps Reserves
UVA	Uniform Victim Advocate

APPENDIX B

SUMMARY OF CHANGES

This revision contains a substantial number of changes. The major modifications to this Order are as follows:

1. Remove the mandatory OPREP3-SIR reporting requirement for all PAC complaints.
2. Clarify commander-directed means to resolve PAC complaints.
3. Remove three behaviors from the collective PAC behaviors due to UCMJ update and revised DON policy. Specifically, Article 132 Retaliation was added to reference (l) and retaliatory actions are prohibited by reference (f).
4. Clarify PAC behavior definitions to align with DOD/DON issuances.
5. Introduce the new Conflict Management process.
6. Eliminated the requirement for multiple appendices (B, C, D, F, G, H, and I) and introduce new NAVMC Form 11512 PAC Complaint Form.
7. Modify the Discrimination and Sexual Harassment (DASH) reporting requirements. DASH reporting is only required for accepted PAC complaints.
8. Provide O-5 level commanders and above access to the DASH reporting system.
9. Clarify guidance on what constitutes a complete command climate assessment.
10. Clarify the appeals process for PAC complaints.
11. Clarify PAC training requirements, and outline additional training opportunities across the career continuum.
12. Clarify the role of the Equal Opportunity Advisor.
13. Introduce the PAC Toolkit, as an extension of this policy providing an online resource for program related guidance, templates, and best practices.
14. Add multiple definitions to the Glossary for Conflict Management, social media, prevention, electronic communication, knowing, reckless, and intentional conduct, protected communications, and retaliatory actions.
15. Provide a PAC complaint process flowchart.

16. Clarify roles and responsibilities for oversight and management of the MEO program.

17. Clarify the role and responsibilities of the Equal Opportunity Representative.

18. The general organization of this Order was modified to create separate chapters that address four distinct topics: (1) Command Climate Assessments, (2) Complaint Management, (3) Formal Complaint Resolution, and (4) Data Collection and Reporting.

19. Provides amplifying guidance for the monitoring and tracking of complaints by the GCMCA.

20. Provides guidance for supervised access to the completed report of investigation for both the complainant and subject.

21. Establishes the requirement for Deputy Commandants, Commanding Generals, General officers in command, and organizations lead by Senior Executive Service (SES) personnel to conduct a command climate assessment within 120 days of assuming the position and annually thereafter.