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POLICY DIRECTIVE 2021-03

16 June 2021

SUBJECT: Hawaii National Guard (HING) Sexual Harassment Prevention and Response Policy

1. Effective immediately, this policy supersedes previous HING Sexual Harassment Prevention policies.
2. Applicability. This policy applies to HING Title 32 Dual Status Technicians, Title 5 Employees, Soldiers and Airmen (hereafter referred to as HING personnel).
3. Purpose. To ensure HING personnel work and serve in an environment free from sexual harassment and retaliation for reporting alleged sexual harassment.
4. References.
 - a. Department of Defense Instruction (DoDI) 1020.03, (Harassment Prevention and Response in the Armed Forces), 8 February 2018, Change 1 effective 29 December 2020
 - b. Department of Defense Instruction (DoDI) 1020.04, (Harassment Prevention and Responses for DoD Civilian Employees), 30 June 2020
 - c. Chief National Guard Bureau Manual (CNGBM) 9601-01, (National Guard Discrimination Complaint Process), 25 April 2017
 - d. Policy Directive 2017-1, (Subject: Hawaii National Guard Joint Civilian Discrimination Complaint Instructions), 25 September 2017
5. General. Sexual harassment is an unacceptable behavior and will not be tolerated in the HING. Sexual harassment weakens trust within our ranks and destroys unit cohesion. All HING personnel will be treated with dignity and respect. Immediate disciplinary action will be taken for those in violation of this policy.

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a. Definition of Sexual Harassment. Sexual harassment includes conduct that involves unwelcome sexual advances, request for sexual favors and deliberate or repeated offensive comments or gestures of a sexual nature when:

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

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

(3) Such conduct has the purpose or effect of unreasonably interfering with a person's work performance or creates an intimidating, hostile, or offensive working environment.

(4) Such conduct is so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the environment as hostile or offensive.

b. Individuals in a supervisory or command position who uses or condones any form of sexual conduct or behavior to control, influence, or affect the career, pay or job of a military member or civilian employee is engaging in sexual harassment.

c. Any military member or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures or physical contact of a sexual nature is engaging in sexual harassment.

d. Categories of Sexual Harassment.

(1) Verbal. Includes telling sexual jokes or stories, using sexually explicit profanity, threats or comments, using terms of endearment such as "honey," "sweetheart," "stud," or "hunk", whistling in a sexual suggestive manner, describing certain attributes of a person's appearance in a sexual manner.

(2) Nonverbal. Blowing kisses, winking, licking one's lips in a suggestive manner, displaying inappropriate printed material (sexually oriented pictures or cartoons), sending sexually oriented text, notes, or emails, posting sexually oriented comments or images on social media.

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(3) Physical Contact. Standing close to or brushing against a person, touching a person's clothing or hair, hugging, kissing, patting, bumping, cornering or blocking passageway, providing unsolicited back or neck rubs.

e. Types of Sexual Harassment.

(1) Quid Pro Quo. This term refers to conditions placed on a person's career or terms of employment in return for sexual favors and not on merit or ability.

(2) Hostile Environment. Occurs when individuals are subjected to offensive, unwanted and unsolicited comments, gestures or conduct of a sexual nature.

f. Responses to Sexual Harassment.

(1) Anonymous Complaint. Encourages the reporting of incidents while maintaining anonymity.

(2) Direct Approach. Confront the harasser and inform the person that the behavior is unacceptable or unwelcomed and must stop.

(3) Third Party. Ask someone to talk to the harasser or accompany the complainant, or intervene on behalf of the complainant to resolve the conflict.

(4) Chain of Command. Report the behavior to your immediate supervisor or others in the chain of command and ask for assistance in resolving the situation.

(5) File an Informal/Formal Complaint. Contact an Equal Opportunity Advisor or the State Equal Employment Manager to initiate the complaint process.

6. Policy.

a. Leaders at all levels will be accountable for fostering a climate of inclusion that supports diversity, is free from sexual harassment, supports those who allege sexual harassment and prohibits retaliation against those who allege sexual harassment.

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b. HING personnel having reason to believe that they have been subject to sexual harassment or retaliation for reporting sexual harassment allegations must make it clear that the conduct is unwelcome and offensive either through a direct approach or immediately report the incident to their chain of command, supervisors or individuals below:

(1) Title 32 Technicians/Title 5 Employees: Contact the State Equal Employment Manager within 45 days of the alleged incident.

(2) Soldiers and Airmen: Contact an Equal Opportunity Advisor within 180 days of the alleged incident.

c. Allegations of sexual harassment involving commander, managers and supervisors will be reported to the Inspector General.

d. All allegations of sexual harassment will be processed in accordance with the timelines and requirements identified in applicable regulations, instructions and policies.

e. Appropriate administrative or disciplinary action will be taken in cases where the complaint is substantiated.

7. Responsibilities.

a. Commanders, Managers and Supervisors.

(1) Foster a climate of inclusion within their organization that supports diversity, is free from sexual harassment and does not tolerate retaliation for reported sexual harassment allegations.

(2) Immediately respond to, and as appropriate, investigate all allegations of sexual harassment at the lowest level.

(3) Provide adequate protection, care and support services to personnel reporting alleged sexual harassment or retaliation.

(4) Take appropriate disciplinary or administrative action when complaints are substantiated.

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(5) Determine whether climate assessments are warranted or additional training is required.

(6) Conduct sexual harassment training as required.

(7) Post this policy on bulletin boards in all work areas and ensure all personnel are aware of this policy.

b. Equal Opportunity (EO)/Equal Employment Opportunity (EEO) Professionals.

(1) Provide information regarding policies and procedures for filing complaints to include the appeal process.

(2) Explain the investigation process and assist complainants in processing complaints particularly in clarifying the issues and bases of the complaint(s).

(3) Monitor the progress of investigations and keep complainants informed of the status of the investigation.

(4) Provide EO/EEO training as required.

8. Proponent. The State Equal Employment Manager is the proponent for this policy. Questions may be directed to Ms. Shirley Bryant, (808) 672-1303.

KENNETH S. HARA
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Adjutant General