

COAST GUARD CIVIL RIGHTS MANUAL



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COMMANDANT INSTRUCTION M5350.4C

Subj: COAST GUARD CIVIL RIGHTS MANUAL

1. **PURPOSE.** This Manual provides policy and guidance for Coast Guard Military Equal Opportunity (EO) and Civilian Equal Employment Opportunity (EEO) Programs. It outlines responsibilities and procedures aimed at equipping Coast Guard employees with confidential access to timely and expert advice on EEO/EO matters, and provides tools that will assist unit leaders in building a model EEO workplace. The model EEO program prescribed by the US Equal Employment Opportunity Commission ensures that all employees and applicants for employment enjoy equality of opportunity in the Coast Guard workplace regardless of race, sex, national origin, color, religion, disability or reprisal for engaging in prior protected activity. It is the policy of the Coast Guard to extend to members of the military workforce as much as is practical, the same protections afforded the civilian workforce.
2. **ACTION.** All Coast Guard unit commanders, commanding officers, officers-in-charge, deputy/assistant commandants, chief counsel and chiefs of headquarters staff elements shall comply with the provisions of this Manual. Internet release is authorized.
3. **DIRECTIVES AFFECTED.** The following instructions are hereby cancelled:
 - a. Commandant's Equal Opportunity and Sexual Harassment Policy Statements, COMDTINST 5350.21 (series)
 - b. Coast Guard Partnership in Education, COMDTINST 5350.22 (series)
 - c. Anti-Harassment & Hate Incident Procedures, COMDTINST 5350.7 (series)
 - d. Civil Rights Program Checklist, COMDTINST 5350.8 (series)
 - e. Reasonable Accommodations for Applicants and Employees with Disabilities, COMDTINST 12713.1(series)
 - f. Minority Serving Institutions, COMDTINST 5354.7 (series)
 - g. Coast Guard Environmental Justice Strategy, COMDTINST 5810.3 (series)
 - h. Coast Guard Civilian Affirmative Employment Program, COMDTINST 12713.13 (series)
 - i. Affirmative Action In Employee Selection Decisions, COMDTINST 12713.20 (series)

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- j. National Affirmative Employment Recruitment Strategy, COMDTINST 12720.9 (series)
 - k. Coast Guard Equal Opportunity Manual, COMDTINST M5350.4B
3. **MAJOR CHANGES**. This supplants the previous Equal Opportunity Manual COMDTINST M5350.4B. Major changes in this manual include:
- a. Shifting of functions following the Civil Rights Directorate's modernization, necessitated by centralizing all civil rights functions and employing full time civil rights service providers
 - b. Standing-down the Collateral Duty Civil Rights Officer function
 - c. Asserting the unit Commanding Officer/Officer-in-Charge role and responsibility as the keeper and assurer of unit Civil Rights climate, implementation of Command Checklist and the Defense Equal Opportunity Climate Survey
4. **REQUESTS FOR CHANGES**. Recommendations for improvements to the Coast Guard Civil Rights Manual should be submitted to Commandant (G-00H) via the chain of command.
5. **ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS**. As stated in Item 1 above, this Manual is intended to improve the internal management of the Coast Guard Civil Rights program. The Commandant (CG-00H) considered the environmental aspects and impacts of this Manual and determined that the implementation of this Manual does not impact the environment.
6. **REPORTING REQUIREMENTS**. Reporting requirements are detailed in each chapter of this Manual.
7. **FORMS/REPORTS**. The forms referenced in this Manual are available in USCG Electronic Forms on the Standard Workstation or on the Internet: <http://www.uscg.mil/forms>, CG Portal at <https://cgportal.uscg.mil/delivery/Satellite/uscg/References>; and Intranet at <http://cgweb.comdt.uscg.mil/CGForms>.

THAD. W. ALLEN /s/
Commandant

RECORD OF CHANGES

U. S. Coast Guard Civil Rights Manual

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Introduction to U. S. Coast Guard Civil Rights Manual

Introduction	The Coast Guard mandates that all members of Coast Guard—active and reserve military, civilian (this includes Non-Appropriated Fund employees,) and auxiliary employees—be treated fairly and with respect. Everyone should be provided the opportunity to work and achieve their full potential, thereby enhancing unit cohesiveness, military readiness, and mission accomplishment. The Coast Guard prohibits any form of discrimination that violates law or policy in any action affecting Coast Guard personnel, those seeking employment with the Coast Guard, or those receiving benefits from any Coast Guard sponsored program. The Civil Rights Directorate (CRD) is responsible for facilitating Commanding Officers/Officers in Charge (CO/OIC) in understanding, complying with and executing this policy and ensuring its reflection in the day-to-day actions of all personnel.
a. About the Civil Rights Directorate	<p>The purpose of the Coast Guard Civil Rights program is to proactively pursue a workforce that reflects the national labor force and a workplace climate that fully embraces the Coast Guard core values of honor, respect, and devotion to duty. This mission also reinforces the Coast Guard goal of becoming the national employer of choice, attracting highly qualified applicants for employment from an increasingly diverse pool of talent. The Coast Guard must ensure this by vigorously preventing discrimination and promoting equal opportunity. Its mandate is to implement programs and policies consistent with Federal Anti-Discrimination Laws, regulations and policies. These include:</p> <ol style="list-style-type: none">1. Preventing discrimination in employment for employees and applicants for employment. (Through training, ADR, and the use of climate surveys, etc.)2. Promoting the full realization of equal employment opportunity through a continuing affirmative employment program at each district (special emphasis programs, community outreach).3. Preventing discrimination in grants and contracts.
b. Goals of the Civil Rights Directorate	<p>The Civil Rights Directorate carries out its mission through regulations and program policies to ensure that the following objectives are met:</p> <ol style="list-style-type: none">1. To build a workplace climate and organizational culture that values diversity and enables personal growth and achievement.2. To support a workplace environment free from discrimination and

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harassment.

3. To establish and implement procedures for resolution of discrimination disputes, including alternative dispute resolution, investigation, and decision.
4. To meet the needs of the public by allocating grants based upon a proposal's merit with regard to its potential contributions to Coast Guard missions, its public policy objectives, and its assurance that Coast Guard facilities do not adversely impact the environment in minority and low-income communities.

c. How Success Is Achieved Equal Opportunity success in this program is achieved through visible leadership and commitment; program implementation within the chain of command; clear articulation of, and adherence to, program standards; and personal accountability.

Success requires a personal commitment to the principles of civil rights and equal opportunity and requires that all personnel act purposefully and proactively to put this commitment into action.

d. About the Civil Rights Manual

This Manual affords users guidance for applying and complying with all Coast Guard EEO/EO requirements. The information contained in this Manual describes the Coast Guard Civil Rights effort including the mission, organization, legal authorities, policies, regulation, and procedures for implementing its mission and its policies.

It is the purpose of this Manual to enable the commanding officer/officer-in-charge, civil rights service provider, and all Coast Guard members at large to understand and fulfill their roles and responsibilities related to civil rights, thereby helping to achieve a consistent national program that assures that the civil rights needs and interests of Coast Guard members are well served wherever they are stationed. The Manual is organized as follows:

Chapter 1 describes the Civil Rights statutory authority, Coast Guard Civil Rights mission, and organization of the Civil Rights Directorate.

Chapter 2 describes civil rights policies and prohibited practices.

Chapter 3 describes programs implementing affirmative Equal Employment Opportunity obligations.

Chapter 4 describes the employment discrimination complaint and alternative resolution processes.

Chapter 5 describes the process for investigating and resolving social

climate incidents.

Chapter 6 describes the policy and procedures for the reasonable accommodation of persons with disabilities.

Appendix A is a glossary of civil rights terminology.

Appendix B is the Civil Right Command Checklist and instructions.

Appendix C includes forms required for the Reasonable Accommodation process.

The Manual will be updated as new policies, laws, or regulations are issued that affect the Coast Guard Civil Rights mission.

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Chapter 1. Coast Guard's Civil Rights Directorate: Authority, Mission, and Organization

Section A. Legal Authority for Civil Rights Policies

Introduction

The Coast Guard Civil Rights policies are based on laws, regulation, Executive Orders, Commandant Instruction, applicable to civilians, applicants for employment, and military members including active duty reservists. While legal authorities are the underpinning for Coast Guard civil rights policies, it should be noted that equal opportunity for active duty and reserve personnel is driven primarily by military policies and regulations.

The Coast Guard is committed to practices that promote equality of opportunity in its employment of personnel as well as access to programs, activities, services, and facilities. Federal laws and regulations, Executive Orders, and other directives and orders apply to Coast Guard Civil Rights responsibilities and protection. However, while federal laws and regulations do not apply in their entirety to military personnel, this Commandant Instruction (policy) affords military members the same rights, to the extent possible, as those for civilian members.

This Manual does not address Equal Opportunity policy applicable to Auxiliarists. Such personnel should refer to the Auxiliary Manual, COMDTINST M16790.1 (series) for its civil rights process.

1. Civil Rights in Employment

a. Statutes

Section 1981 of the Civil Rights Act of 1866, 42 U.S.C. § 1981, prohibits race discrimination in the formation of contracts. Congress amended Section 1981 in 1991 by making clear that the Section prohibits not only discrimination in the formation of contracts but also in all aspects of the contractual relationship between the parties. This means the statute applies to all aspects of employment.

Veterans' Preference Act of 1944, as amended, Pub. L. No. 78-359, 58 Stat. 387 (codified as amended in scattered sections of 5 U.S.C.), requires preference in appointments to federal jobs for veterans who are disabled or who served on active duty in the Armed Forces during specified time periods or in military campaigns.

The Equal Pay Act of 1963 (EPA), as amended, 29 U.S.C. § 206, prohibits sex discrimination in wages, giving men and women the right to

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earn equal pay for doing substantially the same work.

Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. § 2000e et seq., as amended, prohibits employment discrimination on the basis of race, religion, sex, color, or national origin. Title VII's prohibition against sex discrimination in employment includes sexual harassment.

The Age Discrimination in Employment Act of 1967 (ADEA), as amended, 29 U.S.C. § 621 et seq., protects people age 40 or older from discrimination on the basis of age in any aspect of employment.

Section 501 of the Rehabilitation Act of 1973, 29 U.S.C. § 791, prohibits federal employers from engaging in employment discrimination against persons with physical or mental impairments that substantially limit one or more major life activities. The law requires employers to provide reasonable accommodation of their disabilities unless to do so would cause undue hardship. This Act also requires all federal agencies to have affirmative employment plans to hire, to place, and to advance disabled individuals.

Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), 42 U.S.C. §§ 4211-4212, requires affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era and prohibits discrimination based on Vietnam era veteran status or special disabled veteran status in federally assisted programs.

The Pregnancy Discrimination Act of 1978, 42 U.S.C. § 2000e et seq., makes clear that Title VII's prohibition of sex discrimination includes discrimination based on pregnancy, childbirth, or related medical conditions.

The Civil Service Reform Act of 1978, Pub. L. No. 95-454, 92 Stat. 1111 (codified as amended in scattered sections of 5 U.S.C.), requires federal employers to recruit and employ a labor force as diverse as the nation's available workforce and forbids them to discriminate on the basis of marital status or political affiliation. Senior executive service employees' performance appraisals measure their effectiveness in achieving equal employment opportunities for federal workers and meeting affirmative employment goals for their departments. Executives' promotions, raises, or bonuses reflect the results of these efforts.

Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101-12117, prohibits discrimination on the basis of disability in employment, state and local facilities and programs, and places of public accommodation.

The Civil Rights Act of 1991, 42 U.S.C. § 1981, authorizes compensatory

damages up to \$300,000 for intentional employment discrimination.

5 U.S.C. Chapter 35, 10 U.S.C. § 1143(d), and 38 U.S.C. Chapter 42 and 43 all pertain to veterans' employment and re-employment rights.

The Family and Medical Leave Act of 1993 (FMLA), as amended, 29 U.S.C. § 2601 *et seq.*, requires employers to provide covered employees with up to twelve workweeks of unpaid, job protected leave per year for the following purposes: the birth of a son or daughter of the employee and the care of such son or daughter; the placement of a son or daughter of the employee for adoption or foster care; the care of a spouse, son, daughter, or parent of the employee who has a serious health condition; or the serious health condition of the employee that makes the employee unable to perform the essential functions of his or her positions.

Administrative Dispute Resolution Act of 1996 (ADRA), Pub. L. No. 104-320, 110 Stat. 3870 (codified in various sections of 5 U.S.C.), requires federal agencies to develop policies regarding the use Alternative Dispute Resolution (ADR) in case management. The Act provides that, with the agreement of the parties involved, agencies may use ADR for the resolution of an issue in controversy that relates to an administrative program. The Act also provides guidance for which types of agency disputes are appropriate for ADR proceedings.

Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), 5 U.S.C. § 2301 *et seq.*, requires federal agencies to notify employees and applicants for employment about their rights under the discrimination and whistleblower laws, post on their public websites statistical data related to EEO complaints, undertake timely and appropriate discipline against employees who engage in discrimination or reprisal, and reimburse the Judgment Fund for any discrimination and whistleblower related settlements or judgments.

The ADA Amendments Act of 2008, Pub. L. No. 110-325, 122 Stat. 3553, makes clear that the term *disability* should be interpreted broadly. It states that mitigating measures shall not be considered in assessing whether an individual has a disability, clarifies that an impairment that is episodic or in remission is defined as a disability if it would substantially limit a major life activity when active, and states that people who are only regarded as disabled are not entitled to reasonable accommodation.

The Lilly Ledbetter Fair Pay Act of 2009, Pub. L. No. 111-2, 123 Stat. 5, amended Title VII, the ADEA, the ADA, and the Rehabilitation Act to clarify the time frame in which victims of discrimination may challenge and recover for discriminatory compensation decisions or other discriminatory practices affecting compensation.

The Genetic Information Nondiscrimination Act of 2008 (GINA), Pub. L. No. 110-233, 122 Stat. 881, amends portions of the Employee Retirement Income Security Act (ERISA), the Public Health Service Act, and the Internal Revenue Code, addressing the use of genetic information in health insurance in Title I. Title II of GINA prohibits the use of genetic information in employment, prohibits the intentional acquisition of genetic information about applicants and employees, and imposes strict confidentiality requirements. GINA requires the Equal Employment Opportunity Commission (EEOC) to issue regulations implementing Title II of the Act. Title II applies to Congress and federal executive branch agencies.

b. Executive Orders

Executive Orders 11246 (1965) and 11375 (1967) bar discrimination in federal employment based on race, religion, color, national origin, or sex. These Executive Orders require agencies to establish EO programs and complaint procedures. The Federal Women's Program was established as a result of Executive Order 11375.

Executive Order 11478 (1969) requires the federal government to create affirmative programs to ensure equal employment opportunities for minorities and women. If an agency finds a manifest imbalance or conspicuous absence of minorities and women among its workers, the agency may consider qualified applicants' sex or race in the selection process until the agency's labor force is brought to parity. The Order integrates the Federal Women's Program into the overall EEO program and brings it under the stewardship of agency EEO directors.

Executive Order 11521 (1970) authorizes federal agencies to appoint qualified veterans to positions in the competitive service under Veteran Recruitment Appointments (VRA) without regard to the competitive examining system.

Executive Order 13087 (1998) amends Executive Order 11478 to prohibit discrimination against civilian employees of the federal government based on their real or perceived sexual orientation.

Executive Order 13078 (1998) and 13172 (2000) are intended to increase the employment of adults with disabilities to a rate that is as close as possible to the employment rate of the general adult population and to support the goals articulated in the findings and purpose section of the Americans with Disabilities Act of 1990.

Executive Order 13145 (2000) prohibits discrimination against employees based on protected genetic information or information about a request for or the receipt of genetic services.

Executive Order 13152 (2000) amends Executive Order 11478 to prohibit

discrimination in federal employment based on an individual's status as a parent.

Executive Order 13163 (2000) promotes increased opportunities for individuals with disabilities to be employed at all levels and occupations of the federal government and supports the goals articulated in Section 501 of the Rehabilitation Act of 1973. This order promotes the use of available hiring authorities consistent with statutes, regulations, and prior Executive Orders and presidential memoranda; the expansion of outreach efforts; and increased efforts to accommodate individuals with disabilities.

Executive Order 13164 (2000) promotes a model workplace that provides reasonable accommodation for: (1) individuals with disabilities in the application process for federal employment; (2) federal employees with disabilities to perform the essential functions of a position; and (3) federal employees with disabilities to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.

Executive Order 13171 (2000) stipulates the establishment and maintenance of programs for the recruitment and career development of Hispanics in federal employment.

**c. EEOC
Directives**

Equal Employment Opportunity Commission (EEOC) Management Directive 110 (EEOC MD 110), provides federal agencies with Commission policies, procedures, and guidance relating to the processing of employment discrimination complaints governed by the Commission's regulations in 29 C.F.R., Part 1614. Under this directive federal agencies covered by 29 C.F.R., Part 1614, are responsible for developing and implementing their own equal employment programs including Alternative Dispute Resolution (ADR) programs.

EEOC Management Directive 715 (EEOC MD 715), provides guidance on the elements of legally compliant Title VII and Rehabilitation Act programs. This Directive requires agencies to take appropriate steps to ensure that all employment decisions are free from discrimination. It also sets forth the standards by which EEOC will review the sufficiency of agency Title VII and Rehabilitation Act programs, which include periodic agency self-assessments and the removal of barriers to free and open workplace competition.

**d. EEOC
Regulations**

29 C.F.R. § 1614 sets forth the Equal Employment Opportunity Commission's comprehensive regulations covering the federal sector Equal Employment Opportunity programs.

**e. Department of
Homeland**

DHS Delegation of Authority 0160.1 communicates, from the DHS Secretary to Coast Guard Commandant (and other DHS Organizational

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- Security Delegations** Heads), the Secretary's authority to conduct the informal EO complaint processes, including EO counseling, ADR, affirmative employment, diversity planning, and compliance reviews.
- DHS Delegation of Authority 3095** assigns to the DHS Officer of Civil Rights and Civil Liberties (CRCL) authority over EEO complaints, including accept/dismiss, investigations and final decisions, affirmative employment, special emphasis, diversity, ADR, civil rights laws involving federally-assisted (grant) programs, and racial profiling.
- DHS Delegation of Authority 19000** delegates authority over policy and operational matters involving Civil Rights Directorate programs from the Officer of CRCL, to the Deputy Officer of CRCL.
- DHS Delegation of Authority 19002** assigns authority from the DHS Secretary to the Officer of CRCL for the integration and management of Civil Rights, Civil Liberties and Civil Rights Directorate programs across DHS (the Coast Guard and other components), including standardizing policies, budgets, reimbursable agreements, staffing plans (including approving the selection of employees), training, Civil Rights Directorate solutions and services, and components' Civil Rights programs and reorganization plans.
- f. Presidential Proclamation** **New Freedom Initiative (2001)** promotes the full integration of people with disabilities into all aspects of American life. Increasing the employment of people with disabilities is one of this initiative's most important goals. This comprehensive plan is designed to expand educational and employment opportunities, increase access to assistive technologies and public accommodations, and provide accessible transportation and housing options for individuals with disabilities.
- g. Commandant's Policy Statements** All personnel will maintain high standards of integrity and professional conduct. The Coast Guard is highly committed to maintaining a working environment free of all forms of discrimination and harassment. Illegal discrimination in any form violates Coast Guard's core values of honor, respect, and devotion to duty and will neither be condoned nor tolerated at any level.
- Coast Guard members, military and civilian, shall not discriminate against employees, applicants for employment, or any engaged with conducting business with the Coast Guard on the bases of race, color, religion, national origin, gender (to include sexual harassment), or reprisal for engaging in protected civil rights activity.
- Also, Coast Guard members shall not discriminate against civilian employees and applicants for employment on the bases of age, sexual

orientation, disability, parental status or genetic information.

The Commandant's Policy Statements on Equal Opportunity and Anti-Discrimination/Anti-Harassment further reinforce these principles.

2. Civil Rights in Federal Programs, Activities, Services, and Facilities

a. Statutes

Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000d et seq., prohibits discrimination on the basis of race, religion, sex, color, or national origin in any program or activity receiving federal financial assistance.

Architectural Barriers Act of 1968, 42 U.S.C. § 4151, requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by handicapped persons.

Section 503 of the Rehabilitation Act of 1973, as amended, 42 U.S.C. § 12203, prohibits employers with federal contracts or subcontracts that exceed \$10,000 from discriminating against qualified individuals with disabilities. Section 503 also requires these federal contractors or subcontractors to take affirmative action to hire, retain, and promote qualified individuals with disabilities.

Section 504 of the Rehabilitation Act of 1973, as amended, 42 U.S.C. § 12204, protects against discrimination based on any physical or mental disability by any program or activity sponsored by the federal government.

Section 508 of the Rehabilitation Act of 1998, 29 U.S.C. § 794, applies to all federal agencies when they develop, procure, maintain, or use electronic and information technology. Under Section 508, agencies must give disabled employees and members of the public access to information that is comparable to the access available to others.

b. Executive Orders

Executive Order 12898 (1994) protects minority and/or low-income communities against disproportionately adverse human health or environmental effects from any federally conducted or assisted programs, policies, or activities. The Environmental Protection Agency is responsible for this Order.

Executive Orders 13083 and 13084 (1998) outline principles that executive departments and agencies must follow in their interactions with Native American tribal governments. The purpose of these principles is to ensure that the federal government operates within a government-to-government relationship with federally recognized Native American tribes.

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In carrying out these responsibilities, the Coast Guard will consider tribal interests in formulating service policy. The Coast Guard will also ensure appropriate involvement of tribal governments in making decisions and managing service programs that may affect reservation policies.

Executive Order 13096 (1998) affirms the federal government's special historic responsibility for the education of American Indian and Alaska Native students. Six goals were defined to assist federal agencies to help fulfill the federal government's commitment to the students. These goals are: (1) improving reading and mathematics; (2) increasing high school completion and postsecondary attendance rates; (3) reducing the influence of long-standing factors that impede educational performance, such as poverty and substance abuse; (4) creating strong, safe, and drug-free school environments; (5) improving science education; and (6) expanding the use of educational technology.

Executive Orders 13125 (1999) and 13216 (2001) are designed to improve the quality of life of Asian Americans and Pacific Islanders through increased participation in federal programs where they may be underserved.

Executive Order 13166 requires federal agencies to examine the services they provide for persons with limited English proficiency (LEP) and to develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency.

**c. Department of Homeland Security
Regulations**

6 C.F.R § 15 implements Section 504 of the Rehabilitation Act, which prohibits discrimination due to disabilities in DHS-conducted programs, including USCG programs.

6 C.F.R. § 21 implements Title VI of the Civil Rights Act, which prohibits discrimination due to race, color, or national origin in DHS-assisted (grant) programs, including USCG programs.

Section B. Civil Rights Directorate Mission and Goals

Introduction

Coast Guard aims to foster and maintain a model workplace that supports mission execution. Respect for the dignity and worth of each individual is paramount in the establishment of all actions, policies, and implementation.

Coast Guard proactively pursues a workforce that represents the national labor force for both civilian and military members and a workplace climate that fully embraces Coast Guard core values of honor, respect, and devotion to duty.

The goals of the Coast Guard are to

1. Continuously foster command commitment to Equal Employment Opportunity/Equal Opportunity (EEO/EO).
2. Integrate EEO/EO into the strategic mission of the Coast Guard.
3. Foster leadership accountability for EEO/EO.
4. Pursue and promote activities that proactively prevent unlawful discrimination.
5. Implement improved, efficient EEO/EO practices, especially for responsiveness and legal compliance.

These goals are based on the six essential elements for a model EEO Program, referenced throughout this Manual, which emphasize a culture that is proactive rather than reactive. Commanding Officers/Officers-in-Charge (CO/OIC) should not wait until a problem occurs to get involved.

1. Fostering Command Commitment to EEO/EO

a. Objectives

CO/OIC must be visibly and actively committed to civil rights and equal opportunity for all military members and civilian employees of their command, leading through action and by example. They shall focus on building a diverse workforce that mirrors the national labor force and creating and sustaining a positive work environment that fosters personal growth and professional achievement limited only by the extent of an individual's motivation, commitment, and performance.

The CO/OIC is responsible for promoting the civil rights policies and regulations that apply to the USCG. Proactively demonstrating command

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leadership is the key to success in carrying out the five Civil Rights Goals.

- b. Roles** United States Coast Guard Regulations, COMDTINST M5000.3 (series) state that CO/OIC “responsibility for the safety, efficiency, and well-being of the command … is absolute.”

The CO/OIC shall:

1. Personally and actively promote the spirit and the letter of the policies, regulations, and laws that frame Coast Guard civil rights.
2. Be responsible for the EEO/EO compliance of their commands.
3. Identify and eliminate barriers to a diverse workforce and to a working environment free from discrimination.
4. Take prompt, positive action to eliminate discrimination in their commands, being alert for any reprisals in the aftermath of discrimination complaints.
5. Review all charges recorded, including offenses dealt with in the non-judicial punishment process, to ensure bias has not been a factor in any phase of the process.
6. Attempt to resolve complaints at the lowest level.
7. Ensure accessibility for disabled individuals at command locations.
8. Ensure that the following information is clearly publicized on bulletin boards and other command locations:
 - a. Notice of the time limits and necessity of contacting a Civil Rights Service Provider (CRSP) or EEO Counselor before filing a complaint in accordance with the Coast Guard discrimination complaint program.
 - b. Current EEO Policy statements.
 - c. Anti-Harassment & Hate Incident Procedures Policy
 - d. Name and contact information for the point-of-contact (POC) for harassment complaints.
 - e. Instructions for initiating an EEO/EO complaint.
 - f. Identification of and information pertaining to CRSP, Equal Opportunity Advisors (EOA) and EEO/EO Counselors, including names and photographs, location and contact

information.

c. Responsibilities The responsibilities of the CO/OIC are:

1. Set clear expectations.
2. Establish goals and standards.
3. Promote openness, inclusiveness, and tolerance.
4. Create a positive work environment.
5. Be aware and involved.
6. Enforce accountability.

d. Recommended Activities Communication and personal involvement are critical to command leadership. Many day-to-day activities provide opportunities for CO/OIC to openly and visibly demonstrate their commitment to the objectives of civil rights. Recommended activities that help establish a climate conducive to the goal of a workplace free of discriminatory practices include:

1. Attending the opening session of Civil Rights training and facilitating the interactive portion of the Sexual Harassment Prevention (SHP) training.
2. Reviewing command expectations relative to the Civil Rights Directorate at all-hands activities.
3. Meeting with newly reported personnel to specifically identify command expectations relative to Civil Rights.
4. Meeting regularly with personnel to solicit their concerns and ideas.
5. Conducting out-briefs with departing personnel.
6. Supporting CRSPs.
7. Attending special observances and offering personal comments on civil rights issues in publications and communication.
8. Establishing proactive outreach programs and providing opportunities for command personnel to engage in outreach activities.

2. Integrating EEO/EO into Coast Guard's Strategic Mission

- a. Objectives** The Coast Guard recognizes that the United States is a diverse mix of people who have brought their own cultures and values to build the nation. By integrating EEO/EO into the objectives of this goal, Coast Guard is working toward eliminating discrimination in the workplace.
- Bringing about long-term change to develop an organizational that values diversity through recognition and inclusion of the skills and talents of all individuals in the Coast Guard.
- b. Roles** The integration of EEO/EO into the organizational culture is the responsibility of all members of Coast Guard.
- c. Responsibilities** CO/OIC is responsible for conducting cultural observances, mentoring subordinates, raising awareness through Civil Rights training, communicating standards and expectations, and conducting climate surveys.
- d. Recommended Activities** CO/OIC:
1. Provides military and civilian personnel with EEO/EO training on topics that include civil rights, sexual harassment prevention, conflict resolution, gender, racial, and cultural sensitivity, and disability awareness.
 2. Sponsors events that celebrate the contributions of different cultures heighten awareness of the value of diversity within the workforce and teach how to build and manage a diverse workforce.
 3. Completes the annual Command Checklist, which serves as a tool to improve organizational effectiveness and to strengthen the civil rights climate in the workplace.

For more information on Civil Rights training see Chapter 3; for more information on Special Emphasis Programs, see Chapter 2, and Chapter 3; for more information on the Command Checklist and the DEOMI Organizational Climate Survey, see Chapter 3.

3. Fostering Accountability by Leadership for EEO/EO

- a. Objectives** The objectives of this mission are to promote affirmative community

outreach in order to reinforce the status of the Coast Guard as a model corporate citizen and esteemed neighbor within the communities where we live and serve.

More particularly, the objectives of this mission are as follows:

1. Foster a positive public image of the Coast Guard.
2. Raise awareness of Coast Guard missions in the community.
3. Be viewed as a good neighbor and an employer of choice.

b. Roles Promoting affirmative community outreach is the responsibility of all Coast Guard commands.

c. Responsibilities In fulfilling their responsibilities for accountability, leadership will:

1. Work with Coast Guard CRSPs, human resources and legal departments, and external civic and community entities to resolve social climate issues.
2. Partner with civil rights, equal opportunity, educational and community organizations.
3. Serve as mentors and volunteers in local schools as part of the Partnership in Education (PIE) program.

For more information on PIE, see Chapter 3.

d. Recommended Activities Examples of some recommended activities for developing an organizational culture that values diversity, resolves complaints at the lowest level, and promotes affirmative community outreach are:

1. Preventing *social climate incidents* through constructive interaction with communities, working in partnership with local community leaders, and responding proactively to incidents when they occur.
2. Promoting excellence in education through programs such as the Partnership in Education (PIE), which introduces students to Coast Guard personnel and their missions.

A *social climate incident* is an action or incident committed by a member or members of the local community against a Coast Guard military member or a dependent of a military member that is harassing, or perceived as discriminatory in nature.

For more information on Social Climate Incidents, see Chapter 5.

4. Pursuing and Promoting Activities that Prevent Unlawful Discrimination

a. Objectives

All levels of the command's civilian workforce should reflect the diversity of the relevant civilian labor force. Making progress in this mission gives Coast Guard a competitive advantage in becoming and remaining an employer of choice. Coast Guard managers and leaders can correct civilian workforce imbalances by performing annual self-assessments to identify barriers to equal employment opportunity for civilians and developing and implementing strategic plans to eliminate identified barriers. Coast Guard progress in eliminating barriers is reported annually to the Department of Homeland Security (DHS) and the Equal Employment Opportunity Commission (EEOC).

The objectives of this goal are to recruit, retain, and promote people from groups that are underrepresented in the Coast Guard workforce, which is based on the local civilian labor force. Imbalances in the civilian workforce can be corrected through: proactive, affirmative programs and practices; a heightened awareness of potential workforce barriers to employment; and promotion of women, minorities, and people with disabilities.

b. Roles

Those responsible for accomplishing this mission include senior leadership, CO/OIC, hiring officials, Human Resources, and CRSPs.

c. Responsibilities The responsibilities are:

1. Conduct annual self-assessments to identify barriers to EEO/EO for civilian employees and applicants for employment.
2. Develop and implement strategic plans to eliminate identified barriers to EEO/EO.
3. Work with Human Resources to orient and train supervisors and managers on plans to eliminate barriers and implement and sustain a successful Civil Rights program.
4. Monitor progress in meeting objectives.

For more information on this program, see information on EEOC Management Directive 715 (EEOC MD 715) at Chapter 3.

- d. Recommended Activities** Correcting civilian workplace imbalances means:
1. Integrating equality of opportunity into all aspects of the mission of the organization.
 2. Engaging in the barrier identification process, the strategic plans for elimination of identified barriers to equal employment opportunity for civilians, and the ongoing monitoring and annual reporting that is required by DHS and the EEOC.
 3. Conducting special recruiting programs to promote employment opportunities in the Coast Guard for women, Hispanics, individuals with disabilities, and other employees and applicants for employment.

For more information on Affirmative Employment Programs, see Chapter 3; for more information on Special Emphasis Programs, see Chapter 2 and Chapter 3.

5. Implementing Improved, Efficient EEO/EO Practices, Especially for Responsiveness and Legal Compliance

- a. Objectives** Implementing an efficient, responsive, legally compliant EEO/EO practice involves:
1. Making good faith efforts to define the underlying issues in discrimination allegations and complaint.
 2. Handling these issues at the lowest level of command.
 3. Finding satisfactory resolutions as early as possible.
 4. Optimizing productivity and improving morale.
 5. Promoting organizational harmony.
 6. Repairing workplace relationships.
 7. Saving the time and the money associated with prolonged complaint processing and litigation.

- b. Role** It is the responsibility of all members of the Coast Guard to work toward resolving issues at the lowest level and at the earliest opportunity, with the desire to prevent discriminatory behavior. The final authority to resolve pre-

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complaints filed by military members rests with the CO/OIC. This authority may be delegated to members of the chain of command depending on the issues involved. CRSP serve as facilitators in the resolution process but do not have the authority to establish settlement terms or sign settlement agreements on behalf of the command.

In the event that the CO/OIC is identified as the party responsible for directly engaging in the alleged discriminatory action, the official at the next highest level in the chain of command will handle the response to the pre-complaint.

All employees must cooperate fully during counseling inquiries and investigations into complaints of discrimination.

It is the responsibility of all members not to condone or participate in discrimination or retaliation, and if it occurs, to take appropriate remedial or corrective action and to notify the command promptly.

c. Responsibilities The responsibilities are:

1. Resolve pre-complaints at the lowest level.
2. Ensure process integrity, confidentiality and timely action.
3. Use open communication and feedback.
4. Respect personal privacy.
5. Promote and utilize ADR when appropriate to resolve disputes.

d. Recommended Activities EEO/EO activities, especially for responsiveness and legal compliance include:

The Pre-Complaint Process provides for counseling on rights and responsibilities, informal efforts to achieve a mutually satisfactory resolution, and informal counseling on allegations. The Pre-Complaint Process, including the right to request ADR, is required before entering the Formal Complaint Process.

The Formal Complaint Process provides an official method for initiating, investigating, and adjudicating allegations of a discrimination complaint.

Alternative Dispute Resolution (ADR) provides for a qualified, neutral party to attempt to resolve a matter; and can begin at any point during the pre-complaint or formal complaint processes. When an aggrieved party requests ADR, it is mandatory for the command to agree to undergo ADR,

subject to suitability determination by the full-time CRSP at the particular command location. ADR can be particularly useful where communication has broken down or emotions are intense. Facts uncovered during ADR are not included as part of the official complaints record. Notes or other written records of the ADR sessions will not be retained.

For more information on the Pre-Complaint Process, on the Formal Discrimination Complaint Process, and on ADR, see Chapter 4.

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Section C. Civil Rights Directorate Personnel: Organization and Responsibility

This Manual references EEO/EO as the full range of activities and tools released to a workplace which affords equal employment to military and civilian employees. The Manual also references civil rights as an all-encompassing term, including military and civilian employees.

Under the general direction and supervision of the Commandant, the Director of the Civil Rights Directorate provides policy and oversight for equal opportunity, affirmative action, and civil rights training. The Civil Rights Directorate facilitates the Coast Guard EEO/EO effort, enforces all civil rights laws and statutes, and provides guidance to employees and supervisors. When implemented effectively, the Coast Guard civil rights effort ensures a discrimination free work environment, and as such contributes to service readiness.

The Civil Rights Directorate' organization is outlined in Figure 1. The Director of the Civil Rights Directorate reports directly to the Commandant. Figure 2 indicates the Detachment Regions and Zones in which the Civil Rights Directorate provides services.

United States Coast Guard Civil Rights Directorate

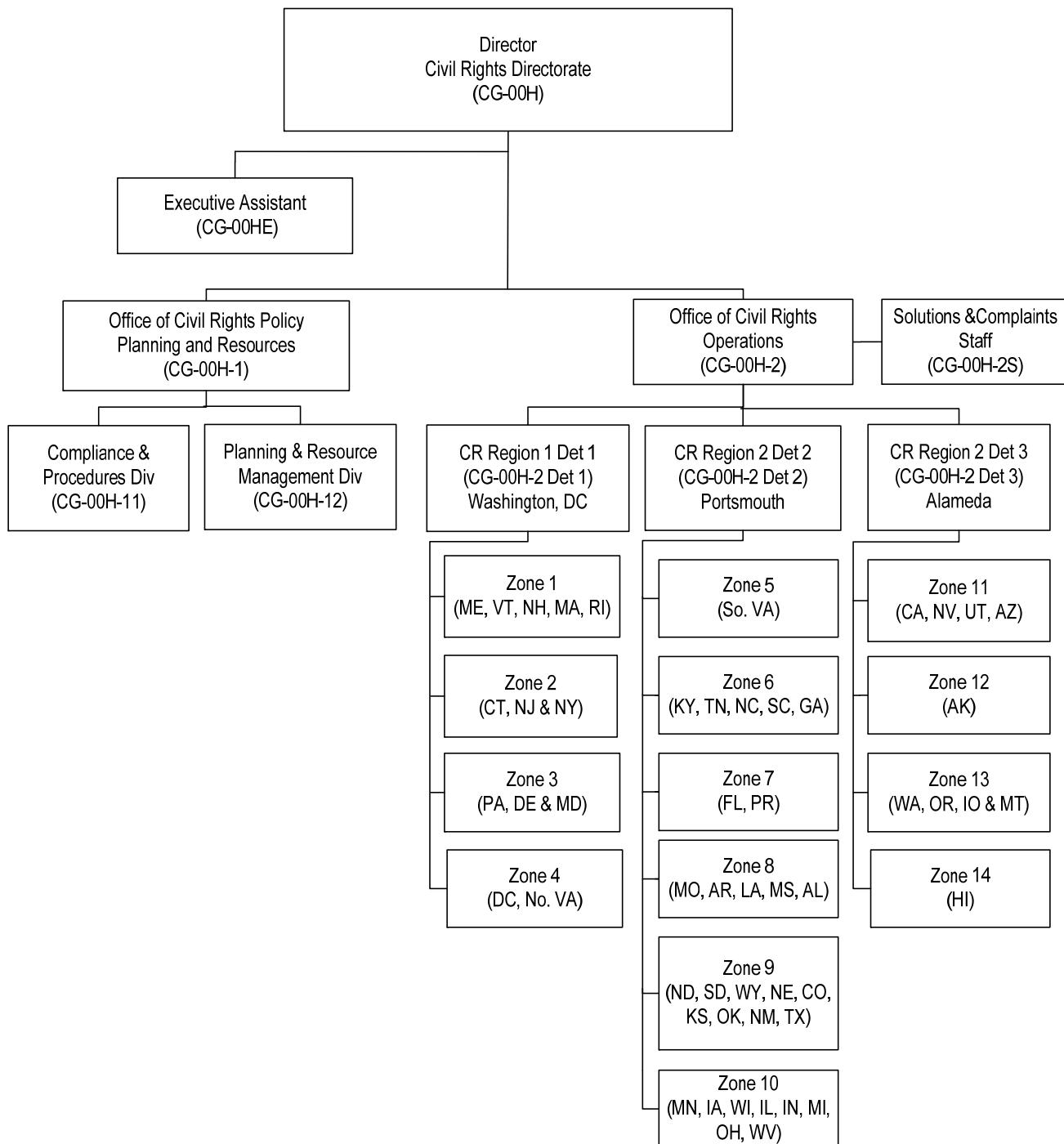
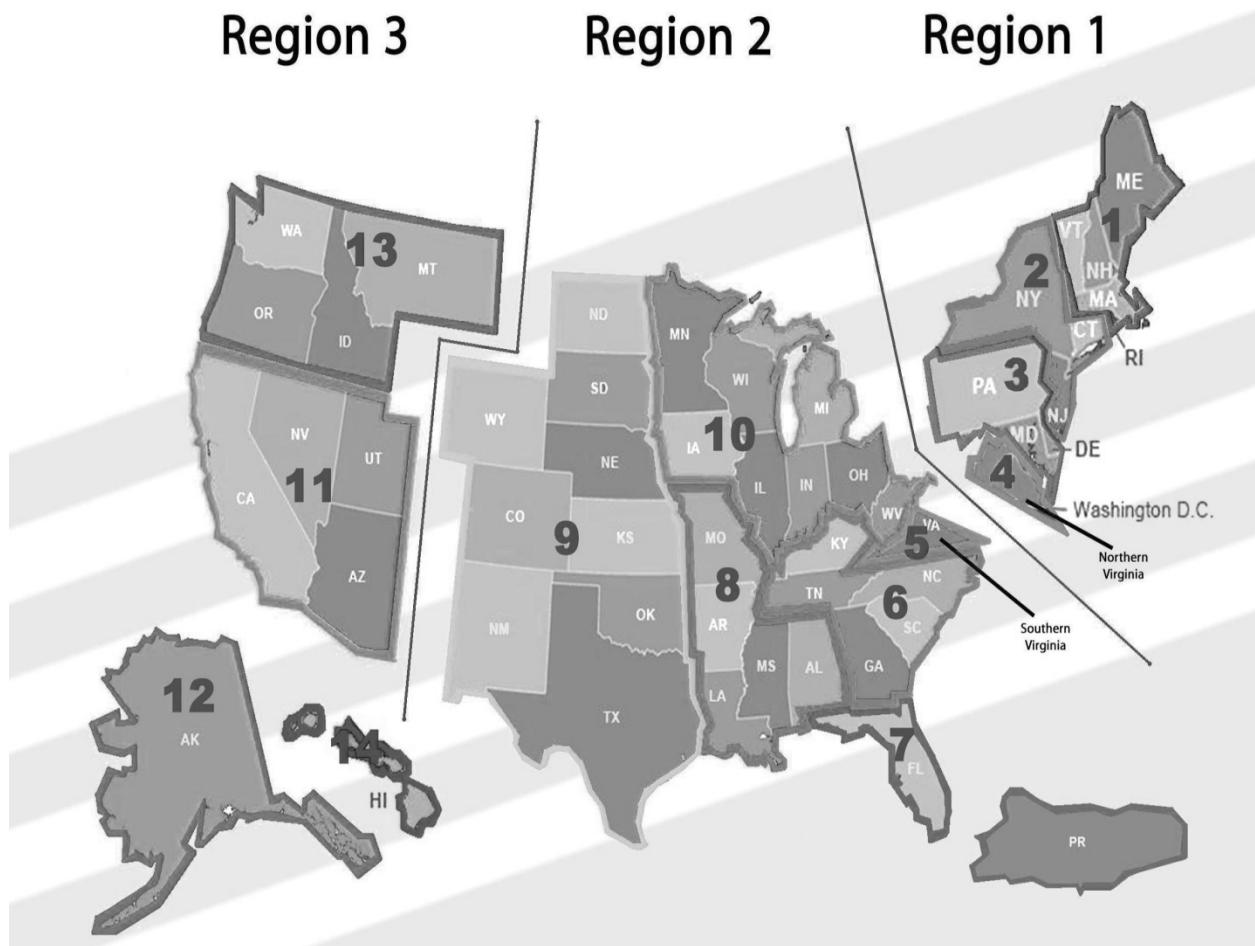


Figure 1. Civil Rights Directorate Organization

United States Coast Guard Civil Rights Directorate Region Map



Region 1	Region 2	Region 3
Zone 1. ME, VT, NH, MA, RI	Zone 5. S. VA	Zone 11. CA, NV, UT, AZ
Zone 2. NY, CT, NJ	Zone 6. KY, TN, NC, SC, GA	Zone 12. AK
Zone 3. PA, DE, MD	Zone 7. FL, PR	Zone 13. WA, OR, ID, MT
Zone 4. DC, N.VA	Zone 8. MO, AR, LA, AL	Zone 14. HI
	Zone 9. ND, SD, WY, NE, CO, KS, OK, NM, TX	
	Zone 10. MN, IA, WI, IL, IN, MI, OH, WV	

Figure 2. Civil Rights Directorate Detachment Regions

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Chapter 2. Civil Rights Policies: Affirmative Obligations and Prohibited Practices

Section A. Civil Rights Policies

1. Introduction to Civil Rights Policies

Introduction	This chapter introduces the broad civil rights programs and policies of general application to all Coast Guard personnel. Civil rights policies apply to both <i>affirmative obligations</i> , which are guided by the statutes and regulations mandating that active affirmative steps be taken to develop programs, reports, and policies that foster and promote diversity and support all personnel within the Coast Guard and <i>prohibited discrimination</i> , which are directed by statutes, regulations, and procedures to identify and resolve acts of prohibited discrimination in both employment and service.
	Chapter 3 of this Manual describes those policies and programs that support Coast Guard civil rights affirmative obligations. And in Chapter 4, policies and programs that support the duty to identify and redress prohibited discrimination within the Coast Guard are detailed.
a. Background	Every Coast Guard member deserves to be treated with dignity and respect and work in an environment free of discrimination or harassment.
	The Coast Guard will not tolerate harassment or discrimination based on any prohibited EEO/EO bases against its member (military or civilian) or applicant for employment at any time.
	Coast Guard standards are refined and reinforced in its Anti-Harassment & Hate Incident Procedures Policy (Chapter 2, Section C., Part 1), as well as in policy statements issued by the Commandant and by individual Commanding Officers/Officers-In-Charge (CO/OIC).
b. Authority and Application of Policies	The policies described in this Chapter apply to all Coast Guard active and reserve military and civilians, as specified.
	These policies and directives are not intended to supersede specific requirements, rights, or responsibilities established in state or federal regulations or prescribed in other Coast Guard directives. They are not exhaustive. This Manual will be updated as new policies and directives are issued.

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- c. Roles and Responsibilities** The CO/OIC or equivalent at all levels of the service is personally responsible and accountable for ensuring that civil rights laws, regulations, policies, and program standards are proactively applied and rigorously enforced within their commands.
- d. Leadership in Equal Opportunity** A key precept of the Civil Rights Directorate—not every issue is a civil rights issue, but every civil rights issue is a leadership issue—makes it incumbent on those in leadership positions to create a workplace built on the Coast Guard core values of honor, respect, and devotion to duty and to ensure that the workplace is free of discrimination or harassment on any prohibited basis. Likewise, all members of team Coast Guard must promptly inform their chain of command about civil rights concerns or issues when they arise.
- e. Civil Rights Policies Applicable to Civilians** It is the policy of the Coast Guard and the Federal Government to provide equal opportunity for all civilian employees and applicants for employment without discrimination on the basis of:
1. Race.
 2. Color.
 3. Religion.
 4. Sex.
 5. National origin.
 6. Age (40 or over).
 7. Physical or mental disability.
 8. Protected genetic information.
 9. Sexual orientation.
 10. Marital or parental status.
 11. Participation in antidiscrimination enforcement proceedings or otherwise opposing unlawful discrimination.
 12. Participation in civil rights related activities.

Civilian employees covered by the prohibition against discrimination in employment do not include employees of contractors doing business with Coast Guard, unless the following conditions apply: If, in light of the 16

factors listed in the EEOC Enforcement Guidance, Application of EEO Laws to Contingent Workers Placed by Temporary Employment Agencies and Other Staffing Firms, EEOC NOTICE No. 915.002. (Dec. 3, 1997), it can be determined that the right to control the means and manner of the individual's work performance rests with the Coast Guard.

***Reference:** Chapter 4 of this Manual addresses in detail the means through which civilian personnel may pursue their employment rights.*

f. Civil Rights Policies Applicable to Military Members

Although, not all the statutory prohibitions against discrimination in civilian employment apply to members of the uniformed services, it is Coast Guard policy to provide its military members equal opportunity during their military service and access to the rights, responsibilities, and privileges of such service, as much as practical.

The procedures which military members of the Coast Guard, including active, reserve, and U.S. Public Health Service personnel, must follow to assert their rights are identified in Chapter 4 of this Manual.

g. Discrimination Policy

All Coast Guard personnel have the right to equal opportunity in seeking career advancement and to a working environment free of discrimination and harassment on any prohibited basis.

When violations of policies regarding civil rights, equal opportunity, discrimination, and harassment occur, Coast Guard personnel have the right to seek timely and fair resolution of their concerns or complaints as well as the right to be protected from reprisal for seeking redress of their grievances.

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Section B. Affirmative Obligations

A variety of statutes and regulations mandate Coast Guard participation in programs that stimulate, support, and report on its proactive efforts to achieve a diverse workforce and provide opportunities for the advancement of all Coast Guard members. Chapter 3 describes the programs and reporting requirements Coast Guard has in place to meet these affirmative obligations. This chapter briefly introduces the relevant programs and their key elements.

1. Affirmative Programs of Equal Employment Opportunity Policy

Introduction The six elements necessary to achieve a model EEO Program are:

1. Demonstrated commitment from agency leadership.
2. Integration of EEO obligations into the agency's strategic mission.
3. Management and program accountability.
4. Proactive prevention.
5. Efficiency.
6. Responsiveness and legal compliance.

Reference: For a further description of the six elements enumerated above, see Chapter 3.

a. EEOC Management Directive 715

EEOC MD 715 explains the six program elements. The major components of EEO/EO programs are an annual self-assessment and a strategic plan of action designed to correct noted program deficiencies and remove workforce barriers to free and open workplace competition. This Directive applies to Civilian EEO programs and requires agencies to take appropriate steps to ensure that all employment decisions are free from discrimination. It also sets standards by which the EEOC will review the sufficiency of agency Title VII and Rehabilitation Act programs.

b. Coast Guard Surveys

A variety of surveys assist the Coast Guard in acquiring data and addressing barrier removal. These include the:

1. Defense Equal Opportunity Management Institute (DEOMI)

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Organizational Climate Survey (DEOCS).

2. Coast Guard Organizational Assessment Survey.
3. DHS Employee Survey – conducted as part of the Federal Human Capital Survey.

For more information on DEOCS see Chapter 3 of this Manual.

c. Affirmative Employment Plan for People With Disabilities	An affirmative employment plan for the hiring, placement, and advancement of People With Disabilities consistent with obligations required under the Section 501 of the Rehabilitation Act of 1973, as amended, is administered by the Assistant Commandant for Human Resources/Civilian Personnel.
d. Disabled Veterans Affirmative Action Plan (DVAAP)	5 C.F.R. § 720(c) requires each department, agency, and instrumentality in the Executive Branch to develop a plan to promote employment and advancement opportunities for qualified disabled veterans within the Federal Government. The DVAAP program is administered by the Assistant Commandant for Human Resources/Civilian Personnel.
e. Federal Equal Opportunity Recruitment Program (FEORP) Plan	The FEORP contains information on the representation of minorities within the federal government and best practices for federal agencies. Some of the elements for this plan are Data Analysis—occupational profiles and average salary grade comparisons; FEORP Oversight Activities—onsite technical assistance reviews; and Key Progress and Accomplishments—recruitment methods or programs that positively affect the recruitment, retention, and career development of targeted groups. FEORP requires the Coast Guard to annually report to the Department of Homeland Security (DHS) on progress under the FEORP in order to remain in compliance with 5 U.S.C. § 7201 and 5 C.F.R. § 720(b). This plan is administered by the Assistant Commandant for Human Resources/Civilian Personnel.
f. Affirmative Civil Rights Goals for Military Personnel	While the military is not required to provide written affirmative employment plans, commands track the numbers of minority and female members of Coast Guard. Two long-range goals govern the Coast Guard commitment to affirmative employment of military personnel: (1) to encourage a workforce that values diversity; and (2) to increase the representation and retention of minorities and women at all levels and occupations throughout the service.

Commands should consider the following objectives and actions as they

strive to achieve these goals:

1. Ensure that leaders promote the importance of diversity.
2. Develop mutual respect and understanding.
3. Maintain a workforce that is representative of the national population.
4. Ensure no discrimination in the administration of military justice and in the involuntary separation of personnel.
5. Ensure that all personnel may participate equally in all occupational specialties within legal bounds.
6. Provide fair and equal educational opportunities for all qualified personnel.
7. Ensure an equitable assignment process and leadership opportunities for all Coast Guard personnel.
8. Ensure equal opportunity for promotion and advancement for all personnel.
9. Evaluate progress toward goal achievement.
10. Monitor the civil rights climate.
11. Recognize successes in advancing the importance of diversity, equal opportunity, and civil rights.
12. Ensure effective and timely administration of the discrimination complaint processes.
13. Ensure current and appropriate program guidance.
14. Provide Civil Rights training for all members.
15. Recruit qualified personnel.
16. Retain eligible personnel.

2. Special Emphasis Programs

Introduction

Special Emphasis Programs (SEP) promote equal opportunity in the hiring, advancement, training, and treatment of targeted racial/ethnic groups. These programs advocate necessary change to overcome barriers that

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restrict EEO for women, minorities and individuals with disabilities. Some of these programs are mandated by regulation and others are optional, but all are designed to support the goals of affirmative employment and the provision of a diverse workplace.

a. Mandated Special Emphasis Programs

Federal Women's Program (FWP). The primary focus of the FWP is to address the employment needs, for example, recruitment, training, education, retention, upward mobility, career counseling, mentoring, developmental details, promotion, and equity in pay and to identify and help remove barriers to the full participation of women in the federal workforce. The regulatory basis for the FWP can be found at 29 C.F.R. § 1614.102(b)(3).

Hispanic Employment Program (HEP). The HEP was established in 1970 by presidential directive as a sixteen-point program for the employment of Hispanic Americans in the Federal government. It includes specific actions designed to remedy deficiencies in encouraging full participation and opportunity. Hispanic workers are defined as persons of Mexican, Puerto Rican, Cuban, Central American, or South American descent or are descended from another Spanish culture or origin, regardless of race.

People With Disabilities Program (PWDP). The PWDP is designed to promote the hiring, placement, and advancement of people with disabilities and to ensure they are employed in a broad range of grade levels and occupations commensurate with their qualifications. The Coast Guard, as all federal agencies, is tasked with assuring that its policies do not unnecessarily exclude or limit persons with disabilities because of job structure, design, architectural, transportation, communication, procedural, or attitudinal barriers. The PWDP enables Coast Guard to take a positive and directive role in fully complying with Section 501 of The Rehabilitation Act of 1973, as amended, and the provisions of 29 C.F.R. § 1614.203(b).

Units with fifty or more assigned personnel are required to have SEP. Commanders and CRSPs will jointly nominate, appoint, and approve SEP personnel.

b. Optional SEP

Coast Guard commands are encouraged to address the employment concerns of those identifying as Asian American/Pacific Islander, American Indian/Alaskan Native, and Black/African American by initiating programs designed to remove barriers to their full participation within the federal workforce.

Reference: Chapter 3 discusses SEP in greater detail.

Section C. Prohibited Practices

1. Anti-Harassment & Hate Incident Procedures Policy

Introduction

The purpose of this policy is to prescribe procedures, in accordance with the Coast Guard and DHS Anti-Harassment Policy, for combating harassment in the U.S. Coast Guard and to promptly correct any harassment that occurs. This policy also prescribes additional notification procedures for conduct that would constitute a hate incident. The Coast Guard continually strives to meet the highest standards of personal respect by valuing human dignity and diversity in accordance with our core values of honor, respect, and devotion to duty. In order to meet this objective, every commander, manager and supervisor must be personally committed to and responsible for the fair and equal treatment of all Coast Guard personnel and to those with whom it interacts. To this end, the Coast Guard's goal is to safeguard the workplace environment so that no member of the workforce shall be subject to physical or verbal harassment, abuse or violence based on an individual's race, color, religion, sex, national origin, age, disability, genetic information, sexual orientation, marital status, parental status, political affiliation or any other basis protected by law.

Regional, zone, and sector commanders, commanding officers of logistics and service centers, commanding officers of headquarters units, deputy and assistant commandants for directorates, Judge Advocate General and special staff elements at Headquarters shall ensure compliance with the provisions of this policy.

The Coast Guard is committed to providing an environment free of harassing behavior for all of its members and employees. The Coast Guard provides all of its members and employees the opportunity to achieve their full potential in order to improve unit cohesion, military readiness and mission execution. The Coast Guard will not tolerate retaliation against any employee for reporting harassing conduct under this or any other policy or procedure, or for assisting in any inquiry about such a report. Harassment is a violation of Coast Guard core values and will not be tolerated and employees will be protected should retaliation occur.

Despite ample public and private efforts in the United States over the past 100 years, harassment still occurs. As a military, multi-mission, maritime service performing a broad range of services to a diverse nation, these types of incidents go against everything the Coast Guard stands for and are contrary to applicable laws and regulations. The Coast Guard has determined that the most effective way to limit harassing conduct is to treat it as misconduct, even if it does not rise to the level of harassment actionable under civil rights laws and regulations. In the usual case, a

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single utterance of an ethnic, sexual, or racial epithet that offends an employee would not be severe enough to constitute unlawful harassment in violation of federal law; however, it is the Coast Guard's view that such conduct is inappropriate and must be stopped.

a. Defining Harassment

Prohibited Harassment is defined as including, but not limited to, unwelcome conduct, whether verbal, nonverbal, or physical conduct that has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, offensive, or hostile environment on the basis of an individual's protected status, which includes: race, color, religion, sex, national origin, age, disability, genetic information, sexual orientation, marital status, parental status, political affiliation, or any other basis protected by law. Among the types of unwelcome conduct prohibited by this policy are epithets, slurs, stereotyping, intimidating acts, and the circulation or posting of written or graphic materials that show hostility toward individuals because of their protected status. Acts of physical violence, and actual, implied, or veiled threats of violence, are forms of prohibited harassment. Any form or manner of threatening or provoking remarks or threatening gestures in the workplace is also prohibited.

Sexual Harassment is a form of prohibited harassment. For additional guidance with respect to incidents of sexual harassment, please refer to the Sexual Harassment Prevention Policy (Chapter 2, Section C, Part 2).

b. Whistleblower Protection

It is prohibited to retaliate or harass an employee or applicant because of disclosure of information by that individual that is reasonably believed to evidence violations of law, rule or regulation, gross mismanagement, gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, unless disclosure of such information is specifically prohibited by law and such information is specifically required to be kept secret by executive order in the interest of national defense or the conduct of foreign affairs.

Individuals who believe they may have been victims of whistleblower retaliation may file a written complaint (Form OSC-11) with the U.S. Office of Special Counsel, 1730 M Street N.W., Suite 218, Washington, DC 20036-4505.

c. Commandant Directive

All members of the Coast Guard are charged to "bring harassment or misconduct of a harassing nature to the attention of their supervisors or anyone in their supervisory chain." Every Commander, CO/OIC, manager, and supervisor is directed to be accountable for maintaining a work environment in which harassment is not tolerated and for taking proactive

measures to prevent any form of illegal discrimination or harassment.

d. Harassment Complaint Procedures

Every employee and military member is responsible for responding to and eliminating prohibited harassment in the Coast Guard. The specific actions required vary based on position and authority. All Hands are prohibited from conducting harassing behavior of any type.

Everyone is encouraged to inform any person engaging in harassing conduct that the conduct is unwelcome.

Reporting Procedures for Victims and Witnesses:

1. Any victim or witness of prohibited harassment is encouraged to report the inappropriate conduct to their chain of command. All Hands are required to ensure protection of confidentiality to the extent possible.
2. Alternatively, anyone may report prohibited harassment to any Coast Guard Civil Rights Service Provider (CRSP) and/or the Civil Rights Directorate (CRD). For conflict of interest matters, CRSPs may only consult the chain of command upon approval by Director of Civil Rights or his/her designee.
3. Persons whose complaints are not promptly investigated may contact the Coast Guard CRD at (202) 372-4524.
4. Reports of harassment will be treated as confidential to the extent possible and consistent with good order and discipline. The Coast Guard does not tolerate retaliation against any individuals for reporting harassment or assisting another individual in reporting harassment.
5. Filing a harassment complaint does not replace, substitute, or satisfy the separate requirements for filing a Discrimination Complaint, negotiated grievance, merit system protection board appeal or other statutory grievance procedure.

Supervisors & Managers are required to stop harassing behavior and report such activities via the procedures outlined above.

Commanders of Coast Guard Units are required to take the following steps upon notification of a complaint of prohibited harassment. They must:

1. Take appropriate actions to ensure safety of victim, including contacting local law enforcement, base security forces, or emergency medical care if necessary.

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2. Notify the CRSP and/or the Regional Civil Rights Manager having jurisdiction over the complainant's geographical location.
3. Notify Coast Guard Investigative Service (CGIS) or other law enforcement agencies if required under Mandatory Reporting of Incidents to Coast Guard Investigative Service and Requesting Investigative Assistance, COMDTINST 5520.5E. For example, Commanders are required to report harassment incidents that involve a Uniform Code of Military Justice (UCMJ) violation or violation of Federal Criminal Law to CGIS. If notification of CGIS or another law enforcement agency is required, then processing of the complaint in accordance with these procedures will be held in abeyance for five (5) business days to provide time for notification of the appropriate investigative agency and for that agency to inform the Commander whether it intends to pursue an investigation. If CGIS, or other law enforcement agency, responds that they will not investigate, or do not respond within five (5) business days, the Commander will continue processing the complaint under these procedures. If CGIS, or other law enforcement agency, informs the Commander that they will investigate, the Commander may continue to process the complaint under these procedures with the concurrence of CGIS, or other law enforcement agency. On the other hand, if CGIS, or other law enforcement agency, does not concur with the simultaneous processing of the complaint, the Commander must either: (1) hold processing the complaint in abeyance until CGIS, or other law enforcement agency, concurs with the complaint proceeding; or (2) inform CGIS, or other law enforcement agency, in writing of the decision to proceed with processing the complaint despite the objection.
4. Follow the procedures outlined in the Workplace Violence and Threatening Behavior, COMDTINST 5370.1 (series) if the harassment complaint involves: (1) any act or attempted act of physical aggression or harm by an individual that occurs at the workplace; or (2) threats, either overt or implied, to commit an act of physical aggression or harm at the workplace.
5. Advise the victim that filing a harassment complaint does not replace, substitute, or satisfy the separate requirements of filing a Discrimination Complaint, negotiated grievance, merit system protection board appeal or other statutory grievance procedure.
6. Respect the confidentiality of individuals reporting harassment or providing information relating to harassment to the extent permitted by law and consistent with good order and discipline. In addition, commanders shall take appropriate measure to prevent reprisals for any reported harassment or information provided during the

investigation of alleged harassment.

7. Immediately conduct an informal investigation, preliminary inquiry or formal investigation as appropriate and in accordance with the Administrative Investigations Manual, COMDTINST M5830.1 (series).
8. If an investigation substantiates harassment has occurred, initiate in appropriate cases, disciplinary or administrative action, that may include action under UCMJ for military personnel or disciplinary action against civilian employees.
9. Report findings and outcomes via their Civil Rights Service Provider to the Director, CRD no later than 30 days from the date the incident was reported. However, if a Commander is required to notify CGIS or another law enforcement agency, then the thirty-day time frame for submission of findings and outcomes is tolled until CGIS or another law enforcement agency determines that the incident does not fall within its purview or five (5) business days have passed since such notification, whichever comes first.
10. Advise complainant of the disposition of the investigation.

Civil Rights Detachments are required to assist commands, employees and military members in complying with the procedures outlined in this instruction. CRSPs are expected to be process experts and act as facilitators to ensure that all harassment complaints are handled in a timely manner. Specifically, CRSPs shall:

1. Notify responsible commanders upon receipt of a harassment complaint while respecting any wishes of anonymity. These reports must be as complete as possible to ensure a full and fair investigation into the alleged harassment.
2. Provide counseling to members or employees on the harassment complaint process and if appropriate the discrimination complaint processes and their differences.
3. If the victim chooses to initiate a discrimination complaint through the civil rights complaints process, the servicing CRSP will conduct pre-complaint counseling in accordance with chapter 4 of this Manual.

Coast Guard Managers and other personnel shall respond to any reports of harassment by putting the person alleging harassment in contact with the appropriate Civil Rights Detachment based on the geographical location of the alleged harassment. Additionally Managers are required to forward any

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complaints based on a lack of investigation to the Director, CRD.

The Director, CRD is responsible for coordinating Coast Guard harassment policy and general oversight of the harassment complaint process. In addition, the Director will establish a data collection system for harassment complaints.

e. Defining Hate Incidents

Hate incident is defined as any intentional act (conduct or speech) of intolerance committed against a person, a group of individuals, or property which is motivated, in whole or in part, by the offender's bias against a race, color, religion, sex, national origin, disability, age, or sexual orientation and which is intended to or is more likely than not to have the effect of intimidating others or inciting others to similar conduct.

Examples of hate incidents include the display, presentation, creation or depiction of a noose, a swastika, or any other symbol widely identified with oppression or hatred, irrespective of size, type or how it is displayed or presented. Other symbols, whose display, presentation, creation or depiction would reasonably be construed to encourage oppression or hatred, are also considered to be examples of hate incidents. Hate incidents also include the display, presentation, depiction, or distribution of photographs, images, or other printed or electronic material that is evidence of oppression or hatred, irrespective of size, type or how it is displayed or presented.

Incidents of hatred and prejudice are a vile and divisive part of American history, and unfortunately continue to occur today. The above list of examples is provided only as a sample of acts or expressions that constitute hate incidents.

Due to their likelihood to effect or intimidate others, hate incidents require additional notifications and processing over and above other incidents of harassment.

f. Additional Notification & Processing for Hate Incident Procedures

Due to the negative impact of hate incidents and their likelihood to effect or intimidate others, these incidents require supplemental notifications and processing in addition to the procedures set forth above. Specifically:

1. Anyone may report a hate incident using the procedures outlined above for reporting prohibited harassment.
2. Upon becoming aware of any potential hate incidents in their respective areas of responsibility, Commanders or CRSPs must immediately notify the Director, CRD via their chain of command, and be prepared to provide sufficient information to describe the incident, e.g., photographs, informal statements, etc.

3. A commander who becomes aware of a hate incident will electronically report the incident within 48 hours to a CRSP using the memo format shown in Figure 3 at the end of this Section. If operational conditions prevent transmission of a memo report, the report may be sent telephonically or by any other available means as soon as practicable.
4. In order to protect the parties involved and the integrity of these procedures, commanders and CRSPs must limit communication only to those persons who have a need to know.
5. CRSPs will assist unit commanders in determining if a harassment complaint constitutes a hate incident. Additionally, they shall notify unit commanders if they determine that a harassment complaint constitutes a hate incident but has not been reported as such.
6. Commanders will also coordinate access by the victim to the unit's assigned CRSP, Employee Assistance Program or Chaplain, and other appropriate resources. Additionally, Commanders shall continue to follow up via their CRSP as the situation continues to develop.

The CRD will coordinate additional notifications as required and provide general oversight of the hate incident response process.

g. Harassment Prevention

Command climate of prevention is enhanced by a personal commitment to fair and equal treatment of all Coast Guard personnel. Commanders are encouraged to engage in initiatives that increase mutual respect and trust and foster diversity. Specifically Commanders shall:

1. Emphasize upon assuming command, and at least annually thereafter, that harassment violates the Coast Guard's core values and will not be tolerated. Stress that every alleged harassment incident will be taken seriously, and that when appropriate, punitive action will be initiated under the UCMJ or other applicable laws, policies and regulations.
2. Utilize the Defense Equal Opportunity Management Institute (DEOMI) Organizational Climate Survey (DEOCS) at least annually to assess the organizations climate.
3. Ensure that all personnel receive the required Equal Employment Opportunity/Equal Opportunity training.
4. Address all alleged harassment in accordance with this Instruction.

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- h. Disciplinary Actions** The Coast Guard retains the right, where appropriate, to discipline a federal employee who has engaged in discriminatory or retaliatory conduct, up to and including removal.

***Reference:** For further information regarding No FEAR Act regulations, refer to 5 C.F.R. § 724, as well as other appropriate federal agencies such as, The Office of Personnel Management, the EEOC, and the Office of Special Council, which provide extensive information about federal antidiscrimination and anti-harassment policies.*

2. Sexual Harassment Prevention Policy

- Introduction** Sexual harassment is behavior that will not be tolerated in the Coast Guard. In keeping with the Anti-Harassment & Hate Incident Procedures Policy, every individual in the Coast Guard is entitled to be treated fairly with dignity and respect and to be allowed to work in an environment free of unlawful discrimination and harassment.

Sexual harassment harms the individual it is directed toward, erodes unit cohesion, destroys morale, undermines military readiness, and ultimately hampers our ability to conduct Coast Guard missions effectively.

It is prohibited to retaliate against individuals who provide information on incidents of sexual harassment.

This section applies to all Coast Guard civilians, active duty military personnel, both regular and reserve, cadets of the Coast Guard Academy, reserve personnel when performing active or inactive duty for training or engaging in any activity directly related to performance of a Coast Guard duty or function, members of the Coast Guard Auxiliary when under orders or engaged in any activity directly related to the mission of the Auxiliary, and members of other branches of the Armed Forces and the U.S. Public Health Service serving with the Coast Guard.

***Reference:** For information on Sexual Harassment Prevention (SHP) training, which is included in Civil Rights training, see Chapter 3, Section B, Part 2.*

- a. Legal Background** Title VII makes sex discrimination in the workplace illegal.

The United States Supreme Court has identified sexual harassment as a clear violation of a person's right to work in an environment free of discrimination.

Although Title VII does not explicitly extend the same protections to the military, it is the Coast Guard policy to apply the same protections to its military workforce.

b. Definition of Sexual Harassment

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

1. Submission to such conduct is made either implicitly or explicitly a term or condition of employment.
2. Submission to or rejection of such conduct is used as a basis for employment decisions.
3. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.
4. This definition also encompasses unwelcome display or communication of sexually offensive materials.

Sexual harassment can occur in a variety of circumstances, including but not limited to:

1. The victim as well as the harasser may be a woman.
2. The victim does not have to be of the opposite sex.
3. The harasser can be the victim's supervisor, an agent of the employer, another supervisor, a coworker, or a non-employee.
4. The victim does not have to be the person harassed but can be anyone affected by the offensive conduct.
5. The conduct of the harasser must be unwelcome.
6. Harassment based on perceived or stated sexual orientation is considered sexual harassment and is prohibited.

The economic costs of sexual harassment are significant. Even more harmful, however, are the negative effects of sexual harassment on productivity and readiness, including increased absenteeism, greater personnel turnover, lower morale, decreased effectiveness, and loss of personal, organizational, and public trust. While not easily quantified, these costs are real and seriously affect the ability of the Coast Guard to accomplish its mission.

c. Categories of

There are two categories of sexual harassment. These categories are not

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Sexual Harassment legal definitions, however they explain the nature of the behaviors that are prohibited.

Tangible employment action sexual harassment is the category in which an agency is strictly liable for the sexual harassment by a supervisor or manager when it results in a personnel action. A tangible employment action must be an official action, such as hiring, firing, promotion or failure to promote, demotion, undesirable assignment, significant change in benefits or pay, or work assignment. In the case of tangible employment action sexual harassment, the Coast Guard is strictly liable for the actions of the supervisor.

Hostile environment sexual harassment encompasses all other situations addressed in the definition of sexual harassment above, whether the offender is a supervisor or a coworker. To meet the definition of a hostile environment, the harassment must be so severe and pervasive that a reasonable person would view the environment as hostile, offensive, or abusive. In this case, the Coast Guard is liable only if it knew of the conduct and failed to take prompt and effective corrective action.

d. Types of Sexually Harassing Behavior

Examples of sexual harassment range from overt behaviors, such as inappropriate touching, to more subtle behaviors, such as making suggestive remarks.

Any behavior that relates to sex, is intentional and/or repeated, is unwelcome, and interferes with a person's ability to do their job, or has an adverse effect on their working conditions can be classified as sexually harassing behavior and will not be tolerated in the Coast Guard.

Gender harassment consists of sexist statements and behaviors that convey insulting or degrading attitudes relating to sex or gender. Obscene jokes, offensive graffiti or photographs, or insulting remarks or humor about sex, sexual orientation, or gender are examples of gender harassment. Other examples include repeatedly telling sexual stories that are offensive, whistling, calling, or hooting at someone in a sexual way, making gestures or using body language of a sexual nature which embarrasses or offends, or exposing oneself in a way that makes another embarrassed or uncomfortable for example, mooning.

Seductive behavior is any unwanted, inappropriate, and offensive sexual advance. Unwelcome, persistent requests for dinner, drinks, or dates, repeated unwanted sexual invitations, letters, phone calls, or other invitations, even though the respondent says "no," are examples of seductive behavior. Touching in a way that makes a person feel uncomfortable or making unwanted attempts to stroke, fondle, or kiss a person are also examples of unwanted sexual attention which create an

intimidating, hostile, or offensive environment.

Sexual bribery is the solicitation of sexual activity or other sex related behavior as a basis for a promised reward. Rewards could include for example, a promotion or a raise.

Sexual coercion is coercion of sexual activity or other sexually related behavior by threat of punishment, including threats of termination or demotion, withholding of promotion, or negative performance appraisal. Sexual coercion is classic *quid pro quo* or sex in exchange for a good assignment or faster promotion.

Sexual imposition is an uninvited physical sexual violation or sexual assault, which includes forceful grabbing, feeling, or touching. Sexual imposition is a criminal activity. More information on sexual assault can be found in Coast Guard Military Personnel Manual, COMDTINST M1000.6A (series).

- e. Commandant Directive** Every member of the Coast Guard is charge to take prompt and decisive action to prevent and eliminate sexual harassment. This means that all members of the Coast Guard, no matter their rank or position, must constantly be vigilant for signs of sexual harassment and take action to stop it.

CO/OIC and supervisory personnel are directed to be intolerable of sexual harassment at their units and are required to take immediate corrective action when it occurs.

All Coast Guard personnel, both military and civilian, are required to receive Sexual Harassment Prevention training as part of the Civil Rights training upon accession into the Coast Guard, that is, within 90 days to the extent possible, and annually thereafter, in the areas of identification, prevention, resolution, and elimination of sexual harassment. Annual training keeps issues current and requires that leadership be actively involved in the prevention of sexual harassment. Auxiliary members shall receive training as an element of the basic qualification process. Chapter 4 describes this training in detail. SHP training is a substantial part of the Civil Rights training.

- f. Responding to Sexual Harassment** When a person experiences sexual harassment, he or she should not ignore the problem or assume it will stop.

Harassment usually intensifies when it is ignored because the lack of corrective action is seen as acceptance or encouragement.

If you think you are being sexually harassed on the job:

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1. Tell the harasser that the behavior is unwelcome and must cease immediately.
2. Report such behavior immediately to the supervisor or to an official at a higher level.
3. Seek advice on how to deal with the situation from your local Civil Rights Office.

g. Documenting Sexual Harassment It is important to document any experience of harassing behavior, including:

1. Dates, times and locations in which events occurred.
2. Witnesses to the harassment.
3. Specific recollection of comments or behavior.

h. Reporting Sexual Harassment Sexual harassment is a serious issue and every supervisor and commander has an obligation to take action when they are made aware of a problem.

When sexual harassment has occurred or is taking place, the first step to take is to confront the harasser unless the situation is so severe that it is dangerous or unreasonable to do so.

If the harassment continues or is severe enough to warrant immediate command attention the person experiencing the harassment should discuss the subject with a supervisor or CO/OIC in private. If the supervisor is the harasser, the harassment will be reported to the CO/OIC. If the CO/OIC is the harasser, then the report should be given to the official at the next higher level in the chain of command.

If the behavior continues despite confronting the harasser and discussing it with the supervisor, an individual has the right to file a complaint if it is perceived that the problem is not being addressed properly or in a timely manner.

At any point, individuals experiencing harassment or retaliation may contact their servicing Civil Rights Service Provider for advice and guidance.

i. Acts of Reprisal Acts of reprisal are illegal. If anyone feels that they are being retaliated against for attempting to stop harassment, they may also file a complaint regarding the retaliation issue. See Chapter 4 for details on the process of filing complaints.

**j. Responsibilities
of Supervisors
and CO/OIC**

CO/OIC, managers, and supervisors should be sure that their conduct sets an example and is not such that they may be vulnerable to claims of sexual harassment. They should also take affirmative steps to ensure that employees are not involved in harassment by communicating agency policies on harassment.

When subordinates inform supervisors or commanders of sexual harassment within their chain of command, the supervisor or commander is required to take immediate action by:

1. Inquiring into the facts involved.
2. Taking appropriate steps to end the harassment.
3. Determining whether disciplinary action is warranted for the harasser.
4. Notifying the chain of command.

All levels of leadership, from the leading seaman to top management, need to maintain accountability for the behavior of their subordinates. Leaders and supervisors who fail to recognize acts of sexual harassment and take appropriate action are not performing the responsibilities and duties of their position. Leadership must be completely knowledgeable of sexual harassment prevention policies and must take appropriate administrative and/or disciplinary action once harassment is reported. CO/OIC should ensure that all unit personnel receive SHP training each year (see Chapter 3, Section B, Part 2).

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MEMORANDUM

From: Unit Commander, CG Unit

Reply to LT J. Coastie
Attn of: (202) 372-4500

To: CG-00H
Thru: CRSP

Subj: HATE INCIDENT REPORT

Ref: Anti-Harassment & Hate Incident Procedures,
U. S. Coast Guard Civil Rights Manual, COMDTINST M5350.4(Series)

1. **Date, Time and Location of Incident.** What day did the incident occur? What time? Where did the incident occur? Were there multiple or repeated incidents?
2. **Bias Motivation and Description of Incident.** Specify which of the legally protected statuses the report is based on, i.e., race, religion, national origin, disability or sexual orientation. Also provide a preliminary description of the incident. This report should be filed within 48 hours of the complaint and should not be delayed for additional investigation. Units are not required to complete extensive investigation prior to reporting and are encouraged to follow up as more information becomes available.
3. **Action Taken by Command to investigate and Secure Evidence.** Identify immediate and future command actions. If there is any evidence to support a claim it should be included with this or follow up reports. Evidence can include photographs, emails, etc.
4. **Does this incident represent a local hate or bias motivated incident trend? Is there media or Congressional Interest?** Is there media attention at the national or local level? Has the unit been contacted by any reporters or congressional staff?

Units are encouraged to email this report as soon as possible. If email is not available, the report may be sent via phone, fax or other means as operations permit. The report should not be delayed to collect additional evidence or conduct further investigation.

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Copies provided: Provide copies to chain of command.

Enclosures: If there are any photos or other items to attach please note here.

Figure 3. Sample Hate Incident Reporting Memorandum

Chapter 3. Programs Implementing Affirmative Equal Employment Opportunity Obligations

Section A. Affirmative Programs

Introduction

The Coast Guard's Affirmative Programs of Equal Opportunity and Equal Employment Opportunity are driven by the affirmative obligation policies introduced in Chapter 2. The overarching program is the self-assessment and strategic planning process required by the Equal Employment Opportunity Commission (EEOC) for all federal agencies. Special Emphasis Programs (SEP) support this process and help to implement its goals. Other programs, such as Command Checklist, Climate Surveys, and the Equal Opportunity (EO) Review/Assessment assist the Coast Guard in achieving a workplace that promotes civil rights and equal opportunity in every aspect of its employment practices, including the hiring, development, advancement, and treatment of employees. Through its training programs, Coast Guard ensures that its personnel are knowledgeable about Civil Rights goals and each person's responsibilities and rights with respect to Coast Guard policies and programs.

1. Affirmative Programs of Equal Employment Opportunity and Equal Opportunity

a. Purpose

EEO/EO programs are designed to integrate access, inclusion, and equality of opportunity into all aspects of the mission of the agency and align civil rights principles with strategic agency plans and objectives.

EEO/EO programs are required under Coast Guard policy and or under EEOC MD 715.

b. Elements of a Model EEO/EO Program

As noted in previous chapters, under EEOC MD 715, Coast Guard is required to work toward achievement of a Model EEO program through compliance with the six program elements and leadership actions outlined in this section.

Demonstrated Commitment from Agency Leadership. EEOC MD 715 requires agency heads and other senior management officials to demonstrate a firm commitment to equality of opportunity for all employees and applicants for employment. Even the best workplace policies and procedures will fail if they are not trusted, respected and vigorously enforced. Agencies must translate equal opportunity into every day practice and make those principles a fundamental part of agency culture. This

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commitment to equal opportunity must be embraced by agency leadership and communicated through the ranks from the top down. It is the responsibility of each agency head to take such measures as may be necessary to incorporate the principles of equal employment opportunity into the agency's organizational structure.

To this end, agency heads must issue a written policy statement expressing their commitment to equal employment opportunity (EEO) and a workplace free of discriminatory harassment. This statement should be issued at the beginning of their tenure and thereafter on an annual basis and disseminated to all employees. In addition, agency heads and other senior management officials may, at their discretion, issue similar statements when important issues relating to equal employment opportunity arise within their agency or when important developments in the law occur.

Integration of EEO into the Agency's Strategic Mission. Equality of opportunity is essential to attracting, developing and retaining the most qualified workforce to support the agency's achievement of its strategic mission. To this end, and in addition to the regulatory requirements found at 29 C.F.R. § 1614.102(b)(4), as interpreted in EEOC MD 110 at 1-1, agencies must:

1. Maintain a reporting structure that provides the agency's EEO Director with regular access to the agency head and other senior management officials for reporting on the effectiveness, efficiency and legal compliance of the agency's Title VII and Rehabilitation Act programs. To emphasize the importance of the position, the agency head should be involved in the selection and performance review of the EEO Director.
2. Ensure EEO professionals are involved with, and consulted on, the management and deployment of human resources. The EEO Director should be a regular participant in senior staff meetings and regularly consulted on human resources issues.
3. Allocate sufficient resources to create and/or maintain Title VII and Rehabilitation Act programs that: 1) identify and eliminate barriers that impair the ability of individuals to compete in the workplace because of race, national origin, sex or disability; 2) establish and maintain training and education programs designed to provide maximum opportunity for all employees to advance; and 3) ensure that unlawful discrimination in the workplace is promptly corrected and addressed.
4. Attract, develop and retain EEO staff with the strategic competencies necessary to accomplish the agency's EEO mission,

and interface with agency officials, managers and employees.

5. Recruit, hire, develop and retain supervisors and managers who have effective managerial, communications and interpersonal skills. Provide managers and supervisors with appropriate training and other resources to understand and successfully discharge their duties and responsibilities.
6. Involve managers and employees in the implementation of the agency's Title VII and Rehabilitation Act programs.
7. Use various media to distribute EEO information concerning federal EEO laws, regulations and requirements, rights, duties and responsibilities and to promote best workplace practices.

Management and Program Accountability. A model Title VII and Rehabilitation Act program will hold managers, supervisors, EEO officials and personnel officers accountable for the effective implementation and management of the agency's program. In ensuring such accountability, the agency must:

1. Conduct regular internal audits, on at least an annual basis, to assess the effectiveness and efficiency of the Title VII and Rehabilitation Act programs and to ascertain whether the agency has made a good faith effort to identify and remove barriers to equality of opportunity in the workplace.
2. Establish procedures to prevent all forms of discrimination, including harassment, retaliation and failure to provide reasonable accommodation to qualified individuals with disabilities.
3. Evaluate managers and supervisors on efforts to ensure equality of opportunity for all employees.
4. Maintain clearly defined, well-communicated, consistently applied and fairly implemented personnel policies, selection and promotion procedures, evaluation procedures, rules of conduct and training systems.
5. Implement effective reasonable accommodation procedures that comply with applicable executive orders, EEOC guidance, the Architectural and Transportation Barriers Compliance Board's Uniform Federal Accessibility Standards and Electronic and Information Technology Accessibility Standards. Ensure that EEOC has reviewed those procedures when initially developed and if procedures are later significantly modified.
6. Be mindful of the agency's disability program obligations, including

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the provision of reasonable accommodations, when negotiating collective bargaining agreements with recognized labor organization(s) representing agency employees.

7. Ensure effective coordination between the agency's EEO programs and related human resource programs, including the Federal Equal Opportunity Recruitment Program (FEORP), the Selective Placement Programs and the Disabled Veterans Affirmative Action Program (DVAAP).
8. Review each finding of discrimination to determine the appropriateness of taking disciplinary action against agency officials involved in the matter. Track these decisions and report trends, issues and problems to agency leadership for appropriate action.
9. Ensure compliance with settlement agreements and orders issued by the agency, EEOC, and EEO-related cases from the Merit Systems Protection Board, labor arbitrators, and the Federal Labor Relations Authority.

Proactive Prevention of Unlawful Discrimination. Agencies have an ongoing obligation to prevent discrimination on the bases of race, color, national origin, religion, sex, age, reprisal and disability, and eliminate barriers that impede free and open competition in the workplace. As part of this on-going obligation, agencies must conduct a self-assessment on at least an annual basis to monitor progress, identify areas where barriers may operate to exclude certain groups and develop strategic plans to eliminate identified barriers. A more detailed explanation of this process is located in EEOC MD 715.

Efficiency. Agencies must have an efficient and fair dispute resolution process and effective systems for evaluating the impact and effectiveness of their EEO programs. This requires agencies to:

1. Maintain an efficient, fair and impartial complaint resolution process. Agencies should benchmark against EEOC regulations at 29 C.F.R. § 1614 and other federal agencies of similar size highly ranked in EEOC's Annual Report on the federal sector complaints process.
2. Ensure that the investigation and adjudication function of the agency's complaint resolution process are kept separate from the legal defense arm of the agency or other agency offices with conflicting or competing interests.
3. Establish and encourage the widespread use of a fair alternative dispute resolution (ADR) program that facilitates the early, effective

and efficient informal resolution of disputes. Appoint a senior official as the dispute resolution specialist of the agency charged with implementing a program to provide significant opportunities for ADR for the full range of employment-related disputes.

Whenever ADR is offered in a particular workplace matter, ensure managers at all appropriate levels will participate in the ADR process.

4. Use a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed at each stage of the agency's complaint resolution process, the issues and the bases of the complaints, the aggrieved individuals/complainants, the involved management officials and other information necessary to analyze complaint activity and identify trends.
5. Identify, monitor and report significant trends reflected in complaint processing activity. Analysis of data relating to the nature and disposition of EEO complaints can provide useful insight into the extent to which an agency is meeting its obligations under Title VII and the Rehabilitation Act.
6. Ensure timely and complete compliance with EEOC orders and the provisions of settlement/resolution agreements.
7. Maintain a system that collects and maintains accurate information on the race, national origin, sex and disability status of agency employees. See 29 C.F.R. § 1614.601 for further guidance.
8. Maintain a system that tracks applicant flow data, which identifies applicants by race, national origin, sex and disability status and the disposition of all applications. EEOC issues guidance on collecting and maintaining applicant flow data.
9. Maintain a tracking system of recruitment activities to permit analyses of these efforts in any examination of potential barriers to equality of opportunity.
10. Identify and disseminate best workplace practices.

Responsiveness and Legal Compliance. Agencies must:

1. Ensure that they are in full compliance with the law, including EEOC regulations, orders and other written instructions. See 42 U.S.C. § 2000e-16(b).
2. Report agency program efforts and accomplishments to EEOC and respond to EEOC directives and orders in accordance with EEOC

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instructions and time frames.

3. Ensure that management fully and timely complies with final EEOC orders for corrective action and relief in EEO matters.

- c. EEO Programs** The major components of EEO/EO programs are self-assessments and strategic plans of action to correct noted deficiencies and to remove workforce barriers. The Civil Rights Directorate monitors Coast Guard's progress toward achieving EEO/EO goals, and awareness through periodic reports of compliance with items delineated in the Command's Checklist (Chapter, Section A, Part 5). Units with fifty or more assigned personnel are required to have EEO/EO programs in place.

A “barrier” is a policy, principle, practice or condition that limits or tends to limit employment opportunities for members if a particular gender, race, ethnicity, or based on disability status.

- d. Roles and Responsibilities** **District Commanders** or, by delegation, **Chiefs of Staff** are responsible for EEO/EO programs within their area of responsibility, including certification of all actions and reports.

CO/OIC develop, manage, establish and oversee implementation of the strategic plans of action for EEO/EO programs within their area of responsibility and serve as command self-assessment team leaders for DEOCS and other self-assessments. CO/OIC develops the consolidated affirmative program assessments and reports and prepares them for certification.

CRD Headquarters, and **Civil Rights Service Providers** at the field level (Equal Opportunity Advisors (EOA), Equal Employment Opportunity Specialists (EEOS), Civil Rights Managers, and Officers) advise and assist CO/OIC with self-assessments and implementation of EEO/EO programs.

2. Special Emphasis Programs (SEPs)

- a. Purpose** Special Emphasis Programs (SEPs) are an integral part of the Coast Guard Civil Rights Program and are utilized to support the objectives of the affirmative programs of equal employment opportunity. The term *Special Emphasis Programs* refers to employment-related activities that focus attention on groups whose participation rates fall below their relevant rate of participation on the national civilian labor force.

SEPs are intended to promote equity, fairness, and equal opportunity; address the unique and special concerns of all targeted groups within the

workforce; and support CG EEO program planning processes and goals.

SEPs are a subset of the Affirmative Programs of Equal Employment Opportunity. SEP personnel report to the District Commander. However, servicing civil rights managers and District Commanders will jointly nominate, appoint, and approve SEP managers and committee members who are volunteers that coordinate special observances. To ensure that planned programs for these special observances conform to the intent of affirmative programs for equal opportunity, all planned activities must be approved by the servicing civil rights manager.

Some SEPs established within the Coast Guard include:

1. Federal Women's Program (FWP).
2. Hispanic Employment Program (HEP).
3. People With Disabilities Employment Program (PWDP).
4. Asian American and Pacific Islander Employment Program.
5. Native American/Alaska Native Employment Program.
6. Black/African American Employment Program.

The FWP, HEP, and PWDP are mandated programs, required for units with fifty or more assigned civilian. Establishment of other SEP may vary by unit pursuant to the availability of personnel, time, support, and recognized need or interest. For example, district forces plan activities that are open to participation by units within the commuting area. As well, units may collaborate in implementing programs for their joint benefit. The execution of these programs ensures that the Coast Guard takes affirmative steps to provide equal opportunity, educational, and career exposure and recognition to minorities, women, and people with disabilities in all areas of employment.

b. Elements

The important elements of SEP are the identification of equal employment opportunity deficiencies and workforce barrier removal; education programs and cultural observances; community outreach; and networks and informal partnerships.

c. Goals

The goals of SEPs include:

1. Identifying and assisting leadership in removing barriers to civil rights and equal opportunity in recruiting, hiring, training,

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advancement, and treatment of each targeted group.

2. Educating managers, supervisors, and staff about the various forms of discrimination within the Coast Guard.
3. Monitoring Coast Guard progress in eliminating discrimination and adverse impact on each targeted group in employment by use of EEOC MD 715 elements of a model EEO program.

Recognizing the achievements of targeted internal and external persons who have made significant local or national contribution toward raising awareness of the value of diversity in the workplace.

d. The Federal Women's Program

Key objectives of the Federal Women's Program (FWP) are to recruit, hire and promote women to senior management levels; and provide access to educational resources and self-improvement opportunities for women.

Reference: See Chapter 2 regarding federal policy for this program and details the program manager's roles and responsibilities.

e. The Hispanic Employment Program

Key objectives of the Hispanic Employment Program (HEP) are to ensure that Hispanics receive fair consideration and are selected in hiring, training, career enhancing assignments, and promotion to senior management levels; and increase Hispanic representation at all grade levels and all occupational series within the Coast Guard.

Reference: Chapter 2 contains the federal policy for this program and details the program manager's roles and responsibilities.

f. The People With Disabilities Program

Key objectives of the People With Disabilities Program (PWDP) are to ensure Coast Guard compliance with all federal regulations regarding the hiring, training, career enhancement, and promotion of people with disabilities. The program is designed to advise leadership, managers, and supervisors on resources available to comply with the Reasonable Accommodation policy as described in Chapter 6 of this Manual.

Reference: Chapter 2 addresses federal policy for this program and details CO/OIC roles and responsibilities.

g. The Asian American and Pacific Islander Employment Program

The objectives of the Asian American/Pacific Islander Employment Program are to increase the total number of Asian American/Pacific Islander personnel in all employment categories and grade levels; provide opportunities to participate in training and training programs such as details, graduate studies, and others; provide a network of professional and

mentoring support; and encourage participation in all Coast Guard sponsored programs and activities.

h. The Native American/Alaskan Native Employment Program

The objectives of the Native American/Alaskan Native Employment Program are to increase the total number of Native American/Alaskan Native personnel in all employment categories and grade levels; provide opportunities to participate in training and training programs such as details, graduate studies, and others; provide a network of professional and mentoring support; encourage participation in all Coast Guard sponsored programs and activities.

i. The Black/African American Employment Program

The objectives of the Black/African American Employment Program are to increase the total number of Black/African American personnel in all employment categories and grade levels; provide opportunities for training and training programs such as details, graduate studies, and others; provide a network of professional and mentoring support; encourage participation in all Coast Guard sponsored programs and activities.

j. Cultural Observance Events

Educational programs and cultural observances are effective ways to promote the employment and advancement of women, minorities, and people with disabilities.

An educational program focuses on the needs of current employees and provides opportunities to improve skills in such areas as career development, public speaking, or preparing resumes.

Cultural observances are opportunities to recognize the accomplishments of individuals or groups of people and show how their experiences fit into our collective American history.

Cultural events observed by the Coast Guard occur as follows:

1. January—Martin Luther King, Jr. Federal Holiday.
2. February—National African-American (Black) History Month.
3. March—National Women’s History Month.
4. May—National Asian American and Pacific Islander Heritage Month.
5. August 26—Women’s Equality Day.
6. September 15 to October 15—National Hispanic Heritage Month.

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7. October—National Disability Employment Month.
8. November—American Indian/ Alaskan Native Heritage Month.

k. Measures of Success For educational programs and cultural observances to be successful, they must be well organized, well attended, and connected to the overall missions of the Coast Guard. CO/OIC should encourage maximum participation at cultural observances.

l. Funding for Cultural Observances The Financial Resource Management Manual (FRMM), COMDTINST M7100.3 (series), provides information about how appropriated funds may be used to support activities that further the EEO objectives of the cultural awareness program. The purpose of the fund-supported event must attempt to educate our workforce on the history and contributions of a particular culture.

The FRMM contains the most current guidelines about which uses of appropriated funds are authorized for cultural events, specifically:

Food. Small samples of ethnic foods may be provided. Ensure you read the policy for Cultural Awareness Programs under the Food heading.

Speaker Fees. Speaker fees or honoraria may be authorized.

Entertainment. Use great caution when considering this. As stated by the GAO, you must ensure the planned performance advances EEO objectives.

CO/OIC will ensure that projected events amplify the contributions made to the Coast Guard and to society by the featured ethnic or racial group.

3. Partnership in Education Program

a. Purpose and Legal Authority This section describes the policy for carrying out the National Partnership in Education program for the Coast Guard in accordance with Presidential Proclamation 5112 and the National and Community Service Act of 1990, 42 USC. § 12591.

Presidential Proclamation 5112 established the National Partnership in Education program. After its establishment, the President later requested that each Executive Department set up partnerships with local schools. The Proclamation suggested that elements of agency programs include employees volunteering in tutoring programs, sponsoring field trips and tours, providing classroom speakers, and participating in classroom

seminars.

The National and Community Service Act of 1990, 42 USC. § 12591, directs the head of each federal agency to design and carry out a comprehensive strategy to involve employees in partnership programs with elementary and secondary schools.

The Coast Guard Partnership in Education (PIE) program increases Coast Guard potential to recruit in the diverse work force that will enter the labor market in this century. The PIE Program promotes excellence in education by helping local school systems and community groups, especially in communities with large minority populations, by providing elementary through high school students with opportunities to achieve academic excellence in many fields of study—particularly English, history, science, mathematics, engineering, technology, and marine science—and by advancing student awareness of Coast Guard missions and people.

b. Background

The Coast Guard is committed to providing PIE programs that enhance educational opportunities and career awareness for the nation's youth through direct participation in educational programs. All members of the Coast Guard family—active duty, reservists, civilians, and retirees—are encouraged to actively participate in their communities. All Coast Guard commands should establish local partnership programs.

Minorities and women are underrepresented in the Coast Guard. The Coast Guard is dedicated to achieving diversity in its work force. Achieving diversity, however, will become increasingly difficult as the competition for qualified women and minority applicants continues to intensify in the 21st century. In response to this the Coast Guard is committed to continuing to reach out to women and to minority communities.

All Coast Guard units are encouraged to enter into cooperative programs with schools. Volunteers can work directly with students to heighten their awareness of traditional Coast Guard values—a drug free lifestyle, emphasis on scholarship, personal initiatives and responsibility, and individual self-worth. Individuals have the opportunity to inform students of the many rewarding careers offered by the Coast Guard, which will enhance the Coast Guard's viability as a possible career opportunity for the students upon graduation from high school.

Many Coast Guard members, throughout the country, participate in Partnership in Education programs within their communities. They help youth of all ethnic and racial backgrounds and genders. The following are some examples of PIE programs:

1. The USCGC SYCAMORE partnered with Prince William Sound Science Center and Cordova High School to plan an annual research

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and teaching cruise. Students are exposed to college level oceanography concepts and data collection techniques.

2. Pacific Strike Team developed the Child Advocacy Reading and Enrichment (CARE) Project to enhance students' personal values and commitment to education. They teamed with Air Station San Francisco and local police and fire departments members to make an even greater impact on students and the choices they make.
3. CEU Miami was recognized for its contribution to student academic performance. A school administrator reported that students' academic abilities have improved because of assistance from Coast Guard members on school days and participation in the Saturday Academy.

Partnerships can go beyond unit activities. Reservists, civilians and retirees may want to be involved in building relationships with local schools, preferably those with large minority or diverse enrollment. Program options may include sponsoring school field trips to units, sending representatives to school on career days, recognizing the achievements of students, joint participation in other school and unit events, and much more.

- c. Responsibilities** All Coast Guard unit commanders, commanding officers, officers-in-charge, deputy/assistant commandants, and chiefs of headquarters staff elements shall comply as follows.

The Civil Rights Directorate's designee is the Senior Coast Guard Official defined under the National and Community Service Act of 1990. The Director promulgates policy and guidelines for Coast Guard Partnership in Education program. Civil Rights Directorate (CRD) provides information and guidelines to Coordinators, and administers a service wide program for annual Coast Guard partnership awards.

Local Recruiting Commands may assist Partnership in Education Program Coordinators to identifying schools for participation.

Unit commanders, CO/OIC develop, set up, and support PIE programs; appoint a Partnership Program Coordinator and forward the name, address and phone number of the Program Coordinator to Civil Rights Directorate; nominate participants for the annual Partnership In Education Awards—individual participation should be recognized through the Medals and Awards Program, or current instructions for civilian honorary awards; and report all program initiatives to CRD, via the event form.

All commands encourage participation by all active, reserve, auxiliary and civilian personnel and provide a reasonable amount of time for volunteer

personnel to participate in program activities.

Partnership in Education Program Coordinators shall guide and help develop, implement, and coordinate partnership programs.

d. Guidelines

The guidelines are divided into four broad categories based on school needs. Local programs may address any or all of those needs.

Advocacy/Advisory Programs. These programs are developed to increase the involvement, for example, of police, firemen, community leaders, and business people, in terms of goal setting and the role of their particular agency or unit. These leaders provide advice on special academic projects, for example, the Saturday Academy, science fairs, hobbies and computer literacy workshops; special programs, such as school beautification or fitness programs; curriculum committees, for example, oceanography, marine science, engineering, mathematics, information systems management and technology; or help in fund raising activities, for example, bake sales.

Instructional Support Programs. Individuals or groups may participate in subject-specific tutorial services or classroom presentations; provide interpretive services; share subject matter expertise in the classroom; provide guest instructors; participate in a speakers' bureau; help motivate students through career awareness or shadowing experiences; provide role models to encourage and promote interest in the sciences, mathematics and engineering; present contests and awards; establish mentoring programs; provide role interaction as professional partners; work with the school staff to develop new programs or learning materials, which reflect actual application of classroom subjects.

Resources, including appropriated funding, may be used to support PIE activities.

Enrichment Programs. Partners work with specific groups of students to improve individual skill and leisure activities; set up courses for students and staff at the workplace; set up and encourage extracurricular clubs, for example, math, computers, electronics, marine science, boating safety; conduct tours of a Coast Guard unit, district, or workplace; sponsor field trips to unit, region, or cultural events; provide display space for student creations and performances.

Extended Service Programs. Partners provide internships or job placement for summer, part time, or year long; discuss career opportunities; provide shadowing experiences; assist in employment/training opportunities and seminars; sponsor tours to provide world of work exposures; recognize outstanding students and staff; initiate a scholarship fund; directly contribute for specific projects; provide technical aid, instruction or

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services, for example, electronics, marine biology, technology.

The standards of conduct applicable to Coast Guard members and employees prohibit the solicitation, or acceptance, directly or indirectly, of any gift or other thing of monetary value, from a person who: (1) has, or is seeking to obtain, contractual or other business or financial relationships with the Coast Guard; (2) conducts operations or activities that are regulated by the Coast Guard; or (3) has interests which may be substantially affected by the performance or nonperformance of that employee's official duties. Coast Guard members and employees are also prohibited from using their name, Government title, or position, directly or indirectly, in the solicitation of funds for a third party, including nonprofit educational institutions. Assistance in fundraising should be undertaken only after checking with the appropriate legal officer.

4. Awards Programs

Introduction

Each year the Coast Guard, along with the other military services, participates in national awards ceremonies to recognize military and civilian employees of the services who have made significant contributions in Civil Rights and Equal Opportunity, minority communities, and in Partnership in Education programs.

In January of each year, Commandant (CG-00H) will release an ALCOAST listing the award programs that the Coast Guard would participate in for that year and approximate times for each event. Individual ALCOASTs soliciting nomination packages for each event will be released when details become available that will include selection criteria, period of performance, the deadline to submit nomination packages, and date and location of the event.

Commandant (CG-00H) will also fund travel and per diem for awards winners to attend the award events.

a. Types of Awards

The awards presented fall into two categories:

1. Individual awards
2. Unit awards

b. Nominations

Any Coast Guard member, military (active duty or reserve) or civilian may submit nominations for award to Commandant (CG-00H) through the chain of command, in accordance with award package submission guidelines that are described in the annual solicitation ALCOAST. These guidelines

require a Flag Officer or a member of the Senior Executive Service to endorse all nomination packages prior to submission.

Commandant (CG-00H) appoints an awards board to review the nomination packages, and recommend the award winners. Commandant (CG-00H) will validate, and notify award recipients. Commandant (CG-00H) will also publish award winners via ALCOAST.

5. Civil Rights Command Checklist

- a. Purpose** In addition to the EEOC and DHS, the Civil Rights Directorate is responsible for oversight of Coast Guard' civil rights functions, ensuring that civil rights requirements are met enterprise-wide. The Civil Rights Directorate must be able to pass compliance information, new and/or changed regulations, and requirements to and from Coast Guard entities in an organized and reliable manner that assures accuracy, consistency, and helps the Coast Guard achieve sustained compliance.

Use of a compliance checklist can help ensure that program execution, including training, performance proficiencies, and protection of Personally Identifiable Information (PII) comports with the law and is consistent throughout the Coast Guard.
- b. Legal Mandate** In accordance with EEOC MD 715, agencies are required to “conduct a self-assessment on at least an annual basis to monitor progress and identify areas where barrier may operate to exclude certain groups.”
- c. Procedures** CO/OIC are responsible for the EEO/EO compliance of their commands. By October 31 of each year, CO/OIC will certify through their Civil Rights Service Provider (CRSP) their knowledge of and compliance with the applicable authority, which are found in the Command Checklist found in Appendix B.

For each item of non-compliance, CO/OIC must submit a statement describing its plan to achieve compliance and report separately when compliance has been achieved.

CO/OIC are encouraged to engage in ongoing dialogue with their servicing CRSPs in meeting program requirements and completing the annual checklist. For items of non-compliance, the servicing CRSP, and or a member of the Civil Rights Directorate will contact CO/OIC to offer further assistance.

The checklist can be found in Appendix B

6. DEOMI Organizational Climate Survey

- a. Purpose** The Defense Equal Opportunity Management Institute (DEOMI) has developed a DEOMI Organizational Climate Survey (DEOCS), a tool to aid CO/OIC in improving the unit's civil rights climate and organizational effectiveness. These surveys are required annually and administered at the request of the CO/OIC.
- The DEOCS assesses factors surrounding the command civil rights climate, such as sexual harassment, prohibited discrimination, differential command behavior to minorities, positive equal opportunity behaviors, religious discrimination, racist behavior, overall equal opportunity climate, age discrimination, disability discrimination, work group cohesion and effectiveness, leadership cohesion, job satisfaction, trust in the organization, and organizational commitment.
- DEOCS is a Commandant mandated and approved EO/climate survey.** However, a CO/OIC may use a locally developed survey to supplement, but **not** to replace the DEOCS. Should a CO/OIC choose to use a supplemental survey, the CO/OIC should consult the servicing Command Staff Advisor (CSA) prior to administering the survey to ensure that it is consistent with applicable collective bargaining agreements.
- b. Requesting a Survey from DEOMI** CO/OIC may request a DEOCS from DEOMI on-line at: (<http://www.deomi.org>), or may contact the servicing CRSP for assistance.
- c. Survey Administration** The DEOCS may be administered electronically. If a paper based survey is requested, DEOMI will provide answer sheets for the survey population. The requesting unit is responsible for reproducing sufficient copies of the survey for administration to all assigned personnel. Once the responses are collected, the unit returns the paper answer sheets to DEOMI for analysis.
- d. Feedback from the Survey** The CO/OIC will receive the results of the electronic DEOCS via e-mail 72 hours after the on-line survey closes. Results of the paper-based survey will be returned to the CO/OIC via e-mail 72 hours after the paper answer sheets are received at DEOMI.
- DEOCS results appear in an assessment report which contains a statistical analysis of the results and a narrative interpretation of the responses.

e. Contacting DEOMI For any comments or questions pertaining to requesting or administering the DEOCS, contact DEOMI at:

Directorate of Research
 Defense Equal Opportunity Management Institute (DEOMI)
 366 Tuskegee Airmen Drive
 Patrick Air Force Base, FL 32925
 (321) 494-2675/1590
[\(<http://www.deomi.org>\)](http://www.deomi.org), or (support@deocs.net)

f. DEOCS Assistance For assistance interpreting the DEOCS report contact the servicing CRSP.

g. Safeguards The DEOCS report shall be labeled “For Official Use Only” (FOUO) and must be handled accordingly. When not in use, the report shall be stored in a locked cabinet or secure area per DHS Management Directive (MD) 11042.1.

The DEOCS report is for CO/OIC use only. DEOCS reports shall be destroyed as part of the relief process.

7. Equal Opportunity (EO) Review/Assessment

a. Purpose The Equal Opportunity (EO) Review/Assessment is an integral part of the Coast Guard Civil Rights Directorate and is primarily used as an evaluative management tool for the units that are visited. It also provides a means for monitoring the civil rights climate of the Coast Guard for the development and provision of a method of continuous improvement for Coast Guard civil rights.

b. Legal Mandate In accordance with EEOC MD 715, agencies are required to “conduct a self-assessment on at least an annual basis to monitor progress and identify areas where barrier may operate to exclude certain groups.”

EEOC regulations in 29 C.F.R. § 1614 state that each federal agency shall exercise personal leadership in establishing, maintaining, and carrying out a continuing affirmative employment program designed to promote equal employment opportunity in every aspect of agency personnel policy and practice in the employment, development, advancement, and treatment of employees.

c. Process If after review of the Command Checklist and the DEOCS, the Regional Manager determines that a unit is potentially non-compliant with civil rights mandates, the Regional Civil Rights Manager will inform the organizational

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element with administrative control of the results with recommendations to initiate EO Reviews/Assessment.

Commands may also request that the servicing CRSPs conduct an EO Review/Assessment based on a number of factors such as patterns in complaints, incidents, climate concerns, and so forth. CRD may also recommend an EO review/Assessment based on the foregoing and /or other factors.

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Section B. Civil Rights Awareness Training

Introduction

The Coast Guard must provide a working environment where individual differences are appreciated and individual strengths contribute to the accomplishment of the Service's missions. Toward this end, every member of Coast Guard must understand: (1) the Coast Guard policies that reference human relations, sexual harassment prevention, and diversity and how they translate into behavior that is expected and/or unacceptable; and (2) how to obtain relief if subjected to discrimination or harassment.

Through a variety of sources and methods, the Coast Guard provides training to address these needs. The Civil Rights training incorporates Sexual Harassment Prevention (SHP) training, which is mandatory on a periodic basis for all employees both military and civilian. Other courses are targeted for managers and supervisors or may be necessary for the CRSP.

1. Civil Rights Training for Non-Managers

a. Purpose

Civil Rights training provides military and civilian Coast Guard personnel the knowledge they need to:

1. Understand their roles in developing an awareness of the value diversity brings to the organization.
2. Understand the basic concepts of civil rights and their roles in demonstrating equal opportunity.
3. Understand their roles and responsibilities in the civil rights process.

b. Description and Delivery

This one-day mandatory training course provides Coast Guard personnel with training in military and civilian civil rights and equal opportunity responsibilities. Course material will enable the trainee to understand the concepts of diversity, civil rights, and affirmative employment; identify and apply useful strategies for civil rights problem solving; and explore significant, current civil rights issues and employee centered means to address them. Case studies will be used as a key training tool.

All trainers must be certified, and authorized by the CRD.

The ideal class size is 20 to 30 trainees, not to exceed 40 trainees per instructor. Each class should represent the diversity of the unit. Training should be conducted in an environment that is as free from distractions as

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possible. All attendees shall be excused from other commitments for the duration of the class. All hands events do not serve as effective civil rights training venues.

Commands will coordinate this training through their servicing CRSPs for the respective command. Exceptions can be made when this is not geographically efficient.

c. Requirement to Receive Civil Rights Training

Because issues and service needs in this area constantly evolve, all Coast Guard personnel (military, civilian, and reservist) shall participate in Civil Rights training every three years. This training will be conducted at all accession points, including the Academy, Officer Candidate School, and basic training, starting within 90 days of accession or hiring, and will also be included as a part of the Coast Guard's leadership training programs.

In addition, Civil Rights orientation training must be included in all Coast Guard conducted new employee orientation training. Training should provide information on the discrimination complaint process, contact information, and employees rights and responsibilities in the EEO/EO complaint process.

d. Documentation

Maintaining proper records is essential to facilitating the accomplishment of the training objectives and preventing redundancy or gaps in training.

The CO/OIC shall ensure that the appropriate training course code is properly documented in the Training Management Tool (TMT).

e. Roles and Responsibilities

The roles and responsibilities associated with Civil Rights training are as follows:

Field Civil Rights Service Providers. CRSPs outside of CRD Headquarters located in the detached zones and regions. CRSPs develop triennial plans for delivery of Civil Rights training within their area of responsibility and schedule the training sessions with the CO/OIC. They are responsible for conducting required Civil Rights training sessions each year in order to ensure the commands meet the triennial training requirement, teaching an average of 30 participants in each session, not to exceed 40 participants. CRSPs brief the CO/OIC prior to and after conducting training and may provide out-briefs.

CO/OIC introduces the training, placing emphasis on their personal commitment to equitable treatment to all and a workplace environment free of discrimination and harassment. The CO/OIC also ensures entry of training completion for all attendees in the TMT and that the Command

provides logistical support for training.

CRSP (EOA, EEOS, CR Officer, or CR Manager) is responsible for confirming training and ensuring proper documentation of the training is provided to CO/OIC for entry in the TMT. The CRSP will monitor a 3-year training plan for Civil Rights training delivery within their area of responsibility and report any training shortfalls to the CO/OIC and to the Region as appropriate.

2. Sexual Harassment Prevention (SHP) Training

- a. Purpose** Sexual Harassment Prevention (SHP) training raises awareness among Coast Guard personnel of behaviors that constitute sexual harassment and teaches actions which should be taken to prevent or eliminate sexual harassment.
- b. Sexual Harassment is not the same as Sexual Assault** Sexual Harassment Prevention training pertains to employment and conditions of employment, and should never be confused with sexual assault. Sexual assault involves criminal activity and should be reported to the proper law enforcement authorities and investigating entities.
- c. Delivery** For Afloat units and other units with slow Internet connectivity mandatory SHP training is delivered primarily in person by CRSPs, however, other personnel with the requisite training authorized by the CRD may conduct the training. Scheduling occurs in the same manner as for Civil Rights training, except that SHP training is required annually. For all other units, mandatory SHP training is delivered through a combination of computer based training (Part I: e-SHP) and command facilitated discussion (Part II). The discussion in Part II shall include reinforcing policies, expressing personal commitment, and answering questions.

The *SHP Training Facilitator's Guide* is available on the CG Portal in the General training section under the Learning Tab or by contacting the serving CRSP. The training materials emphasize command commitment to a workplace free of harassment and the process for resolving incidents at the lowest level.
- d. Requirements to Receive SHP Training** All Coast Guard personnel, civilian, military, and reserve members must receive SHP training annually, within 90 days of accession into the Coast Guard.

Coast Guard Auxiliarists receive training as part of the basic qualification process and shall comply with the requirements of the Auxiliary Manual,

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COMDTINST M16790.1 (series).

SHP training is included in Civil Rights training sessions and is not required as a stand-alone session during a year when Civil Rights training is conducted.

- e. Documentation** Maintaining proper records is essential to facilitating the accomplishment of the training objectives and preventing redundancy or gaps in training.

The unit CO/OIC shall ensure proper documentation of training in the TMT. The TMT code for SHP is GMT-010. E-SHP is not complete until the CO/OIC has completed Part II, the command-facilitated discussion portion.

- f. Roles and Responsibilities** Training personnel roles and responsibilities associated with SHP training are as follows:

CO/OIC. CO/OIC will ensure that training is scheduled for unit personnel; and facilitate access to the e-SHP course; and participate in showing support for, and involvement in an all-hands facilitated discussion after all personnel complete the e-SHP training, placing emphasis on their personal commitment to maintain a workplace free of sexual harassment and to promote resolution of issues at the lowest level. CO/OIC will ensure that training is recorded in the TMT.

CRSPs will provide training for Afloat units and other units with internet connectivity insufficient to this task, and coordinate schedules with the CO/OIC. For all other units, CRSPs will provide assistance as requested.

3. Civil Rights Training for Supervisors and Managers

- a. Purpose** Supervisors and managers must be aware of their specific civil rights-related responsibilities, which are unique to their positions in the organization. Civil Rights training for Supervisors and Managers provides information that is critical for effective implementation of their responsibilities with respect to EEO Programs and prevention or handling of EEO complaints and in developing and maintaining an organizational culture that values diversity.

- b. About Civil Rights Training for Supervisors and Managers** Most civilian hiring decisions are made by managers and supervisors. Workforce barriers may be unintentionally caused by the employee-supervisor relationships. Awareness of Civil Rights program requirements and command affirmative program goals is required for all individuals in

positions that impact the civilian workforce.

Additionally, since resolving complaints at the lowest level begins with the immediate supervisor, awareness of complaint processes and ADR is an essential tool for supervisors in preventing complaints by presenting alternatives to achieving timely resolution of the issues when they arise.

The training includes:

1. Basic information pertaining to the Federal Sector Civil Rights Program.
2. Management roles and responsibilities in the EEO/EO discrimination Complaint process.
3. An overview of civil rights programs, including the Disability Employment Program, Reasonable Accommodation procedures, and SEP.
4. Management roles and responsibilities regarding EEO Complaints that include the use of Alternative Dispute Resolution (ADR) as a tool for resolving complaints.

Attending Civil Rights training will enable supervisors and managers to clearly articulate their commitment to a fair, inclusive, non-discriminatory workplace that is free of harassment; state their expectations for employee conduct; and understand their personal accountability for a successful civil rights program.

c. Requirements to Receive Training

Team leaders, supervisors or managers, civilian and military must receive Civil Rights training for Supervisor and Managers. Training can take place within the first six months of becoming a supervisor or manager, although it is recommended that it commence within 45 days of assuming their leadership roles. Training may be coordinated through the servicing regional Civil Rights Manager or designee, or the Director of the Civil Rights Directorate.

d. Recommended Training Courses

Some recommended course/facilities are set forth below. Any of the courses will fulfill the training requirement for team leads, supervisors, and managers.

Civil Rights Training for Managers and Supervisors. This two-day Civil Rights training course is designed for managers and supervisors of civilian employees. It is conducted by the EEOC Training Institute.

Senior Leaders Civil Rights Seminar. The Senior Leaders Civil Rights

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Seminar, a DEOMI course, is targeted toward military and DOD civilian supervisors (E7-E9, 03-06, & GS13-GS15).

Leadership Team Awareness (LTA) Seminar. The LTA Seminar is a DEOMI course designed for senior officers (commanders and key staff/department heads 03-06) and senior enlisted advisors (E7/E9, as well as civilians including legal officers, chaplains, and inspector general personnel in leadership positions).

Senior Executive Leadership Equal Opportunity Seminar (SELEOS). The Coast Guard Senior Executive Leadership Equal Opportunity Seminar (SELEOS) is tailored to assist newly selected Flag, Senior Executive, and the Command Master Chief (Gold Badge) corps to fulfill a Commandant mandate to bring awareness to Civil Rights, EO, EEO, and Diversity issues.

Course dates, locations and specifics are announced annually via direct correspondence from the Civil Rights Directorate to target attendees. Senior Coast Guard leaders who have not attended this seminar are encouraged to attend at their earliest convenience.

Servicing CRSPs are authorized to conduct training for non-flag level/ equivalent Supervisors, Managers, and team-leaders.

4. Civil Rights Service Provider and Special Emphasis Program Manager Training

a. Purpose The purpose of Civil Rights Service Provider (CRSP) and Special Emphasis Program Manager (SEPM) training is to provide CRSPs and SEPMs with the tools and knowledge they need to perform their assigned duties.

b. About Training CRSP and SEPM training is provided in support of the Coast Guard Civil Rights Directorate. Quotas to attend training courses must be requested from CRD via the servicing CRSP and SEPM chain of command.

c. Recommended Training Courses Descriptions of specific courses for Coast Guard CRSPs and SEPMs are as follows:

Equal Opportunity Advisors (EOA) Course. The Equal Opportunity Advisors course, taught at DEOMI, is directed to military members who serve as full-time EOA. The Course is several weeks in duration. Some sessions include other DOD services and some focus on Coast Guard specific training. The curriculum provides EOAs a foundation to understand civil rights, its law, regulations; and to assess the social climate for the organization in which they serve. It prepares them to provide sound

advice and guidance to CO/OIC in order to recognize, prevent, reduce, or eliminate discriminatory practices.

Equal Employment Opportunity (EEO) Counselors Course. The Equal Employment Opportunity Counselors course is taught at U.S. EEOC, DEOMI, and various governmental and private organizations. The EEO Counselors course is targeted to newly assigned CRSPs. The Course develops a base of knowledge and skills that allow its graduates to serve as effective CRSPs. The training introduces the causes and effects of discrimination, EEO programs for federal employees or applicants for employment, and civilian personnel and human resource management. It concentrates on the roles and responsibilities of EEO/EO Counselors, communication and interviewing skills, documenting EEO inquiries, and resolving EEO complaints, including alternative dispute resolution.

Special Emphasis Program Manager Course. The Special Emphais program Manager course is taught at U.S. EEOC, and at various government organizations. This Special Emphasis Program Manager (SEPM) course is targeted for SEP managers. The training concentrates on roles and responsibilities, communication skills, staff coordination, briefing skills, EEO data analyses, and planning and managing effective special emphasis programs. Each District Commander should solicit volunteers, and in conjunction with CRD, appoint a SEP manager at the district level to ensure robust programs and activities take place at subordinate Commands. District Commanders and CRSPs should work jointly in managing and offering guidance to volunteer committees and SEP managers who carry out special emphasis programs.

EEO Refresher Training for Counselors Course. This EEO Refresher training for Counselors is targeted for EEO/EO Counselors. It is conducted by the EEOC Training Institute. Participants are updated on recent developments in federal sector EEO, and given the opportunity to enhance their skills. Trainers use instructive role playing and exercises to assist participants in sharpening their EEO/EO Counselor skills and techniques. Course topics include updates in EEO case law, understanding race and color claims, and understanding retaliation claims.

d. Recommended Sources for Training

Available training sources for CRSP follow:

Defense Equal Opportunity Management Institute (DEOMI). DEOMI provides training for military and civilian civil rights personnel and for managers and supervisors with the desired outcome of fostering positive human relations throughout the Armed Forces and enhancing leadership and mission readiness.

EEOC Training Institute. EEOC offers standardized courses specifically

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for federal EEO professionals.

Graduate School, U.S. Department of Agriculture (USDA). This school offers an array of career related and continuing education courses to include EEO/EO counselor training and ADR for EEO professionals.

CRSPs and Headquarters Staff. Regional Civil Rights Managers, designees, and Headquarters staff conducts periodic civil rights related training.

Other Viable Sources. Other Governmental institutions, as well as a host of contractors through U.S. GSA multi-award contract schedules

Chapter 4. Programs Addressing Prohibited Discrimination

Section A. The Discrimination Complaint Process

Introduction The Discrimination Complaint Process consists of the following stages:

1. The Pre-Complaint process.
2. The Alternative Dispute Resolution process.
3. The Formal Complaint process.

a. Pre-Complaint Process Before a formal complaint may be filed, a complainant must go through the pre-complaint process. This involves the initiation of counseling where an aggrieved individual may obtain information about determining whether his/her issue may be resolved through means other than a formal complaint, including alternative dispute resolution options.

b. Alternative Dispute Resolution At any point in the complaint process, an aggrieved person may opt for Alternative Dispute Resolution (ADR), which is a prompt and informal alternative to the conventional complaint process. The stages of ADR include a request for and offer of ADR, ADR sessions, resolution and coordination of terms, and conclusion of the dispute with or without settlement.

c. Formal Complaint Process This process includes the following:

1. Filing discrimination complaint.
2. Investigation of complaint.
3. Adjudication and other post-investigative processes.

d. Complaint Procedures Chart The following flow chart depicts the stages of the complaint process for both military members and for civilian employees, which are similar to the extent practicable.

United States Coast Guard EEO/EO Complaint Process

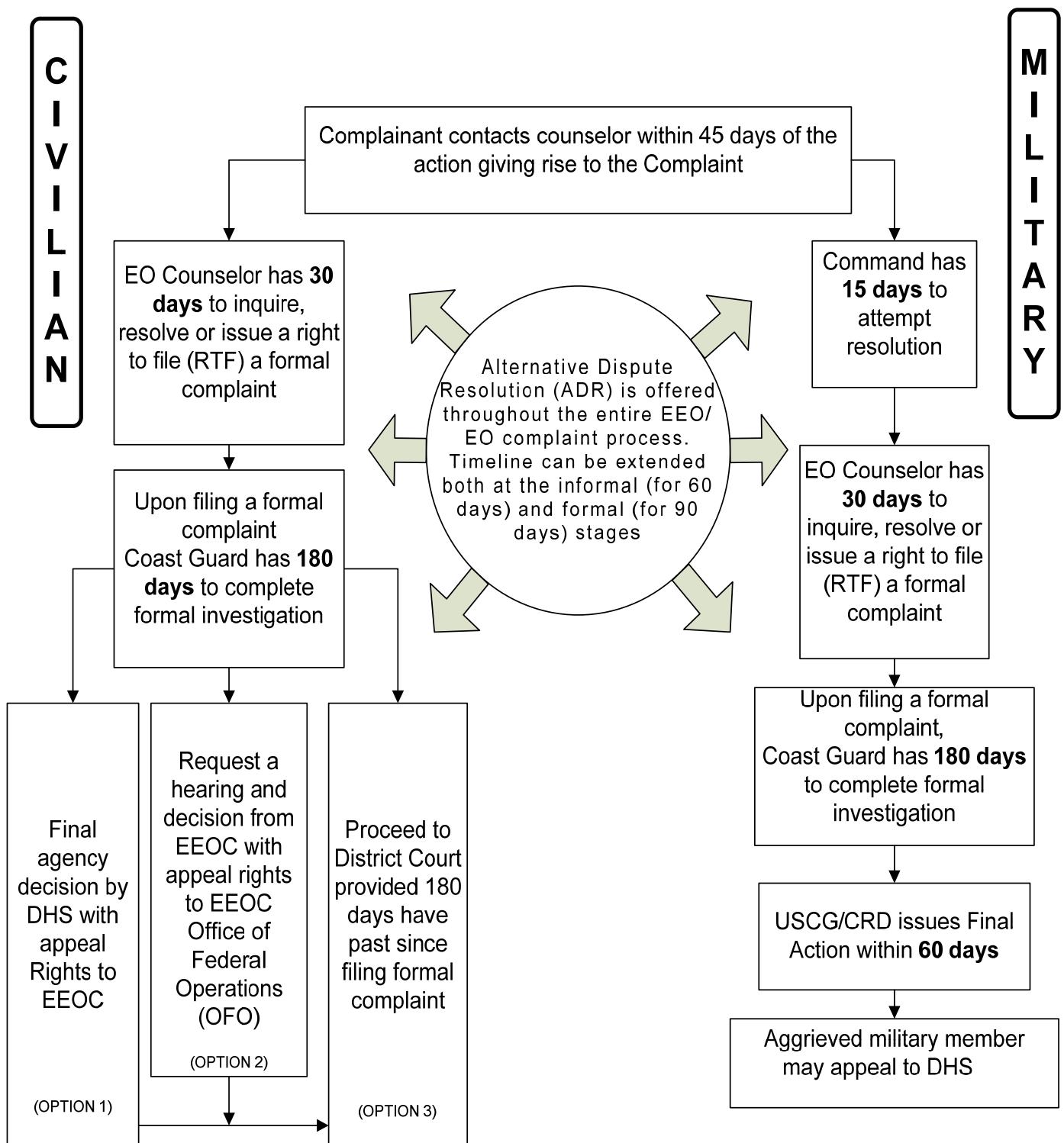


Figure 4. U. S. Coast Guard Complaint Procedures

1. The Pre-Complaint Process

Introduction The Pre-Complaint Process consists of Traditional Counseling or Alternative Dispute Resolution.

The aggrieved person must exhaust the pre-complaint process before filing a formal discrimination complaint. The parties involved may request ADR at any stage of the discrimination complaint process.

All parties must cooperate with the Equal Employment Opportunity/Equal Opportunity (EEO/EO) Counselor during the pre-complaint process. Management should participate in all efforts to resolve complaints.

The discrimination pre-complaint process is meant to provide a forum for addressing discrimination allegations in a context that facilitates resolution at the lowest level. It also serves to frame the claims and corresponding issues and bases of the allegations for more formal fact-finding if it is determined that informal resolution is unsuccessful.

a. The Pre-Complaint Process The pre-complaint process involves the initial contact, counseling and efforts to achieve informal resolution, and the final interview.

Civilian members and applicants for employment should initiate contact with a Civil Rights Service Provider (CRSP) that is Regional Civil Rights Manager, Zone Civil Rights Officer, an EOA, or an EEOS as soon as possible following the event of discrimination, but no later than 45 days of the event.

Military members may initiate contact with a CRSP or the CO/OIC within the 45 days of the event. Upon initiating contact with the CRSP, the CRSP must advise member of 15 day required with the CO/OIC to resolve the matter. CRSP can arrange the meeting with the CO/OIC to attempt resolution of the matter, or the military member can attempt this on his own, prior to initiating the pre-complaint process. This attempt for resolution shall last 15 days. But if the matter is not resolved with the Command within that 15-day period, on the 16th day the military member may initiate the pre-complaint process with an EO Counselor.

b. Confidentiality Aggrieved persons are entitled to protection of their identities and confidential information during the pre-complaint process. An aggrieved person has the right to remain anonymous throughout the pre-complaint process unless the aggrieved person waives that right.

Anonymity for military applicants/members can only be protected up to

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the time the aggrieved military member decides to pursue the matter through the complaint process. This is because all complaints initiated by military applicants/members require 15 days for the CO/OIC to attempt to resolve the matter prior to the member initiating the pre-complaint process.

If the military applicant/member contacts a CRSP seeking information, the applicant/member will be informed of the 15-day resolution attempt requirement with the Command. If at this point, the military applicant/member decides not to pursue the matter, the Command shall not be informed of the contact by the applicant/member. If the military applicant/member wishes to initiate a complaint, the military applicant/member may attempt resolution of the matter by asking the CRSP to arrange a resolution meeting with the Command.

To the extent possible, any information provided to the EEO/EO Counselor during the pre-complaint process is considered confidential. The EEO/EO Counselor may not share any information with others without the consent of a person who provided information during the pre-complaint process except to those with a need to know. Statements made during the pre-complaint process must be released to appropriate authority, such as counsel representing the Coast Guard or United States, when required by applicable law, including, but not limited to, when required as part of the Government's discovery obligations in a criminal or civil court proceeding, such as courts-martial, or pursuant to a subpoena issued by competent authority. Subpoenas are never required when otherwise legally mandated or permissible disclosure of information is within the Coast Guard or to another agency of the federal government.

c. Conflicts of Interest

Complaints of discrimination initiated naming the CRSP as the responsible person, and where that CRSP would be responsible for processing the allegations in question, will be transferred to an impartial alternate CRSP within the same region, in a different region, or at headquarters.

Complaints of discrimination naming the Commandant, Vice Commandant or CRD director or the second line manager responsible for CRD overall complaint processing, will be forwarded to an outside source, either a component agency, or a different governmental agency to be processed. Contact the CRD, Solutions and Complaints Division for guidance if questions arise pertaining to conflicts of interest complaints.

d. EEO/EO Counselor's Report

The EEO/EO Counselor is required to prepare a counseling report of counseling sessions, whether or not a complaint is filed. The report

must be submitted through the counselor's chain of command to CRD Headquarters. If a complaint is not filed, the Regional Civil Rights Manager shall retain the EEO/EO Counselor's Report for four years.

The EEO/EO Counselor must document and preserve all information obtained throughout the pre-complaint counseling process. This information is to remain confidential unless the aggrieved person authorizes disclosure.

The counseling report must be sent to the aggrieved party within 15 days of filing a complaint.

e. Roles and Responsibilities in the Pre-Complaint Process

The participants have clearly defined roles and responsibilities in carrying out their functions relative to the pre-complaint process within their Area of Responsibility (AOR). Unless otherwise noted, these roles and responsibilities apply to the pre-complaint process for both military applicants/members and civilian applicants/employees.

Regional Civil Rights Manager serves as the senior Civil Rights Manager for the AOR at the regional level, and over the zones. The Civil Rights Manager is accountable for effective and timely processing of pre-complaints activity; overall civil rights functions within the AOR; briefing leadership; and promoting, establishing, and maintaining partnerships with civilian and military Management officials.

Zone Civil Rights Officer serves as senior Civil Rights Officer for the AOR at the zone level, and under the regional level; the Civil Rights Officer is accountable for effective and timely processing of pre-complaints; ensuring the quality of submitted counseling reports, ensuring the maintenance of confidentiality throughout the pre-complaint process, the handling of the Counselor's Report, and all contacts within the AOR; promoting and facilitating Alternative Dispute Resolutions (ADR); coordinating ADR meetings and discussions; and briefing Civilian and Military Management officials. The Zone Civil Rights Officer also serves as an EEO/EO counselor.

Equal Opportunity Advisor/Equal Employment Opportunity Specialist serves as the EEO/EO counselor, mediator, trainer and command advisor. The EOA/EEOS facilitates resolution discussions with the aggrieved party and commanding officer for both civilian and military members; provides information to aggrieved persons pertaining to the complaint process, ADR, and forums for matters beyond the scope of the discrimination complaint program; guides aggrieved person through the appropriate steps to attempt resolution at the lowest level; ensures that all informal resolution options have been explored; conducts civil rights training for civilian and military members, and

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advises and briefs the Command on EEO/EO matters or concerns.

EEO/EO Counselor provides information about complaint process, ADR, and forums for matters beyond scope of discrimination complaint program; conducts a limited inquiry into allegations of discrimination, as necessary to pursue informal resolution of the matter; ensures complaints by military members are processed when they are not resolved within the 15-day resolution period with the CO/OIC.

CRSPs will always attempt resolution with the next level CO/OIC, within the aggrieved chain of command, and who is not responsible for the actions giving rise to the complaint.

The EEO/EO Counselor is accountable for effective and timely processing of pre-complaints, providing the aggrieved person with Notice of Right to File a Discrimination Complaint when resolution efforts are unsuccessful; and safeguarding all information collected and prepared during the complaint process.

The EEO/EO Counselor gathers all pertinent documentation during the pre-complaint process including contact information, witnesses' statements, and informal resolution efforts and prepares the EEO/EO Counselor's Report for each case counseled.

The EEO/EO Counselor is responsible for forwarding the EEO/EO Counselor's Report through the chain of command to the Regional Civil Rights Manager for review and final dissemination.

In most cases, the EEO/EO Counselor is the first point of contact for the aggrieved party looking to initiate a pre-complaint.

The Aggrieved Person contacts the servicing CRSP for information, or to initiate a complaint of discrimination within 45 days of the alleged incident giving rise to the complaint. If the servicing CRSP cannot be reached, the aggrieved person should contact the Zone, Regional, or Headquarters Office staff. The aggrieved person and all witnesses, including the alleged responsible management official, must cooperate throughout the complaint process.

f. Resolution and Settlement Options

A manager with settlement authority can enter into ADR discussions and sign a settlement agreement. Civil Rights Service Providers (CRSPs) and EEO/EO Counselors serve as facilitators in the resolution process and do not have the authority to establish settlement terms or sign settlement agreements on behalf of the command or organization unless designated by the command. The parties must establish settlement terms and properly designated representatives of command or management may sign them. Only persons with the authority to reach

agreements may represent parties entering into resolution/settlement discussions.

In all cases, the CO/OIC, or another appropriate management official, must review and approve any proposed settlement agreements. They shall also be notified of the outcome of all discussions between the parties that may result in further proceedings in either the pre-complaint or formal complaint processes, including ADR.

Prior to entering settlement agreements that involve the expenditure of agency funds greater than \$2000, personnel actions, or any other management action that lies outside the scope of management authority, management is required to consult with appropriate agency officials, e.g., Office of General Law, Human Resource Directorate, etc.

All settlement agreements involving EEO/EO will be monitored and enforced by CRD and DHS/CRCL.

g. Remedies

Available to Military Applicants/Members

The remedies available to military members through the discrimination complaint process are limited to make whole relief that would place them where they would have been in the absence of the alleged discrimination. They may not obtain actual or compensatory damages, costs, or attorney's fees and may not be awarded promotions or pay unless improperly withheld. Furthermore, only the Board of Corrections for Military Records (BCMR) may alter records of military personnel. Before being presented to the aggrieved parties, informal resolutions that include awards, assignments, promotions, or pay for military members must be reviewed and approved by the appropriate CO/OIC, and the Coast Guard Personnel Service Center (CGPSC).

Copies of all EO settlement agreements must be forwarded to Commandant (CG-00H-2S) upon finalization.

h. Remedies

Available to Civilian Applicants/Employees

The aggrieved applicant, current, or former civilian employee, may be offered either the position applied for or an equivalent position if it is clear that person would have occupied the position but for the alleged discrimination. The aggrieved person may also be offered the cancellation of an unwarranted personnel action, back pay that may not extend earlier than two years before the complaint was initially filed, benefits, reasonable attorney's fees, and/or damages not exceeding the amount the aggrieved person would be entitled to if discrimination were actually found.

Before being presented to the aggrieved person, informal settlement awards that include back pay, reasonable attorney's fees and costs, or personnel actions for civilian employees should be reviewed by the

CO/OIC, the serving CSA, or the Human Resource Specialist.

Relief that may be offered to resolve allegations of discrimination based on sexual orientation, parental status, or protected genetic information is subject to the following limitations: compensatory damages are not available and a civilian applicant may not receive back pay, interest, or attorney's fees.

Copies of all EEO settlement agreements must be forwarded to Commandant (CG-00H-2S) upon finalization.

2. Formal Discrimination Complaint Process

Introduction

The formal discrimination complaint process includes the following phases:

1. **Filing.** The complainant files formal discrimination complaint.
2. **Acknowledgement.** Regional Civil Rights Manager forwards a letter to the complainant that acknowledges receipt of the complaint, provides the next steps in the complaint process, and provides rights and responsibilities.
3. **Acceptance or Dismissal.** Based on 29 C.F.R. §1614 processing requirements, the Regional Civil Rights Manager will accept or recommend the dismissal of all or a portion of the allegations of a complaint.
4. **Investigation.** An investigator is appointed to prepare a plan, investigate the claims, and report on his or her findings.
5. **Post-investigative Adjudication and Review.** These procedures differ for military and civilian complainants.

Alternative Dispute Resolution (ADR) is available throughout the formal complaint process.

a. Administrative Responsibility of the Civil Rights Directorate

CRD has administrative responsibilities relative to the Formal Complaint Process, which include receiving and acknowledging all formal complaints, accepting claim(s) for investigation and, upon acceptance of any claim in the complaint, issuing an Acceptance Letter.

CRD recommends dismissal without investigation to the DHS CRCL in civilian complaints and issues final decision of dismissal in military complaint when it determines that all allegations in the complaint should be

dismissed.

- b. Administrative Responsibility of DHS CRCL** The DHS CRCL has the responsibility to issue letters dismissing civilian complaints without investigation; to process applications for class certification in class action complaints; to draft, sign, and issue the civilian FAD based on the ROI whenever civilian complainants elect the FAD in lieu of an EEOC hearing; to issue departmental Final Orders, wholly accepting, partially accepting, or rejecting EEOC Administrative Judge (AJ) decisions after hearings; to accept the filing of Appeals; to issue decisions on appeals to military FADs.

- c. Privacy** Complainants and witnesses are entitled to Privacy Act rights during the formal complaint process. Documents provided to investigators must be protected from disclosure to unauthorized persons in accordance with the Privacy Act, 5 U.S.C. § 552a.

When a complaint is filed, witnesses, including responsible management officials, will only be provided information about the complaint to the extent necessary to obtain statements during the investigation and further processing of a complaint. At no point is the Regional Civil Rights Manager authorized to release a ROI to anyone. CRD Headquarters will release a copy of the ROI to the complainant and his/her representative.

The official who engaged in the alleged discriminatory action is considered to be a witness and is entitled to the same rights as any other witness, including the right to have a representative of his or her choosing at any stage of the complaint process.

Once in receipt of the ROI, agency counsel may share with witnesses those portions necessary to defend the case.

- d. Alternative Discrimination Complaint Processing for Civilian Employee** A civilian complainant may opt to pursue his or her complaint through forums other than the discrimination complaint process, such as:

1. Coast Guard Administrative Grievance Procedure contained in COMDTINST 12750 (series). For information pertaining to this grievance procedure, contact a HR specialist.
2. A negotiated grievance procedure (under an existing collective bargaining agreement).
3. DHS CRCL.
4. The Merit Systems Protection Board (MSPB).

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5. Federal District Court.

The decision concerning which alternative procedure to pursue is final and may not be changed. The complainant should contact the servicing Regional Civil Rights Manager or CRD Headquarters with any questions regarding election rights.

e. Amendment / Consolidation of Complaint

At any time during the processing of a complaint, the Regional Civil Rights Manager, or CRD Headquarters may amend and/or consolidate complaints that are like or related.

If the complaint is with the field when an additional claim is made, and no acceptance letter has been issued, the Regional Civil Rights Manager will determine if it is like or related.

After the issuance of an acceptance letter or if the complaint is with CRD Headquarters at the time an additional claim is made, Headquarters will determine if it is like or related.

f. Class Certification

Current or former civilian employees or applicants seeking to represent a class of potential complainants must seek counseling through the pre-complaint process.

Upon the conclusion of counseling, the EEO/EO counselor will prepare an EEO Counselor's Report and provide the potential class representative with Notice of Right to File a Discrimination Complaint. The potential class representative should also be notified that the formal class complaint must be filed with CRD Headquarters.

Class certification is obtained through the stages illustrated below.

Stage 1 Within 30 days after receipt of the class complaint, CRD Headquarters will forward the class complaint to the EEOC for a decision on whether to certify or dismiss. CRD Headquarters will also notify Office of General Law of the complaint and the need for agency representation. CRD Headquarters will also notify DHS CRCL.

Stage 2 CRCL is responsible for taking final action by issuing a final order on all decisions by EEOC regarding whether to certify or dismiss a class action.

Stage 3 If the class is certified, CRD Headquarters will notify the class

members, appropriate representative, and will ensure that the matter is investigated.

Stage 4 If the complaint is resolved by settlement agreement, CRD Headquarters will notify the class members of the terms of resolution and the right to file objections within 30 calendar days. Such settlement agreements must be authorized by DHS CRCL and DHS Office of General Counsel, General Law.

g. Administrative Closure Due to Settlement or Withdrawing a Complaint Upon notification of the existence of a settlement agreement, Commandant (CG-00H-2S) will close a complaint administratively when the complainant's written settlement agreement states as one of its terms that the complaint be withdrawn.

All allegations of non-compliance to the settlement agreement must be referred to DHS CRCL for appropriate action.

The complainant may withdraw a complaint at any time during the complaint process. Complainants must not be coerced into withdrawing a complaint. Withdrawing a complaint is strictly voluntary. Withdrawal must be in writing and must indicate that the action is voluntary and not due to coercion. If the complainant seeks withdrawal of a complaint because the matter has been settled, before the complaint can be closed the CRSP must forward all withdrawal requests and/or executed settlement agreements to Commandant (CG-00H-2S).

3. Filing a Formal Complaint

a. Roles and Responsibilities

Complainant must cooperate throughout the complaint process; if matters are unresolved; complainant exhausts pre-complaint process and obtains Notice of Right to File a Discrimination Complaint. Complainant has the right to file a formal complaint.

Zone Civil Rights Officer serves as senior CRSP for their AOR at the zone level under the region; is accountable for effective and timely processing of pre-complaints; forwarding Counselor's Report to Regional Civil Rights Manager within 5 days of the final interview with the complainant.

Regional Civil Rights Manager serves as senior CRSP for their AOR at the regional level, over the zones; and is accountable for effective and timely processing of formal complaints; acknowledges receipt of complaint; determines whether to accept any issues or recommend dismissal of entire complaint to CRD Headquarters; reviews EEO/EO

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Counselor's Reports for AOR for sufficiency and issues upon the filing of a formal complaint; issues complaint Acceptance Letters and drafts Dismissal Letters for review by CRD Headquarters.

Civil Rights Directorate Headquarters forwards civilian dismissal recommendations to DHS CRCL and acts on CRCL determinations; reviews all full acceptance and partial dismissal letters; reviews amendment requests and issues acceptance or denials of amendment requests for both civilian and military; and issues dismissals, FADs for military members.

DHS CRCL issues letters dismissing complaints without investigation for civilian complaints; issues FADs for civilians and reviews appeals for USCG-issued Military FADs; and processes applications for class certification in class action complaints.

b. Required Elements of a Complaint

The complaint must clearly and concisely state the:

1. Actions, decisions, or terms of conditions of employment alleged to be discriminatory and a basis for each.
2. Dates on which the actions or decisions occurred or that the complainant became aware that they were discriminatory.
3. Supporting facts for the complainant's belief that discrimination occurred.
4. Identity of the Responsible Management Official.
5. Specific remedies requested.
6. The servicing Zone CRSP or EEO/EO Counselor will provide an official form for this purpose.

c. Where and When to File

The complainant must forward the formal complaint within 15 calendar days after receipt of the Notice of Right to File to the servicing Regional Civil Rights Managers office. This information will be supplied during the final interview and in the Notice of Right to File.

Although the law allows for a complaint to be filed with the head of the agency, in order to avoid delays in processing it is highly encouraged that the complaint be filed with the appropriate processing office.

d. Requirement of Acknowledgement Letter

The Acknowledgment Letter must include:

1. The DHS case number assigned to the complaint.
2. The date on which the complaint is considered filed (date on which it was received or date of postmark, if it was mailed).
3. A brief description of the formal complaint process, including time limits.
4. Contact information for Commandant (CG-00H-2).
5. Notice of the complainant's right to request reconsideration (military), to request an EEOC hearing (civilian), or to file an appeal (civilian).
6. Contact information for filing requests for reconsideration or appeals.

Civil Rights Service Providers must issue acknowledgement letters within five (5) calendar days of receipt of a complaint.

e. Acceptance Letter Requirements

An Acceptance Letter must include:

1. The DHS case number assigned to the complaint.
2. A statement identifying each claim or issue accepted for investigation.
3. Notice that the complainant may submit a correction of the issues as stated in the letter within a prescribed period and that the corrected statement will be made a part of the official complaint file.
4. Notice of right of reconsideration (military) or appeal (civilian) when some, but not all, of the claims or issues alleged in the complaint are dismissed, i.e., a partial dismissal.

Civil Rights Service Providers must issue acceptance or partial dismissal letters to complainants and proposed dismissal letters must be forwarded to CRD Headquarters within 25 days of receipt of complaint.

f. Dismissal Letter Requirements

DHS CRCL can only dismiss all claims of a civilian complaint. The Coast Guard can dismiss all claims of a military complaint, but only partial claims of civilian complaints.

DHS CRCL can dismiss a claim in a complaint if:

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1. It is not timely (the complainant did not contact the chain of command, Civil Rights Service Provider, or EEO/EO Counselor within 45 calendar days of alleged discrimination).
2. It fails to state a claim on which relief can be granted.
3. It is part of a pattern of misuse of the complaint process for purposes other than those for which it was designed.
4. It is identical to one that is pending before or has been decided by the Coast Guard or the DHS.
5. It has already been decided by a court of competent jurisdiction.
6. It has been raised in a civil action filed at least 180 calendar days after the filing of the complaint, in a negotiated grievance procedure, or in an appeal to the MSPB.
7. It only alleges a proposed personnel action or a step preliminary to such an action.
8. It is moot.
9. It is claiming dissatisfaction with the processing of a complaint.

All proposed dismissals must include:

1. The DHS case number assigned to the complaint.
2. A statement identifying each claim or issue dismissed, indicating that it will not be investigated.
3. Specification of the regulatory or other basis for dismissal.
4. Notice of right of reconsideration (military) or appeal (civilian).

g. Review of Military Complaint Dismissals

The aggrieved in a military complaint may appeal CG's dismissal of a complaint to DHS CRCL.

The request must be made in writing. Military members filing EO complaints do not have standing with the EEOC, and therefore will not be issued appeal rights or right to file with the EEOC.

h. Review of

When all claims for a civilian complaint are dismissed, the complainant

Civilian Complaint Dismissals may appeal the dismissal to the EEOC, Office of Federal Operations (OFO).

If some but not all claims of a complaint have been dismissed, the agency must notify the complainant in writing of its determination, set forth its rationale for that determination, and notify the complainant that the allegations will not be investigated. The agency must place a copy of the notice in the investigative file. The agency should advise the complainant that an Administrative Judge shall review its dismissal determination if s/he requests a hearing on the remainder of the complaint, but the complainant may not appeal the dismissal until the completion of the Final Agency Decision (FAD), or final action stage.

When some but not all claims in a complaint should be dismissed, the complainant must be notified in writing of the determination, the rationale supporting that determination, and informed that the dismissed allegations will not be investigated. A copy of this notification must be placed in the investigative file.

DHS CRCL reviews Coast Guard's rationale for dismissing issues without an investigation and may require an investigation of dismissed claims. The DHS CRCL decision on partial dismissal will become part of the FAD.

The complainant may appeal the dismissal of any issue in the FAD in the same manner as a dismissal without investigation.

The complainant may elect an EEOC hearing, and request EEOC to address the dismissed claims. The AJ may support the dismissal, reject the partial dismissal and therefore permit discovery to develop the record on the dismissed claims, or request a supplemental investigation into the dismissed claims. If AJ rejects the rationale for partial dismissal, the EEOC hearing will be placed on hold until the dismissed claims are investigated and or supplemental information is gathered.

The aggrieved may appeal the dismissal of an EEOC AJ decision to EEOC OFO.

i. Formal Investigation and Post-Investigation Procedures

The stages of the investigation and post-investigation include:

1. Assignment to an investigator.
2. Development and approval of investigative plan.
3. Investigative activities.

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4. Issuance of the ROI.
5. Election of EEOC hearing or FAD (for civilians).
6. Issuance of the FAD.
7. Hearing and issuance of the AJ decision.
8. Issuance of the Final Order.
9. Appellate review.
10. Request for reconsideration.

When any party witness with exclusive knowledge or control of any matter or item of evidence relevant to an issue of material fact fails or refuses without good cause to testify about the matter or produce the evidence, the investigator may recommend an inference that the testimony or evidence would have supported the opposing party's position on the factual issue.

j. Investigation Roles and Responsibilities

The following describes the roles and responsibilities of participants in the investigative phase:

CRD timely assigns the accepted complaint to an investigator; reviews and approves investigative plans; reviews ROI and complaint file for completeness, accuracy, and legal sufficiency; distributes ROI to complainant and his/her representative; notifies civilian complainant of right to elect either a FAD based on ROI or a hearing before EEOC AJ.

Investigator prepares investigative plan; gathers evidence; and prepares ROI. Authorized to administer oaths and require employees to furnish testimony under oath or affirmation without a promise of confidentiality; Does not make or recommend a finding of discrimination.

Regional Civil Rights Manager is accountable for effective and timely processing of pre-complaints and formal complaints; may assist investigator in identifying and contacting sources of requested evidence, but should not be involved in producing such evidence (with the exception of prior protected EEO activity); ensures access for investigator and witness availability as requested

Zone Civil Rights Officer is accountable for effective and timely processing of pre-complaints ; ensures access for investigator and witness availability as requested; may assist investigator in identifying and contacting sources for documents, and other evidence; but should not be involved in producing such evidence (with the exception of prior

protected EEO activity); ensures access for investigator and witness availability as requested.

Complainant and Witnesses are responsible for timely providing requested testimony and evidence to Investigator.

k. Timeline for ROI Transmittal

CRD Director will provide the complainant and his/her representative and the servicing Regional Civil Rights Manager with a sanitized complete copy of the ROI within 180 calendar days after receipt of the formal complaint or the amended formal complaint but no later than 360 calendar days after the filing the original complaint.

This period may be extended by:

1. 90 calendar days with mutual consent of the parties.
2. 30 calendar days if CRD Headquarters is required to sanitize a file that contains classified material.

l. Military Post-Investigation Roles and Responsibilities

The following describes the roles and responsibilities of participants in the post-investigation process for military complaints.

CRD Director or Designee issues ROI copies to the complainant and his/her representative; if ADR is applicable, party members will have 30 days to explore ADR; if no notification of successful resolution is received by 31st day after ROI issuance, CRD Headquarters drafts and issues FAD based on ROI.

Regional Civil Rights Manager is accountable for effective and timely processing of formal complaints. If ADR is applicable, the Regional Civil Rights Manager will coordinate with command for ADR purposes; coordinate resolution efforts with command; notify Civil Rights Directorate Headquarters of final resolution results.

Zone Civil Rights Officer is accountable for effective and timely processing of formal complaints.

CO/OIC makes final good faith attempt at resolution and comply with all regulatory timeframes.

The command's participation in resolution efforts is mandatory.

m. Civilian Post-Investigation Roles and Responsibilities

The following describes the roles and responsibilities of participants in the post-investigation process for civilian complaints.

DHS CRCL reviews AJ decision following hearing in the event

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complainant elected an EEOC hearing; issues Final Order implementing decision; issues Final Order partially implementing decision; issues Final Order rejecting AJ decision; drafts and issues FAD upon receipt of ROI from CRD Headquarters if complainant elected FAD, or failed to elect hearing within prescribed period.

CRD Headquarters forwards ROI to complainant and his/her representative, with notice of 30-day hearing/FAD election period; provides copy of ROI to Office of General Law; forwards copy of ROI to EEOC, if complainant elects hearing; forwards copy of ROI to DHS CRCL for FAD preparation if complainant elects FAD, or 30 days elapse after ROI issuance without election.

Coast Guard Office of General Law represents Coast Guard at EEOC hearings.

Regional Civil Rights Manager is accountable for effective and timely processing of formal complaints; and making good faith attempts at resolution within 30 days after complainant is provided a copy of a ROI, and provided another opportunity to participate in ADR.

Zone Civil Rights Officers is accountable for effective and timely attempts at resolution ;

Complainant elects EEOC hearing or FAD within 30 days after receipt of ROI.

When 180 calendar days following the filing of complaint have elapsed without issuance of a FAD, the complainant may request an EEOC hearing.

n. Reconsideration of FAD for Military Complaints

A military complainant may request that DHS CRCL reconsider the CRD Director or designee's decision following issuance of a FAD. This request must occur in writing within 30 calendar days of receipt of the FAD. Office of General Law will be provided a copy of all Requests for Reconsideration, and shall have 30 days after receipt to file a Brief in Opposition to the request with DHS CRCL.

There is no other appeal opportunity for military members.

o. Appellate Review of FAD for Civilian Complainants

A civilian complainant may appeal the FAD to the EEOC OFO within 30 calendar days of the receipt of the FAD.

Office of General Law represents the Coast Guard in opposition to the complainants' appeals.

p. Contents of Final Order

The DHS CRCL Final Order will include notice of the:

1. Department's intention to implement the AJ's decision fully, partially, or not at all.
2. Complainant's right to file an appeal with the EEOC or a civil action in Federal District Court.
3. Name of the proper defendant in an appeal or civil action, for example, the Secretary of DHS.
4. Applicable time limits for an appeal or civil action.

q. Appellate Review of AJ Decisions and Departmental Final Orders

If the Final Order does not fully implement the AJ's decision, CRD Headquarters will notify Office of General Law, and who will file an appeal of the AJ's decision with the EEOC OFO.

The complainant may appeal any final decision dismissing the complaint to the EEOC OFO within 30 calendar days of receipt of decision.

Office of General Law represents the Coast Guard in appeals to the EEOC and in opposition to complainants' appeal.

r. Distribution of DHS CRCL and EEOC Decisions

Upon receipt of a FAD or Final Order from DHS CRCL, an AJ decision or appellate decision from the EEOC, or a decision on reconsideration from DHS CRCL or the EEOC, CRD Headquarters will forward a copy to Office of General Law.

Office of General Law will forward a copy of the decision to the responsible command via the appropriate legal office and Civil Rights Directorate.

s. Enforcing Compliance with Final Orders and Decisions

DHS Final Orders that are not the subject of appeals to the EEOC or civil actions are binding on the Coast Guard to the same extent as settlement and resolution agreements that were knowingly and voluntarily entered.

4. Alternative Dispute Resolution (ADR)

a. Definition of ADR

An essential aspect of the pre-complaint and the formal discrimination complaint process, is resolving disputes. While mediation is widely used by Coast Guard, it is one of many ADR methods for resolving employment

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issues.

ADR is encouraged during the pre-complaint process, and must be explored before an individual may file a formal complaint. Participation in ADR is also available throughout the complaint process. However, in each particular case, the offer of ADR is subject to servicing CRSP determination of appropriateness.

Whenever the Coast Guard determines that ADR is appropriate in a particular case, managers and supervisors are required to participate and make every reasonable effort to resolve the dispute. ADR may also be used for workplace disagreements that do not involve allegations of discrimination.

All ADR Facilitators must receive at least 24 hours of ADR training prior to conducting an ADR session. CDR will determine training needs and coordinate this effort.

b. Remedies Available Through ADR

ADR discussions and resolution agreements may include any remedy that is available through the pre-complaint or formal discrimination complaint processes, subject to the same limitations that apply to remedies sought through those processes.

Some remedies available to civilian employees through ADR may be unavailable to military members, based on different rules, codes, regulations, and policies for making aggrieved persons whole.

c. Confidentiality Parties are entitled to confidentiality during the ADR process as follows:

1. Nothing said or given to the ADR Facilitator in confidence during separate meetings with individual parties may be voluntarily disclosed or offered into evidence in a future legal proceeding, unless all parties and the ADR Facilitator agree in writing.
2. There will be no written records of the ADR sessions.
3. Facts discovered during ADR will not become a part of the official complaint record.
4. At the conclusion of ADR discussions, the ADR Facilitator will destroy all notes taken.

d. Exceptions to ADR Confidentiality

The ADR Facilitator is required to report any indication of criminal activity

and may be required by subpoena to:

1. Disclose information necessary to prevent a manifest injustice.
2. Help establish a violation of the law.
3. Prevent harm to the public health or safety.

A settlement agreement that is developed as part of the ADR process becomes a record document once signed by the parties.

e. Stages of the ADR Process

The ADR process includes the following stages:

1. ADR request.
2. Command/management representative identification.
3. ADR suitability Determination
4. Preparation for ADR.
5. ADR discussions.
6. Resolution and settlement agreement.
7. Coordination of resolution terms.
8. Conclusion of proceedings.
9. Monitoring compliance.

f. Request and Preparation Phases: Roles and Responsibilities

The following describes the roles and responsibilities of participants in the ADR request and preparation phases.

CRSP ensures assignment of certified ADR Facilitator; and serves as primary point of contact for contract and or assigned ADR Facilitators.

ADR Facilitator secures parties' agreement to undergo ADR.

Regional Civil Rights Manager serves as senior CRSP for their AOR at the regional level over the zones; is accountable for effective and timely resolution of discrimination allegations; the arrangement of ADR discussions and processes; tracks and reports all ADR activity to CRD.

Zone Civil Rights Officer serves as senior CRSP their AOR at the zone level under the region; is accountable for effective and timely resolution of discrimination allegations; advises CO/OIC on ADR policy and process;

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consults with appropriate Coast Guard legal counsel and military or civilian personnel reviewing authority to determine whether aggrieved person's dispute is amenable to ADR; ensures offer of ADR is made in all appropriate cases; tracks and reports all ADR activity to CRD via chain of command.

Command/Management Representative may consult with appropriate legal counsel and civilian personnel specialist for advice on nature and scope of resolution options that may be offered.

Aggrieved Person requests ADR through servicing CRSP, CRD, or CO/OIC.

When ADR is requested and granted, the pre-complaint processing period is automatically extended, not to exceed 90 calendar days.

g. Coast Guard Legal and Personnel Reviewing Authorities

The appropriate Coast Guard legal counsel for advice on legal sufficiency of resolution options and proposed resolution terms is the legal counsel of the unit from which the disputes originated and Office of General Law if the disputes originating at a Command.

The appropriate personnel reviewing authority for advice on consistency of resolution options and proposed resolution terms with Coast Guard personnel policies is the CO/OIC when the dispute concerns a military member/applicant and the Command Staff Advisor or Human Resources Specialist when the dispute concerns a civilian employee.

These reviewing authorities should also be consulted in connection with resolution options and proposed resolution terms arising in the context of informal resolution efforts during pre-complaint processing.

h. ADR Suitability Factors

Although not exhaustive, the following lists of factors may be helpful in determining whether ADR is appropriate for a particular dispute. No single factor is necessarily determinative.

Factors suggesting that ADR is appropriate include:

1. Availability of an identifiable command/management official with authority to grant the relief requested or that would make the aggrieved person whole.
2. The aggrieved person's preference for resolving the dispute rather than punishing the other person.
3. The parties' interest in maintaining a continuing relationship.

4. The likelihood that the parties would benefit from intervention by a trained mediator to keep them focused on issues and resolution options.

Factors suggesting that ADR is inappropriate include:

1. The dispute does not involve any allegation of discrimination in violation of the anti-discrimination statutes enforced by the Equal Employment Opportunity Commission or in violation of the Coast Guard's policy against discrimination in membership or employment.
2. The dispute implicates collectively bargained rights and/or has substantial potential effect on non-parties.
3. The only conceivable resolution options would set significant legal or policy precedents.
4. The Aggrieved Person has similar/related EEO/EO claims pending.
5. The dispute involves allegations of waste, fraud, or abuse.
6. The dispute involves alleged criminal activity or violations of the Uniform Code of Military Justice.
7. The Aggrieved Person requires a finding of fault or culpability to be made.
8. The relief requested by the Aggrieved Person or other resolution options being considered are inconsistent with applicable laws, regulations, and Coast Guard policy.
9. None of the relief requested by the Aggrieved Person or other resolution options being considered is administratively practicable to grant.
10. The Command/Management Represent is unwilling to participate in ADR.

The decision on the appropriateness of the case for ADR shall not be the basis for any EEO/EO complaint.

i. Discussion and Agreement Responsibilities

The following describes the roles and responsibilities of participants in the discussion and agreement phases of the ADR process.

ADR Facilitator meets with parties (jointly or separately) to facilitate

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discussion; if parties agree in principle on resolution terms, reduces terms to written agreement; ensures appropriate review of terms before agreement becomes final.

Regional Civil Rights Manager is accountable for the overall ADR process, effective and timely resolution of discrimination allegations.

j. Essential Elements of Settlement Agreements

The typewritten settlement agreement must specify:

1. The name of the aggrieved person.
2. The matter being resolved identified by: issue, basis, case number and the date pre-complaint counseling was initiated if the matter is at the pre-complaint stage; or docket number if the matter is a formal complaint that is pending a hearing with EEOC or District Court.
3. A statement that the aggrieved person and the Coast Guard voluntarily enter into the agreement.
4. The effective date of agreement, including whether effectiveness is contingent upon expiration of a specific period for review of resolution terms by appropriate legal counsel and personnel reviewing authorities.
5. What will happen if subsequent review determines that the terms of the agreement are inconsistent with: applicable laws and regulations; collective bargaining agreements; Coast Guard policy; or cannot be completed within the agreed timeframe.

The procedures for addressing alleged noncompliance with resolution terms.

k. Legal and Personnel Review of Resolution Terms

Prior to entering settlement agreements that involve the expenditure of agency funds greater than two thousand dollars (\$2,000.00), personnel actions, or any other management action that lies beyond the scope of management's authority, management must consult with the Office of General Law. If the matter involves a personnel action, management should consult with Human Resource Directorate as well.

Prior to planned ADR meetings: The CRSP and/or ADR Facilitator should:

1. Arrange for the appropriate reviewing authorities to be on call to render timely review (in person, by telephone, or by e-mail).
2. Ensure that required standard terms and conditions are provided to

include in any proposed settlement agreement.

I. Post-ADR Roles and Responsibilities

The following describes the roles and responsibilities of participants in the post-ADR phase of the ADR process.

CRD Headquarters monitors and maintains records of all ADR activity; coordinates with contract mediator on contractual matters.

ADR Facilitator reconvenes ADR to reformulate or renegotiate terms, or terminates ADR process if resolution terms cannot be implemented as written.

Regional Civil Rights Manager serves as senior Civil Rights Officer for their AOR at the regional level over the zones; is accountable for effective and timely resolution of discrimination allegations; transmits results of all ADR efforts to CRD.

Zone Civil Rights Officer serves as senior Civil Rights Officer for their AOR at the zone level under the region; is accountable for effective and timely resolution of discrimination allegations; facilitates aggrieved person's return to the complaint process if resolution efforts are unsuccessful.

Aggrieved Person returns to pre-complaint or formal discrimination complaint process for issuance of Notice of Right to File Discrimination Complaint if resolution efforts are unsuccessful.

m. Compliance Monitoring Roles and Responsibilities

The following describes the roles and responsibilities of participants in the compliance-monitoring phase of the ADR process.

DHS CRCL requests inquiry by CRD Headquarters into any alleged noncompliance with resolution agreement; issues compliance determination based on results of inquiry.

CRD Headquarters coordinates inquiry into alleged noncompliance with servicing CRSP.

Regional Civil Rights Manager and Zone Civil Rights Officer are responsible for ensuring the implementation of settlement agreement; requesting status reports on compliance with resolution agreements within AOR; and ensuring that final reports are forwarded to CRD.

Parties to Agreement must immediately notify the CRD if either party believes the opposing party has failed to comply with the settlement agreement.

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Aggrieved Person has the right to notify DHS CRCL in writing if the Coast Guard does not comply with the settlement agreement. The Aggrieved, if civilian, may appeal to EEOC for compliance determination if unsatisfied with DHS CRCL determination, or if DHS CRCL does not issue a determination within 30 days.

- n. Remedies for Breach of Settlement Agreement** In any case where, upon review of facts, the servicing CRSP or CRD Headquarters determines that the settlement agreement has not been implemented according to the agreed-upon terms, or that either party has deliberately violated the terms of the agreement, then the parties may choose either specific implementation of resolution terms or reinstatement of the discrimination allegation or complaint. In irreconcilable cases, the final determination of non-compliance with the terms of a settlement agreement resides with DHS CRCL.
- o. ADR Process Flowchart** The flowchart Figure 5 on the following page describes the ADR process. The ADR Process flowchart is a general ADR process and does not replace informal ADR requirements for civilian and military members.

United States Coast Guard Civilian and Military ADR Process

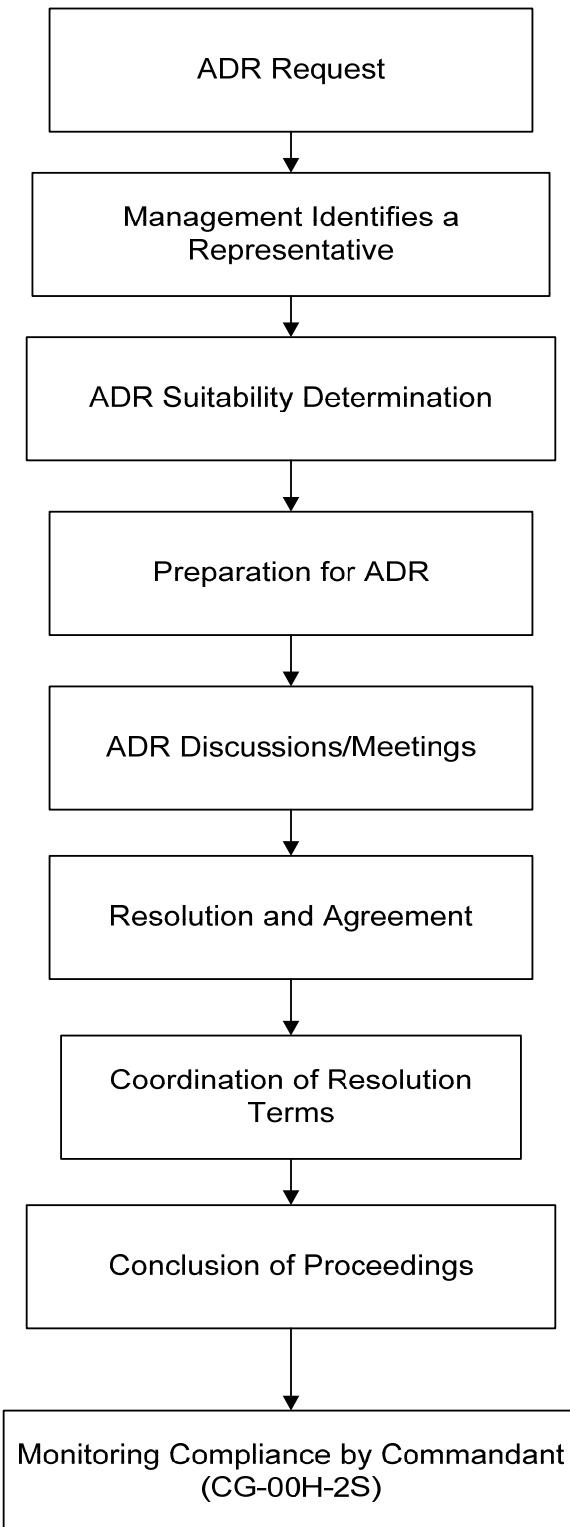


Figure 5. Mediation Process

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Chapter 5. Reasonable Accommodation for Applicants and Employees with Disabilities

This chapter addresses Coast Guard's policies and procedures for meeting the reasonable accommodation needs of qualified disabled employees and applicants for employment.

It addresses the responsibilities of all parties to the reasonable accommodation process and replaces the directives contained in COMDTINST 12713.1 (series).

1. Reasonable Accommodation Policy

Introduction

Reasonable accommodation is a change or adjustment to a work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy the benefits and privileges of employment equal to those enjoyed by employees without disabilities.

Reasonable accommodation may include acquiring or modifying equipment or devices; job restructuring; part-time or modified work schedules; reassignment to a vacant position; adjusting or modifying examinations, training materials, or policies; providing readers and interpreters; making the workplace readily accessible to and usable by people with disabilities.

a. Legal Authority and Application of Policies

The statutory obligation for Coast Guard to provide reasonable accommodations is contained in Executive Order 13164 (July 2000) and 29 C.F.R. § 1630.

Although many people with disabilities can apply for and perform jobs without the provision of any reasonable accommodation, there are workplace barriers that keep others from performing jobs that they could do given some form of accommodation. These barriers may be physical obstacles, such as inaccessible facilities or equipment, or they may be procedures or rules, such as rules concerning when work is performed, when breaks are taken, or how essential or marginal functions are performed. Reasonable accommodation removes workplace barriers for people with disabilities.

b. Reasonable Accommodation Policies

It is the policy of the Coast Guard to provide reasonable accommodation to all civilians with a qualified disability within the defined scope and

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Applicable to Civilian Members limitations of the law, as set forth by Coast Guard policies and regulations.

c. Roles and Responsibilities Commanding Officers/Officers-In-Charge (CO/OIC) or their equivalent at all levels of the service are personally responsible and accountable for ensuring that civil rights laws, regulations, policies, and program standards are proactively applied and rigorously enforced within their commands.

It is incumbent on those in leadership positions to create a workplace built on Coast Guard core values of honor, respect, and devotion to duty and to ensure that the workplace is free of discrimination or harassment on any prohibited basis. Likewise, it is incumbent on every member of team Coast Guard to promptly inform their chain of command or a Civil Rights Service Provider (CRSP) of any civil rights concerns or issues when they arise.

The specific roles and responsibilities of all Coast Guard employees are addressed below.

d. Coast Guard Programs for People With Disabilities An affirmative employment plan for the hiring, placement, and advancement of people with disabilities has been developed and maintained by the Coast Guard, consistent with its obligations under the Rehabilitation Act of 1973, as amended.

In keeping with 5 C.F.R. § 720(c), Coast Guard has developed a plan to promote employment and advancement opportunities for qualified disabled veterans within the Federal Government.

Coast Guard maintains a People With Disabilities Program (PWDP), which is designed to promote the hiring, placement, and advancement of employees with disabilities and to ensure they are employed within a broad range of grade levels and occupations commensurate with their qualifications. Coast Guard, as all federal agencies, is tasked with assuring that its policies do not unnecessarily exclude or limit people with disabilities because of barriers involving job structure, design or architecture, transportation, communication, procedure, or attitude. The PWDP enables the Coast Guard to take a positive and directive role in fully complying with Section 501 of the Rehabilitation Act of 1973, as amended, and the provisions of 29 C.F.R. § 1614.203(b).

Section B. Processing Reasonable Accommodation Requests

1. Reasonable Accommodation

- a. Coast Guard as Model Employer of People With Disabilities** Coast Guard policies and procedures for implementing its reasonable accommodation responsibilities are set forth in this Manual. Regional Civil Rights Managers, commanding officers of headquarters units, assistant commandants for directorates, Judge Advocate General, and special staff elements at Coast Guard headquarters shall insure compliance with the provisions of this Manual.

This policy applies to civilian positions in the competitive and excepted service and any applicants for employment. Executive Order 13164 directs all federal agencies to establish procedures to facilitate the provision of reasonable accommodation to employees and job applicants with disabilities. Pursuant to our obligations under 29 C.F.R § 1630, the Policy establishes Coast Guard-wide procedures for submitting and responding to requests for reasonable accommodation.

The Coast Guard endeavors to be a model employer of qualified people with disabilities. Reasonable accommodation is an integral part of this service's continued effort to take action to prevent discrimination against employees and applicants with disabilities. Discrimination may exist in the areas of architectural structure, technology, procedures, communication, or transportation.

By implementing the Disabilities Procedures outlined in Executive Order 13164, the Coast Guard intends to provide reasonable accommodation (a) when an applicant with a disability needs an accommodation in order to be considered for a job; (b) when an employee needs an accommodation to enable him or her to perform "essential functions" or to gain equal access to the workplace; and (c) when an employee needs an accommodation to enjoy equal benefits and privileges of employment.

2. Specific Administrative Responsibilities

- a. Director, Civil Rights Directorate, Commandant (CG-00H)** The Director, Civil Rights Directorate (CRD) is responsible for implementing the Coast Guard People With Disabilities Program (PWDP). The Director is specifically responsible for ensuring that:
1. A nationwide Coast Guard PWDP is established.
 2. A Headquarters PWDP Manager from within the Civil Rights

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DIRECTORATE IS DESIGNATED TO BE RESPONSIBLE FOR ADMINISTERING THE REASONABLE ACCOMMODATION PROGRAM THROUGHOUT THE COAST GUARD.

3. COAST GUARD PROCEDURES FOR PROCESSING REASONABLE ACCOMMODATION REQUESTS ARE DEVELOPED AND ISSUED.
4. MANAGERS, SUPERVISORS, HUMAN RESOURCES SPECIALISTS, CRSP, AND EMPLOYEES UNDERSTAND APPLICABLE LAWS, REGULATIONS, POLICIES, AND PROCEDURES REGARDING REASONABLE ACCOMMODATION.
5. THE PWDP IS IN COMPLIANCE WITH THE PROVISIONS OF THIS POLICY.
6. APPROPRIATE HUMAN RESOURCES SPECIALISTS AND OFFICE OF GENERAL LAW REPRESENTATIVES ARE CONSULTED REGARDING REASONABLE ACCOMMODATION REQUESTS.

**b. People with Disabilities
Program Manager**

The PWDP Manager is specifically responsible to:

1. ADMINISTER THE REASONABLE ACCOMMODATIONS PROGRAM COAST GUARD-WIDE.
2. SERVE AS DECIDING OFFICIAL ON APPEAL OF DENIAL OF REASONABLE ACCOMMODATION REQUESTS.
3. MAINTAIN RECORDS ON ALL REASONABLE ACCOMMODATION REQUESTS.
4. SUBMIT CONSOLIDATED REPORT ON REASONABLE ACCOMMODATION REQUESTS AND ACTIVITIES REPORT TO THE DEPARTMENT OF HOMELAND SECURITY OFFICE OF CIVIL RIGHTS AND CIVIL LIBERTIES (DHS CRCL).

c. Commandant (CG-1)

The Assistant Commandant for Human Resources, Commandant (CG-1) is specifically responsible to:

1. ENSURE THAT ALL VACANCY ANNOUNCEMENTS INFORM QUALIFIED APPLICANTS WITH DISABILITIES THAT REASONABLE ACCOMMODATION MAY BE REQUESTED.
2. SERVE AS DECISION MAKER ON REASONABLE ACCOMMODATION REQUESTS FROM JOB APPLICANTS AND PROVIDES ADVICE FOR REQUESTS INVOLVING UNDUE HARSHSHIP DETERMINATIONS.
3. PROVIDE ASSISTANCE TO ALL APPLICABLE PARTIES, FOR EXAMPLE, THE SUPERVISOR, EMPLOYEE, PWDP MANAGER, REGARDING REASSIGNMENT OPPORTUNITIES TO VACANT OR PROSPECTIVELY VACANT POSITIONS WITHIN THE COAST GUARD.
4. ENSURE THAT COPIES OF THIS POLICY ARE MADE AVAILABLE TO ALL NEW

employees during orientation and to all supervisory employees.

5. Ensure that reasonable accommodation information and this Manual are made available to new employees and supervisors.

d. Commanding Officer The Commanding Officer/Officer-in-Charge (CO/OIC) is specifically responsible for:

1. Consulting with appropriate agency representatives for assistance on reasonable accommodation issues: Civil Rights Service Providers, Human Resources Specialists, and or Attorney-Advisors.
2. Submitting completed reasonable accommodation request forms and associated records to the servicing Civil Rights Service Provider (CRSP) within 10 business days subsequent to the resolution of a reasonable accommodation request.

e. Civil Rights Service Provider (CRSP) The CRSPs will submit quarterly reports on reasonable accommodation requests or denials to the PDWP manager; but, upon request, when an appeal is filed on a denial of a reasonable accommodation request.

f. First Level Supervisor The First Level Supervisor is specifically responsible to:

1. Acknowledge and respond within five (5) business days in writing, using Form CG-6080 (Confirmation of Request for Reasonable Accommodation), to both oral and written requests for accommodation.
2. Seek guidance as appropriate from the servicing CRSP. Supervisors may also seek guidance from, Human Resource Specialists or Command Staff Advisors, Commanding Officers, and Attorney-Advisors.
3. Determining the necessity of obtaining medical documentation and determining its sufficiency for the processing of reasonable accommodation requests.
4. Determine with appropriate guidance if the requester is a qualified individual with a disability and that the request is a reasonable accommodation request.
5. Communicate with the requester regarding the type of accommodation needed and whether or not it would enable the requester to effectively perform the essential functions of the

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position.

6. Provide written decisions on accommodation requests within fifteen (15) business days.
7. Transmit written decision, either the approval or denial of the request, to the employee within fifteen (15) business days, unless extenuating circumstances dictate otherwise.
8. Maintain confidentiality to the extent practicable.

g. Employees With Disabilities

Employees with Disabilities are specifically responsible to:

1. Request an accommodation from their first level supervisor, either orally or in writing, describing, if known, how the accommodation would enable them to perform the essential functions of the position.
2. Provide medical documentation of the disabling condition, upon request.
3. Describe how the requested accommodation, will help them perform essential duties of their job
4. Appeal the Denial of Reasonable Accommodation Request, if applicable, to the national PWDP Manager within ten business days of receipt of the Denial of Reasonable Accommodation Request.

3. Forms Availability

The following forms are available in Appendix C of this Manual, the USCG Electronic Forms database, or by contacting a servicing CRSP:

1. Request for Reasonable Accommodation, CG-6079.
2. Confirmation of Request for Reasonable Accommodation, CG-6080.
3. Denial of Reasonable Accommodation Request, CG-6081.
4. Information and Reporting Form, CG-6082.

Section C. Processing Procedures for Reasonable Accommodation Requests

1. Requests for Reasonable Accommodation

Introduction	A request for a reasonable accommodation is a statement from an employee or applicant for employment that, as a result of a medical condition, the individual needs an adjustment or change in the application process, in their job, or in a benefit or privilege of employment. The reasonable accommodation process begins as soon as the request for accommodation is made either orally or in writing. Processing of a request must be initiated immediately and is not contingent on the requester's receipt of a written confirmation for record-keeping purposes. A request does not have to use any special words, such as <i>reasonable accommodation</i> , <i>disability</i> , or <i>Rehabilitation Act</i> . People with disabilities may request a reasonable accommodation whenever they choose, even if they have not previously disclosed the existence of a disability. Any Coast Guard employee or applicant may consult with Human Resources Specialist (HRS) for further information or assistance in connection with requesting or processing a request for reasonable accommodation.
a. Who May Request an Accommodation	Employees may request accommodation in writing from their first level supervisor, servicing Human Resources Specialist (HRS) or Command Staff Advisor (CSA). If a request is made orally, it must be followed up in writing by the employee or applicant using the form entitled Request for Reasonable Accommodation, CG-6079, provided in Appendix C. However, an oral request shall be processed immediately and may not be delayed in the absence of a written request. An applicant may request an accommodation orally or in writing from the HRS/CSA who is handling the vacancy recruitment process.
	A family member, health professional, or other representative acting on a requester's behalf may request an accommodation on behalf of a Coast Guard civilian employee or job applicant. To the extent possible the individual with a disability should be contacted to confirm that he/she in fact wants a reasonable accommodation. The individual may refuse to accept an accommodation that is not needed. Please refer to Third Party Request (Chapter 5, Section C, Part 4c) for more information.

2. Written Requests for Record Keeping Purposes

- a. Written Requests** To enable the Coast Guard to keep accurate records regarding requests for accommodation, the person to whom the employee or applicant made the oral request for reasonable accommodation must follow up on the oral request by completing the form entitled Confirmation of Request for Reasonable Accommodation, CG-6080, provided in Appendix C herein, or otherwise confirming the request by email.

A written confirmation is not required when an individual needs a reasonable accommodation on a repeated basis, for example, the assistance of sign language interpreters or readers. The written form is required only for the first request, although appropriate notice must be given each time the accommodation is needed.

3. Determining Who Will Handle the Request

- a. Decision Maker** The person who handles the request for accommodation will be referred to as the decision maker. There are three possible decision makers (a) an employee's first level supervisor, or in his or her absence, the next available person above the supervisor in the chain of command, for employment accommodation; (b) the CO/OIC; or (c) the senior Human Resources manager responsible for servicing the vacancy, for job application accommodation.

In addition, the servicing CRSP will be available as needed to provide guidance and assistance to employees and decision makers.

All decision makers must designate backup personnel, who would be responsible to continue receiving, processing, and providing reasonable accommodation requests when the decision maker is unavailable. Decision makers must ensure that persons with disabilities are informed about who has been designated as their backup. In the absence of the first level supervisor, accommodation requests will be directed to the next available person above the supervisor in the chain of command. The time frames discussed below shall not be suspended or extended because of the unavailability of a decision maker.

4. The Interactive Process

- a. Initial Discussion** The next step is for the parties to begin the interactive process to determine what, if any, accommodation should be provided. This means that the individual requesting the accommodation and the decision maker must talk

to each other about the request, the process for determining whether an accommodation will be provided, and the possible accommodation to be provided.

- b. Communication** Communication is a priority throughout the entire process. This involves the decision maker and the requesting employee or applicant taking a proactive approach in searching out and considering possible accommodations, including consulting appropriate resources for assistance. The employee or applicant requesting the accommodation must participate in the process of identifying an effective accommodation.

As a first step in the process, decision makers will: (1) introduce themselves to the applicant or employee with a disability as the decision maker for the request process; and (2) describe the details of the accommodation request process. This initial discussion should happen as soon as possible.

- c. Third Party Request** When a third party makes a request for accommodation, the decision maker should, if possible, confirm with the applicant or employee with a disability that a reasonable accommodation has been requested before proceeding. It may not be possible to confirm the request if the employee has, for example, been hospitalized in an acute condition. In this situation, the decision maker will process the third party request and will consult directly with the individual needing the accommodation as soon as it is practicable. The individual may refuse to accept an accommodation that is not needed.

- d. Importance of Communication in Unclear Situations** Ongoing communication is particularly important, especially in the event that the specific limitation, problem, or barrier is unclear; an effective accommodation is not obvious; or the parties are considering different solutions for providing reasonable accommodation.

In those cases where the disability, the need for accommodation, and the type of accommodation that should be provided are clear, extensive discussions are not necessary. Even so, the decision maker and requesting individual should maintain communication to ensure that there is a full and complete exchange of relevant information.

- e. Confidentiality** The decision maker or any other Coast Guard official who receives information in connection with a request for reasonable accommodation may share information connected with that request with other agency officials only when the agency officials need to know the information in order to make determinations about the reasonable accommodation request. (See Chapter 6, Section C, Part 6 for specific rules governing the

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confidentiality of medical information.)

f. Request for Reassignment

There are specific considerations in the interactive process when responding to a request for reassignment:

1. Reassignment should only be considered if no reasonable accommodation is available to enable the individual with a disability to perform the essential function of his or her current position to or if the only effective accommodation would cause undue hardship. Reassignment must be considered as an accommodation prior to being removed.
2. Reasonable efforts should be made in considering whether there are vacant positions available for reassignment; the decision maker should work with the appropriate servicing Human Resources Specialist or Command Staff Advisor and the employee requesting the accommodation to identify placement opportunities. Placement opportunities include:
 - a. Coast Guard civilian positions for which the employee qualifies, which officials have reason to believe will become vacant over the following 60 calendar days and that are equivalent in terms of pay, grade, promotion potential, status, benefits, and geographic location to the employee's current position.
 - b. Lower level Coast Guard civilian positions within the local commuting area for which the employee qualifies, which officials have reason to believe will become vacant over the following 60 calendar days, if no equivalent positions are available that are within the same commuting area as the employee's current position.
 - c. Coast Guard civilian positions, either equivalent or lower level, for which the employee qualifies, outside the employee's current commuting area. As with other reassignments not required by management, the Coast Guard will not pay for relocation costs incurred by the employee.

In the case of multiple vacancies, while nothing prevents the Coast Guard from offering several reassignment opportunities, the Coast Guard is only obligated to offer one reassignment opportunity as a form of accommodation. An employee must be qualified for the vacant position, with or without reasonable accommodation. Reassignment as a form of reasonable accommodation can only be offered to Coast Guard civilian

employees and is not available as an accommodation for job applicants.

5. Requests for Medical Documentation

- a. Right to Know when Disability not Obvious** The decision maker is entitled to know that an employee or applicant has a covered disability that requires a reasonable accommodation. In some cases, the disability and the need for accommodation will be obvious, or already known, to the decision maker. In these cases, the decision maker will not seek any further medical information. However, when a disability and/or need for reasonable accommodation is not obvious, or otherwise already known to the decision maker, the individual may be required to provide reasonable medical documentation explaining the existence of the disability and the individual's functional limitations.
- b. Determination of Necessity Documentation** The decision maker will evaluate the request and make a determination as to whether medical documentation is necessary. If it is necessary, the decision maker will:
1. Request information sufficient to substantiate that the individual has a covered disability and needs the reasonable accommodation requested but will not ask for unrelated documentation.
 2. Seek documentation about the disability and/or functional limitations from the individual and/or ask the individual to obtain such information from an appropriate professional such as a doctor. In order to get the most helpful information, all requests for documentation should describe the nature of the job, the essential functions the individual is expected to perform, and any other relevant information. The decision maker may consult with all necessary servicing HR/CSA, legal, and job accommodation resource offices in determining its necessity and appropriateness.
- c. Information Must Be Sufficient** If the information either provided by the employee's health professional or volunteered by the individual requesting the accommodation is insufficient to enable the decision maker to determine whether an accommodation is appropriate, further information may be requested.
- First, however, the decision maker will explain to the individual seeking accommodation, in specific terms, why the information which has been provided is insufficient, what additional information is needed, and why it is necessary for a determination on the reasonable accommodation request.
- The individual may then ask their health care professional or other

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appropriate knowledgeable professional to provide the missing information.

- d. Release for Consultation with Doctor** Alternatively, the decision maker and the individual requesting the accommodation may agree that the individual will sign a limited release so that the PWDP Manager may thereafter submit a list of specific questions to the individual's health care professional or may otherwise contact the individual's doctor.
- e. Determination of Sufficiency of Documentation** If after a reasonable period of time there is still not sufficient information to demonstrate that the individual has a disability and needs a reasonable accommodation, the decision maker reserves the right to obtain a second opinion to verify physician diagnoses and/or opinions.
- f. Determination of Appropriateness of Documentation** The PWDP Manager will let the decision maker know whether the documentation demonstrates that a reasonable accommodation is appropriate and provide, if necessary, any additional information about the individual's functional limitations.
- g. Unsolicited Medical Documentation** In some cases, the individual requesting the accommodation will supply medical documentation directly to the decision maker without being asked. In these cases, the decision maker will consider such documentation and if additional documentation is needed, the decision maker will work with the appropriate officials as set forth in this Section.
- h. Choice of Reviewing Medical Expert** If the decision maker determines that medical documentation submitted must be reviewed by a medical expert, the decision maker, working in conjunction with the CO/OIC, and servicing Human Resource Specialist or Command Staff Advisor, will choose the medical expert. Every effort will be made to choose a Coast Guard physician. If an outside physician is chosen, the cost of the review will be at Coast Guard expense.
- i. Documentation Required** The decision maker must advise the employee or applicant who is requesting a reasonable accommodation that his or her failure to provide appropriate documentation or to cooperate in efforts to obtain such documentation can result in a denial of the request.

6. Confidentiality Requirements Regarding Medical Documentation Obtained in the Reasonable Accommodation Process

- a. Confidentiality** Under the Rehabilitation Act, medical documentation obtained in

of Medical Documentation connection with the reasonable accommodation process must be kept confidential regardless of whether the information was provided voluntarily or in response to a disability related question. This means that all medical documentation, including information about functional limitations and reasonable accommodation needs that the Coast Guard obtains in connection with a request for reasonable accommodation must be kept in files separate from the individual's personnel file. It also means that any Coast Guard employee who obtains or receives such information is strictly bound by these confidentiality requirements.

b. Custody of Records The PWDP Manager will maintain custody of all records obtained or created during the processing of a request for reasonable accommodation, including medical records, and will respond to requests for disclosure of the records. All records will be maintained in accordance with the Privacy Act and the requirements of 29 C.F.R. § 1611.

c. Disclosure of Records This confidential medical information may be disclosed only as follows:

1. The decision maker who requested that the PWDP Manager obtain medical documentation, may be told about necessary restrictions on the work or duties of the employee and about the necessity of providing the accommodation, but medical information should only be disclosed if necessary.
2. First aid and safety personnel may be informed when appropriate, if the disability might require emergency treatment.
3. Government officials may be given information necessary to investigate Coast Guard compliance with the Rehabilitation Act.
4. Human Resource Specialists or Command Staff Advisors may require information in accordance with any pending personnel actions.

Whenever medical information is disclosed, the individual disclosing the information must inform the recipients of the information about the confidentiality requirements that pertain to it.

7. Time Frame for Processing Requests and Providing Reasonable Accommodation

a. Time Frame Depends on Nature of Request The Coast Guard will process requests for reasonable accommodation and provide accommodation, where appropriate, in as short a time frame as is

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reasonably possible. The Coast Guard recognizes, however, that the time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting information.

b. Expedited Processing

In certain circumstances, a request for reasonable accommodation requires an expedited review and decision in a time frame that is shorter than the 15 business days discussed below. This includes where a reasonable accommodation is needed:

1. **To enable an applicant to apply for a job.** Depending on the timetable for receiving applications, conducting interviews, taking tests, and making hiring decisions, there may be a need to expedite a request for accommodation in order to ensure that an applicant with a disability has an equal opportunity to apply for a job. Therefore, the decision maker needs to move as quickly as possible to make a decision and, if appropriate, provide a reasonable accommodation.
2. **To enable an employee to attend a meeting scheduled to occur shortly.** For example, an employee may need a sign language interpreter for a meeting scheduled to take place in five days. The following should be completed:
 - a. If no supporting medical documentation is required and no extenuating circumstances apply, a request for reasonable accommodation shall be processed and the accommodation, if granted, provided in no more than 15 business days from the date the decision maker receives the request, and sooner, if possible. Since decision makers may need the full 15 business days to engage in the interactive process and collect all relevant information about possible accommodation, they should not delay beginning this process. Failure to meet this time frame solely because a decision maker delayed processing the request is not an extenuating circumstance. (See “extenuating circumstances” in this paragraph at (e) below.)
 - b. If the decision maker believes that it is necessary to obtain medical documentation to determine whether the requesting individual has a disability and/or to identify the individual’s functional limitations, he or she will make such request to the CO/OIC as soon as possible after receipt of the request for accommodation but before the expiration of the 15-day period. It is recognized that the need for documentation may not become apparent until after the interactive process has

begun.

- c. If the decision maker requests that the CO/OIC obtain medical documentation, the 15-day period is then delayed. If the CO/OIC determines that medical documentation is not needed, the 15-day time period resumes as soon as the Commanding Officer notifies the decision maker that he or she can continue processing the request.
- d. If the CO/OIC determines that medical documentation is needed, the decision shall be made and the accommodation, if granted, will be provided within 15 business days from the date the decision maker receives the relevant information from the CO/OIC.
- e. Examples of accommodations that can easily be provided within this 15-day time frame include:
 - 1. An employee with diabetes works in an area where employees are prohibited from having food at their desks. She requires food or drink to adjust her blood sugar. An exception to accommodate her may be made immediately.
 - 2. An employee with a learning disability asks that an agenda, which his supervisor distributes at the beginning of each staff meeting, be distributed ahead of time because the disability makes it difficult to read and the employee needs more time to prepare.

- 3. **Extenuating Circumstances.** These are factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation. When extenuating circumstances are present, the time for processing a request for reasonable accommodation and providing the accommodation will be extended as reasonably necessary. The decision maker must notify the individual in writing of the reason for the delay and the approximate date on which a decision, or provision of the reasonable accommodation, is expected. Any further developments or changes should also be communicated promptly to the individual. Extensions based on extenuating circumstances shall be limited to circumstances where they are strictly necessary. All decision makers are expected to act as quickly as reasonably possible in processing requests and providing accommodation. The following are examples of extenuating circumstances:

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- a. There is an outstanding initial or follow-up request for medical documentation or the CO/OIC is evaluating medical documentation that has been provided;
 - b. The purchase of equipment may take longer than 15 business days because of requirements under Federal Acquisition Regulations and/or DHS acquisition policies and procedures;
 - c. Equipment must be back-ordered, the vendor typically used by the Coast Guard for goods or services has unexpectedly gone out of business or the vendor cannot promptly supply the needed goods or services and another vendor is not immediately available;
 - d. The employee with a disability needs to work with the equipment on a trial basis to ensure that it is effective before the Coast Guard purchases it;
 - e. The accommodation requires new staff to be hired or contracted or an accommodation involves the removal of architectural barriers; and
 - f. If there is a delay in providing an accommodation that has been approved, the decision maker must investigate whether temporary measures can be taken to assist the employee until it can be permanently provided.
4. **Accommodation on a Temporary Basis.** The employee must be clearly informed that they are being provided accommodation only on a temporary, interim basis. For example, there may be a delay in receiving adaptive equipment for an employee with a vision disability. During the delay, the decision maker might arrange for other employees to act as readers. This temporary measure may not be as effective as the adaptive equipment, but it will allow the employee to perform as much of the job as possible until the equipment arrives. If a delay is attributable to the need to obtain or evaluate medical documentation and a determination has not been made that the individual is entitled to an accommodation, the Coast Guard may provide an accommodation on a temporary basis. In such a case, the decision maker will notify the individual in writing that the accommodation is being provided on a temporary basis pending a decision on the accommodation request. Decision makers must ensure that such temporary measures do not replace permanent accommodation and that all necessary steps to secure the permanent accommodation are being taken.

8. Granting of a Reasonable Accommodation Request

As soon as the decision maker determines that a reasonable accommodation will be provided, that decision should be communicated to the individual and the CO/OIC, absent extenuating circumstances, within 15 business days of the request. If the accommodation cannot be provided within that time frame, the decision maker must inform the individual and the CO/OIC of the projected time frame for providing the accommodation. This notice must be in writing. The response form can be found in Appendix C.

9. Denial of a Reasonable Accommodation Request

As soon as the decision maker determines that a request for a reasonable accommodation will be denied, he or she must fill out the form Denial of Reasonable Accommodation Request, CG-6081, contained in Appendix C herein, and give it to the individual who requested the accommodation, with a copy to the CO/OIC, absent extenuating circumstances, within 15 business days of the request. The explanation for the denial should be written in plain language clearly stating the specific reasons for the denial. Where the decision maker has denied a specific requested accommodation, but offered to make a different one in its place that was not agreed upon during the interactive process, the denial notice should explain both the reasons for the denial of the requested accommodation and the reasons that the decision maker believes that the chosen accommodation will be effective. Reasons for the denial of a request for a reasonable accommodation may include the following, keeping in mind that the actual notice to the individual must include specific reasons for the denial, for example, why the accommodation would not be effective or why it would result in undue hardship:

1. The requested accommodation would not be effective.
2. Providing the requested accommodation would result in undue hardship. Before reaching this determination, the decision maker must have explored other effective accommodation options that would not impose undue hardship and therefore could be provided. A determination of undue hardship means that the Coast Guard finds a specific accommodation would be prohibitively costly, extensive, substantial, or disruptive or that it would fundamentally alter the nature or operation of business.
3. Medical documentation is inadequate to establish that the individual has a disability and/or needs a reasonable accommodation.

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4. The requested accommodation would require the removal of an essential job function.
5. The requested accommodation would require the lowering of a performance or production standard.

The written notice of denial also informs individuals that they have the right to file an EEO Complaint within 45 days and may have rights to pursue administrative or negotiated grievance procedures. Decision makers must review applicable negotiated agreements and the administrative grievance procedure to determine if grievance procedures apply. The written notice of denial must also explain procedures for informal dispute resolution. Inaction on the part of the decision makers in processing a reasonable accommodation request will be considered a denial of the request.

If individuals wish reconsideration, they should ask the decision maker, in writing, to reconsider the decision within five business days of receiving the written notice of denial. Individuals may present additional information in support of their request. The decision maker shall respond to the request for reconsideration within five business days. Pursuing reconsideration from the decision maker, does not affect the time limits for initiating statutory and collective bargaining claims, does not satisfy the requirements for bringing a claim under EEO, administrative, or negotiated grievance procedures.

10. Dispute Resolution Process

If individuals wish reconsideration, they should first ask the decision maker, in writing, to reconsider the decision within five business days of receiving the written notice of denial. Individuals may present additional information in support of their request. The decision maker shall respond to the request for reconsideration within five business days.

If the decision maker does not reverse the decision, individuals may appeal the decision, in writing, within ten business days of receiving the decision. The appeal shall be decided by the PWDP Manager. A response to the appeal will be issued to individuals within 10 business days of receipt of the appeal. Pursuing dispute resolution procedures, including seeking reconsideration from the decision maker and filing an appeal, does not affect the time limits for initiating statutory and collective bargaining claims. The participation of individuals in any dispute resolution process does not satisfy the requirements for bringing a claim under EEO, administrative, or negotiated grievance procedures.

11. Information Tracking and Reporting

- a. Form Requirements** The decision maker must report all requests for accommodation, approvals, and denials to the servicing CRSP. The decision maker shall complete the form Information and Reporting Form, CG-6082, as provided in Appendix C of this Manual and submit it to the servicing CRSP within ten business days of the decision. The decision maker should attach to the form copies of all information, including medical information, received as part of processing the request. The servicing CRSP will prepare quarterly reports and forward it to the PWDP Manager.
- b. Record Maintenance** The PWDP Manager will maintain these records for the length of the employee's tenure with the Coast Guard or five years, whichever is greater.
- c. Reasonable Accommodation Report** The PWDP Manager will prepare annually a consolidated Coast Guard-wide report, to be submitted to the DHS Office of Civil Rights and Civil Liberties (DHS CRCL) that will be made available to all employees. This report will contain the following information:
1. The number of reasonable accommodation requests, by type, that have been requested during the application process and whether those requests have been granted or denied.
 2. The jobs, including occupational series and grade level codes, for which reasonable accommodations have been requested.
 3. The types of reasonable accommodation that have been requested for each of those jobs.
 4. The number of reasonable accommodation requests, by type, for each job that have been approved.
 5. The number of accommodation requests, by type that have been denied.
 6. The number of requests for reasonable accommodation, by type, that relate to the benefits or privileges of employment and whether those requests have been granted or denied.
 7. The reasons for denial of requests for reasonable accommodation.
 8. The amount of time taken to process each request for reasonable accommodation.
 9. The sources of technical assistance that have been consulted in

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trying to identify possible provisions of reasonable accommodation.

In addition, the report will provide a qualitative assessment of these policies and procedures, and will include recommendations for improvement.

Section D. Reasonable Accommodation Definitions

Decision Maker	The Coast Guard official responsible for accepting, processing, and determining whether to grant or deny requests for reasonable accommodation.
Essential Functions	Those job duties so fundamental to the position that the individual holds or desires that he or she cannot do the job without performing them are considered <i>essential functions</i> . A function can be <i>essential</i> if, among other things (1) the position exists specifically to perform that function, (2) there are a limited number of other employees who could perform the function, or (3) the function is specialized and the individual is hired based upon his or her ability to perform it. Determination of the essential functions of a position must be made on a case-by-case basis so that it reflects the job as actually performed and not simply the components of a generic position description.
Major Life Activity	Basic activities that the average person in the general population can perform with little or no difficulty include caring for oneself, performing manual tasks, walking, seeing, speaking, hearing, breathing, learning, and working, as well as major bodily functions such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain respiratory, circulatory, endocrine, and reproductive function. (Note that this is not an exhaustive list.)
Qualified Individual with a Disability	An individual with a covered disability is qualified if (1) he or she satisfies the requisite skill, experience, education, and other job related requirements of the position, and (2) he or she can perform the essential functions of the position with or without reasonable accommodation.
Reasonable Accommodation	Any change in the work environment or in the way things are customarily done that would enable a qualified individual with a disability to enjoy equal employment opportunities.
Reassignment	A form of reasonable accommodation that, absent undue hardship, is provided to employees, and not to applicants for employment, who because of a disability can no longer perform the essential functions of their job with or without reasonable accommodation. Reassignment is provided only to employees who are qualified for a position that is vacant. If the employee is qualified for the position, he or she will be reassigned to the job and not have to compete for it.

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A reassignment is a reasonable accommodation of last resort and should not be considered until after all accommodation options have been considered and deemed not appropriate.

- Undue Hardship** A specific type of accommodation that, if granted, will cause significant difficulty or expense. A determination of undue hardship is made on a case-by-case basis, considering factors that include the nature and cost of the accommodation and the impact of the accommodation on the operation of the agency. If an undue hardship determination is made on an accommodation request, it does not have to be granted.

Chapter 6. Social Climate Incidents

Section A. Social Climate Incidents

1. About Social Climate Incidents

- a. Definition and Impact** A social climate incident is an action or incident committed by a member or members of a community against Coast Guard military personnel or their dependents that is perceived as hostile, harassing, or discriminatory in nature.

Social climate incidents develop when civilian communities in which Coast Guard members are located passively or actively resist accepting or supporting Coast Guard families within their neighborhoods. These issues may involve violations of an individual's civil rights and/or direct or subtle discrimination.

Social climate incidents have an impact on the emotional, physical, and social well being of Coast Guard members and their families. In addition, such incidents may have a negative impact on morale and job performance and reduce the level of mission accomplishment in a unit.

- b. Coast Guard Expectations** The Coast Guard expects that communities in which Coast Guard units are located or operate and where our members live will treat all Coast Guard members and their families with fairness, dignity, and respect.

- c. Managing Social Climate Incidents** The Coast Guard will not tolerate harassment or discrimination against its members or their families at any time by individuals or communities. When a member perceives such an incident has occurred, and reports it, or the CO/OIC becomes aware, the CO/OIC must take prompt action to investigate and seek resolution of these issues.

- d. Roles and Responsibilities** The information below outlines the roles and responsibilities of personnel involved in responding to social climate incidents. It also contains specific guidance regarding proactive measures that unit commanders may take in order to minimize the potential occurrence of these types of incidents.

Member will inform command as soon as possible after experiencing or hearing that his or her dependent family member has experienced discriminatory or harassing behaviors by members of the community.

In the event of housing discrimination allegations, the Coast Guard member must also notify the local Coast Guard Housing Office and the Regional

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Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development (HUD).

Reference: Information about Coast Guard fair housing policies can be found in the Coast Guard Housing Manual, COMDTINST M11101.13E (series).

Commanding Officer/Officer-in-Charge will inform the chain of command, providing timely, factual information as available. The CO/OIC is responsible for:

1. Establishing ongoing communications with local officials and civic groups in an effort to resolve social climate issues.
2. Identifying, investigating, and taking proactive steps to resolve and prevent social climate incidents.
3. Conducting, and or assigning an Investigating Officer to conduct an immediate informal inquiry of the incident. This inquiry shall be based on the basic precepts of an Administrative Investigation, which is described more fully within COMDTINST 5830.1 (series).
4. Monitoring the social climate in the community.
5. Encouraging members to notify the command of any social climate issue as quickly as possible.
6. Promptly informing his or her chain of command of aspects surrounding the incident.
7. Ensuring that the respective CRSP is informed of the issue and requesting assistance as needed.
8. Contacting his or her servicing legal office for guidance.
9. Taking immediate action to ensure the safety of the Service member and his or her family.
10. Provide command recommendation on transfer action if member requests a “Social Climate Transfer”.
11. Exhausting all alternatives to resolving social climate issues, for example, sanctions, use of community social action agencies and/or the Department of Justice Community Relations Service, and other actions that promote positive community relations.
12. Completing an investigation even if the victim has been relocated

- from the offending community.
13. Ensuring that an investigation is completed, even if a complainant declines to file a discrimination complaint with HUD in cases of housing discrimination, and taking subsequent actions as appropriate.
 14. Establishing ongoing communications with local officials and civic groups to address social climate incidents.
 15. Ensuring that the appropriate authorities, for example, law enforcement agencies, school officials, local government officials, chambers of commerce, are immediately notified when harassing or discriminatory actions are committed by members of the community against Coast Guard members or their families.
 16. Referring member to the servicing Legal Office for assistance in determining his or her options regarding the pursuit of private legal representation/counsel for violation of his or her civil rights.
 17. Determining whether to impose restrictive sanctions, such as placing an establishment off-limits when it is found to be responsible for harassing or illegal behavior towards Coast Guard members and/or their dependents.
 18. Providing reports of social climate incidents via the chain of command to Civil Rights Directorate and Commandant (CG-1).

The transfer of a member is the least desirable alternative but remains an option if the severity of circumstances warrants such action by CGPSC (for further information on transferring personnel, see Personnel Manual, COMDINST M1000.6 (series)).

Investigating Officer interviews the service member and anyone else who has knowledge of the incident, including, if appropriate, reviews the records of law enforcement officials to determine their account of the incident. The Investigating Officer interviews appropriate civic and community organizations to determine any history of similar incidents in the community. In the case of housing discrimination, the Investigating Officer immediately telephones or visits the facility and/or agent concerned to verify facts presented by the complainant. Coordinates efforts with the servicing Legal and Housing Offices to determine to what extent further counsel may be provided to the complainant, and assists the complainant in completing HUD discrimination complaint forms. Investigating Officer conducts an analysis of facts found and provides final report and recommendations to the command regarding the merits of the case.

CRSP provides technical assistance to the CO/OIC in resolving Social

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Climate Incidents and coordinates with the Regional Department of Justice, Community Relations Service (CRS) office as needed. CRSP facilitates opportunities for members to report any housing related incidents to HUD and follows up with the CG Housing Office to obtain case files and documents in order to keep a record of and analyze patterns or practices of community resistance to fair housing, providing the results of such analysis along with its recommendations to the CO/OIC and to Commandant (CG-00H) via the chain of command. CRSP provides direct support and technical assistance to the command, Civil Rights Staff and member as needed and coordinates efforts between the DOJ Regional CRS office, the command, and local community leaders in addressing and working to resolve social climate incidents.

Regional Civil Rights Manager ensures proactive response by CO/OIC when incidents occur providing timely reports on nature and management of incidents to Civil Rights Directorate as they occur. The Regional Civil Rights Manager also provides command perspective and recommendations via the chain of command to Civil Rights Directorate with copy to Commandant (CG-1).

Civil Rights Directorate Headquarters ensures follow up at the unit/community level through the servicing Regional Civil Rights Manager and oversees the process for managing Social Climate Incidents. Commandant provides guidance on development of MOU with Department of Justice, Community Relations Service, and its Regional Offices to facilitate resolution of Social Climate Incidents. Commandant provides guidance and direction to commands as requested and coordinates social climate policy development with Commandant (CG-1). Commandant provides guidance and/or recommendations on appropriate responses to social climate incidents and reviews and analyzes social climate incident and housing discrimination reports and files, and maintains a database of social climate information.

2. Social Climate Incident Review Process

- a. Guidance and Procedures** Guidance and procedures for processing reports of Social Climate Incidents are as follows:

Once a member notifies the command of a discriminatory action towards them or members of their family by the community, the CO/OIC shall appoint an investigating officer to conduct a review of the incident. The CO/OIC must assign an investigating officer within one day of being notified (operations permitting) that an incident has occurred.

Once assigned, the investigating officer will conduct an informal

investigation of the situation and will interview all parties involved in order to gather all facts related to the incident. The investigating officer will have **2 weeks** (operations permitting) to conduct a review of the incident.

After all the facts have been gathered, the investigating officer must analyze the information and present all of the relevant facts relative to the incident in a report which will follow the general structure of a Report of Investigation as described in the Manual below.

***Reference:** Administrative Investigations Manual, COMDTINST M5830.1 (series).*

The investigating officer has **1 week** (operations permitting) to compile a report. The command has **2 weeks** (operations permitting) to make their determination regarding the allegations:

1. If the final determination by the command is that no social climate incident occurred, the command shall communicate this finding to the complainant through a counseling forum. If the complainant disagrees with the command's finding, the command should refer them to the proper organization or entity that can best assist them in addressing their allegation(s).
2. If the command believes a complainant has suffered housing discrimination, the command Housing Officer will refer the complaint to the state or local Fair Housing Agency, or HUD for processing. Coast Guard Housing Officers should establish and maintain working relationships with the various fair housing agencies within their area of responsibility.
3. If the command believes a complainant has suffered non-housing related discrimination, then the CO/OIC has the discretion to impose sanctions. For more information, see the Imposing Sanctions Section (below).

Upon completion of the report, it is recommended that the CO/OIC confer with their servicing Legal Office through their servicing CRO. The CRO will review the report and add any necessary comments as an enclosure to the report. Absent exigent circumstances, the final report shall be submitted through the chain of command to Civil Rights Directorate Headquarters, Commandant (CG-00H) within 45 days of the incident.

b. Imposing Sanctions

In instances where a community or a specific business has been proven to be discriminatory and/or hostile in its actions towards Coast Guard personnel, the Commanding Officer has the option to impose sanctions against the various organizations or businesses involved. This leverage may help the Coast Guard get more cooperation from organizations or

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businesses when addressing Social Climate Incidents. Specific procedures for imposing sanctions are outlined in the Armed Forces Disciplinary Control Boards and Off-Installation Liaison and Operations, COMDTINST 1620.1 (series). Imposing sanctions is highly encouraged once all efforts for resolution have failed, since it may prevent further incidents. Furthermore it displays the Coast Guard's commitment to fair treatment and equal opportunity for all members. The command may choose to coordinate these efforts with other military units in the area. The responsibility for imposition of restrictive sanctions rests with the commander and cannot be delegated.

- c. Repeat Incidents** In some areas of the country, there have been repeat allegations of discrimination and/or hostility aimed at Coast Guard personnel by the community. It is important that Unit Commanders utilize all resources available to address these allegations. Commanders shall formulate strategies for taking proactive action regarding Social Climate Incidents. Working with the DOJ CRS will help the command determine the best approach. These proactive actions will help shape future personnel and social climate policy development.

- d. Social Climate Incident Process Flowcharts** The Figures on the following pages are flowcharts describing the Process. Figure 6 and 7 show the Social Climate Incident Review Process.

Social Climate Incident Process

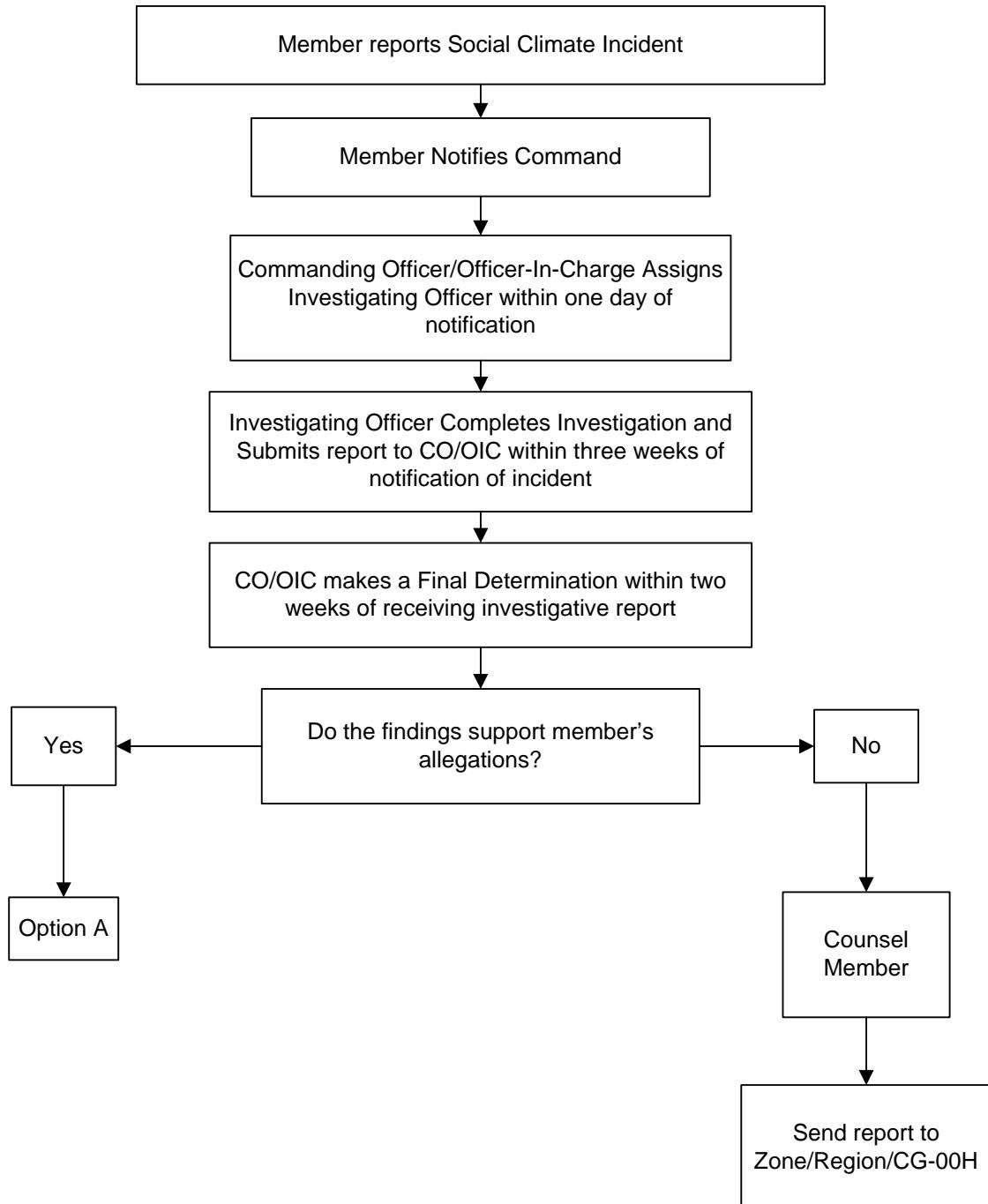


Figure 6. The Social Climate Incident Process

Social Climate Incident Process: Option A

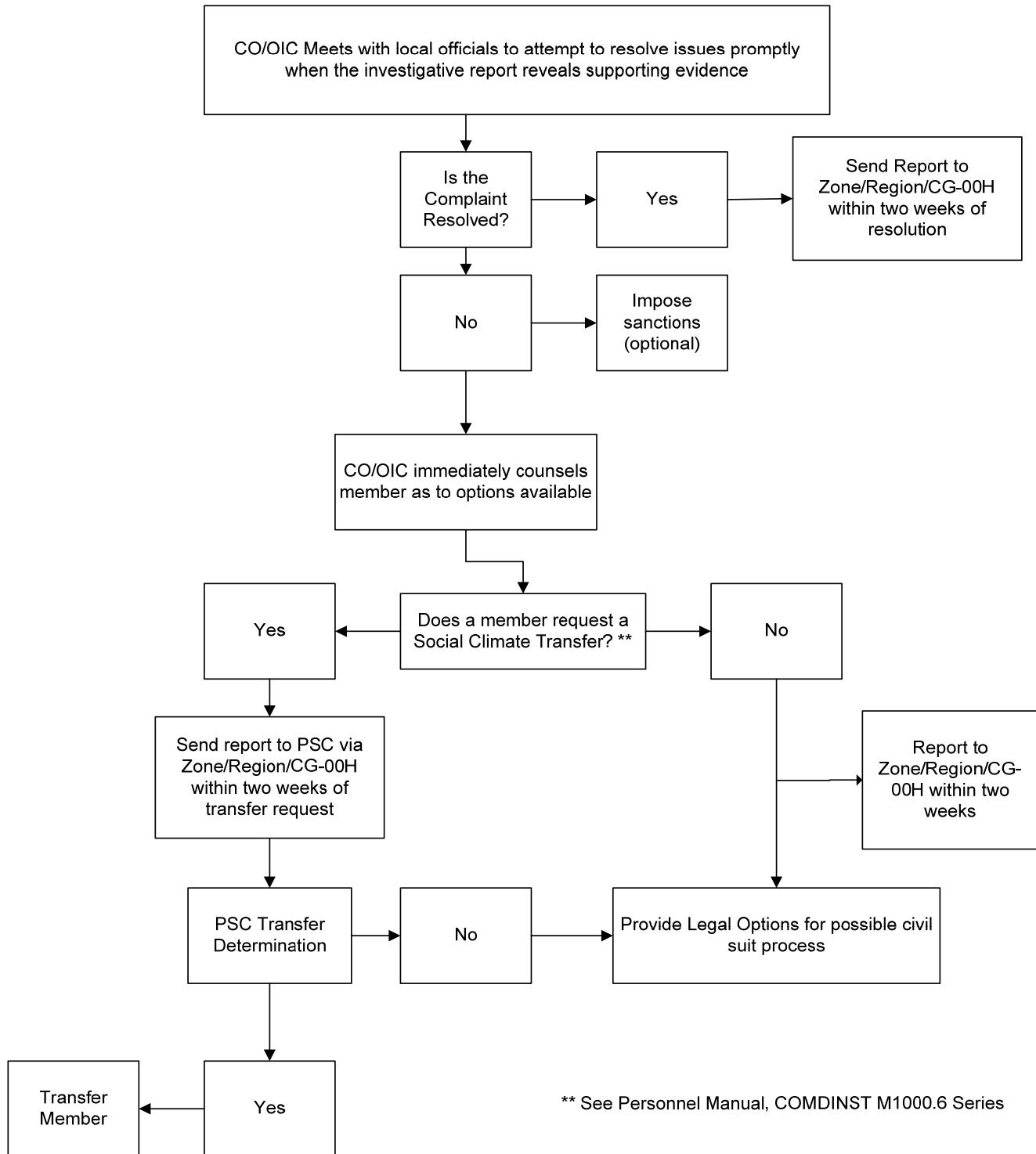


Figure 7. Social Climate Incidents - Option A

3. Community Resources

Coast Guard members can obtain information and assistance in resolving Social Climate Incidents from several additional resources listed below.

a. Department of Justice Community Relations Service The Community Relations Service (CRS) is the DOJ “peacemaker” for community conflicts and tensions arising from differences of race, color, and national origin.

This agency helps the Coast Guard CO/OIC develop mechanisms (such as a MOU) to resolve service members’ complaints of harassment and/or discrimination by members of local communities:

1. Advises Coast Guard CO/OIC on resolution of service members’ complaints of harassment and/or discrimination by members of local communities.
2. Identifies community or civic groups that can assist Coast Guard Commanding Officer/Officer-In-Charge in resolving service members’ complaints of harassment and/or discrimination by members of local communities.
3. Mediates, upon request, disputes between the Coast Guard and community entities regarding service members’ charges of harassment and/or discrimination.
4. Provides Coast Guard CO/OIC with information about relevant race-relations issues within the community for purposes of incorporation into the command’s assessment of the community’s social climate.

The CRS can help restore community order in the face of serious racial violence by effective information and rumor control, engaging community leadership in responding to violence, and coordinating action plans by Federal, State, and local officials. Once stability is restored, CRS provides technical assistance and training to avert new violence and improve law enforcement-community relations by establishing human relations commissions and community advisory groups.

The CRS supports the work of law enforcement by working with and training law enforcement officials in:

1. Breaking down barriers and suspicions residents may hold toward law enforcement officials.
2. Creating and opening lines of communication between law

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enforcement officials and community stakeholders.

Resolving tensions and conflicts between law enforcement officials and the communities they serve, that is, when there are allegations of misconduct and excessive use of force.

The CRS also:

1. Trains law enforcement officials in recognizing a hate crime scene and how to enlist the support of the community early in an investigation.
2. Provides hate crime prevention education programs to schools, colleges, and communities.
3. Works with school districts, colleges, and universities in addressing racial conflicts and violence.
4. Provides conflict resolution and peer mediation training to students, teachers, administrators, and parents.

b. Regional Office of Fair Housing and Equal Opportunity

HUD can provide assistance in processing housing discrimination complaints. HUD enforces Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, which prohibits discrimination in the sale, rental, and financing of dwellings and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (families with children under the age of 18, or who are expecting a child) and disability.

In the sale and rental of housing, it is prohibited to refuse to rent or sell housing, inform individuals that housing is unavailable when in fact it is available, show apartments or homes only in certain neighborhoods, or set different terms or conditions for the sale based on race, color, national origin, religion, sex, familial status, and disability.

The Fair Housing Act also prohibits discrimination in mortgage lending, for example, refusal to provide information regarding loans; imposing different terms or conditions on a loan, such as different interest rates, points, or fees; discriminating in appraising property; refusing to make a mortgage loan.

Complaints can be filed at HUD Regional Offices throughout the country. In addition, HUD refers many housing discrimination complaints to state and local civil rights agencies.

Command Housing Officers should assist members in completing and submitting the forms provided by HUD. It is illegal for anyone to threaten, coerce, intimidate, or interfere with anyone exercising a fair housing right

or assisting others who exercise that right.

c. Legal Counsel Coast Guard legal counsel:

1. Provides the respective CRSP, command, and/or the member a general overview of possible legal options to consider for steps in addressing a Social Climate Incident.
2. Provides information regarding the process to initiate a civil suit, when Civil Rights Laws have been violated.
3. Assists the unit in negotiating a MOU when the CRS is involved.

Coast Guard attorneys will not represent a member in a civil suit as per the Legal Assistance Program Manual, COMDTINST 5801.4 (series).

However, giving legal assistance to members concerning complaints of discrimination is a legal assistance priority. Legal offices may provide advice and assistance of a general nature. If legal recourse is preferred, the member should be assisted in requesting such action through a legal aid organization.

Appendix A: Terminology

The following terms specific to civil rights and equal opportunity appear in this Coast Guard Civil Rights Manual.

Administrative Judge (AJ)	The AJ is the Equal Employment Opportunity Commission (EEOC) official responsible for conducting hearings and rendering decisions on civilian employee complaints when the employee elects a hearing instead of a Final Agency Decision.
Alternative Dispute Resolution (ADR)	A process that provides a neutral third person to assist the Aggrieved Person/Complainant and the Command or Management Representative in resolving an allegation of discrimination.
ADR Facilitator	A neutral third party who assists the Aggrieved Person/Complainant and the Command or Management Representative in resolving an allegation of discrimination by helping to define the issues, encouraging communication, and offering options for early resolution.
Affirmative Programs	Affirmative programs are actions intended to address problems related to past practices that have resulted in unintentional exclusion of women and minority groups. Affirmative programs include re-engineering personnel systems, programs, and processes to increase the participation of women and minority groups in applicant pools from which recruitment, advancement, and other competitive career decisions are made.
Aggrieved Person	A Coast Guard military member, civilian employee, former employee, or applicant for Coast Guard employment or military service who brings issues of alleged discrimination to the attention of the chain of command, servicing equal opportunity advisor, equal opportunity specialist, or servicing EEO/EO counselor to initiate the informal pre-complaint process.
Area of Responsibility (AOR)	AOR is an acronym used to define an area with specific geographic boundaries for which a person or organization bears responsibility. In the U.S. military, an AOR is a predefined geographic region assigned to a unified combatant command. This system is designed to allow a single commander to exercise command and control of all military forces in the AOR, regardless of their branch of service.
Chain of	The next higher level to which the Aggrieved Person reports for supervisory

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Command	control, leading ultimately to the Commanding Officer/Officer-In-Charge (CO/OIC). The operative chain of command is the one located in the unit where the dispute arose, whether or not the Aggrieved Person is still located in that unit.
Civil Rights	Rights belonging to an individual as a matter of law, especially fundamental freedoms and privileges guaranteed by the U.S. Constitution and subsequent acts of Congress, including the rights to equal employment opportunity.
Field Civil Rights Service Providers	All Civil Rights Directorate personnel located at the regional and zones levels. This includes: Regional Civil Rights Managers, Zone Civil Rights Officers, Equal Opportunity Advisors (EOAs), Equal Employment Opportunity Specialist (EEOS), and other regional and zone level CRSP staff members.
Civil Rights Directorate	All personnel in the directorate or the directorate in general
Civil Rights Directorate Headquarters	All Civil Rights personnel who are involved with the designated topic in the Manual who are located at the Headquarters office.
Civil Rights Service Provider (CRSP)	Represents all Civil Rights personnel that are involved in the discrimination complaint process – Civil Rights Directorate Headquarters, Regional CR Managers, Zone CR Officers, EOA/EEOS, and other staff members at the regional and zone levels. .
Civilian Employee	An employee or applicant for employment with the Coast Guard.
Coast Guard Leadership	Within this Manual, the term <i>Coast Guard Leadership</i> refers to senior leadership and management within the organization, military and civilian, which includes the Commandant, area and district commanders, and all flag and senior executive service officials of the Coast Guard.
Command/Management Representative	The person designated by the CO/OIC to participate in ADR sessions on behalf of command or management.
Commanding Officer/Officer in	The CO/OIC of the unit where the dispute arose, whether or not the Aggrieved Person is still located in that unit.

Charge (CO/OIC)

Complainant	A Coast Guard member, former member, employee, former employee, or applicant for Coast Guard employment or military service who files a formal complaint of discrimination based on protected class membership or retaliation.
Department of Homeland Security Office for Civil Rights and Civil Liberties (DHS CRCL)	The Office for Civil Rights and Civil Liberties is delegated the authority to direct and oversee the implementation of the integration of CRCL across the Department. The DHS CRCL will serve as the foundational DHS organization through which all Department-wide CRCL activities will be overseen, defined, and measured. DHS will standardize CRCL policies across DHS to ensure functional excellence. <i>Reference: For more information on this delegation, refer to Department of Homeland Security, Delegation #19002, Issue Date 02/04/2008, Delegation to the Officer for Civil Rights and Civil Liberties to Integrate and Manage Civil Rights, Civil Liberties and Equal Employment Opportunity Programs.</i>
Diversity	As defined in DOT Order 3200.1, diversity is the mix of differences and similarities at all levels of the organization.
Diversity Management	As defined in DOT Order 3200.1, diversity management is creating and maintaining a work environment that provides opportunities for employees to maximize their potential and fully contribute to accomplishing the organization's mission. That work environment does not advantage or disadvantage any member of the work force and it ensures all team members treat each other with dignity and respect.
EOA/EEOS	Equal Opportunity Advisor/Equal Employment Opportunity Specialist. Conducts a variety EEO/EO related of duties including but not limited to EEO/EO Counseling and providing guidance to command on EEO/EO matters; they can be located at the Headquarters or Detachment Levels (Regional or Zone Level).
EEO/EO Counselors	Are personnel located at the Headquarters, Regions, Zones who counsel cases for their servicing area. In some cases (Conflict of Interest), EEO/EO counselor can come in from other Agencies for special cases.
Equal	Consideration and fair treatment is based on merit and capability without

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Opportunity	regard to race, religion, sex, color, and national origin for all members of team Coast Guard, military and civilian. For civilian employees of the Coast Guard, these bases include age (over 40 years), mental or physical disability, marital and parental status, and sexual orientation. Equal opportunity dictates that individuals have the same rights, responsibilities, and privileges as another person of equivalent stature, for example, rank, rate, experience, or ability, to work under similar conditions in such factors as housing, transportation, training, acquisition of gainful experience, or any other practices that might improve the opportunities and work environment of Coast Guard members.
Equal Employment Opportunity (EEO)	EEO is the recruitment, selection, and advancement of civilians into a job or position without regard to race, religion, sex, color, national origin, and for civilians, age (over 40 years), mental and physical disability, sexual orientation, and genetic information.
Final Agency Decision (FAD)	The final disposition of a complaint, drafted on the basis of the report of investigation, consisting of findings of fact, conclusions of law, and a remedial order, if appropriate.
Illegal Discrimination	Illegal discrimination is any action, omission, or use of language that results in the adverse treatment of a person because of race, religion, sex, color, and national origin, and for civilians, age (over 40 years), mental or physical disability, parental or marital status, sexual orientation and genetic information. Sexual harassment as well as actions or omissions of reprisal are also forms of illegal discrimination.
Investigator	The person designated by CRD to investigate a formal complaint of discrimination. The investigator may be a member of the Coast Guard or other federal agency civil rights staff member or a contractor or contractor employee working under the terms of a contract solicited by the Coast Guard for investigative services.
Minority Group	<i>Minority</i> refers only to those groups classified as <i>minority</i> for the purpose of data collection by the Office of Personnel Management and the Equal Employment Opportunity Commission (EEOC). <i>Women</i> refers both to non-minority and minority women. EEOC Directive Number 15 lists the following as <i>minority groups</i>
	<ol style="list-style-type: none">1. American Indian /Alaskan Native.2. Asian American and Pacific Islander.

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3. Black/African American.
4. Hispanic.

Parties	The <i>parties</i> to a complaint are the Aggrieved Person or complainant and the Coast Guard. For purposes of detailed descriptions of the processes covered by this Manual, <i>parties</i> also includes representatives of the parties, including the Command/Management Representative and the Responsible Command or Management Official.
Reasonable Accommodation	Any change in the work environment or in the way things are customarily done that would enable a qualified individual with a disability to enjoy equal employment opportunities.
Regional Civil Rights Manager	Senior Civil Rights Officer for their AOR at the regional level over the zones.
Religious Freedoms	Although the Coast Guard policy is to support the right of every military member to exercise religious freedoms, such right is not absolute in a military environment and, as long as they are based upon military necessity, reasonable restrictions on the exercise of religious freedoms are permitted.
Report of Investigation (ROI)	The complete investigative file, including the investigator's summary of investigation and all the elements required in civilian cases under EEOC Management Directive 110.
Responsible Management Official (RMO)	The RMO is usually the individual named in the complaint as the official who took the action alleged to be discriminatory or has immediate personnel authority over the person so named.
Servicing CRSP	Servicing CRSPs are the CRD' personnel who are responsible for facilitating, managing performing the program's civil rights functions.
Settlement Agreement	A written agreement resulting from the unassisted efforts of the parties to achieve informal resolution of a discrimination dispute or complaint. For most purposes, including requirements of essential terms of agreements and procedures for enforcing compliance with agreements, this term has the same meaning as <i>resolution agreement</i> .
Solutions and	All Civil Rights Directorate personnel located at Headquarters who work

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Complaints Divisions	with the discrimination complaint process. Referred to as Civil Rights Directorate Headquarters during Chapter 4 of the Manual and as Commandant (CG-00H-2S).
Zone Civil Rights officer	Senior Civil Rights Officer for their AOR at the zone level under the region officer
Special Emphasis Program (SEP)	SEPs are intended to promote equity, fairness, and equal opportunity; address the unique and special concerns of Hispanics, women, and persons with disabilities within the workforce; and support CG EEO/EO program planning process and goals.

Appendix B: Command Checklist Form

COMMAND: _____

Equal Employment Opportunity/Equal Opportunity (EEO/EO) Compliance Items	Comply	Non-Comply	N/A
Policy & Posting Requirements			
1) Are the CG's and DHS's current EEO/EO policy statements posted at your Command location?			
2) Is the CG's and DHS's current Anti-Discrimination/Anti-Harassment policy statement posted at your command location?			
3) Is an EEO/EO notice advising personnel of the bases for an EEO/EO complaint; POC and instructions on initiating a complaint prominently displayed at accessible locations within your Command?			
4) Are the command's facilities accessible to individuals with disabilities? (Section 504, Rehabilitation Act, 1973; Equal Employment Opportunity Commission Management Directive 715 (EEOC MD 715))?			
Complaint Process			
5) Are facilities adequate to conduct counseling, training and investigations (secure, private, and conducive for training)?			
6) Does the Command appropriately delegate authority for EEO/EO mediation to those with authority to sign & execute a settlement?			
Management Responsibilities			
7) Does the command perform a DEOMI Organizational Climate Survey in accordance with Coast Guard Policy (within 6 months of taking command and annually thereafter?)			
8) Is there an action plan/team in place to address items of concern identified in the DEOCS survey?			
9) Does Commanding Officer regularly express requirements to meet the Commandant's civil rights mission?			
10) Are key personnel actions (training, promotions, awards, disciplinary actions) reviewed and monitored for fair application? (EEOC MD 715).			
11) Are personnel up to date in Civil Rights Awareness Training requirements?			
12) Are command personnel up to date with annual Sexual Harassment Prevention training?			
13) Are command personnel up to date with biennial Notification and Federal Employee Anti-discrimination and Retaliation (NoFEAR) Act training requirement?			

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Equal Employment Opportunity/Equal Opportunity (EEO/EO) Compliance Items	Comply	Non-Comply	N/A
Does the Command support workforce initiatives, goals and objectives outlined in the 715 annual report?			
14) Do personnel performance elements include meaningful objectives which support the EEO/EO mission?			
15) Does the command allocate sufficient staff and other resources to ensure viable, efficient and successful program operation? (29 C.F.R. § 1614 and EEOC MD 715.)			
16) Does the command forward reasonable accommodations reports to the serving CRSP in accordance with the Reasonable Accommodations reporting requirement in the Civil Rights Manual? (Chapter 5, Section C, Part 11)			
17) Has the command designated Special Emphasis Program Managers? (i.e., Individuals With Disabilities, Federal Women's Program, Asian American and Pacific Islander, African-American, Hispanic, and Native American program managers) (29 C.F.R. § 1614, EEOC MD 110).			
18) Does the command support special observances designed to educate the workforce on cultural appreciation?			
19) Does the command participate in any outreach community programs, including Partnership in Education programs?			
Protecting and Safeguarding Personally Identifiable Information (PII)			
20) Does the command comport to all security requirements for documentation, records and equipment storage involving an EEO/EO matter? (Records must be under lock and key and if electronic, in a secure database.)			
21) Does the command report all EEO/EO privacy record violations and take appropriate action on personnel found to be responsible?			
22) Does the Command ensure that EEO/EO matters are only discussed discretely with personnel who have a need to know? (EEO/EO personnel, management officials named in the matter, and other witnesses.)			
23) Are all requests for formal complaint information pertaining to report of investigations forwarded to the CRD?			
24) Are command personnel up to date with mandated Privacy Awareness & Security Awareness training?			
Records Management			
25) Are records maintained in accordance with The Information and Life Cycle Management Manual, COMDTINST M5212.12 (series)?			

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Command Official Name

Title

Date

Civil Rights Manager

Title

Date

Optional Questions	YES	NO
26) Does the command recognize managers for significant EEO/EO accomplishments?		
27) Does the command nominate personnel for awards or recognition who embody Coast Guard EEO/Diversity goals and initiatives?		
28) Does the command participate in any outreach community programs, including Partnership in Education programs?		

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Appendix C: Reasonable Accommodation Forms

- a. Request for Reasonable Accommodation** An employee may request an accommodation in writing from his/her first level supervisor, Civil Rights Service Provider, Commanding Officer, or servicing Human Resources Specialist/Command Staff Advisor (HRS/CSA). If a request is made orally it must be followed up in writing by the employee/applicant using the “Request for Reasonable Accommodation, CG-6079” form.
- b. Confirmation of Request for Reasonable Accommodation** To enable the Coast Guard to keep accurate records regarding requests for accommodation, the person to whom the employee or applicant made the oral request for reasonable accommodation must follow up on the oral request by completing the “Confirmation of Request for Reasonable Accommodation, CG-6080” form or confirming the request by e-mail.
- c. Denial of Reasonable Accommodation Request** As soon as the decision-maker determines that a request for a reasonable accommodation will be denied, he/she must fill out the “Denial of Reasonable Accommodation Request, CG-6081” form, located at the USCG Forms database in this Appendix, and give it to the individual who requested the accommodation, with a copy to the Commanding Officer, absent extenuating circumstances, within 15 business days of the request.
- d. Information and Reporting Form** The CO/OIC must report all requests, approvals, and denials to the serving CRSP. The CO/OIC shall complete the “Information and Reporting Form, CG-6082,” located the USCG Forms database, and submit it to the servicing CRSP within 10 business days of the decision. CO/OIC may also submit a consolidated quarterly report containing the information requested in the form. The decision-maker should attach to the form copies of all information received as part of processing the request.

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<p>U.S. DEPARTMENT OF HOMELAND SECURITY U.S. COAST GUARD CG-6079 (Rev 03-06)</p> <p>REQUEST FOR REASONABLE ACCOMMODATION</p>	
Applicant/Employee Name	Office Location and Address
Occupational Series and Grade (e.g., GS-301-11)	Office Telephone Number
Briefly describe the medical condition requiring accommodation.	
Briefly describe the specific accommodation being requested. (<i>If additional space is needed, attach a separate sheet.</i>)	
Explain how the requested accommodation would assist you in: (1) performing the essential duties of your position, (2) using the job application process, or (3) taking advantage of a benefit or privilege offered by the office/bureau.	
Requestor:	
Date:	

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<p>U.S. DEPARTMENT OF HOMELAND SECURITY U S COAST GUARD CG-6080 (Rev. 03-06)</p>		<p>CONFIRMATION OF REQUEST FOR REASONABLE ACCOMMODATION</p>	
<p>Employee/Applicant Data</p>		<p>Date of Request</p>	
<p>Name: Telephone: Organization:</p>		<p>Date of Receipt</p>	
<p>ACCOMMODATION REQUESTED <i>(Be as specific as possible, e.g., adaptive equipment, reader, interpreter.)</i></p>			
<p>REASON FOR REQUEST</p>			
<p>Return form to: <i>(Enter Title/Address of Responsible Official)</i></p>			
<p>SUBMITTED BY:</p>			
<p>TELEPHONE:</p>			

U.S. DEPT. OF HOMELAND SECURITY, USCG, CG-6080 (Rev. 03-06)

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<p>U.S. DEPARTMENT OF HOMELAND SECURITY U.S. COAST GUARD CG-8081 (Rev. 03-06)</p>	DENIAL OF REASONABLE ACCOMMODATION REQUEST	
<p>Name of Individual Requesting Accommodation:</p>		
<p>1. Type(s) of Reasonable Accommodation Requested:</p>		
<p>2. Request for Accommodation Denied Because (<i>may check more than one</i>):</p> <p><input type="checkbox"/> Accommodation ineffective <input type="checkbox"/> Accommodation would cause undue hardship <input type="checkbox"/> Medical documentation inadequate <input type="checkbox"/> Accommodation would require removal of an essential function <input type="checkbox"/> Accommodation would require lowering of performance/production standard <input type="checkbox"/> Other (please specify) _____</p>		
<p>3. Detailed reason(s) for the denial of the accommodation (Must be specific, e.g., why accommodation is ineffective or causes undue hardship): </p>		
<p>4. If the requestor proposed one type of reasonable accommodation and the request is denied, and rejected an offer of an alternative accommodation, explain the reason for denial of the original requested accommodation and how the offered alternative accommodation would be effective. </p>		
<p>Name & Title of Decision Maker:</p>		
Signature of Decision Maker:	Date Reasonable Accommodation Denied:	
<p>If an individual wishes to request reconsideration of this decision, s/he may take the following steps:</p> <ul style="list-style-type: none">• ask the decision maker, in writing within five (5) business days of receiving the decision to deny, to reconsider the denial and provide additional supporting information;• if the decision maker does not reverse the decision, the individual may appeal the decision, in writing, to the PWDPM within ten (10) business days of receiving the decision. The appeal shall be decided by the PWDPM. A response to the appeal will be issued to the individual within ten (10) business days		
<p>If an individual wishes to file an EEO complaint, or pursue Merit Systems Protection Board (MSPB) and union grievance procedures if applicable, s/he must take the following steps:</p> <ul style="list-style-type: none">• For an EEO complaint pursuant to 29 C.F.R. § 1614, contact an EEO counselor within 45 days from the date of this notice of denial of reasonable accommodation; or• For a collective bargaining claim, file a written grievance in accordance with the provisions of the Collective Bargaining Agreement, or Administrative grievance procedure as appropriate; or• Initiate an appeal to the Merit Systems Protection Board within 30 days of an appealable adverse action as defined in 5 C F R. § 1201.3; or• Utilize the Alternative Dispute Resolution (ADR) process.		

U.S. DEPT. OF HOMELAND SECURITY, USCG, CG-8081 (Rev. 03-06)

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U.S. DEPARTMENT OF HOMELAND SECURITY U.S. COAST GUARD CG-6082 (Rev. 03-06)	INFORMATION AND REPORTING FORM
Name of Individual Requesting Accommodation:	
Command and Duty Location of the Requesting Individual:	
Name & Title of Decision-Maker:	
1. Reasonable Accommodation (check one): <input type="checkbox"/> Approved <input type="checkbox"/> Denied	
2. Date Accommodation Requested and Date Referred, if applicable:	
3. Name & Position of Individual to Whom Request was Made:	
4. Date Accommodation Approved or Denied:	5. Date Accommodation Provided:
6. If time frames outlined in the Reasonable Accommodation Procedures were not met, please explain why:	
7. Job held or desired by individual requesting accommodation (include occupational series, grade level and office):	
8. Accommodation Required for: <input type="checkbox"/> Application process <input type="checkbox"/> Performing job functions or accessing work environment <input type="checkbox"/> Accessing a benefit or privilege of employment (e.g., attending training, social event)	
9. Type(s) of Accommodation Requested:	
10. Type(s) of Accommodation Provided:	
11. Was medical information required to process this request? If yes, explain why:	
12. Cost, if any, of accommodation:	
13. Sources of technical assistance, if any, consulted (Job Accommodation Network, family member, rehabilitation counselor, other):	

U.S. DEPT. OF HOMELAND SECURITY USCG CG-6082 (Rev. 03-06)