



DEPARTMENT OF THE NAVY
OFFICE OF THE JUDGE ADVOCATE GENERAL
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WASHINGTON NAVY YARD DC 20374-5066

IN REPLY REFER TO

JAGINST 5370

Code 61

DEC 06 2010

JAG INSTRUCTION 5370

From: Judge Advocate General

Subj: NAVY JAG CORPS RECRUITING FRATERNIZATION POLICY

Ref: (a) JAGINST 1150.1B
(b) Manual for Courts-Martial

Encl: (1) Fraternization Policy Acknowledgement

1. Purpose. To establish procedures and guidance related to fraternization in the Navy Judge Advocate General's (JAG) Corps recruiting program.

2. Scope. This instruction applies to recruiting personnel involved in the JAG Corps recruiting process. Reference (a) provides procedures related to recruitment, internships, and selection of applicants for commissioning in the JAG Corps under the Student Program and Direct Appointment Program. This instruction is intended to be a lawful general order and effective without further implementation.

3. Background. The Navy has historically relied upon custom and tradition to define the bounds of acceptable personal relationships among its members. Proper social interaction between officer and enlisted members has always been encouraged as it enhances unit morale and esprit de corps. However, unduly familiar personal relationships between officers and enlisted members have traditionally been contrary to naval custom because they undermine the respect for authority, which is essential to Navy's ability to accomplish its military mission.

4. An unduly familiar relationship between recruiters and prospects, applicants, or individuals professionally recommended (PROREC) by a JAG Corps Accession Board undermines the mission of Navy Recruiting. Navy JAG Corps recruiting personnel must maintain relationships with prospects, applicants, or PRORECs that ensure no actual or perceived favoritism. Fraternization is a gender-neutral concept. The prohibition against fraternization focuses on the detriment to the image of the Navy and the erosion of respect between recruiter and prospect that

DEC 06 2010

results from an unduly familiar relationship, not the gender of the members involved. The potential erosion of respect can have an enormously negative effect on the image of the Navy and seriously undermine the JAG Corps' recruiting effort. Therefore, prohibiting fraternization serves a valid, mission essential purpose.

5. Punitive Effect. Commission of one or more of the prohibited practices by recruiting personnel constitutes a violation of Article 92, Uniform Code of Military Justice (UCMJ) in accordance with reference (b).

6. Definitions. In order to create a recruiting process where fraternization does not exist, the following definitions are provided:

a. Fraternization. Any personal relationship with a prospect that is prejudicial to the JAG Corps' recruiting effort, or of a nature to bring discredit on the naval service. Fraternization exists when:

(1) The relationship calls into question the recruiter's objectivity.

(2) The relationship results in actual or apparent preferential treatment.

(3) The relationship undermines the credibility of a recruiter or compromises the appearance of the Navy.

(4) A personal relationship develops between recruiting personnel and prospects.

(5) A personal relationship develops between recruiting personnel and family members of prospects.

b. Recruiting Personnel. Officers and enlisted personnel assigned or attached to any JAG Corps recruiting event that engages in a recruiting effort.

c. Prospect. Any person who has expressed to recruiting personnel an interest in receiving an appointment in the Navy or Navy Reserve and who appears to possess, or who may in the future possess, the potential and qualifications for appointment in the Navy or Navy Reserve JAG Corps.

DEC 06 2010

d. Applicant. Any person who has submitted an application for consideration by a Navy JAG Corps Accession Board.

e. PROREC. Any person who has been professionally recommended by a Navy JAG Corps Accession Board.

f. Recruiting Event. Any function, gathering, or meeting in a public or private place that recruiting personnel attend in their official capacity.

7. Prohibited Activities. Recruiting personnel shall not:

a. Form, or attempt to form, a dating or private unofficial social relationship with anyone known to be a prospect. Mutual attendance at previously planned, command authorized functions, or similar recruiting events is not prohibited.

b. Allow anyone known to be a prospect to remain in any space used for recruiting purposes except for official business.

c. Allow anyone known to be a prospect to ride in any Government vehicle except for official purposes. Recruiting personnel shall not ride in the privately owned vehicle (POV) of anyone known to be a prospect unless for official business.

d. Engage in consensual or nonconsensual prohibited physical contact with anyone known to be a prospect when the contact is not authorized in the performance of official duties, or required in an emergency to protect against injury, or in self-defense against an unprovoked attack. Prohibited physical contact includes, but is not limited to, caressing, massaging, hugging, kissing, fondling, and holding hands.

e. Harass any prospect. Harassment includes, but is not limited to:

(1) Any language or act which would, measured by an objective standard, constitute cruelty, oppression, or maltreatment under Article 93 of reference (b), if the victim were subject to the orders of the harasser.

(2) Abusive language which, when taking due consideration of the individual sensitivities of the victim, tends to degrade a prospect, whether directed at or used in the presence of such person.

DEC 06 2010

f. Solicit or accept, directly or indirectly, anything of value from anyone known to be a prospect; or use anyone known to be a prospect to provide any benefit, financial or otherwise, for themselves or others.

g. Gamble with any prospect, including playing any game of skill with money or other things of value at stake.

h. Solicit or accept, directly or indirectly, anything of value from any source in return for granting favors, privileges or other preferential treatment to any prospect.

i. Borrow money or any articles of value from, or lend the same to, anyone known to be a prospect; or offer to engage in, or engage in, any unofficial financial or business dealings with anyone known to be a prospect.

j. Photograph or accept any pictures of anyone known to be a prospect other than those required for official purposes.

k. Spend the night with, or allow anyone known to be a prospect to spend the night, in the same home, apartment, or hotel room without prior command approval.

l. Process for appointment any person with whom they developed a social relationship prior to that person becoming a recruit, or prior to learning that person was a prospect. Recruiting personnel will refer such person to another recruiter and disclose the nature of the relationship to the commanding officer/officer in charge via the chain of command.

8. Exceptions

a. Pre-existing relationships: Many of our personnel maintain personal relationships with individuals who may be interested in applying to the JAG Corps. This instruction shall not be construed to in any way discourage or punish personnel for encouraging their friends and colleagues to apply to the JAG Corps. Recruiting personnel shall notify their chain of command if they become aware that individuals with whom they share a pre-existing relationship apply to the JAG Corps, and they shall not participate in the formal recruiting of that individual. Recruiting personnel shall not, however, be punished for maintaining their pre-existing relationships.

b. Summer interns: Many of our summer interns have already applied or are considering applying to the JAG Corps. The

process of encouraging these individuals to pursue a career in the JAG Corps includes ensuring that they have a rewarding and collegial summer internship experience. Nothing in this instruction shall be construed to limit the interaction between JAG officers and summer interns, beyond that which would be expected of co-professionals. Examples of acceptable interaction include, but are not limited to: traveling to and attending meals and events together during the work day; inclusion in social activities outside of the workplace (whether command sponsored or otherwise); inclusion in physical training and team sports. Recruiting personnel are expected to exercise their best judgment when deciding whether interaction with summer interns is appropriate in light of the intent of this instruction.

9. Action

a. The Navy does not tolerate fraternization, especially fraternization involving prospects. Recruiters are the face of the U.S. military, and such misconduct significantly erodes the public's trust and confidence in the Navy.

b. Commanding Officers (COs)/Officers in Charge (OICs) must immediately report all credible allegations of recruiter fraternization with a prospect to the JAG Corps Inspector General (IG) via e-mail. COs/OICs shall properly investigate all credible allegations of recruiter fraternization.

c. Commanding Officers/Officers in Charge are expected to hold recruiters accountable for substantiated fraternization on a case-by-case basis as the COs/OICs deem legally appropriate. Nevertheless, COs/OICs are required to initiate administrative separation processing where substantiated allegations of recruiter fraternization with a prospect involve the following circumstances: intimate physical contact, dating, sexual assault, sexual harassment, and other similar cases of sexual misconduct. Administrative separation processing for all other instances of fraternization shall be at the discretion of the COs/OICs.

d. All recruiting personnel shall:

(1) Immediately report known violations of this instruction to the appropriate level within the chain of command.

(2) Expeditiously address and resolve alleged violations of the prohibited practices of this instruction.

10. Responsibilities. COs/OICs vested with non-judicial punishment authority shall:

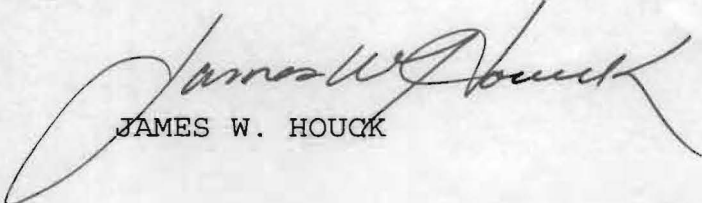
a. Ensure a fraternization policy acknowledgement similar to enclosure (1) is signed by all assigned personnel and filed for future use if necessary.

b. Ensure that appropriate disciplinary or administrative action is expeditiously accomplished in accordance with existing regulations and reference (b).

c. Ensure that the JAG Corps IG is notified of final disposition with disciplinary or administrative action taken.

d. Ensure the entire investigation package is forwarded to the JAG Corps IG upon completion of final action.

11. Point of Contact. The Office of the Judge Advocate General Military Personnel Division (Code 61) is the point of contact for all matters relating to this instruction and may be reached at (202) 685-7715 or DSN 325-7715.



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Distribution:

Electronic only via the OJAG website, www.jag.navy.mil, and Navy Directives Web site, <http://neds.daps.dla.mil>

DEC 06 2010

Fraternization Policy Acknowledgement

I hereby acknowledge that I have read and understand Commander, Navy Recruiting Command's Fraternalization Policy as promulgated in JAGINST 5370. I further understand that:

1. Fraternalization between recruiting personnel and prospects, applicants and/or PROREC individuals will not be tolerated.
2. Recruiters are the face of the U.S. military, and such misconduct significantly erodes the public's trust and confidence in the Navy.
3. All recruiting personnel shall immediately report known violations of this policy within the chain of command so that the matter may be expeditiously resolved.
4. All credible allegations of recruiter fraternalization will be promptly investigated.
5. Substantiated allegations of fraternalization with prospects, applicants and/or PRORECs **will** result in processing for administrative separation if fraternalization involves the following circumstances: intimate physical contact, dating, sexual assault, sexual harassment, and other similar cases of sexual misconduct. Processing for administrative separation in all other cases will be at the discretion of the Commanding Officer/Officer in Charge.

MEMBER'S SIGNATURE

Witnessed: _____

Enclosure (1)