

5004. INITIATION OF AN EO COMPLAINT

1. Any person may report suspected cases of discrimination to supervisors in the chain of command. In such cases, a thorough inquiry/investigation into the complaint is required. An EO complaint may be made orally, in writing, or both. Regardless of who initially receives the complaint, it must be forwarded immediately to the proper authority (normally the immediate commanding officer of the offending person).
2. Initiating a complaint is not the same as preferring charges. Preferring charges is the separate function of signing and swearing to charges in preparation for courts-martial or NJP.

5005. COMPLAINT INVESTIGATION AND ACTION

1. It is the responsibility of the commanding officer of the alleged offender to conduct a thorough investigation and take appropriate action. It is the responsibility of the command in which the complaint was received to ensure a DASH report is initiated. For complaints involving personnel from other commands and geographic locations it will require close coordination between commands to achieve resolution. The offender's command shall provide the complainant's commander with a copy of the completed investigation, to include actions taken. If a commander is unable to resolve the case, he or she may forward the case to a higher command for resolution. Complainants will be advised of the progress of the investigation every 14 days.
2. Complaints involving other than Marine Corps/Marine Corps civilian personnel will be reported to the individual's commanding officer (Active Duty Military) or supervisor (DoD/civilian) or contact the CMC (MPE) for guidance. Complaints involving civilian contractors will be reported to the contracting company, via the Commanding Officer of the complainant. Commanding Officers may be required to conduct investigations on personnel involved in incidents that did not occur at their command or include other Service members in order to assist other Service branches or contracting companies.
3. Complaints involving Flag/General Officers or Senior Executive Service personnel will be referred to the DNIGMC for investigation.

5006. FORMAL COMPLAINT PROCEDURES. Any formal EO complaint or allegation of discrimination on the basis of age, color, gender, race, religion, national origin or any other form of unlawful discrimination, to include sexual harassment, shall utilize the procedures established within this Manual. Commanders must make every effort to adhere to the timeline identified.

1. All formal complaints should be filed (registered) within 60 days of the alleged incident occurring by the person making the allegation.
2. Within 72 hours or three working days of a commander receiving a formal complaint or notification of a formal complaint, the command must initiate an investigation into the allegation(s). If the formal complaint is against the commander, the complaint must be referred to the next higher command for resolution. If the formal complaint is against Flag/General Officers or Senior Executive Service personnel, the complaint will be forwarded to the DNIGMC for resolution.

3. Also within 72 hours or three working days, a detailed description of the allegation(s) shall be forwarded in writing via the chain of command to the officer in the chain of command who has general court-martial convening authority (GCMCA). This report must include the name of the assigned investigator.
4. The commander shall inform the complainant when the investigation has commenced and make every effort to ensure the investigation is completed within 14 days of commencement.
5. Upon completion of the investigation, the investigating officer shall ensure a legal sufficiency review and an EO review is conducted on the findings and recommendations. The SJA will conduct the legal review. The investigating officer will then submit the investigation to the commander, and the commander will provide the investigation to the EOA. This will enable the EOA to advise the commander on the EO sufficiency of the investigation as well. If an EOA is not geographically located with the unit, contact CMC (MPE) for guidance.
6. If the investigation and required reviews are not completed within 14 days, the command will submit a written request for extension from the Commanding General with GCMCA. The request must report on the progress made to complete the investigation and the purpose for the extension. The Commanding General can authorize only 30 days of extension. If an investigation cannot be completed after a 30-day extension the command must contact CMC (MPE).
7. The commander has 6 days upon completion of the investigation and review to forward a final written report containing the results of the investigation, as well as any action taken, to the next superior officer in the chain of command with GCMCA. The report will include a statement from the complainant that indicates their satisfaction or dissatisfaction with the resolution. The complainant resolution statement should be taken by the EOA or EOR after notification of resolution.
8. Upon completion of the commander's final written report, a final DASH report will be submitted to CMC (MPE), in accordance with paragraph 5007. For the purpose of a final DASH report, a complaint is considered final when the investigation is complete and the commander makes the determination as to the validity (substantiated or unsubstantiated) of the complaint.
9. Throughout the investigation, updates and feedback will be provided to the complainant every 14 days.
10. If the case is referred to NJP, court-martial and/or administrative separation proceeding, CMC (MPE) will be updated via DASH report of the outcome. (Note: The outcome of court-martial proceedings does not change the closure code within the DASH report).

5007. DISCRIMINATION AND SEXUAL HARASSMENT (DASH) REPORTS

1. Due to the sensitivity of discrimination and sexual harassment complaints, CMC (MPE) has implemented the DASH complaint tracking system. The DASH report is required when a formal complaint is filed and a Marine is involved. The purpose of the DASH system is to track all formal complaints of discrimination or sexual harassment and the parties involved in the

investigation until final action is taken. It is a tool to assist in ensuring that all EO complaints are appropriately addressed. It is not a report card for units, commanders, or installations. The information is used primarily to provide statistical data for reports and to assist in identifying trends (both positive and negative) on the EO climate of the Marine Corps. The information gathered requires a number of personal entries; therefore, appropriate measures must be taken to ensure the security of all information entered into the database. Access to information will be restricted to those with a need to know only. DASH reports are required to identify the following:

a. Initial Report. This report is required to identify an allegation of discrimination against a Marine. It indicates the initiation of an investigation by the command(s) involved and that an investigator has been assigned.

b. Continuation. This report is required if an EO investigation cannot be completed within the prescribed timelines. A 30-day extension can be authorized by the general officer with GCMCA. The reason for the extension must be included in the report.

c. Final. This report is required to identify that an EO investigation has been completed and final disposition has been rendered.

d. Update. This report is required to update the status of disposition in an EO complaint when a Marine is recommended for NJP or court-martial. This report does not change the final closure code.

2. Local Reports. The DASH reporting format is not intended to be used to inform the chain of command of allegations of discrimination. Restriction on the use of personal information at the local level will help to ensure the confidentiality and security of the reporting process.

3. When a DASH Report is Not Required. Formal allegations of discrimination presented to Marine Corps commanders require the involvement of the immediate commanders and their staffs to resolve the complaint. Yet, the Marine Corps DASH reporting requirements are not applicable when:

a. Incidents Involve Only Civilian Personnel. EEO cases are reported through the appropriate civilian EEO procedures, utilizing MCO 12713.5.

b. Alleged Complaints Do Not Include Marine Corps Military Members. Military members who are assigned to Marine Corps installations, (i.e., Naval hospital staff, dental corps) shall at times require an investigation be conducted by the commander to assist the parent Service in resolving an EO issue. Such an investigation does not require DASH reporting.

4. DASH Reporting Procedures

a. It is the responsibility of the command in which the complaint was received to ensure a DASH report is initiated. The DASH report is required when a formal complaint is filed and a Marine is the complainant or alleged offender. The command that receives the complaint is responsible for ensuring a DASH report is submitted to the CMC (MPE).

b. Within 20 days after the date on which the investigation commenced, commanders are required to submit a DASH report, using the format in Appendix D. The report will include the name of the investigator and date assigned.

(1) Commanders will notify the CMC (MPE) of the status of the complaint using the DASH report format contained in Appendix D. The command EOA will provide advice on DASH report submission procedures.

(2) Multiple allegations of inappropriate behavior or wrongdoing may be presented to the commander. Therefore, when preparing the DASH report, commanders will provide only the information and action taken that is relevant to the alleged behavior that is considered discrimination/harassment as defined by this Manual.

(3) DASH update reports will be submitted by the commander. The commander is responsible for ensuring the update report is submitted to CMC (MPE), with assistance from the command EOA. Updates are required upon receiving an extension, upon determination for disposition or resolution, upon conclusion of NJP, court-martial or other administrative action not previously reported. Commands not located at or near an installation with an EOA need to contact Headquarters, U.S. Marine Corps (MPE), 3280 Russell Road, Quantico, VA 22134-5103, commercial phone number (703) 784-9371, DSN 278-9371 for further guidance. DASH reports should not be reported via message traffic due to the sensitive nature of the information and to protect the privacy of the people involved.

(4) If an extension is granted, commands will ensure the narrative section of the DASH report includes the reason(s) for the extension, length of the extension, and the name of the commanding general authorizing the extension.

(5) Final DASH reports will be appended to the 'closed' incident case files and maintained by the command that originated the DASH report. Closed case information is to be maintained by the command for 2 years with restricted access.

c. The offender's commander shall ensure resolution information is provided to the complainant's commander for a final DASH input or update. The final report will include: the complainant resolution statement, a determination of validity of the charges, administrative action taken if any, and a recommendation for NJP or court-martial if warranted.

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APPENDIX I

EO INVESTIGATION REVIEW CRITERIA

1. Date of review:
2. Service: Marine Corps
3. Location of files:
4. Complainant name/case number/identifier:
5. Date complaint filed:
6. Date investigation initiated:
7. Date investigation completed:
8. Type/authority for investigation:
9. Complaint factors:
 - a. Same chain of command? Different chain of command?
 - b. Conduct occurred on/off base? On/off duty?
 - c. Type of EO complaint: race, color, religion, gender, national origin, age, sexual harassment, ethnicity and color.
 - d. Nature of allegations: gestures, verbal, physical, personnel action, other.
 - e. Allegations were: substantiated, partially substantiated, unsubstantiated.
10. Complainant demographics: rank, gender, ethnic origin, age, race
11. Alleged Offender demographics: rank, gender, ethnic origin, age, race
12. Investigating/Inquiry Officer demographics: rank, gender, ethnic origin, age, race
13. Investigating/Inquiry Officer (IO) factors:
 - a. Who conducted investigation - commander, assigned investigating officer, EO Advisor, Inspector General?
 - b. Did the appointment of the IO comply with governing regulations? What process was used to select the IO?
 - c. Was the IO outside the rating chain of command of the parties to the complaint?
 - d. Was the IO previously experienced in conducting investigations?

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e. What training/guidance, if any, was provided to the IO? Did it include legal advice? Technical advice from DEOMI trained EO specialist? other EO Advisor? Explain.

f. Did the IO have or obtain a working knowledge of DoD/Service EO policy prior to conducting the investigation?

14. Investigation Factors:

a. Were all allegations thoroughly addressed? If not, explain.

b. Is there any relevant information the complainant submitted the IO did not include or address?

c. Did the investigating agency/IO define the issues subject to investigation? If so, were they properly defined so as not to limit the full scope of the complaint?

d. Was the complainant interviewed at the beginning of the investigation?

e. Was the complainant kept informed of the status of the complaint/investigation?

f. Was the alleged offender interviewed?

g. Were witnesses listed by the complainant interviewed?

h. Were witnesses listed by the alleged offender interviewed?

i. Were any key witnesses not interviewed? Explain.

j. Is there documentation of witnesses' testimony, i.e., summarized, taped, verbatim, statement?

k. Were witnesses given the opportunity to sign or otherwise validate their summarized testimony as an accurate representation of what they said?

l. Was the testimony taken under oath?

m. Does the investigation include a thorough review of the circumstance under which the alleged discrimination occurred?

n. Did the investigation include an analysis of how the victim was treated compared to others within the complainant's demographic group and with those of other demographic groups?

o. Did the investigation identify any related policies or practices or issues that may constitute, or appear to constitute, discrimination even though they may not have been raised by the complainant?

p. If discrimination and/or the allegations were unsubstantiated, were any management deficiencies identified that may have contributed to the allegations addressed and corrected?

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q. Is there documentation of the IO's questions? If so, were the questions worded in such a manner to specifically address the allegations? If there is no documentation of the questions, do the responses specifically address the allegations?

r. Did the IO clearly and objectively present the facts of the case?

s. Are the opinions of the IO clearly identified as such and distinct from the factual and documentary evidence?

t. Is there any evidence of bias (a highly personal and unreasoned distortion of judgment) by the IO?

u. Is there any evidence the complainant rather than the complaint was investigated?

v. Are the conclusions sound, logical and supported by the facts?

w. Are the recommendations, if present, appropriate for the circumstances?

x. Was there a legal sufficiency review of the report? If so, was report found legally sufficient?

y. Was an EO functional review of the report conducted at any level for adherence to EO policy and definitions? If so, was the review by a DEOMI-trained EO Advisor?

z. Did the findings and the report conform to EO policy and definitions? Explain.

aa. Were there deficiencies, discrepancies, incongruities or nonconcurrences in the findings, conclusions or recommendations? Were they noted and corrected? Explain.

ab. Is there any evidence that the conclusions were based on an erroneous interpretation of law or regulation or misapplication of established policy, or constitute a precedent involving new or not yet reviewed policy consideration that may have effects beyond the actual case at hand?

ac. Were essential documents relevant to a fair determination of the underlying allegations contained in the file?

15. Corrective action:

a. What corrective action, if any, was taken?

b. Is corrective action documented in the case file?

c. Was there any follow-up regarding the effectiveness of the corrective action taken?

16. Responses to complainants/subjects:

a. Was a response provided to the complainant?

b. Was response written or verbal?

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- c. Was feedback documented in the case file?
- d. Did the response adequately address the complainant's allegations?
- e. Was verbal or written advice given to the complainant to report any reprisal taken against them for filing EO complaint?
- f. Was the subject and alleged offender advised of the outcome?

17. Appeal and redress options:

- a. Was the complainant advised of appeal and/or redress options?
- b. Did the complainant seek appeal or redress of the outcome of the complaint?
- c. Did the complainant present new and material evidence not readily available during the investigation?
- d. Did any appeal or redress authority find an erroneous interpretation of law or regulation or misapplication of established policy, or that the conclusions were of a precedent involving new or not yet reviewed policy consideration that may have effects beyond the actual case at hand?
- e. Did the appeal or redress authority adequately and appropriately consider the complainant's request for further reviews?