DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
1000 NAVY PENTAGON
WASHINGTON, D.C. 20350-1000

SECNAVINST 5300.26C
ASN(M&RA)
17 October 1997

SECNAV INSTRUCTION 5300.26C

From: Secretary of the Navy
To: All Ships and Stations

Subj: DEPARTMENT OF THE NAVY (DON) POLICY ON SEXUAL HARASSMENT

Ref: (a) DoD Directive 1350.2 of 18 Aug 95 (NOTAL)
(b) DoD Directive 1440.1 of 21 May 87 (NOTAL)
(c) 29 C.F.R. § 1604.11 (NOTAL)
(d) Title VII of the Civil Rights Act of 1964, as amended 42 U.S.C. 2000e (NOTAL)
(e) DoD Directive 7050.6 of 12 Aug 95 (NOTAL)
(f) NAVPERS 15620
(g) SECNAVINST 5354.1
(h) OCPMINST 12713.2A (NOTAL)
(i) OPNAVINST 5354.1D (NOTAL)
(j) MCO P5354.1C (NOTAL)

Encl: (1) Definitions
(2) Range of Behaviors which Constitute Sexual Harassment

1. Purpose. To provide a comprehensive Department of the Navy (DON) policy for all military and civilian personnel on the identification, prevention, and elimination of sexual harassment and to establish regulations to enforce that policy.

2. Cancellation. SECNAVINST 5300.26B.

3. Applicability. This instruction applies to all DON personnel, specifically: all active-duty military personnel,

both Regular and Reserve; all DON civilians including non-appropriated fund employees; midshipmen of the Naval Academy and the Reserve Officer Training Corps; and Reserve personnel when performing active or inactive duty for training, or engaging in any activity directly related to the performance of a Department of Defense (DoD) reserve duty or function.

4. Summary of Changes. This instruction is a significant revision which should be reviewed in its entirety. Major changes are:

a. Establishes revised policies to combat sexual harassment consistent with DoD guidelines issued by the Defense Equal Opportunity Council (DEOC) Task Force on Discrimination and Sexual Harassment.

b. Provides further guidance on the subject of reprisals against complainants.

5. Definitions. Enclosure (1) defines sexual harassment in accordance with references (a) and (b). Interpretation of this instruction shall be governed by the definitions in enclosure (1).

6. Background

a. The Navy-Marine Corps team must be composed of an optimally integrated group of men and women who are able to work together to accomplish the mission. Each member of the team is entitled to be treated fairly, with dignity and respect, and must be allowed to work in an environment free of unlawful discrimination. Additionally, each member is expected to abide by the DON Core Values of Honor, Courage and Commitment. Sailors, Marines and civilians who model Core Values don't engage in negative behaviors such as sexual harassment, and don't condone those behaviors in others.

b. The economic costs of sexual harassment are significant. Even more harmful, however, are the negative effects on

productivity and readiness, including increased absenteeism, greater personnel turnover, lower morale, decreased effectiveness, and a loss of personal, organizational, and public trust. While not easily quantified, these costs are real and seriously affect DON's ability to accomplish its mission.

c. While the Equal Employment Opportunity Commission (EEOC) regulations, reference (c), establish a standard for determining employer liability for sexual harassment under Title VII of the Civil Rights Act, reference (d), the DoD definition of sexual harassment establishes a standard that exceeds that of the EEOC. This more comprehensive standard expands on the definition to include identifying supervisors and those in command positions who use or condone implicit or explicit sexual behavior to affect another's career, pay, or job as engaging in sexual harassment.

7. Policy. The DON is committed to maintaining a work environment free from unlawful discriminatory practices and inappropriate behavior. In support of this commitment, it is DON policy that:

a. Sexual harassment is prohibited. All DON personnel, military and civilian, will be provided a work environment free from unlawful discrimination which includes sexual harassment. Off-duty or non-duty behaviors that affect the military workplace may also be considered to be sexual harassment.

b. All DON personnel, military and civilian, will be educated and trained upon accession (within 90 days to the extent possible) and annually thereafter, in the areas of identification, prevention, resolution and elimination of sexual harassment. Training programs will use a three-tiered behavioral zone approach to explain the spectrum of sexual harassment, as outlined in enclosure (2). Annual training shall include the application of pertinent informal and formal complaint procedures (references (e)-(j) refer).

c. DON personnel who may be called upon to conduct or review investigations into alleged incidents of sexual harassment

should receive training in DON policy on equal opportunity and investigative methods and processes.

d. Individuals who believe they have been sexually harassed shall be provided the opportunity to seek resolution and redress. Commanders and those in supervisory positions shall ensure that notification of sexual harassment can be made in a command climate that does not tolerate acts of reprisal, intimidation, or further acts of harassment. All personnel shall be made aware of the avenues of resolution and redress that are available.

e. All reported incidents of sexual harassment shall be investigated and resolved at the lowest appropriate level. The nature of the investigation will depend upon the particular facts and circumstances and may consist of an informal inquiry where that action is sufficient to resolve factual issues. All incidents shall be resolved promptly and with sensitivity. Confidentiality will be maintained to the extent possible. For civilian employees, confidentiality is guaranteed during the informal stage of a discrimination complaint, if requested. Feedback will be provided to all affected individuals consistent with the requirements of the Privacy Act, Freedom of Information Act, and other pertinent laws, regulations and negotiated agreements. Both the complainant and the subject(s) of a complaint may appeal administrative findings (references (a) and (g) apply for military, reference (h) applies to civilian employees).

f. Counseling support or referral services will be made available for all personnel involved in incidents of sexual harassment.

8. Accountability. The rules in subparagraph 8a are regulatory orders and apply to all DON personnel individually and without further implementation. A violation of these provisions by military personnel is punishable in accordance with the Uniform Code of Military Justice (UCMJ), and is the basis for disciplinary action with respect to civilian employees. The prohibitions in subparagraph 8a apply to all conduct which occurs

in or impacts a DoD working environment, as defined in enclosure (1). The reasonable person standard as defined in enclosure (1) shall be used to determine whether a violation of these provisions has occurred.

a. No individual in the DON shall:

(1) Commit sexual harassment, as defined in enclosure (1);

(2) Take reprisal action against a person who provides information on an incident of alleged sexual harassment;

(3) Knowingly make a false accusation of sexual harassment; or

(4) While in a supervisory or command position, condone or ignore sexual harassment of which he or she has knowledge or has reason to have knowledge.

b. The appropriate action to resolve an incident of sexual harassment will depend upon the circumstances surrounding that incident. Incidents of sexual harassment cover a wide range of behaviors, from verbal comments to physical acts, and can be subtle or overt. Likewise, the full range of administrative and disciplinary actions is available to address sexual harassment. In the case of military personnel, these include informal counseling, comments in fitness reports and evaluations, administrative separation, and punitive measures under the UCMJ. In the case of civilians, options include informal counseling, comments in performance evaluations, and disciplinary action including removal from the Federal Service.

c. Military personnel of the Navy and Marine Corps shall be processed for administrative separation on the first substantiated incident of sexual harassment involving any of the following circumstances (for the purposes of this subparagraph, an incident is substantiated if there has been a court-martial

conviction or if the commanding officer determines that sexual harassment has occurred):

(1) Action, threats, or attempts to influence another's career or job in exchange for sexual favors; or

(2) Physical contact of a sexual nature which, if charged as a violation of the UCMJ, could result in punitive discharge.

d. Commanders are not precluded from initiating administrative separation proceedings for reasons set forth in the appropriate service regulations for individuals whose conduct warrants separation not covered in subparagraph 8c.

9. Responsibility

a. Leadership is the key to eliminating all forms of unlawful discrimination. Sound leadership must be the cornerstone of the effort to eliminate sexual harassment. It is not the intent of this instruction to impair commanders and supervisors in their ability to take appropriate actions to carry out leadership responsibilities. They must set the example in treating all people with dignity and respect, fostering a climate free of all forms of unlawful discrimination including sexual harassment. Such a climate is essential to maintain high morale, discipline, and readiness. Commanders and supervisors are responsible for and must be committed to preventing sexual harassment in their commands and work environments. They must not ignore or condone sexual harassment in any form, and they must take whatever action is required to ensure that a recipient of sexual harassment is not subsequently also the victim of reprisal or retaliation. Reprisals, as further described in enclosure (1) and references (e) and (h), are prohibited under this instruction whether they are originated by the command, the alleged perpetrator, or peers of the complainant. These responsibilities regarding sexual harassment are part of the broader responsibility of commanders and supervisors to foster a

positive climate and take appropriate corrective action when conduct is disruptive, provoking, discriminatory, or otherwise unprofessional.

b. Individuals who believe they have been sexually harassed are encouraged to address their concerns or objections regarding the incident directly with the person demonstrating the harassing behavior. Persons who are subjected to or observe objectionable behavior should promptly notify the chain of command if:

(1) the objectionable behavior does not stop; or

(2) the situation is not resolved; or

(3) addressing the objectionable behavior directly with the person concerned is not reasonable under the circumstances; or

(4) the behavior is clearly criminal in nature.

If the person demonstrating the objectionable behavior is a direct superior in the chain of command or the chain of command condones the conduct or ignores a report, individuals who have been subjected to or who observe objectionable behavior are encouraged to promptly communicate the incident through other available means.

c. All personnel are responsible for treating others with dignity and respect. This means fully and faithfully complying with this instruction. All DON personnel are accountable for their actions.

10. Action. The Chief of Naval Operations, the Commandant of the Marine Corps, and the Administrative Assistant to the Under Secretary of the Navy shall take action to enforce the provisions of this instruction. These actions shall ensure that:

a. All DON personnel under their cognizance comply with this instruction.

b. Education and training programs are in place at all levels within the DON. These programs will cover identification, prevention, and resolution of sexual harassment, and reprisal prevention, and will be implemented from entry through executive levels. A Core Values emphasis in such training is appropriate.

c. An effective system is in place to resolve complaints of discrimination at the lowest possible level. This system will emphasize the individual accountability of the recipient, accused, co-workers, and the chain of command; clarify the roles for co-workers and the chain of command; teach interpersonal communications skills; and incorporate the concepts of a reprisal-free environment, timely resolution, and appropriate feedback and follow-up.

d. Systems are in place to monitor the DON's progress in eliminating sexual harassment and to evaluate DON education and training programs including attendance at and effectiveness of those programs. These systems will include surveys, assessments, and an integrated database, featuring standardized information to track formal complaints of sexual harassment.

e. A counseling support and referral network exists and is advertised.

f. Commanders and supervisors investigate and, to the extent that authority to do so is vested in them by law or regulation, take such action as they consider appropriate on all alleged violations of this instruction.

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DEFINITIONS

1. Defense Equal Opportunity Council (DEOC). A senior executive-level decision-making body that provides advice and counsel to the Secretary and Deputy Secretary of Defense on all DoD Equal Opportunity (EO) and/or Equal Employment Opportunity (EEO) matters.

2. Reasonable person standard. An objective test used to determine if behavior meets the legal test for sexual harassment. The test requires a hypothetical exposure of a reasonable person to the same set of facts and circumstances; if the behavior is offensive, then the test is met. The reasonable person standard considers the complainant's perspective and does not rely upon stereotyped notions of acceptable behavior within that particular work environment.

3. Reprisal. In general, reprisal is taking or threatening to take an unfavorable personnel action or withholding or threatening to withhold a favorable personnel action, or any other act of retaliation, against a military member or civilian employee for participating in the EEO or EO appeal process. Further guidance is contained in references (c) and (e).

4. Sexual Harassment. A form of sex discrimination that involves unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:

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

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

c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile or offensive working environment. This definition emphasizes that workplace conduct, to be actionable as "abusive work environment" harassment, need not result in concrete psychological harm to the victim, but rather need only be so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the work environment as hostile or offensive. ("Workplace" is an expansive term for military members and may include conduct on or off duty, 24 hours a day.) Any person in a supervisory or command position who uses or condones any form of sexual behavior to control, influence, or affect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature in the workplace is also engaging in sexual harassment.

5. Work environment. The workplace or any other place that is work-connected, as well as the conditions or atmosphere under which people are required to work. Examples of work environment include, but are not limited to, an office, an entire office building, a DoD base or installation, DoD ships, aircraft or vehicles, anywhere when engaged in official DON business, as well as command-sponsored social, recreational and sporting events, regardless of location.

RANGE OF BEHAVIORS WHICH CONSTITUTE SEXUAL HARASSMENT

1. Introduction. This enclosure explains and illustrates behaviors which may constitute sexual harassment by describing in layperson's terms what sexual harassment is and how it occurs in the work environment. It is intended to be used as a guide for developing training programs and to assist military members and civilian employees in distinguishing between acceptable and unacceptable behavior in the work environment. DON policy and prohibitions governing sexual harassment are contained in the basic instruction and enclosure (1).

2. Description. Sexual harassment is behavior that is unwelcome, sexual in nature, and connected in some way with a person's job or work environment. A wide range of behaviors can meet these criteria, and therefore, constitute sexual harassment. It can, at times, be difficult to determine whether or not a behavior constitutes sexual harassment. This enclosure is provided to assist in this process. The policy established by this instruction is not intended to prevent the types of behavior which are appropriate in normal work settings and which contribute to camaraderie.

3. Discussion. For a person's behavior to be considered sexual harassment, it must meet three criteria: it must be unwelcome, sexual in nature, and occur in or impact on the work environment.

a. Unwelcome behavior is behavior that a person does not ask for and which that person considers undesirable or offensive. Not everyone has the same perception of "undesirable or offensive." Since the person being subjected to the behavior--the recipient--is the one being affected, it is the recipient's perception that counts. Using a "reasonable person standard," defined in enclosure (1), from the perspective of the recipient, is considered a common sense approach in determining which

behaviors might be considered sexual harassment. In this regard, behavior which the recipient finds unwelcome should be stopped.

b. Behavior which is sexual in nature is fairly easy to determine. Telling sexually explicit jokes, displaying sexually suggestive pictures, and talking about sex are obviously "sexual in nature." Some people would consider other behaviors, such as touching, to be sexual in some cases but not in others. Using common sense will normally be enough to determine whether or not a certain behavior is sexual in nature.

c. For sexual harassment to occur, unwelcome sexual behavior must occur in or impact on the work environment:

(1) When recipients are offered or denied something that is work-connected in return for submitting to or rejecting unwelcome sexual behavior, they have been subjected to a type of sexual harassment known as "quid pro quo," or "this for that." Examples include: getting or losing a job, a promotion or demotion, a good or bad performance evaluation, etc. If any work-related decisions are made based on the submission to or rejection of the unwelcome sexual behavior, sexual harassment has occurred. Normally, this is from a senior to a junior, because the senior person has something to offer.

(2) When the unwelcome sexual behavior of one or more persons in a workplace interferes with another person's work performance, sexual harassment has occurred. If the behavior produces a work atmosphere which is offensive, intimidating, or abusive to another person, whether or not work performance is affected, a type of sexual harassment called "hostile environment" has occurred. The following are a few examples of behavior that could create a hostile environment:

(a) Using sexually explicit or sexually offensive language;

(b) Displaying sexually-oriented posters or calendars;

(c) Touching someone in a suggestive manner;

(d) Giving someone unwelcome letters, cards, or gifts of a personal nature, particularly when these items have sexual overtones;

(e) Unwanted or uninvited pressure for dates.

(3) Certain types of unwelcome sexual behavior do not have to create a "hostile environment" to be considered sexual harassment. If the behavior occurs in the work environment and is unreasonable, such as groping, it may be considered sexual harassment, even if it were displayed only once. Other less obvious behaviors can become sexual harassment if they are repeated.

4. Range of Behaviors. There is a wide range of behaviors which can be unwelcome, sexual, and work-connected and can, therefore, constitute sexual harassment. Some behaviors may be unwelcome and work-connected, but not sexual (for example, performance counseling), and obviously do not constitute sexual harassment. To better explain the range of behaviors which may constitute sexual harassment, the traffic light illustration was developed, in which behaviors are divided into three zones, corresponding to the colors on a traffic light. Green on the traffic light means "go," and behavior in the green zone is acceptable. Green zone behavior is not sexual harassment. Yellow on the traffic light means "caution," and behavior in the yellow zone may be sexual harassment. Red on the traffic light means "stop." Red zone behaviors are sexual harassment. Just as with a traffic light, if in the yellow zone long enough, the light will turn red. If yellow zone behaviors occur repeatedly, especially after the

person has been told it is unwelcome, it becomes red zone behavior--sexual harassment. The following examples illustrate these three types of behavior:

a. **Green zone.** These behaviors are not sexual harassment: touching which could not reasonably be perceived in a sexual way (such as shaking hands, or a friendly pat on the shoulder), counseling on military appearance, social interaction, showing concern or encouragement, a polite compliment, or friendly conversation.

b. **Yellow zone.** Many people would find these behaviors unacceptable and they could be sexual harassment: violating personal space, whistling, questions about personal life, lewd or sexually suggestive comments, suggestive posters or calendars, off-color jokes, leering, staring, repeated requests for dates, foul language, unwanted letters or poems, or sexually suggestive touching or gesturing.

c. **Red zone.** These behaviors are always considered sexual harassment: sexual favors in return for employment rewards, threats if sexual favors are not provided, sexually explicit pictures (including calendars or posters) or remarks, using status to request dates, or obscene letters or comments. The most severe forms of sexual harassment constitute criminal conduct, e.g. sexual assault.

Note: Keep in mind that the above examples are used as guidance only, that individuals believe they are being sexually harassed based on their perceptions, that each incident is judged on the totality of facts in that particular case, and that individuals' judgment may vary on the same facts. Therefore, caution in this area is advised. Any time sexually oriented behavior is introduced into the work environment or among co-workers, the individuals involved are on notice that the behavior may constitute sexual harassment.

DEPARTMENT OF THE NAVY
OFFICE OF THE UNDER SECRETARY OF THE NAVY
SECRETARIAT/HEADQUARTERS CIVILIAN PERSONNEL OFFICE
WASHINGTON, DC 20350-1000

12 August 1992

S/HCPOINST 12720.4 CH-1
S/HCPO 07

S/HCPO INSTRUCTION 12720.4, CHANGE TRANSMITTAL 1

From: Director, Secretariat/Headquarters Civilian Personnel Office

Subj: EQUAL EMPLOYMENT OPPORTUNITY MANAGEMENT

Ref: (a) SECNAVINST 12720.5A, ASN(M&RA)/OCPM 02E dtd 8 Apr 92

1. Purpose.

a. To implement reference (a).

b. To reflect organizational changes regarding OCPM and the consolidation of its EEO Office into NS&SO's EEO Branch.

2. Action.

a. Make the following pen and ink change:

1.) Page 2 of the basic instruction, under 6.a., change the section which reads "...; and, at the discretion of the component head, Black Employment Program (BEP), Asian/Pacific Islander Program (AAPIP), and Native American Indian Program (NAIP) may be appointed to assist the DEEOO." to "..., Black Employment Program (BEP), Asian American/Pacific Islander Program (AAPIP), and Native American Indian Program (NAIP) shall be appointed to assist the DEEOO at the headquarters level. These Special Emphasis Programs (SEPs) shall be integral parts of the civilian EEO Program."

b. Make the following pen and ink changes:

1.) Page 1 of the basic instruction, delete "1.c.".

2.) Page 2 of the basic instruction, under 5.a., change last two sentences to read, "The head of the Naval Audit Service (NAVAUDSERV) and the Office of Civilian Personnel Management (OCPM) serve as EEO Officers for their respective activities. The AA/USN Command EEO Officer and Command Deputy EEO Officer also serve as EEO Officer and Deputy EEO Officer for the Navy Secretariat and Staff Offices (NS&SO) headquarters activity."

3.) Page 2 of the basic instruction, under 6.a., and page 1 of enclosure (1) under 2., omit references to "OCPM".

4.) Page 3 of enclosure (1), top of page, change "NAVAUDSERV and OCPM DEEOOs will report directly to their activity EEOOs." to "The DEEOOs will report directly to activity EEOOs."

JOHN H. LA RAIA

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S/HCPOINST 12720.4
S/HCPO 07
17 July 1991

S/HCPO INSTRUCTION 12720.4

From: Director, Secretariat/Headquarters Civilian Personnel Office

Subj: EQUAL EMPLOYMENT OPPORTUNITY MANAGEMENT

Ref: (a) CPI 720

Encl: (1) Equal Employment Opportunity Management

1. **Purpose**. To reaffirm the commitment of the Secretary of the Navy (SECNAV) toward the principles of Equal Employment Opportunity (EEO), to update policy and procedures and responsibility for the EEO Program, the Affirmative Employment Program (AEP), the Affirmative Action Program (AAP), and the Federal Equal Opportunity Recruitment Program (FEORP), in the Assistant for Administration/Under Secretary of the Navy (AA/USN) Command, an Echelon 1 Command, made up of the following activities:

a. Navy Secretariat and Staff Offices (NS&SO) and their respective field activities.

b. Naval Audit Service (NAVAUDSERV), and

c. Office of Civilian Personnel Management (OCPM).

2. **Scope**. This instruction applies to all civilian employees in the Assistant for Administration/Under Secretary of the Navy Command.

3. **Action**. Addressees should ensure that the provisions of this instruction are implemented and that the contents are made known to appropriate officials and employees under their direction.

John H. La Raia
JOHN H. La RAIA

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(See page 2)

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S/HCPO INSTRUCTION 12720.4

From: Director, Secretariat/Headquarters Civilian Personnel Office

Subj: EQUAL EMPLOYMENT OPPORTUNITY PROGRAM MANAGEMENT

Ref: (a) Public Law 92-261, Equal Employment Opportunity Act of 1972
(b) Rehabilitation Act of 1973, Section 501
(c) Age Discrimination in Employment Act of 1967
(d) SECNAVINST 12720.5 (NOTAL)
(e) OCPMINST 12720.1
(f) 29 C.F.R. 1613
(g) EEOC Management Directive 107 (NOTAL)
(h) OCPMINST 12713.1 (NOTAL)
(i) EEOC Management Directive 713
(j) EEOC Management Directive 714
(k) SECNAVINST 12720.3A (NOTAL)

Encl: (1) EEO Program Officials Responsibilities
(2) Recruiting and Staffing Programs

1. Purpose. To reaffirm the commitment of the Secretary of the Navy (SECNAV) toward the principles of Equal Employment Opportunity (EEO), to update policy and procedures and responsibility for the EEO Program, the Affirmative Employment Program (AEP), the Affirmative Action Program (AAP), and the Federal Equal Opportunity Recruitment Program (FEORP), in the Assistant for Administration/Under Secretary of the Navy (AA/USN) Command, an Echelon 1 Command, made up of the following activities:

a. Navy Secretariat and Staff Offices (NS&SO) and their respective field activities.

b. Naval Audit Service (NAVAUDSERV), and

c. Office of Civilian Personnel Management (OCPM).

2. Scope. This instruction applies to civilian personnel in the AA/USN command.

3. Background. References (a) through (e) and (k) provide broad guidance for implementing EEO programs in the Federal Government without regard to race, color, religion, sex, national origin, age, physical or mental handicap, or reprisal. References (f) and (g) establish regulations for processing complaints of discrimination within the Federal Government, and reference (h)

amplifies this guidance by providing the Department of the Navy (DON) policy. References (i) and (j) contain guidance for developing multi-year Affirmative Employment Program (AEP) plans. Reference (k) provides guidance on the employment of handicapped individuals and disabled veterans. Each Navy organization must take a leadership role in equal opportunity by moving toward full integration of the workforce in all occupations and grade levels.

4. Policy

a. Secretary of the Navy's policy is to provide equality of opportunity and treatment to all personnel, both employees and applicants. This includes a work environment free from discrimination in both policy and practice, equal opportunity for advancement to every individual's maximum potential, and fair and impartial review of complaints of discrimination. It also includes a work force free from sexual harassment by supervisors, colleagues, or subordinates (civilian or military).

b. Complainants, (individuals who believe they have been discriminated against), their representatives or witnesses, EEO counselors, and EEO program officials shall be able to pursue their complaints, free from restraint, interference, coercion, discrimination, or reprisal at any stage during the presentation and processing of a discrimination complaint, or any time thereafter.

5. Responsibility

a. The Assistant for Administration/Under Secretary of the Navy (AA/USN) is hereby designated as the Command EEO Officer (CEEOO) for the AA/USN Command. The head of Naval Audit Service (NAVAUDSERV) and Office of Civilian Personnel Management (OCPM) serve as EEO Officers for their activities and have their own DEEOOs. The AA/USN Command EEO Officer and Command Deputy EEO Officer also serves as EEO Officer and Deputy EEO Officer for the Navy Secretariat and Staff Offices (NS&SO) headquarters activity.

b. Managers and supervisors, both military and civilian at every level, are responsible for exercising personal leadership in executing this EEO policy and achieving its objectives.

c. Specific responsibilities for other EEO program officials can be found in reference (e) and are outlined in enclosure (1).

6. Staffing Requirements

a. Each organization in the AA/USN Commmand (i.e., NS&SO, NAVAUDSERV, and OCPM) shall have a full-time or part-time (but

not collateral-duty) Deputy EEO Officer (DEEOO); and other EEO specialists and Special Emphasis Program Managers to manage the Federal Women's Program)(FWP), Hispanic Employment Program (HEP) and Handicapped Program (HP); and, at the discretion of the component head, Black Employment Program (BEP), Asian American/Pacific Islander Program (AAPIP), and Native American Indian Program (NAIP) may be appointed to assist the DEEOO. These specialists or Special Emphasis Program Managers will serve on a collateral-duty basis.

b. Each activity shall appoint and train sufficient EEO Counselors.

c. Full-time and part-time personnel appointed to perform EEO duties will meet the minimum X-118 Qualification Standards for the GS/GM-260 series. Where appointments are on a collateral-duty basis, the X-118 Qualification Standards for "Subject matter positions involving Equal Employment Collateral Assignments" will be met. Position descriptions of all collateral-duty EEO personnel shall be amended to reflect EEO duties.

7. Training of EEO Officials. To ensure an effective EEO program, all EEO officials are to possess the requisite knowledge, skills and abilities in the areas of EEO program administration. Knowledge of basic personnel policies and procedures, position management, planning, budgeting, career counseling, human relations, and negotiations are necessary for effective management of a program. Participation in EEO or civilian personnel-related conferences, seminars sponsored by the Office of Personnel Management, Equal Employment Opportunity Commission (EEOC), the Department of the Navy, other government agencies, and national women's and minority organizations whose goals and objectives will advance the Navy's EEO policies is encouraged. EEO Counselors will attend the Basic EEO Counseling Course prior to participating in any counseling session. EEO Counselors assigned to "class action" cases shall receive additional training in that area.

8. Program Requirements. The minimum requirements for EEO programs are contained in references (a) through (e) and enclosure (1) to this instruction.

9. Discrimination Complaints

a. Complete guidelines for processing complaints of discrimination are contained in reference (h). This reference mandates that the head of the activity, as the EEOO, is responsible for ensuring that every effort is made to resolve

complaints at the lowest possible level in a timely manner. Activities are encouraged to attempt to resolve at least 90 percent of complaints during the informal counseling stage and an Agency decision reached within 180 days on complaints not requiring an EEOC hearing.

b. The names of EEO program officials and EEO counselors, will be distributed to all personnel and will be posted on all official bulletin boards of each office within each activity..

c. Complaints of discrimination involving EEO program officials will not be escalated automatically outside the activity. If the EEOO is named as a Responsible Management Official (RMO), the DEEOO will continue to process the complaint through the administrative stage until receipt of the Report of Investigation. The Report of Investigation will be forwarded to a high-level official outside the EEOO's chain-of-command for disposition of the complaint. If the DEEOO is named as an RMO, the EEOO will designate a management official to process the complaint through the administrative stage. If the EEOO determines that the complexity or circumstances surrounding the processing of a complaint are such that processing it at the activity level would taint the fair and impartial review, the complaint file will be forwarded outside the EEOO's chain-of-command.

d. The Reports on Discrimination Complaints required by reference (h) will be submitted by each activity to the Command Deputy EEO Officer, who will consolidate the Command Report and forward it to the Office of Civilian Personnel Management (OCPM) on a prescribed schedule.

10. <u>Affirmative Employment Program (AEP), Affirmative Action Program (AAP), Federal Equal Employment Opportunity Program (FEORP), and Disabled Veterans Affirmative Action Program (DVAAP) Plans</u>. Each activity is required to develop these program plans addressing the practices, policies, and barriers to equal employment opportunities for women, minorities, handicapped individuals, and disabled veterans. Department of Navy guidelines for preparation of these plans and standard forms are contained in references (i) and (k). Enclosure (2) identifies the many recruiting and staffing programs and authorities to assist in implementation of the FEORP. Annual updates are required.

11. <u>Program Evaluation</u>

a. Reference (e) and (f) require commands and activities to establish an evaluation system to assess EEO program efficiency

and effectiveness. This is accomplished annually by using the Personnel Management Evaluation System. The EEOC staff guide for the Evaluation of AEPs may also be used.

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EEO PROGRAM OFFICIALS RESPONSIBILITIES

1. General Policy. The AA/USN, as Command EEO Officer (CEEOO), is responsible for ensuring that the AA/USN Command is in compliance with applicable EEO laws and regulations. Within each activity, the EEOO is responsible for ensuring that his/her activity is in compliance with applicable EEO laws and regulations. Within each activity, DEEOO is responsible for day-to-day implementation of AA/USN Command policies.

2. Heads of Activities. The CEEOO (AA/USN Command) and EEOOs (NS&SO, NAVAUDSERV, and OCPM) are responsible for complying with applicable EEO laws and regulations. This will be accomplished through allocation of sufficient resources (personnel, fiscal, and material) required to fully implement an effective EEO program. In addition, the EEO Officer shall:

a. Issue an EEO policy statement clearly supporting the principles of affirmative action and outlining organizational goals and objectives.

b. Issue a Sexual Harassment Policy Statement ensuring a workplace free of sexual harassment.

c. Issue a policy statement encouraging achievement of the two percent DOD-wide goal for the employment of persons with targeted disabilities by 1992.

d. Communicate to all personnel the continuing policies and practices relating to EEO that managers, supervisors, and employees are required to observe, assigning responsibility for program administration, execution and evaluation, and outlining procedures for processing discrimination complaints.

e. Conduct a continuing program to eradicate every form of illegal discrimination from work policies and work conditions, including disciplinary action against personnel who engage in such discriminatory practices.

f. Advise managers and supervisors regarding performance objectives to ensure continuing enforcement of EEO policy. Provide orientation, training, and advice to managers and supervisors to assure understanding and implementation of the EEO policy and program.

g. Reference (e) requires that all newly appointed supervisors (military and civilian) of civilian employees in the

AA/USN Command must receive training in EEO, either prior to or within 6 months after appontment into a supervisory position. In addition to basic EEO information, this training must include the "role of the supervisor" in the implementation and maintenance of all EEO requirements and programs. The Command requires that annual EEO training for supervisors be identified and provided. NS&SO supervisors are required to take 2 hours of EEO training annually. A continuing education program on prevention of sexual harassment is required for all employees (supervisory and non-supervisory) following reference (e).

h. Provide recognition to personnel or units demonstrating superior accomplishment in EEO.

i. Provide counseling for employees or applicants who believe they have been discriminated against because of race, color, religion, sex, national origin, age, physical or mental handicap, or reprisal for prior EEO involvement. Provide for the prompt, fair, and impartial consideration and resolution of complaints involving the same.

j. Provide a system for periodically evaluating the effectiveness of the command's and each activity's overall EEO effort.

k. Conduct self-evaluation of the command and activity EEO programs to determine progress and identify shortcomings.

l. Develop Affirmative Employment Program (AEP) Plans, Federal Equal Opportunity Recruitment Program (FEORP) Plans, and Disabled Veteran Affirmative Action Program (DVAAP) Plans for minorities, women, handicapped and disabled veterans, with an annual review of accomplishments. The AEP Plan includes the Plan for the Prevention of Sexual Harassment, which states that complaints of sexual harassment are cognizable under Title VII, and addresses training, disciplinary action, and accountability regarding sexual harassment. (See reference (h).)

m. Initiate any other action deemed necessary to ensure compliance with applicable directives.

3. <u>Command Deputy Equal Employment Opportunity Officer (CDEEOO) and Activity DEEOOs</u>. The DEEOO is the principal staff advisor to the EEO Officer on all EEO program matters. This individual is responsible for establishing priorities in all EEO program areas that are within current or projected by resources, and the activity's mission. The CDEEOO for AA/USN Command, who also serves as the DEEOO for NS&SO, will be supervised on a day-to-

day basis by the Director, Secretariat/Headquarters Civilian Personnel Office; and will have direct access to that individual to discuss EEO program issues; and, also direct access to the

CEEOO to discuss EEO complaints. NAVAUDSERV and OCPM DEEOOs will report directly to their activity EEOOs. Specific program responsibilities of DEEOOs are:

a. Provide leadership in developing EEO policy, plans, and programs, including the special emphasis programs, to ensure consistency with applicable EEO laws and regulations.

b. Participate with line and staff managers in the development and review of present and proposed activity policy or decisions which affect the civilian workforce. This includes serving on temporary or permanent committees such as position management, job restructure, training, publicity, or recruitment.

c. Develop the plans and recommend changes based on consultation or input from line and staff officials.

d. Review command and activity policies, procedures, actions, achievements, and barriers concerning affirmative action efforts for women and minorities.

e. Manage the discrimination complaint process, take action to expedite complaint processing, and/or resolutions, seeking the assistance of the EEOO where necessary.

f. Select (or assist the EEO Officer) with the selection of special emphasis program managers, EEO committee members, and EEO counselors. Provide training and guidance to these individuals in carrying out their assigned responsibilities.

g. Ensure EEO reporting requirements are met.

4. <u>Federal Women's Program Manager (FWPM) and Hispanic Employment Program Manager (HEPM)</u>. Assignment of these managers is required per reference (d) and DOD Directive 1440.1 of 21 May 1987 (NOTAL), amended. The FWPM and HEPM (collateral duty) are the principal staff advisors to the DEEOO on all EEO issues related to or impacting on the status and treatment of women or Hispanics, respectively. The Secretary of the Navy established the Hispanic Five-Point Program in May 1989, and set a goal for five percent representation by FY 1992 Key duties focus on integrating recommendations and strategies into the activity EEO goals and objectives. Additionally, the FWPM and HEPM will:

a. Conduct studies of women/Hispanic representation in, and progress to, higher levels within the activity.

b. Conduct analysis of the inclusion of women/Hispanics in recruitment activities, in training, among applicants and eligibles for promotion, on boards and committees, and in other areas which influence their career progression.

c. Serve on boards and committees whose decisions affect the morale, employment, or advancement of women and Hispanics.

d. Provide input to the activity Affirmative Employment Program (AEP) Plan and EEO policy instructions relating to women/Hispanics, including establishment of goals and actions to accomplish these objectives and the preparation of activity EEO reports.

e. Assist in developing training for progression of women/Hispanics in occupations and levels where underrepresentation exists.

f. Serve as focal point in the activity and the community on equal opportunity for women/Hispanics, including such special recruitment sources as schools, organizations, and publications.

g. Prepare publicity and other promotional material to motivate women/Hispanics to aspire to higher levels, positions, and occupations with advancement opportunities.

h. HEPM. Establish and maintain contacts with schools with substantial Hispanic enrollments to provide information about employment opportunities and youth employment programs, and to encourage youths to stay in school.

5. Special Emphasis Program Managers (SEPMs). In addition to the FWPM and HEPM, other SEPM's, i.e., Black Employment Program Managers (BEPM), Asian American/Pacific Islander Program Managers (AAPIPM), and Native American Indian Program Managers (NAIPM) may be appointed on a collateral-duty basis. Responsibilities are the same as in paragraph 4.

6. Handicapped Program Manager (HPM). Assignment of an Handicapped Program Manager is also required by the above authorities. The HPM serves as the principal staff advisor to the DEEOO on all issues relating to or impacting on the status and treatment of handicapped individuals or applicants. Key duties focus on identifying and presenting workable solutions to

the broad spectrum of employment-related needs of handicapped individuals and disabled veterans. This encompasses the attitudinal, architectural, and organizational barriers to the successful recruitment, hiring, placement, promotion, and reasonable accommodation in the workplace. (The Selective Placement Coordinator in the servicing Civilian Personnel Office has responsibility for recruiting, hiring, or placement of handicapped individuals, disabled veterans or rehabilitated offenders.) Additionally, the HPM will perform similar functions as those in paragraph four, with emphasis on handicapped individuals and disabled veterans.

7. Equal Employment Opportunity Task Forces. Establishment of EEO or Affirmative Action Task Forces is optional. These task forces will serve on an ad hoc or permanent basis; and will represent all racial and ethnic groups, and will contain a cross-section by age, rank/grade level, and sex.

8. EEO Liaison Officers. In NS&SO, each office will appoint an EEO Liaison Officer, who will serve on a collateral-duty basis as a liaison between the DEEOO and the head of each office. They will ensure full distribution of EEO information, compliance with EEO training requirements of managers and supervisors, with appointment of EEO Counselors, and other duties as necessary. Appointment of EEO Liaison Officers in other activities is optional.

9. Equal Employment Opportunity Counselors. Before they may counsel, EEO Counselors must receive the formal, 3-day training for EEO Counselors. Subsequently, they must receive an additional 24 hours of training each year. EEO Counselors establish and maintain an open channel through which employees and applicants for employment may raise questions, discuss potential complaints of discrimination; and, on an informal basis, obtain resolution of problems connected with EEO. The EEO Counselor serves as a bridge between the complainant and management, and performs a vital function during the initial phase of the complaint process. Additionally, the EEO Counselor will:

a. When requested, conduct an interview with complainant to obtain full understanding of problems relating to EEO;

b. Seek information from appropriate officials who have direct knowledge relative to the problem presented;

c. Review pertinent records relative to the problem presented;

d. Explore with the complainant, management, and the DEEOO ways in which the problem may be resolved; and,

e. Keep notes on the counseling sessions, and information gathered. Provide a counselor's report upon the request of the DEEOO after a formal complaint is filed. (Counseling notes are considered personal notes and will not be related to the complainant or be part of a complaint file.)

10. Miscellaneous. EEO program officials identified in paragraphs 3 through 9 assigned on a collateral-duty basis will be allowed sufficient time to perform their duties. EEO responsibilities will require less than 1 percent of worktime. All collateral-duty appointments shall be documented, made an official entry in the Official Personnel File of the individual, and the position description amended.

Recruiting and Staffing Programs

There are numerous recruiting and staffing programs available to assist Department of the Navy supervisors and managers in staffing their organizations and to increase representation of minorities, women, and disabled persons. Use of appointing authorities available through these programs provides the flexibility necessary for successful recruitment into a wide variety of occupations and grade levels and an excellent means of meeting activity and command AEP, AAP, and FEORP goals and objectives. Most of the appointments covered in this enclosure fall under Schedules A and B. Some of these programs are applicable and some will not be - but managers can discuss these options with their staffing specialist.

a. Cooperative (Co-op) Education Program. The Co-op Program provides academic preparation and career-related work experience to students in a variety of education and training programs at all educational levels from high school through graduate level. Co-op students are eligible for noncompetitive conversion to the competitive service upon completion of program requirements. (Reference: FPM/CPI Chapter 308 (NOTAL).)

b. Federal Junior Fellowship Program (FJFP). The FJFP provides graduating high school students who are planning to pursue post high school education an opportunity to learn about their chosen career field through related work experience. To qualify for the FJFP, students must meet financial-need criteria established by OPM. The FJFP is not subject to Object Class II payroll controls. FJFP students are eligible for noncompetitive conversion to the competitive service upon completion of program requirements. (Reference: FPM/CPI Chapter 308 (NOTAL).)

c. Stay-in-School (SIS) Program. The SIS Program provides students an opportunity to earn an income in order to continue their education. Students must be enrolled full-time in a high school, vocational school, or baccalaureate program and may work part-time when shcool is in session and full-time during vacation periods. To qualify for the SIS Program, students must meet financial-need criteria established by OPM (this requirement does not apply to disabled students). The SIS Program is not subject to Object Class II payroll controls. (Reference: FPM/CPI Chapter 308 (NOTAL).)

d. Summer Employment Program. The Summer Employment Program provides training and work opportunities to students during summer months from 13 May to 30 September of each year. This

program offers various positions from office support, trade, and labor to professional positions. Also, part of this program is the Summer Employment Program for the Needy Youth which provides meaningful work for young people who might not otherwise have the opportunity to obtain summer jobs. The Needy Youth category of the Summer Employment Program is not subject to Object Class II payroll controls. (Reference: FPM Chapter 332, Appendix J, and OPM Summer Jobs Announcement No. 414 (NOTAL).)

e. Students Volunteer Service. The Student Volunteer Service provides students an opportunity to gain experience in their chosen field and encourages career exploration. Students enrolled part-time in high school or college can participate in this program with the school's approval. (Reference: FPM/CPI Chapter 308 (NOTAL).)

f. Worker Trainee Opportunity Program (WTOP). The WTOP provides opportunities to low-skilled, economically, or educationally disadvantaged individuals. Applicants are placed in one of two job categories: (1) jobs which provide basic training and general career guidance services, and (2) developmental jobs which require more specific types of training and developmental experiences which lead to target positions at higher grade levels. Program participants are exempt from Object Class II payroll controls. (Reference: FPM Bulletin 713-33 dated 3 October 1975 (NOTAL).)

g. DOD Science and Engineering Apprenticeship Program (SEAP) (for high school students). The DOD SEAP provides high school students, considered to have potential to succeed in careers in science and engineering, an opportunity to work in a research, development, test, or evaluation organization. The program is intended to further stimulate a student's interest in science and engineering and establishes relationships between students and active researchers. (Reference: SECNAVINST 12213.7 and DODINST 3218.1 of 29 July 1981 (NOTAL).)

h. Upward Mobility Program. The Upward Mobility Program provides a variety of approaches for movement of an underutilized, high potential employee into careers more suitable to their talents, abilities, and interests. The primary vehicle entails use of the OPM-approved Navy-wide Training Agreement targeted toward employees who do not meet qualification requirements for the first rung of a career ladder. However, upward mobility may involve any staffing or training program

which moves an employee into a field with career growth potential. (Reference: SECNAVINST 12410.21, S/HCPOINST 12713.4, and FPM/CPI Chapter 335.)

i. Career Intern Programs. In addition to the above programs, there are a variety of centralized Department of the Navy Career Intern Programs available to internal and external candidates in the following fields: Personnel/EEO, Contracts, Logistics, and Financial Management. Individual activities or commands also administer Career Intern Programs for their local recruitment needs. (Reference: FPM/CPI Chapter 410 (NOTAL).)

j. Part-time Career Employment Program. The Part-time Career Employment Act (Public Law 95-437) was established to provide a variety of flexible and creative staffing options to managers and supervisors. Part-time employment, including job sharing, provides managers with more flexibility in scheduling, especially during periods of leave and training, and a wider recruitment base of highly qualified and motivated candidates. The program can also result in increased productivity, a higher retention rate and less absenteeism. Employee morale is increased by allowing flexibility to parents, students, and disabled persons to continue or resume careers and attend to other concerns and responsibilities. (Reference: FPM/CPI Chapter 340 (NOTAL).)

k. Special Appointment Authorities. The special hiring authorities contained in Schedules A and B provide excellent opportunities for managers and supervisors to respond to affirmative employment program plans especially in the hiring and recruitment of persons with targeted disabilities. (See FPM Chapters 213, 302 and 306 for details (NOTAL).)

l. Other. Veterans Readjustment Act (VRA), DVAAP, and FEORP. (See FPM Chapter 307, Subchapter 5, of this CPI and Subchapter 2 of FPM/CPI Chapter 720 (NOTAL).)