

LESSON NUMBER 7

TASK: EQUAL OPPORTUNITY COMPLAINT PROCEDURES

CONDITION: In a small group discussion environment.

STANDARD: All participants will be able to describe equal opportunity complaint procedures.

TIME OF INSTRUCTION: 2 Hours

LEAD IN: The EO complaints processing system addresses complaints that allege unlawful discrimination or unfair treatment on the basis of race, national origin, color, gender, and/or religious affiliation, or sexual harassment. Attempts should always be made to solve the problem at the lowest possible level within an organization.

PART I: TYPES OF COMPLAINTS

The Army has two types of EO complaints within its EO complaint process. They are informal and formal.

a. Informal Complaints. An informal complaint is any complaint that a soldier, family member or DA civilian does not wish to file in writing. Informal complaints may be resolved directly by the individual, with the help of another unit member, the commander or other person in the complainant's chain of command. Typically, those issues that can be taken care of informally can be resolved through discussion, problem identification, and clarification of the issues. An informal complaint is not subject to time suspense nor is it reportable.

b. Formal Complaints. A formal complaint is one that a complainant files in writing and swears to the accuracy of the information. Formal complaints require specific actions, are subject to timelines, and require documentation of the actions taken. An individual files a formal complaint using a DA Form 7279-R, Equal Opportunity Complaint Form.

Discussion Question: (Facilitator provide each member of the group a copy of DA Form 7279R) Review and discuss the each part of the complaint form.

(1) In Part I of DA Form 7279-R, the complainant will specify the alleged concern, provide the names of the parties involved and witnesses, describe the incident(s)/behavior(s), and indicate the date(s) of the occurrence(s). The complainant will also state the equal opportunity basis of the complaint (e.g., unlawful discrimination based upon gender, race, color, national origin, religious affiliation, or sexual harassment). Complainant will be advised of the importance of describing the incident(s) in as much detail as possible to assist in the investigative process.

(2) Soldiers have 60 calendar days from the date of the alleged incident in which to file a formal complaint. This time limit is established to set reasonable parameters for the inquiry or investigation and resolution of complaints, to include ensuring the availability of witnesses, accurate recollection of events, and timely remedial action. If a complaint is received after 60 calendar days, the commander may conduct an investigation into the allegations or appoint an investigating officer. In deciding whether to conduct an investigation, the commander should consider the reason for the delay, the availability of witnesses, and whether a full and fair inquiry or investigation can be conducted.

PART II: ALTERNATIVE AGENCIES

1. Although handling EO complaints through the chain of command is strongly encouraged, this is not the only channel. Should the soldier feel uncomfortable in filing a complaint with the chain of command, or should the complaint be against a member of the chain of command, a number of alternative agencies.

2. The following are frequently used agencies with a brief description of each agency:

a. Equal Opportunity Adviser (EOA): The EOA is trained to receive, process, and conduct inquiries into complaints of discrimination and sexual harassment.

Discussion Questions: Who is the EOA for this unit? Where is the EOA's office? Who is the unit Equal Opportunity Representatives?

b. Chaplain: The chaplain is the subject matter expert on addressing issues concerning religious discrimination or accommodation.

Discussion Questions: Does this unit have a Chaplain assigned? If so where is their office?

c. Provost Marshal (PM): Is primarily responsible for receiving and investigating violations of the UCMJ, which are criminal in nature.

d. Staff Judge Advocate (SJA): The SJA serves as an advisor and may receive complaints about discrimination in legal proceedings.

e. Housing Referral Office (HRO): Is responsible for monitoring and administering the installation's housing referral program. The HRO will receive and investigate complaints of discrimination in rental or sale of off-post residents.

f. Inspector General (IG): The IG's office is the principal agency for receiving and investigating complaints about command environment and leadership. The timelines and procedures outlined in this lesson plan do not apply to complaints filed with the IG. Complaints filed with the IG will be processed outside of EO channels in accordance with AR 20-1.

g. EO Hotline: In addition to the alternative agencies, each installation has an EO Hotline. This hotline is normally used to provide information on discrimination and sexual harassment. EO complaints cannot be received over the phone.

Note: Insure everyone knows what the phone number is to the EO Hotline.

PART III: ENTERING THE EO COMPLAINT PROCESS

1. Submission of EO complaints to the chain of command is strongly encouraged. Regardless of what agency handles a formal complaint, the complainant **must be sworn to the complaint** on DA Form 7279-R.

Discussion Question: Why do you think a complainant must swear to the complaint? (Actions against soldiers submitting false complaints: Soldiers who knowingly submit a false equal opportunity complaint (a complaint containing information or allegations that the complainant knew to be false) may be punished under the UCMJ.)

2. Complaints filed with the IG's office will be processed as an Inspector General Action Requests (IGARS) IAW AR 20-1. No timeline will be imposed on conducting the investigation or feedback to the complainant.

3. Regardless of what agency or commander receives the complaint, the chain of command has 14 calendar days in which to resolve or refer it to a higher echelon commander. The commander who has the responsibility for resolving the complaint may request an extension of up to 30 additional calendar days after the initial 14-day suspense.

4. Receipt of complaints will be annotated in writing on a DA Form 7279-R, Part Id. If the receiving agency decides not to investigate but to refer the complaint to another agency or, back to the appropriate commander, the referral must be made within 3 calendar days with the written acknowledgment of the commander or agency receiving the referral (DA Form 7279-R, Part 10a).

5. The commander will provide written feedback to the complainant not later than the 14th calendar day after receiving the complaint and then provide updates every 14-calendar days until final resolution.

PART IV: THE RIGHT TO APPEAL

1. If the complainant perceives the investigation failed to reveal all relevant facts to substantiate the allegations, or that the actions taken by the command on his or her behalf were insufficient to resolve the complaint, the complainant has the right to appeal to the next higher commander in his or her chain of command. The complainant **may not** appeal the action taken against the perpetrator, if any is taken.

2. The appeal must be presented within 7 calendar days following notification of the results of investigation and acknowledgment of the actions of the command to resolve the complaint. The complainant must provide a brief statement that identifies the basis of the appeal. This will be done in writing on the DA Form 7279-R, Part IV, and the complaint form will be returned to the commander in the chain of command who either conducted the investigation or appointed the investigating officer.

3. Once the complainant initiates the appeal, the commander has 3 calendar days to refer the appeal to the next higher unit commander. The commander to which the appeal is made has 14 calendar days to review the case and act on the appeal (i.e. approve it, deny it, or conduct an additional investigation). Not later than the 14th calendar day following receipt of the appeal this commander shall provide written feedback, consistent with Privacy Act and FOIA limitations, to the complainant on the results of the appeal. Complaints that are not resolved at brigade level may be appealed to the General Courts-Martial Convening Authority. The only exception to this is where organizations have Memorandums of Understanding or Support that delegate Uniform Code of Military Justice authority to a local commander. **Decisions at this level are final.**