

U.S. Department of
Homeland Security

**United States
Coast Guard**



U.S. Coast Guard Civil Rights Manual



COMDTINST M5350.4D
20 MAY 2019



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20 MAY 2019

COMMANDANT INSTRUCTION M5350.4D

Subj: U.S. COAST GUARD CIVIL RIGHTS MANUAL

1. PURPOSE. This Manual sets forth policy and guidance for Coast Guard Military Equal Opportunity (EO) and Civilian Equal Employment Opportunity (EEO) programs. It outlines responsibilities and procedures aimed at equipping Coast Guard members with access to expert assistance on EEO/EO matters, and provides tools that will assist unit leaders in building a model EEO workplace. The model EEO program prescribed by the U.S. Equal Employment Opportunity Commission (EEOC) ensures that all employees and applicants for employment enjoy equality of opportunity in the workplace regardless of race, color, national origin, religion, sex (including gender identity, sexual orientation, and pregnancy), age, disability, genetic information, marital status, parental status, political affiliation, reprisal or retaliation for participation in prior EEO/EO activity, and any other basis protected by the law. It is the policy of the Coast Guard to extend to military members processes and procedures, afforded to the civilian workforce by law to the extent possible.
2. ACTION. All Coast Guard Unit Commanders, Commanding Officers /Officers in Charge, Deputy/Assistant Commandants, Chief Counsel, and Chiefs of Headquarters Staff Elements must comply with the provisions of this Manual. Internet release is authorized.
3. DIRECTIVES AFFECTED. The Coast Guard Civil Rights Manual, COMDTINST M5350.4C, is hereby cancelled.
4. DISCLAIMER. This guidance is not a substitute for applicable legal requirements, nor is it itself a rule. It is intended to provide operational guidance for Coast Guard personnel and is not intended to, nor does it impose legally binding requirements on any party outside the Coast Guard. If any provisions of this instruction conflict with other policy, the following order of precedence applies, generally, to work rules for all federal employees: Federal Laws, Executive Orders, Government-wide Regulations, and Collective bargaining agreements/Negotiated Agreements.

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NON-STANDARD DISTRIBUTION: None

5. MAJOR CHANGES. This replaces the previous Civil Rights Manual, COMDTINST M5350.4C. Significant changes in this Manual include:

- a. Anti-harassment and Hate Incident reporting requirement.
- b. Added cultural observances.
- c. Updates to reasonable accommodations procedures, and the new regulated requirement to provide personal assistance services for qualified persons with disabilities.
- d. Information about the Coast Guard's Language Access and Federal Financial Assistance programs.

6. ENVIRONMENTAL ASPECT AND IMPACT CONSIDERATIONS.

- a. The development of this Manual and the general policies contained within it have been thoroughly reviewed by the originating office in conjunction with the Office of Environmental Management (CG-47). This Manual is categorically excluded under current Department of Homeland Security (DHS) categorical exclusion (CATEX) A3 from further environmental analysis "Implementation of the National Environmental Policy Act (NEPA)," DHS Instruction Manual 023-01-001-01 (series).
- b. This Manual will not have any of the following: significant cumulative impacts on the human environment; substantial controversy or substantial change to existing environmental conditions; or inconsistencies with any federal, state, or local laws or administrative determinations relating to the environment. All future specific actions resulting from the general policy in this Manual must be individually evaluated for compliance with the National Environmental Policy Act (NEPA), Department of Homeland Security (DHS), and Coast Guard NEPA policy, and compliance with all other environmental mandates.

7. DISTRIBUTION. No paper distribution will be made of this Manual. An electronic version will be located on the following Directives and Publications Division (CG-612) web sites. Internet: <http://www.dcms.uscg.mil/directives/>, and CGPortal: <https://cgportal2.uscg.mil/library/directives/SitePages/Home.aspx> <https://www.uscg.mil/Resources/Civil-Rights/>.

8. RECORDS MANAGEMENT CONSIDERATIONS. This Manual has been evaluated for potential records management impacts. The development of this Manual has been thoroughly reviewed during the Directives clearance process, and it has been determined there are no further records scheduling requirements, in accordance with Federal Records Act, 44 U.S.C. 3101 et seq., National Archives and Records Administration (NARA) requirements, and the Information and Life Cycle Management Manual, COMDTINST M5212.12 (series). This policy does not have any significant or substantial change to existing records management requirements.

9. FORMS/REPORTS. The forms referenced in this Manual are available in USCG Electronic Forms on the Standard Workstation or on the Internet:
<https://www.dcms.uscg.mil/ppc/pd/forms/> and CGPortal at:
<https://cg.portal.uscg.mil/library/forms/SitePages/Forms.aspx>

10. REQUEST FOR CHANGES. Units and individuals can recommend changes by email via their chain of the command to Commandant (CG-00H);
ATTN: Chief, Compliance and Procedures Division (CG-00H-11); U.S. Coast Guard
Stop 7000; 2703 Martin Luther King Jr Ave SE; Washington, DC 20593-7000

DR. TERRI A. DICKERSON /s/
Director, Civil Rights Directorate

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CHAPTER 1 INTRODUCTION TO THE COAST GUARD CIVIL RIGHTS MANUAL

- A. Introduction. The Coast Guard mandates that all members of the Coast Guard, active and reserve military, civilian (including Non-Appropriated Fund employees), be treated fairly and with respect. Everyone should be provided the opportunity to work and achieve their full potential, thereby enhancing unit cohesiveness, military readiness, and mission accomplishment. Any form of discrimination that violates law or policy in any action affecting a person, those seeking employment with, or those receiving benefits from the Coast Guard or its sponsored programs is prohibited.
- B. About Coast Guard's Civil Rights Mission. It is to proactively pursue a workforce that reflects the national labor force and a workplace climate that fully embraces the Core Values of Honor, Respect, and Devotion to Duty. This purpose also reinforces the Service's goal of becoming a national employer of choice, attracting highly qualified applicants for employment from a diverse talent pool. The Coast Guard must ensure this by vigorously preventing discrimination and promoting equal opportunity. Its mandate is to implement programs and policies consistent with federal anti-discrimination laws, regulations, and policies. These include:
1. Preventing discrimination in employment for employees and applicants for employment through training, Alternative Dispute Resolution (ADR), and the use of climate surveys.
 2. Promoting the full realization of equal employment opportunity through the continuing Affirmative Employment Programs (AEP), Special Emphasis Programs (SEPs) and Community Outreach.
 3. Preventing discrimination in grants and contracts.
- C. Goals of the Civil Rights Directorate. The Civil Rights Directorate carries out its mission and goals through regulations and program policies to ensure that the following objectives are met:
1. To build a workplace climate and organizational culture that values diversity and enables personal growth and achievement.
 2. To support a workplace environment free from discrimination and harassment.
 3. To establish and implement procedures for resolving disputes, the investigative process, and adjudication.
 4. To meet the needs of the public by allocating grants based upon a proposal's merit with regard to its potential contributions to Coast Guard missions, its public policy objectives, and providing input on assurances that Coast Guard facilities do not adversely impact the environment in minority and low-income communities.

- D. How Success is Achieved. Equal Employment Opportunity/Equal Opportunity (EEO/EO) success is achieved through visible leadership commitment; program implementation within the chain of command; clear articulation of, and adherence to, program standards; and personal accountability. Success requires a personal commitment to the principles of civil rights and equal opportunity and requires that personnel act purposefully and proactively to put this commitment into action.
- E. About the Coast Guard Civil Rights Manual. This Manual provides users guidance for applying and complying with all requirements. The information contained in this Manual describes the effort including the mission, organization, legal authorities, policies, regulations, and procedures for implementing its mission and its policies. The chapters in this manual provide the following:
1. Chapter 1: Introduces the Manual.
 2. Chapter 2: Statutory authorities, the Coast Guard Civil Rights mission, and organization of the Civil Rights Directorate.
 3. Chapter 3: The civil rights policies, affirmative obligations, and prohibited practices.
 4. Chapter 4: The programs implementing affirmative EEO obligations.
 5. Chapter 5: The EEO/EO complaint and alternative resolution processes.
 6. Chapter 6: The Reasonable Accommodation Program and Personal Assistance Service.
 7. Chapter 7: The process for investigating and resolving social climate incidents.
 8. Chapter 8: The various external programs such as Language Access for Persons with Limited English Proficiency (LEP), Federal Financial Assistance (FFA), and Environmental Justice (EJ).
 9. Appendix A: Terminology.
 10. Appendix B: The Civil Rights Directorate Organization Chart.
 11. Appendix C: The Civil Rights Directorate Regions and Zones by State.
 12. Appendix D: List of USCG Special Emphasis Programs.
 13. Appendix E: List of USCG Cultural Events.
 14. Appendix F: List of USCG Civil Rights Awards.
 15. Appendix G: Command Checklist.
 16. Appendix H: Civil Rights Tool Review Process.
 17. Appendix I: Sample Memo: Acknowledgement Report of Potential Harassment.

18. Appendix J: Sample Memo: Findings and Outcome of Report of Harassment.
 19. Appendix K: Sample Memo: Potential Hate Incident – 48 Hour Report.
- F. Updating the Manual. This Manual will be updated on a regular basis per Coast Guard Directives System, COMDTINST M5215.6 (series) or as new policies, laws, or regulations are issued that affect the Coast Guard Civil Rights mission.

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CHAPTER 2 THE COAST GUARD'S CIVIL RIGHTS DIRECTORATE: AUTHORITIES, MISSION AND ORGANIZATION

A. Legal Authority for Civil Rights Policies.

1. Introduction. The Coast Guard Civil Rights policies are derived from laws, regulations, Executive Orders, and Commandant Instructions applicable to civilians, applicants for employment, and military members including reservists. While legal authorities are the underpinning for the Coast Guard's civil rights policies, it should be noted that equal opportunity for military personnel is driven, primarily, by military policies and regulations. Nevertheless, the policies herein afford military members the same rights as those for civilian members, to the extent possible. This Manual does not apply to Auxiliarists. Policy for Auxiliarists can be found in the Auxiliary Manual, COMDTINST M16790.1 (series).
2. Commanding Officers/Officers in Charge (CO/OIC). This instruction calls attention to the roles and responsibilities of CO/OIC throughout this manual. Commanding Officers/Officers in Charge (singular and plural) consist of: unit commanders, commanding officers, officers in charge, deputy/assistant commandants, chiefs of headquarters staff elements, supervisors and managers (military and civilian).
3. Civil Rights. The applicable authorities are provided below:
 - a. Laws.
 - (1) Section 1981 of the Civil Rights Act of 1866, 42 U.S.C. § 1981, prohibits race discrimination in the formation of contracts. In 1991, Congress amended Section 1981 by making it clear that the Section prohibits not only discrimination in the formation of contracts but also in all aspects of the contractual relationship between the parties. This means the statute applies to all aspects of employment.
 - (2) Veterans' Preference Act of 1944, as amended, Pub. L. No. 93-508, 88 Stat. 1578 (codified in scattered sections of title 38 of the U.S. Code)", requires preference in appointments to federal jobs for veterans who are disabled or who served on active duty in the Armed Forces during specified time periods or in military campaigns.
 - (3) The Equal Pay Act of 1963 (EPA), as amended, 29 U.S.C. § 206, prohibits sex discrimination in wages, giving men and women the right to earn equal pay for doing substantially the same work.
 - (4) Title VII of the Civil Rights Act of 1964 (Title VII), 42 U.S.C. § 2000e *et seq.*, as amended, prohibits employment discrimination on the basis of race, religion, sex, color, or national origin. Title VII's prohibition against sex discrimination in employment includes sexual harassment, gender identity, sexual orientation, and pregnancy.

- (5) The Age Discrimination in Employment Act of 1967 (ADEA), as amended, 29 U.S.C. Part 621 et seq., protects people age 40 or older from discrimination on the basis of age in any aspect of employment.
- (6) Section 501 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 791, prohibits federal employers from engaging in employment discrimination against persons with physical or mental impairments that substantially limit one or more major life activities. The law requires employers to provide reasonable accommodation of their disabilities unless to do so would cause undue hardship. This Act also requires all federal agencies to have affirmative employment plans to hire, to place, and to advance persons with disabilities.
- (7) Section 505 of the Rehabilitation Act of 1973, 29 U.S.C. § 791, makes available to any employee or applicant, all the remedies, procedures, and rights set forth in Section 717 of the Civil Rights Act of 1964, with respect to any complaint under Section 501 and Section 504, of the Rehabilitation Act of 1973, as amended.
- (8) Section 402 of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 (VEVRAA), 42 U.S.C. § 4211-4212, requires affirmative action to employ and advance in employment qualified special disabled veterans and veterans of the Vietnam era and prohibits discrimination based on Vietnam era veteran status or special disabled veteran status in federally assisted programs.
- (9) The Pregnancy Discrimination Act of 1978, 42 U.S.C. § 2000e *et seq.*, makes clear that Title VII's prohibition of sex discrimination includes discrimination based on pregnancy, childbirth, or related medical conditions.
- (10) The Civil Service Reform Act of 1978, Pub. L. No. 95-454, 92 Stat. 1111 (codified as amended in scattered sections of 5 U.S.C.), requires federal employers to recruit and employ a labor force as diverse as the nation's available workforce and forbids them to discriminate on the basis of marital status or political affiliation.
- (11) Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. § 12101-12117, prohibits discrimination on the basis of disability in employment, state and local facilities and programs, and places of public accommodation.
- (12) The Civil Rights Act of 1991, 42 U.S.C. § 1981, authorizes compensatory damages up to three hundred thousand dollars (\$300,000) for intentional employment discrimination.
- (13) 5 U.S.C. Chapter 35, 10 U.S.C. § 1143(d), and 38 U.S.C. Chapter 42 and 43 all pertain to veterans' employment and re-employment rights.
- (14) Employment and Training of Veterans 38 U.S.C. Chapter 42 and 43 (1994), reference employment assistance and reemployment rights of members of the uniformed services, including procedures for assistance, enforcement, and investigation. Further information is offered for veterans' employment emphasis

under federal contracts, eligibility requirements for veterans under federal employment and training programs; employment within the Federal Government; and priority of service for veterans in job training programs.

- (15) Employment and Reemployment Rights of Members of the Uniformed Services 5 U.S.C. Chapter 35, 10 U.S.C § 1143(d) (2012), references retention preference, voluntary separation incentive payments, restoration and reemployment of members of the armed forces. Members of the armed forces who are discharged or released from active duty shall receive a certification or verification of any job skills and experience acquired while on active duty that may have application to employment in the civilian sector.
- (16) The Family and Medical Leave Act of 1993 (FMLA), as amended, 29 U.S.C. § 2601 *et seq.*, requires employers to provide covered employees with up to twelve work weeks of unpaid, job protected leave per year for the following purposes: the birth of a son or daughter of the employee and the care of such son or daughter; the placement of a son or daughter of the employee for adoption or foster care; the care of a spouse, son, daughter, or parent of the employee who has a serious health condition; or the serious health condition of the employee that makes the employee unable to perform the essential functions of his or her positions.
- (17) Administrative Dispute Resolution Act of 1996 (ADRA), Pub. L. No. 104-320, 110 Stat. 3870 (codified in various sections of 5 U.S.C.), requires federal agencies to develop policies regarding the use of Alternative Dispute Resolution (ADR) in case management. The Act provides that, with the agreement of the parties involved, agencies may use ADR for the resolution of an issue in controversy that relates to an administrative program. The Act also provides guidance for which types of agency disputes are appropriate for ADR proceedings.
- (18) Notification and Federal Employee Anti-discrimination and Retaliation Act of 2002 (No FEAR Act), 5 U.S.C. § 2301 *et seq.*, requires federal agencies to notify employees and applicants for employment about their rights under the discrimination and whistleblower laws, post on their public websites statistical data related to EEO complaints, undertake timely and appropriate discipline against employees who engage in discrimination or reprisal, and reimburse the Judgment Fund for any discrimination and whistleblower related settlements or judgments.
- (19) Military Whistleblower Protection Act of 1988 (MWPA), as amended at title 10, United States Code, Section 1034, and elsewhere, is an American law providing protection of lawful disclosures of illegal activity by members of the United States Armed Forces. The act protects a United States armed-forces member who makes a “protected communication” regarding a violation of law or regulation. Superiors of service members are prohibited from retaliating against the service member making the protected statements, thus military members who believe they are subject to whistleblower retaliation should file a complaint with

Department of Homeland Security (DHS), Office of the Inspector General (OIG) Office, not the U.S. Office of Special Counsel.

- (20) The Genetic Information Non-discrimination Act of 2008 (GINA), Pub. L. No. 110-233, 122 Stat. 881, amends portions of the Employee Retirement Income Security Act (ERISA), the Public Health Service Act, and the Internal Revenue Code, addressing the use of genetic information in health insurance in Title I. Title II of GINA prohibits the use of genetic information in employment, prohibits the intentional acquisition of genetic information about applicants and employees, and imposes strict confidentiality requirements. GINA requires the Equal Employment Opportunity Commission (EEOC) to issue regulations implementing Title II of the Act. Title II applies to Congress and federal executive branch agencies.
 - (21) The ADA Amendments Act of 2008, Pub. L. No. 110-325, 122 Stat. 3553, makes clear that the term disability should be interpreted broadly. It states that mitigating measures must not be considered in assessing whether an individual has a disability, clarifies that an impairment that is episodic or in remission is defined as a disability if it would substantially limit a major life activity when active, and states that people who are only regarded, as disabled are not entitled to reasonable accommodation.
 - (22) The Lilly Ledbetter Fair Pay Act of 2009, Pub. L. No. 111-2, 123 Stat. 5, amended Title VII, the ADEA, the ADA, and the Rehabilitation Act of 1973 to clarify the time frame in which victims of discrimination may challenge and recover for discriminatory compensation decisions or other discriminatory practices affecting compensation.
- a. Executive Orders.
- (1) Executive Orders 11246 (1965) and 11375 (1967) bar discrimination in federal employment based on race, religion, color, national origin, or sex. These Executive Orders require agencies to establish EO programs and complaint procedures. The Federal Women's Program was established as a result of Executive Order 11375.
 - (2) Executive Order 11478 (1969) covers the federal civilian workforce, including the United States Postal Service and civilian employees of the United States Armed Forces. It prohibits discrimination in employment on the basis of race, color, religion, sex, national origin, disability, age, status as a parent (EO 13152, 2000), sexual orientation, and gender identity (EO 13672, 2014). EO 11478 assigned the Equal Employment Opportunity Commission responsibility for directing the implementation of the Order's policies and to issue rules to promote its principles. Agencies are required to abide by those rules and produce any report the EEOC requires. Following the release of Executive Order 11478, the Federal Women's Program (FWP) was integrated into the EEOC program and placed under the direction of EEOC for each agency.

- (3) Executive Order 11521 (1970) authorizes federal agencies to appoint qualified veterans to positions in the competitive service under Veteran Recruitment Appointments (VRA) without regard to the competitive examining system.
 - (4) Executive Order 13087 (1998) amends Executive Order 11478 to prohibit discrimination against civilian employees of the Federal Government based on their real or perceived sexual orientation.
 - (5) Executive Order 13078 (1998) and 13172 (2000) are intended to increase the employment of adults with disabilities to a rate that is as close as possible to the employment rate of the general adult population and to support the goals articulated in the findings and purpose section of the Americans with Disabilities Act of 1990.
 - (6) Executive Order 13145 (2000) prohibits discrimination against employees based on protected genetic information or information about a request for or the receipt of genetic services.
 - (7) Executive Order 13163 (2000) promotes increased opportunities for persons with disabilities to be employed at all levels and occupations of the Federal Government and supports the goals articulated in Section 501 of the Rehabilitation Act of 1973. This order promotes the use of available hiring authorities consistent with statutes, regulations, and prior Executive Orders and presidential memoranda; the expansion of outreach efforts; and increased efforts to accommodate persons with disabilities.
 - (8) Executive Order 13164 (2000) promotes a model workplace that provides reasonable accommodations for: (1) persons with disabilities in the application process for federal employment; (2) federal employees with disabilities to perform the essential functions of a position; and (3) federal employees with disabilities to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities.
 - (9) Executive Order 13171 (2000) stipulates the establishment and maintenance of programs for the recruitment and career development of Hispanics in federal employment.
- b. Equal Employment Opportunity Commission (EEOC) Regulations. The 29 C.F.R. Part 1614 sets forth the Equal Employment Opportunity Commission's comprehensive regulations covering the federal sector Equal Employment Opportunity programs.
- c. The EEOC Directives.
- (1) The EEOC Management Directive 110 (MD-110) provides federal agencies with Commission policies, procedures, and guidance relating to the processing of employment discrimination complaints governed by the Commission's regulations in 29 C.F.R., Part 1614. Under this Directive, federal agencies

covered by 29 C.F.R., Part 1614, are responsible for developing and implementing their own equal employment programs including Alternative Dispute Resolution (ADR) programs, and complaint processing procedures consistent with the Commission's regulations.

- (2) The EEOC Management Directive 715 (MD-715) provides guidance on the elements of legally compliant Title VII and Rehabilitation Act of 1973 programs. This Directive requires agencies to take appropriate steps to ensure that all employment decisions are free from discrimination. It also sets forth the standards by which EEOC will review the sufficiency of agency Title VII and Rehabilitation Act programs, which include periodic agency self-assessments and the removal of barriers to free and open workplace competition.
- d. The Department of Homeland Security (DHS) Delegations.
- (1) The DHS Delegation of Authority 0160.1 delegates, from the DHS Secretary to Coast Guard Commandant (and other DHS Organizational Heads), the authority to conduct the informal EO complaint processes, including EO counseling, ADR, affirmative employment, diversity planning, and compliance reviews.
 - (2) The DHS Delegation of Authority 19000 delegates authority over policy and operational matters involving Civil Rights Directorate programs from the Officer for DHS Civil Rights and Civil Liberties (CRCL), to the Deputy Officer for DHS CRCL and re-delegates to the appropriate Components EEO Officers where such re-delegation fulfills the responsibilities of the Officer for DHS CRCL.
 - (3) The DHS Delegation of Authority 19001 assigns authority to the Deputy Officer for CRCL for Programs and Compliance to conduct investigations of complaints filed under Section 504 of The Rehabilitation Act of 1973, including issuing findings, remedies, and notices of right to appeal. The authorities in this delegation may not be re-delegated.
 - (4) The DHS Delegation of Authority 19003 delegates authority to the Officer for DHS CRCL to establish and implement policy; direct, oversee, and coordinate the DHS EEO complaint system; and ensure all DHS federally-assisted and federally-conducted programs or activities comply with EEO laws. The delegated authorities may be re-delegated, in writing, to appropriate personnel within DHS CRCL or the Components.
- e. Coast Guard Commandant Instructions.
- (1) Discipline and Conduct, COMDTINST M1600.2 (series).
 - (2) Civilian Personnel Actions: Disciplinary, Adverse, and Performance Based Actions, COMDTINST M12750.4 (series).
- f. Commandant's Policy Statements. The Commandant issues annual policy statements outlining the Coast Guard's stance concerning standards of integrity and professional

conduct. The Coast Guard is highly committed to maintaining a working environment free of all forms of discrimination and harassment. Illegal discrimination in any form violates the Service's Core Values of Honor, Respect, and Devotion to Duty and will neither be condoned nor tolerated at any level.

4. Civil Rights in Federal Programs, Activities, Services, and Facilities. Laws, Executive Orders, Equal Employment Opportunity Commission (EEOC) Regulations and Presidential Proclamations, and Department of Homeland Security (DHS) Delegations of Authority are briefly described below under each category and may serve as references and additional sources of information regarding this Manual.

a. Laws.

- (1) Title VI of the Civil Rights Act of 1964, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793, prohibits discrimination on the basis of race, religion, color, or national origin in any program or activity receiving federal financial assistance.
- (2) Architectural Barriers Act of 1968, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793, requires that buildings and facilities designed, constructed, altered, or leased with certain federal funds after September 1969 must be accessible to and useable by persons with disabilities.
- (3) Section 503 of the Rehabilitation Act of 1973, as amended, 42 U.S.C. § 12203, prohibits employers with federal contracts or subcontracts that exceed ten thousand dollars (\$10,000) from discriminating against qualified persons with disabilities. Section 503 also requires these federal contractors or subcontractors to take affirmative action to hire, retain, and promote qualified persons with disabilities.
- (4) Section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794, protects against discrimination based on any physical or mental disability by any program or activity sponsored by the Federal Government.
- (5) Section 508 of the Rehabilitation Act of 1998, 29 U.S.C. 794(d), applies to all federal agencies when they develop, procure, maintain, or use electronic and information technology. Under Section 508, agencies must give employees with disabilities and members of the public access to information that is comparable to the access available to others.

b. Executive Orders.

- (1) Executive Order 12898 (1994) protects minority and/or low-income communities against disproportionately adverse human health or environmental effects from any federally conducted or assisted programs, policies, or activities. The Environmental Protection Agency is responsible for this Order.
- (2) Executive Order 13166 (2000) requires federal agencies to examine the services they provide for persons with limited English proficiency (LEP) and to develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency.
- (3) Executive Order 13175 (2000) outlines principles that executive departments and agencies must follow in their interactions with Native American tribal governments. The purpose of these principles is to ensure that the Federal Government operates within a government-to-government relationship with federally recognized Native American tribes. In carrying out these responsibilities, the Coast Guard will consider tribal interests in formulating service policy. The Coast Guard will also ensure appropriate involvement of tribal governments in making decisions and managing service programs that may affect reservation policies.
- (4) Executive Order 13336 (2004) American Indian and Alaska Native Education. It is the purpose of this order to assist American Indian and Alaska Native students in meeting the challenging student academic standards of the No Child Left Behind Act of 2001 (Public Law 107-110) in a manner that is consistent with tribal traditions, languages, and cultures. This order builds on the innovations, reforms, and high standards of the No Child Left Behind of 2001, including: stronger accountability for results; greater flexibility in the use of federal funds; more choices for parents; and an emphasis on research based instruction that works.
- (5) Executive Order 13515 (2009) establishes a President's Advisory Commission on Asian Americans and Pacific Islanders (AAPI) and a White House Initiative on Asian Americans and Pacific Islanders. Each will work to improve the quality of life and opportunities for AAPI through increased access to, and participation in, federal programs in which they may be underserved. In addition, each will work to advance relevant evidence-based research, data collection, and analysis for AAPI populations and subpopulations.

c. Presidential Proclamations.

- (1) Presidential Proclamation 5112 established the National Partnership in Education program. After its establishment, the President later requested that each Executive Department set up partnerships with local schools. The Proclamation suggested that elements of agency programs include employees volunteering in

tutoring programs, sponsoring field trips and tours, participation in educational programs and providing honorariums.

d. Department of Homeland Security (DHS).

- (1) 6 C.F.R Part 15 implements Section 504 of the Rehabilitation Act, which prohibits discrimination due to disabilities in DHS-conducted programs, including USCG programs.
- (2) 6 C.F.R. Part 21 implements Title VI of the Civil Rights Act, which prohibits discrimination due to race, color, or national origin in DHS-assisted (grant) programs, including USCG programs.

B. The Coast Guard Civil Rights Directorate (CRD) Vision, Mission, and Goals.

1. Vision. A discrimination-free workplace where every employee and applicant of the Coast Guard has the opportunity to reach his or her full potential, and believes it is possible to do so without regard to race, color, national origin, religion, sex (including gender identity, pregnancy and sexual orientation), age, disability, genetic information, marital status, parental status, political affiliation, engagement in a protected Equal Employment Opportunity (EEO)/Equal Opportunity (EO) activity or any other basis protected by the law.
2. Mission. Maximize the Coast Guard's overall mission effectiveness by leading programs and facilitating practices which foster a discrimination-free workplace.
3. Goals. The Civil Rights Directorate established five strategic goals that are patterned after the U.S. Equal Employment Opportunity Commission (EEOC) Management Directive 715's (MD-715) six essential elements for a Model EEO Program which emphasize a culture that is proactive rather than reactive to achieving a model civil rights workforce. The following are CRD's five goals and associated activities to assist Commands with achieving a workforce free from discrimination:
 - a. Goal #1: Lead. *CRD conducts activities that assist and support commands to foster civil rights leadership.* Command leadership is ultimately responsible for the Coast Guard's civil rights outcomes. In this regard, communication and personal involvement are critical to command leadership. Many day to day activities provide opportunities for the CO/OIC and supervisors to openly and visibly demonstrate their commitment to the objectives of civil rights. Some recommended activities that help establish a climate conducive to the goal of a workplace free of discriminatory practices include:
 - (1) Expressing commitment and support of the EEO/EO mission in the command philosophy.
 - (2) Attending and providing opening remarks for the Civil Rights Awareness training.
 - (3) Reviewing command expectations relative to the Civil Rights Directorate at all hands activities.

- (4) Meeting with newly reported personnel to specifically identify command expectations relative to civil rights.
 - (5) Meeting regularly with personnel to solicit their concerns and ideas.
 - (6) Conducting out-briefs with departing personnel.
 - (7) Supporting Civil Rights Service Providers (CRSPs).
 - (8) Attending and introducing special observances and offering personal comments on civil rights issues in publications and communication.
 - (9) Establishing proactive outreach programs and providing opportunities for command personnel to engage in outreach activities.
 - (10) Requesting an Equal Opportunity Reviews to assess unit compliance with civil rights programs and assess unit climate.
- b. Goal #2: Adopt Strategies. *CRD supports the CO/OIC in their efforts to integrate civil rights into the Coast Guard's strategic mission. Command leadership communicates through words and actions, the importance of civil rights to mission effectiveness. Some recommended activities that help the CO/OIC and supervisors to integrate these efforts into the strategic mission include:*
- (1) Providing military and civilian personnel with EEO/EO training on topics that include civil rights, sexual harassment prevention, conflict resolution, gender, racial, and cultural sensitivity, and disability awareness.
 - (2) Sponsoring events that celebrate the contributions of different cultures, heighten awareness of the value of diversity within the workforce, and teach how to build and manage a diverse workforce.
 - (3) Completing the annual Command Checklist, which serves as a tool to improve organizational effectiveness to strengthen the civil rights climate in the workplace.
- c. Goal #3: Hold All Accountable. *CRD conducts activities which uphold CO/OIC accountability for civil rights. All managers and supervisors are responsible for the successful implementation of civil rights program elements. Examples of some recommended activities for developing an organizational culture that values diversity and promotes affirmative community outreach include:*
- (1) Ensuring the work environment is free from discrimination and harassment of any kind.
 - (2) Preventing social climate incidents through constructive interaction with communities working in a partnership with local community leaders, and responding proactively to incidents when they occur

- (3) Promoting excellence in education through programs such as the Partnership in Education (PIE), which introduces students to Coast Guard personnel and its missions.
- d. Goal #4: Prevent. *CRD conducts activities and develops tools that assist and support the CO/OIC proactively prevent unlawful discrimination.* Annual self-assessments help Coast Guard identify and mitigate potential organizational EEO/EO barriers for strategic planning and annual reporting requirements. Some recommended activities that help deter discrimination in the workforce include:
 - (1) Integrating equality of opportunity into all aspects of the organization.
 - (2) Proactively addressing personnel issues and concerns swiftly and at the lowest possible level.
 - (3) Proactively preventing unlawful discrimination by promoting EEO/EO training and fostering a command climate free from harassment and discrimination.
- e. Goal #5: Efficient, Effective, Fair, Impartial Enforcement of Non-discrimination Laws. *CRD identifies and implements efficient practices, aimed at promoting equal opportunity for all.* Established activities in place for this goal enables command leadership to embrace opportunities to resolve matters quickly, equitably, and at the level closest to the issue/conflict. Examples of leadership practices that are helpful include:
 - (1) Making good faith efforts to define the underlying issues in discrimination allegations and complaints.
 - (2) Handling these issues at the lowest appropriate level of command.
 - (3) Finding satisfactory resolutions as early as possible.
 - (4) Optimizing productivity and improving morale.
 - (5) Promoting organizational harmony.

C. Civil Rights Directorate Personnel: Organization and Responsibility.

- 1. Policy and Oversight. Under the general direction and supervision of the Commandant, the Director of the Civil Rights Directorate provides policy and oversight for equal opportunity, affirmative action, and civil rights training. The Director is also responsible for the efficient, effective, strategic management and implementation of program activities.
- 2. Civil Rights Directorate Organization. The Civil Rights Director reports to the Commandant.

- a. Appendix (B) contains CRD's organization chart. The chart is also available at the following Link: [The Civil Rights Directorate Organization](#).
- b. Appendix (C) contains a list of CRD's Regions and Zone locations along with their respective area of responsibility. The list is also available using the following link: [The CRD Regions and Zones by State](#).

CHAPTER 3 CIVIL RIGHTS POLICIES: AFFIRMATIVE OBLIGATIONS AND PROHIBITED PRACTICES

A. Civil Rights Policies.

1. Introduction. This chapter introduces the broad civil rights programs and policies of general application to all Coast Guard personnel. Civil rights policies apply to both *affirmative obligations*, and *prohibited practices* (including discrimination). Affirmative obligations are guided by the statutes and regulations mandating that active affirmative steps be taken to develop programs, reports, and policies that foster and promote diversity and support all personnel within the Service. *Prohibited practices* are directed by statutes, regulations, and procedures to identify and resolve acts of prohibited discrimination in both employment and service.
2. Bases of Discrimination. The Coast Guard Civil Rights policy prohibits unlawful discrimination based on the below factors. However; not all protected bases are applicable to military members in all instances, including bona fide occupational qualifications. The following represents prohibited bases of discrimination:
 - a. Race.
 - b. Color.
 - c. Religion.
 - d. Sex (forms of sex discrimination include: gender identity, pregnancy, and sexual orientation). Sexual harassment is an issue processed under the basis of sex.
 - e. National origin.
 - f. Age (40 or over).*
 - g. Physical or mental disability.*
 - h. Protected genetic information.*
 - i. Marital or parental status or political affiliation.*
 - j. Reprisal or retaliation for participation in EO/EEO related activities or opposing discriminatory practices.
 - k. Any other basis protected by law.

* Represent those bases that may be situation dependent for military members.

3. Non-Statutory Protections. The Coast Guard and the Federal Government also prohibit discrimination for non-statutory protections. Claims of discrimination based on marital status, political affiliation can be raised with a CRSP. Additionally, civilian employees may file complaints based on these categories, or reprisal for whistleblower activities directly with the Office of Special Counsel at www.osc.gov. Military members who believe they are subjected to whistleblower retaliation may file their complaints with DHS Office of the Inspector General at <https://www.oig.dhs.gov/whistleblower-protection>.
 4. Contractor Employees. This Coast Guard policy does not cover employees of contractors conducting business with Coast Guard, unless the following conditions apply: If an evaluation of several factors can be determined that the right to control the means and manner of the individual's work performance rests with the Coast Guard or otherwise indicates a joint-employer relationship between the contractor and the Coast Guard. That evaluation and additional information on joint-employer relationship is located in EEOC Enforcement Guidance, application of EEO Laws to contingent Workers Placed by Temporary Employment Agencies and other Staffing Firms, EEOC NOTICE No. 915.002 (Dec. 3, 1997).
- B. Affirmative Obligations. A variety of statutes and regulations mandate Coast Guard participation in programs that stimulate, support, and report on its proactive efforts to achieve a diverse workforce and provide opportunities for the advancement of all its members.
1. Affirmative Programs of Equal Employment Opportunity Policy. The following are the most relevant affirmative programs of EEO and their key elements:
 - a. Equal Employment Opportunity Commission (EEOC) Management Directive (MD-715). This Directive applies to civilian EEO programs and requires agencies to take appropriate steps to ensure that all employment decisions are free from discrimination. It also sets standards by which the EEOC will review the sufficiency of agency Title VII and Rehabilitation Act programs. The major components of this program are an annual self-assessment and a strategic plan of action designed to correct noted program deficiencies and remove workforce barriers to free and open workplace competition. The six essential elements necessary to achieve a model EEO Program are:
 - (1) Demonstrated commitment from agency leadership.
 - (2) Integration of EEO obligations into the agency's strategic mission.
 - (3) Management and program accountability.
 - (4) Proactive prevention.
 - (5) Efficiency.
 - (6) Responsiveness and legal compliance.

- b. Coast Guard Surveys. The Coast Guard uses several surveys to acquire data for the purpose of acting on workforce issues and concerns. These include, but are not limited to the following:
- (1) Defense Equal Opportunity Management Institute (DEOMI) Organizational Climate Survey (DEOCS).
 - (2) Coast Guard Organizational Assessment Survey.
 - (3) Federal Employee Viewpoint Survey (FEVS).
 - (4) DHS Employee Survey – conducted as part of the Federal Human Capital Survey.
- c. Affirmative Employment Plan for Persons with Disabilities. An affirmative employment plan for the hiring, placement, and advancement of persons with Disabilities consistent with obligations required under Section 501 of the Rehabilitation Act of 1973, as amended, is administered by the Assistant Commandant for Human Resources/Civilian Personnel.
- d. Disabled Veterans Affirmative Action Plan (DVAAP). 5 C.F.R. Part 720(c) requires each department, agency, and instrumentality in the Executive Branch to develop a plan to promote employment and advancement opportunities for qualified veterans who have a disability within the Federal Government. The DVAAP program is administered by the Assistant Commandant for Human Resources/Civilian Personnel.
- e. Federal Equal Opportunity Recruitment Program (FEORP) Plan. The FEORP contains information on the representation of minorities within the Federal Government and best practices for federal agencies. Some of the elements for this plan are Data Analysis such as occupational profiles and average salary grade comparisons; FEORP Oversight Activities including onsite technical assistance reviews; and Key Progress and Accomplishments such as recruitment methods or programs that positively affect the recruitment, retention, and career development of targeted groups. FEORP requires the Coast Guard to annually report to the Department of Homeland Security (DHS) on progress under the FEORP in order to remain in compliance with 5 U.S.C. § 7201 and 5 C.F.R. Part 720(b). This plan is administered by the Assistant Commandant for Human Resources/Civilian Personnel.
- f. Affirmative Civil Rights Goals for Military Personnel. While the USCG is not required to produce written affirmative employment plans for the military workforce, the Coast Guard collects data on the number of minority and female members. Two long-range goals govern the Coast Guard commitment to affirmative employment of military personnel: (1) to encourage a workforce that values diversity; and (2) to increase the representation and retention of minorities and women at all levels and in occupations throughout the Service. Commands should consider the following objectives and actions as they strive to achieve these goals:
- (1) Ensure that leaders promote the importance of diversity.
 - (2) Develop mutual respect and understanding.

- (3) Maintain a workforce that is representative of the national population.
 - (4) Ensure no discrimination in the administration of military justice and in the involuntary separation of personnel.
 - (5) Provide fair and equal training opportunities for all qualified personnel.
 - (6) Ensure that all personnel may participate equally in all occupational specialties within legal bounds.
 - (7) Ensure equal opportunity for promotion and advancement for all personnel.
 - (8) Ensure an equitable assignment process and leadership opportunities for all Coast Guard personnel.
 - (9) Evaluate progress toward goal achievement.
 - (10) Monitor the civil rights climate.
 - (11) Recognize successes in advancing the importance of diversity, equal opportunity, and civil rights.
 - (12) Ensure that all personnel have access to and are following program guidance.
 - (13) Ensure effective and timely administration of the discrimination complaint processes.
 - (14) Provide civil rights training for all members.
 - (15) Identify and recruit personnel with diverse backgrounds and characteristics who reflect the diversity of our entire Nation.
2. Special Emphasis Programs. Special Emphasis Programs (SEPs) promote equal opportunity in the hiring, advancement, training, and treatment of targeted racial/ethnic groups. These programs advocate necessary change to overcome barriers that restrict EEO for women, minorities, and persons with disabilities. Some of these programs are mandated by regulation and others are optional, but all are designed to support the goals of affirmative employment and the provision of a diverse workplace. Units with 50 or more assigned civilian employees are required to assign SEP Coordinators. Commanders and Civil Rights Service Providers (CRSPs) will jointly nominate, appoint, and approve SEP personnel. In addition, the Coast Guard's Leadership and Diversity Advisory Councils (LDAC) have an important role in promoting and participating as key ambassadors in the achievement of a broader and more inclusive perspective for Our Service. As such, the LDACs are responsible for assisting their command cadre in cultivating a culture of inclusion by monitoring the command climate and promoting leadership development and diversity initiatives that create and sustain an environment of equal opportunity for all members and a workplace free of discrimination of any kind. LDAC members are nominated by their office chief or unit commander to serve as office or unit representatives. SEP Coordinators and LDAC Chairpersons often work collaboratively to

plan special observances, professional development events, and other activities that support the Coast Guard EEO/EO mission as well as the various SEP programs supported by the Service. For more information contact the servicing LDACs, see COMDTINST 5350.9.

3. Mandated Special Emphasis Programs.

- a. Federal Women's Program (FWP). The primary focus of the FWP is to address the employment needs, for example, recruitment, training, education, retention, upward mobility, career counseling, mentoring, developmental details, promotion, and equity in pay and to identify and help remove barriers to the full participation of women in the federal workforce. The regulatory basis for the FWP can be found at 29 C.F.R. Part 1614.102(b) (3).
- b. Hispanic Employment Program (HEP). The HEP was established in 1970 by presidential Directive as a sixteen-point program for the employment of Hispanic Americans in the Federal Government. It includes specific actions designed to remedy deficiencies in encouraging full participation and opportunity for Hispanics in the federal workforce.
- c. Persons with Disabilities Program (PWDP). The PWDP is designed to promote the hiring, placement, and advancement of individuals with disabilities and to ensure they are employed in a broad range of grade levels and occupations commensurate with their qualifications. The Coast Guard, as all federal agencies, is tasked with ensuring that its policies do not unnecessarily exclude or limit persons with disabilities because of job structure, design, architectural, transportation, communication, procedural, or attitudinal barriers. The PWDP enables Coast Guard to take a positive and Directive role in fully complying with Section 501 of The Rehabilitation Act of 1973, as amended, and the provisions of 29 C.F.R. Part 1614.203(b).

4. Optional Special Emphasis Programs. Coast Guard commands are encouraged to participate and support other observances such as Asian American/Pacific Islander, American Indian/Alaskan Native, and Black/African American. These programs are designed to remove barriers and encourage full participation within the federal workforce.

Coast Guard Anti-Harassment & Hate Incident Procedure

C. Prohibited Practices.

1. The purpose of this policy is to prescribe procedures, in accordance with Coast Guard and DHS Anti-Harassment Policy, for combating harassment in the Service and to promptly correct any harassment that occurs. This policy also prescribes additional notification procedures for conduct that could constitute a potential hate incident and guidance for determining and dealing with the occurrence of a hate incident. The Coast Guard continually strives to meet the highest standards of personal respect by valuing human dignity and diversity in accordance with our core values of honor, respect, and devotion to duty. In order to meet this objective, every commander, manager, and supervisor must be personally committed to and responsible for the fair and equal treatment of all Coast Guard personnel and to those with whom it interacts. To this end, the Coast Guard's goal is to safeguard the workplace environment so that no member of the workforce will be subject to physical or verbal harassment, abuse or violence based on an individual's race, color, religion, sex, national origin, age, disability, genetic information, sexual orientation, marital status, parental status, political affiliation, retaliation, or any other basis protected by law. Figure 3-1 illustrates the process for handling reports of harassment and hate incidents.
 - a. Regional, zone, and all CRD managers, the CO/OIC, Deputy and Assistant Commandants for directorates, Judge Advocate General (JAG), and Special Staff Offices at Headquarters must ensure compliance with the provisions of this policy.
 - b. The Coast Guard is committed to providing an environment free of harassing behavior for all of its members and employees. The Coast Guard provides all personnel the opportunity to achieve their full potential in order to improve unit cohesion, military readiness, and mission execution. The Coast Guard will not tolerate retaliation against any employee for reporting harassing conduct under this or any other policy or procedure, or for assisting in any inquiry about such a report. Harassment is a violation of Coast Guard' core values and will not be tolerated, and employees will be protected should retaliation occur.
 - c. Despite ample public and private efforts to address harassment, a form of discrimination, it still occurs. The Coast Guard is a military, multi-mission, maritime Service performing a broad range of services to a diverse nation, and these types of incidents go against everything the Coast Guard stands for and are contrary to applicable laws and regulations. The Coast Guard has determined that the most effective way to limit prohibited harassment is to address such behavior as misconduct, even if the evidence does not support harassment under civil rights laws and regulations. In the usual case, a single utterance of an ethnic, sexual, or racial epithet that offends an employee would not be severe enough to constitute unlawful harassment in violation of federal law; however it is the Department of Homeland Security and Coast Guard's policies that such conduct is substantiated prohibited harassment and must be stopped.

Coast Guard Anti-Harassment and Hate Procedure Process

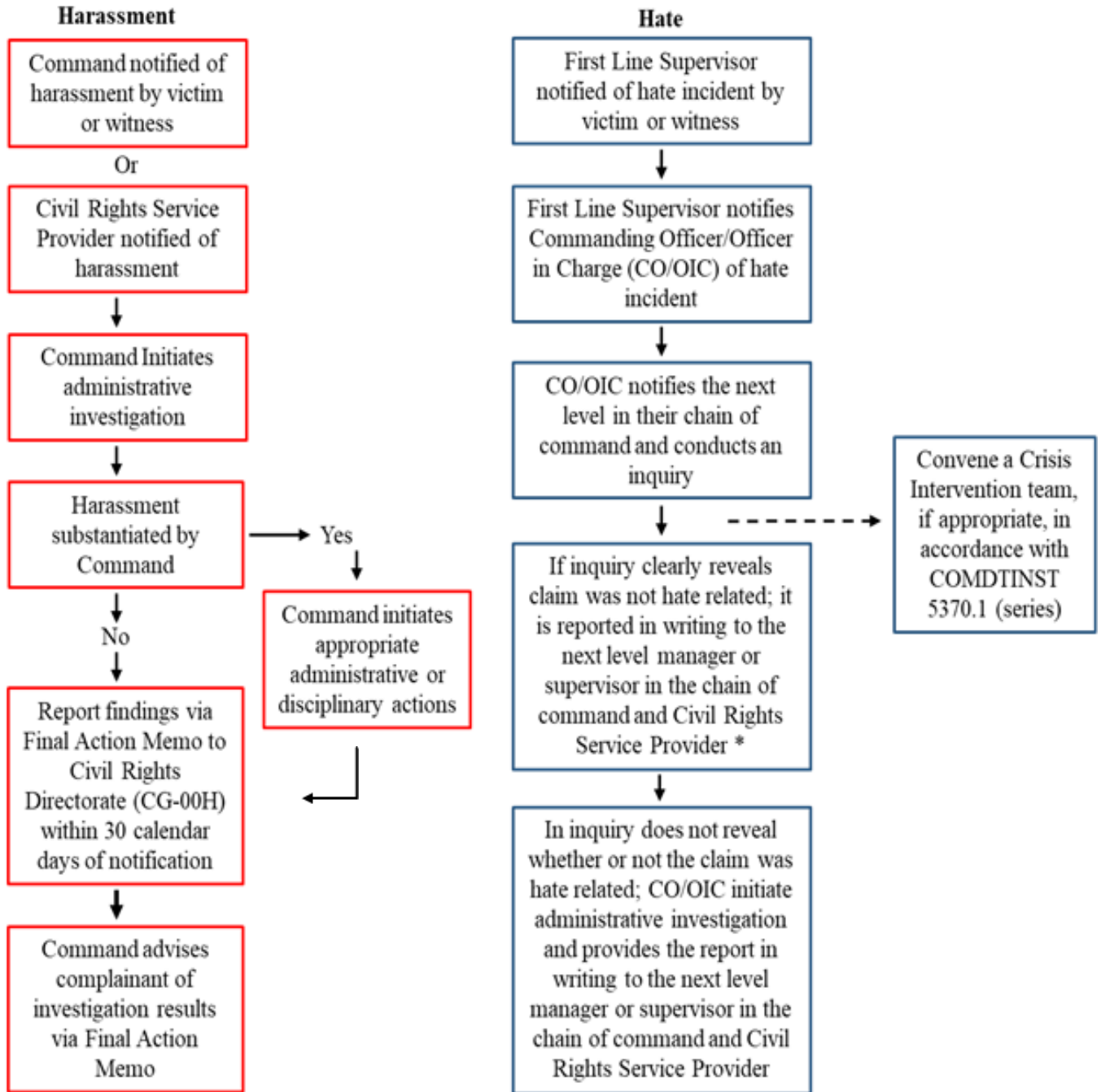


Figure 3-1: Coast Guard Anti- Harassment and Hate Procedure Process

* If hate is ruled out and harassment is not, command should continue to process the claim as a harassment report.

2. Defining Prohibited Harassment.

- a. Harassment that is prohibited includes, but is not limited to, unwelcome conduct, whether verbal, nonverbal, or physical that has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, offensive, or hostile environment on the basis of an individual's protected status, which includes: race, color, religion, sex (including gender identity, sexual harassment, pregnancy, sexual orientation), national origin, age, disability, protected genetic information, marital status, parental status, political affiliation, retaliation or any other basis protected by law. Examples of the types of unwelcome conduct prohibited by this policy are epithets, slurs, stereotyping, intimidating acts, and the circulation or posting of written or graphic materials that show hostility toward individuals because of their protected status.
- b. Acts of physical violence, and actual, implied, or veiled threats of violence, are forms of prohibited harassment. Any form or manner of threatening or provoking remarks or threatening gestures in the workplace is also prohibited.
- c. Sexual Harassment is a form of harassment that is illegal and; therefore, prohibited. For additional guidance with respect to incidents of sexual harassment, please refer to the Sexual Harassment Prevention Policy in this chapter.
- d. Reports of harassment that are not based on one of the protected bases may be considered bullying, hazing, or other disruptive behaviors. For information on bullying and hazing actions and reporting requirements see COMDTINST M1600.2 (series) chapter 3, Discipline and Conduct.

D. Whistleblower Protection. Retaliation or harassment of an employee or applicant for employment because he or she discloses information that is reasonably believed to evidence violations of law, rule or regulation, gross mismanagement, gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety is prohibited. This applies unless disclosure of such information is specifically prohibited by law and such information is specifically required to be kept secret by executive order in the interest of national defense or the conduct of foreign affairs. Civilian personnel who believe that they are subjected to whistleblower retaliation may file a complaint with the U.S. Office of Special Counsel, 1730 M Street N.W., Suite 218, Washington, DC 20036-4505, website: <https://osc.gov/pages/file-complaint.aspx> or file complaint (Form OSC-11). Military members who believe they are subject to whistleblower retaliation should file a complaint with DHS Office of Inspector General (OIG) Office (not the U.S. Office of Special Counsel). The website for DHS OIG for whistleblowers seeking assistance is: <https://www.oig.dhs.gov/whistleblower-protection>.

E. Sexual Harassment.

1. The Discipline and Conduct, COMDTINST M1600.2 (series) prohibits any conduct prejudicial to good order and discipline including indecent language or acts, or any other degrading, humiliating, or oppressive conduct including sexual harassment.

2. All military members of the Coast Guard are charged to bring harassment or misconduct of a harassing nature to the attention of their supervisors or anyone in their supervisory chain.
 3. Every Commander, CO/OIC, manager, and supervisor is accountable for maintaining a work environment in which harassment of any kind is not tolerated and for taking proactive measures to prevent and address any form of illegal discrimination or harassment swiftly and appropriately.
- F. Harassment Complaint Procedures. Every employee and military member must refrain from harassing behavior in the Coast Guard. If they become aware of any prohibited harassing behavior, they should report it, and if required, assist with appropriate recourse to address such matters. The specific actions required vary based on position and authority. Everyone is encouraged to inform any person engaging in harassing conduct when the conduct is unwelcome. The following are reporting procedures for aggrieved parties and witnesses:
1. Any aggrieved party or witness of behavior that is considered prohibited harassment should report the inappropriate conduct to their chain of command. All employees are required to ensure confidentiality to the extent possible.
 2. Persons whose complaints are not promptly investigated may contact the Coast Guard Civil Rights Directorate (CRD). Investigators/fact-finders assigned to conduct inquiries must have received Civil Rights and Civil Liberties approved training in investigating, interviewing, report writing, and investigating harassment allegations, including the legal requirements for claims of harassment.
 3. Alternatively, anyone may report prohibited behavior to any Coast Guard Civil Rights Service Providers (CRSP) and/or the CRD. For conflict of interest matters, CRSPs may only consult the chain of command upon approval by the Director of Civil Rights or his/her designee. A conflict of interest exists where an individual alleged to have engaged in the harassing conduct oversees the Agency anti-harassment program or is a senior management official with indirect oversight of the Agency anti-harassment program.
 4. Reports of harassment will be treated confidentially, to the extent possible, consistent with good order and discipline. The Coast Guard does not tolerate retaliation against any individuals for reporting harassment or assisting another individual in reporting harassment.
 5. Filing a harassment complaint through this procedure, does not replace, substitute, or satisfy the separate requirements for filing an EEO/EO complaint, a negotiated grievance, EEOC or Merit Systems Protection Board (MSPB) appeal or other statutory grievance procedure. Supervisors and managers are required to stop harassing behavior and report such activities via the procedures outlined above.
 6. The CO/OIC of Coast Guard units are required to take the following steps upon notification of a complaint of prohibited harassment:
 - a. Acknowledge receipt of a report of potential harassment (*see Appendix I*) and take appropriate actions to ensure safety of the aggrieved party, including contacting local law enforcement, base security forces, or emergency medical care, if necessary.

- b. Notify the CRSP and/or the Regional Director having jurisdiction over the complainant's geographical location.
- c. Notify Coast Guard Investigative Service (CGIS) or other law enforcement agencies as required by the Coast Guard Investigative Service Roles and Responsibilities, COMDTINST 5520.5 (series). For example, the CO/OIC are required to report incidents of workplace violence, threatening behavior, or felonies that may constitute a Uniform Code of Military Justice (UCMJ) violation or violation of Federal Criminal Law to CGIS. If notification of CGIS or another law enforcement agency is required, then processing of the complaint in accordance with these procedures will be held in abeyance for five (5) business days to provide time for notification of the appropriate investigative agency and for that agency to inform the CO/OIC whether it intends to pursue an investigation. If CGIS, or another law enforcement agency, responds that they will not investigate, or do not respond within five (5) business days, the CO/OIC will continue processing the complaint under these procedures. If CGIS, or another law enforcement agency, informs the CO/OIC that they will investigate, the CO/OIC may continue to process the complaint under these procedures with the concurrence of CGIS, or other law enforcement agency. On the other hand, if CGIS, or another law enforcement agency, does not concur with the simultaneous processing of the complaint, the CO/OIC must either: (1) hold processing the complaint in abeyance until CGIS, or other law enforcement agency, concurs with the complaint proceeding; or (2) inform CGIS, or other law enforcement agency, in writing of the decision to proceed with processing the complaint despite the objection.
- d. Follow the procedures outlined in the Workplace Violence and Threatening Behavior, COMDTINST 5370.1 (series) if the harassment complaint involves: (1) any act or attempted act of physical aggression or harm by an individual that occurs at the workplace; or (2) threats, either overt or implied, to commit an act of physical aggression or harm at the workplace.
- e. Advise the aggrieved party that filing a harassment complaint does not replace, substitute, or satisfy the separate requirements of filing a EEO/EO complaint, negotiated grievance, EEOC or MSPB appeal or other statutory grievance procedure.
- f. Respect the confidentiality of individuals reporting harassment or providing information relating to harassment to the extent permitted by law and consistent with good order and discipline. In addition, the CO/OIC must take appropriate measure to prevent reprisals for any reported harassment or information provided during the investigation of alleged harassment. Confidentiality must be extended to all parties. Written material must be stored appropriately so as to not expose information publically.
- g. Unless CGIS has initiated an investigation, immediately conduct an informal investigation, preliminary inquiry or formal investigation as appropriate and in accordance with the Administrative Investigations Manual, COMDTINST M5830.1 (series).

- h. If an investigation substantiates behaviors of prohibited harassment or shows other misconduct occurred, initiate in appropriate cases, administrative or disciplinary actions that may include punishment under UCMJ for military personnel. In the case of civilian employees, if the matter involves a personnel action, management must consult with the servicing Human Resources Specialist (CG-124).
- i. Report findings and outcomes via a Final Action Memorandum through their Civil Rights Service Provider to the Director, CRD no later than 30 calendar days from the date the incident was reported (*see Appendix J*). Commanders must forward administrative investigations and document reasons for their findings and outcomes in response to harassment and bullying complaints (as it pertains to EEO/EO protective factors). However, if a CO/OIC is required to notify CGIS or another law enforcement agency, then the 30-day time frame for submission of findings and outcomes is tolled until CGIS or another law enforcement agency determines that the incident does not fall within its purview, or five (5) business days have passed since such notification, whichever comes first. The facts and opinions supporting the CO/OIC's determination are most important and investigations should not be delayed to develop recommendations. The CO/OIC must articulate, in writing, the basis for the determination of whether harassment and/or bullying occurred and the evidence reviewed to reach the determination. The CO/OIC will provide a copy of the relevant investigative report to the CRSP. The Civil Rights Service Provider must coordinate any further release of the report with the CO/OIC (Convening Authority). When CGIS investigates, the CO/OIC will likewise make a determination and report it when the CGIS investigation is complete.
- j. Notify the complainant of the disposition of the investigation and whether or not corrective action has been taken without disclosing the specific nature of any adverse employment action taken. Civil Rights Detachments are required to assist commands, employees, and military members in complying with the procedures outlined in this Instruction. The CRSPs are process experts and act as facilitators to ensure that all harassment complaints are handled in a timely manner. Specifically, CRSPs must:
 - (1) Notify responsible CO/OIC upon receipt of a harassment complaint while respecting, to the extent possible, any requests for anonymity. These reports must be as complete as possible to ensure a full and fair investigation into the alleged harassment.
 - (2) Provide counseling to members or employees on the harassment complaint process and, if appropriate, the discrimination complaint processes and their differences.
 - (3) Conduct pre-complaint counseling in accordance with this Manual if the aggrieved party chooses to initiate a discrimination complaint through the civil rights complaint process.
 - (4) Coast Guard managers and other personnel must respond to any reports of harassment by putting the person alleging harassment in contact with the appropriate Civil Rights Detachment based on the geographical location where the alleged harassment occurred. Additionally, managers who become aware of an

allegation of harassment that a command failed to investigate should inform the CRSP, or, if necessary, the Director, CRD. The Director, CRD is responsible for coordinating Coast Guard harassment policy and general oversight of the harassment complaint process. In addition, the Director will maintain a data collection system for harassment complaints.

G. Hate Incidents and CO/OIC Responsibilities. Incidents of hatred and prejudice are a vile and divisive part of American history, and unfortunately continue to occur today. Although unlawful discrimination can occur in other places, the special procedures for reporting and resolving potential hate incidents herein apply to activities on Coast Guard installations and in Coast Guard vessels, aircraft, vehicles, facilities, and workspaces.

1. A Hate Incident is defined as any intentional act (conduct or speech) of intolerance committed against a person, a group of individuals, or property which is motivated, in whole or in part, by the offender's bias against a race, color, religion, sex (including: gender identity, sexual harassment, pregnancy, and sexual orientation), national origin, or disability and which is intended to or is more likely than not to have the effect of intimidating others or inciting others to similar conduct.
2. The display, presentation, creation, or depiction of a symbol (including photographs, images, or other printed or electronic material) widely identified with oppression or hatred, or that could reasonably be construed to encourage oppression or hatred, irrespective of size, type or how it is displayed or presented, is a potential hate incident. Other conduct or speech including highly charged epithets, slurs, or other comments not involving a symbol can also be a potential hate incident. The following is a non-exhaustive list of symbols whose display, presentation, creation, or depiction would constitute a potential hate incident: a noose, a swastika, supremacist symbols, Confederate symbols or flags, and anti-Semitic symbols, among many others. The display of these type symbols constitutes a potential hate incident because hate based groups have co-opted them as symbols of supremacy, racial intolerance, religious intolerance, or other bias. Symbols can be presented as images, on any type of material or clothing, as words or numbers, and, in any combination.
3. Creating an exhaustive list of hate symbols is neither possible nor desirable as supremacist and hate groups often change symbolism and because new groups emerge. For more information about symbols of hate, and their potential meaning, commanders should consult resources such as the Anti-Defamation League's on-line Hate Symbols Database (<https://www.adl.org/education-and-resources/resource-knowledge-base/hate-symbols>) the Department of Justice's Community Relations Service, or other experts.
4. Some displays that might, in other contexts, be a hate incident may be for an unquestionably legitimate purpose and raise no concern that they are intended to convey, or have the effect of, conveying hate or to intimidate. As such, displays of objects and symbols that are clearly and only historical Coast Guard artifacts, items connected with operations (e.g., objects, photos, or paintings displayed onboard units that reflect Coast Guard activities or operations), or state sanctioned items (e.g., state-issued license plates), are not deemed potential hate incidents under this policy. Other displays require inquiry

and possible removal if they otherwise meet the definition in this policy as a potential hate incident.

5. Once a CO/OIC identifies a potential hate incident, he or she must conduct an inquiry to determine whether a hate incident has in fact occurred and take appropriate action. Context and intent are critical to deciding if a hate incident has occurred. Context includes, among other considerations, type of symbol and how it is displayed; other symbols and wording displayed with the symbol; whether a symbol is displayed in a public way or in workspaces where its view is unavoidable by others; and the duration of a display. Intent and motivation can be shown by words or conduct. There may be evidence of express intent, or intent can be inferred from surrounding circumstances as well as from the context of a symbol's display. The CO/OIC decide when a hate incident has occurred and must consult their servicing CRSP and SJA in making the decision. The Administrative Investigations Manual, COMDTINST M5830.1 (series), allows the CO/OIC to set the scope and scale of an inquiry to satisfy its underlying purpose, unless CGIS conducts the investigation.
 6. Even if brief inquiry is sufficient to conclude that there has been no hate incident under these procedures, further investigation may be appropriate if the CO/OIC has reason to believe that the military member or civilian employee may be engaged in prohibited or extremist activities or has a demonstrated pattern of intolerance, prejudice, hate, or bias.
 7. The CO/OIC should take every opportunity to educate and inform employees and members about Coast Guard Core Values and not hesitate to advise them about the negative perception of symbols that may be offensive even if not hateful, and encourage actions consistent with the Core Values.
 8. Orders to remove objectionable symbols, even if not meeting the definition of hate incident, may be appropriate in some circumstances. This Instruction can neither anticipate nor describe what combination of symbols, words, actions and/or circumstances constitute a hate incident. The unit CO/OIC must examine reference material, carefully consider First Amendment protections, and exercise judgment in making determinations case-by-case.
- H. Notification & Processing for Potential and Actual Hate Incidents. Potential hate incidents must be processed as follows, with mandatory notifications when a potential hate incident is not determined upon initial inquiry. These procedures are in addition to the procedures set forth pertaining to harassment including bullying. Specifically:
1. Any aggrieved party or witness to a perceived hate incident should report the inappropriate conduct to a member in their chain of command.
 2. Upon learning of a potential hate incident, in their respective areas of responsibility, the unit commanders must immediately report the incident to the next level in the chain of command and their local CRSP.
 3. The unit CO/OIC must conduct an initial inquiry to conclude whether a hate incident occurred. The inquiry may be informal or brief. If the reported hate incident is

unsubstantiated by the evidence, the CO/OIC will report the outcome to the next level of command and the CRSP. Their report must include the rationale for their findings. If appropriate, the command should proceed with processing the incident as a regular harassment claim.

4. In cases when an inquiry is insufficient to conclude whether a hate incident occurred, the CO/OIC will:
 - a. Report the potential hate incident up the chain of command and to the Civil Rights Director within 48 hours of learning of the incident. The communication must be by official correspondence or electronic. It should include a sufficient description of the incident, photographs, and statements when possible. (*See Appendix K*).
 - b. The CO/OIC will initiate an investigation pursuant to the Administrative Investigations Manual, COMDTINST M5830.1 (series), or CGIS if appropriate. The CO/OIC must conclude the investigation within 30 calendar days and report, in writing, the determination through the chain of command and the CR Director. Due to the nature of hate incidents, the CO/OIC's goal should be to conclude the administrative investigation within ten (10) calendar days. Only the first flag officer/SES member in the chain of command can provide an extension. The facts and opinions supporting the CO/OIC's determination are most important and investigations should not be delayed to develop recommendations. The CO/OIC must articulate, in writing, the basis for the determination of whether a hate incident occurred and the evidence reviewed to reach the determination. The CO/OIC will provide a copy of the relevant investigative report to the CRSP. The Civil Rights Service Provider must coordinate any further release of the report with the corresponding CO/OIC (Convening Authority). When CGIS investigates, the CO/OIC will likewise make a determination and report it when the CGIS investigation is complete.
 - c. The CO/OIC must also decide on appropriate action, if any, including situations where the conduct or speech may not be a hate incident but nevertheless could be divisive or disruptive to command climate and unit cohesion. If the incident is deemed not to be hate, the CO/OIC must consider whether it was harassment and whether it should be investigated as such. While the decision of whether a hate incident occurred and what action may be appropriate resides with the CO/OIC, the CRSP and Staff Judge Advocate must be consulted for assistance. When a military member perpetrates a hate incident, a CO/OIC should consult the Discipline and Conduct COMDTINST M1600.2 (series), which defines extremist activities that are a subset of hate incidents as defined in this Section and makes them punitive under the UCMJ. For hate incidents perpetrated by civilian employees, consult with the Office of Civilian Workforce Relations (CG-124) and the Civilian Personnel Actions: Disciplinary, Adverse, and Performance Based Actions, COMDTINST M12750.4 (series) for disposition options.
 - d. In order to protect the parties involved and the integrity of these procedures, commanders and CRSPs must limit communication only to those persons who have a need to know.

- e. When a harassment complaint is made and the CRSP discerns that a potential hate incident may have occurred but has not been reported as such, the CRSP should notify the CO/OIC so the process described herein can be followed.
 - f. The CRD will coordinate additional notifications as required and provide general oversight of the hate incident response process. Note: The Military Hazing Policy may be found in the Discipline and Conduct, COMDTINST M1600.2 (series).
- I. Harassment Prevention. A Command that has a climate of prevention is enhanced when commanders demonstrate a personal commitment to fair and equal treatment of all Coast Guard personnel. Therefore, all Coast Guard supervisors and managers must attend training on discrimination, harassment, and bullying policies (as it pertains to EEO/EO protective factors), including how to respond to an allegation and the importance of exercising discretion in communicating about ongoing complaints. Military members who believe they were subjected to whistleblower retaliation should file a complaint with DHS Office of the Inspector General (OIG). Civilian personnel may file directly with the Office of Special Counsel. Commanders are encouraged to engage in initiatives that increase mutual respect, trust, and foster diversity. Specifically commanders must:
- 1. Emphasize to all subordinates upon assuming command, and, at least annually thereafter, that harassment violates the Coast Guard's Core Values and will not be tolerated. Stress that every alleged harassment incident will be taken seriously, and that when appropriate, punitive action will be initiated under the UCMJ or other applicable laws, policies and regulations. Commands must post the Commandant's Anti-Discrimination and Anti-Harassment Policy Statement in a prominent and accessible place to ensure it serves as a constant reminder of the Coast Guard's commitment and dedication to a workplace free of discrimination and harassment.
 - 2. Ensure that all personnel receive the required Equal Employment Opportunity/Equal Opportunity training.
 - 3. Use the Defense Equal Opportunity Management Institute (DEOMI) Organizational Climate Survey (DEOCS), at least, annually to assess the organization's climate.
 - 4. Address all alleged harassment in accordance with this Manual.
 - a. Disciplinary Actions. The Coast Guard retains the right, where appropriate, to discipline a federal employee who has engaged in discriminatory or retaliatory conduct, up to and including removal. Contact your servicing human resources specialist in the Office of Civilian Workforce Relations (CG-124) for more information on this course of action.
 - b. Reference: For further information regarding No FEAR Act regulations, refer to 5 C.F.R. Part 724, as well as other appropriate federal agencies such as The Office of Personnel Management, the EEOC, and the Office of Special Counsel, which provide extensive information about federal anti-discrimination and anti-harassment policies.

J. Sexual Harassment Prevention Policy.

1. Policy. Sexual harassment is behavior that will not be tolerated in the Coast Guard. In keeping with the Anti-Harassment & Hate Incident Procedures Policy, every individual in the Coast Guard is entitled to be treated fairly with dignity and respect and to work in an environment free of unlawful discrimination and harassment.
 - a. Sexual harassment harms the individual it is directed toward, erodes unit cohesion, destroys morale, undermines military readiness, and ultimately hampers our ability to conduct Coast Guard missions effectively.
 - b. It is prohibited to retaliate against individuals who provide information on incidents of sexual harassment.
 - c. This section applies to all Coast Guard civilians, active duty military personnel, both regular and reserve, cadets of the Coast Guard Academy, reserve personnel when performing active or inactive duty for training or engaging in any activity directly related to performance of a Coast Guard duty or function, members of the Coast Guard Auxiliary when under orders or engaged in any activity directly related to the mission of the Auxiliary, and members of other branches of the Armed Forces and the U.S. Public Health Service serving with the Coast Guard.
2. Legal Background. Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., makes sex discrimination in the workplace illegal. The courts have identified sexual harassment as a clear violation of a persons' right to work in an environment free of discrimination. Although Title VII does not explicitly extend the same protections to the military, it is Coast Guard policy to apply the same protections to its military workforce.
3. Definition of Sexual Harassment. Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when:
 - a. Submission to such conduct is made either implicitly or explicitly a term or condition of employment.
 - b. Submission to or rejection of such conduct is used as a basis for employment decisions.
 - c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment. This definition also encompasses unwelcome display or communication of sexually offensive materials. Sexual harassment can occur in a variety of circumstances, including but not limited to:
 - (1) The aggrieved party as well as the harasser may be a female or male.
 - (2) The aggrieved party does not have to be of the opposite sex.

- (3) The harasser can be the aggrieved party's supervisor, an agent of the employer, another supervisor, a coworker, or a non-employee.
 - (4) The aggrieved party does not have to be the person actually harassed/targeted but can be anyone affected by the offensive conduct.
 - (5) The conduct of the harasser must be unwelcome.
 - (6) Harassment based on perceived or stated sexual orientation is considered sexual harassment and is prohibited. The economic costs of sexual harassment are significant. Even more harmful, however, are the negative effects of sexual harassment on productivity and readiness, including increased absenteeism, greater personnel turnover, lower morale, decreased effectiveness, and loss of personal, organizational, and public trust. While not easily quantified, these costs are real and seriously affect the ability of the Coast Guard to accomplish its mission.
4. Categories of Sexual Harassment. Sexual harassment can be reduced to two categories. These categories are not based on legal definitions; however, they may help to clarify the nature of the behaviors that are prohibited.
- a. Tangible employment action sexual harassment is the category in which an agency is strictly liable for the sexual harassment by a supervisor or manager when it results in a personnel action. A tangible employment action must be an official action, such as hiring, firing, promotion or, failure to promote, demotion, undesirable assignment, significant change in benefits or pay, or work assignment. In the case of tangible employment action sexual harassment, the Coast Guard is strictly liable for the actions of the supervisor.
 - b. Hostile environment sexual harassment encompasses all other situations addressed in the definition of sexual harassment above, whether the offender is a supervisor or a coworker. To meet the definition of a hostile environment, the harassment must be so severe and pervasive that a reasonable person would view the environment as hostile, offensive, or abusive. In this case, the Coast Guard is liable only if it knew of the conduct and failed to take prompt and effective corrective action.
5. Types of Sexually Harassing Behavior. Sexual harassment ranges from overt behaviors, such as inappropriate touching, to more subtle behaviors, such as making suggestive remarks. Any behavior that relates to sex, is intentional, is unwelcome, and interferes with a person's ability to do their job, or has an adverse effect on their working conditions may be classified as sexually harassing behavior. Sexually-harassing behavior will not be tolerated in the Coast Guard, even if the behaviors do not constitute unlawful harassment. In addition to violating Coast Guard policy, such conduct may also violate local, state, or federal criminal laws, including punitive articles of the Uniform Code of Military Justice.
6. Sexual Offenses. Acts constituting sexual assault, aggravated sexual contact, and abusive sexual contact are unlawful. All allegations of sexual assault, aggravated sexual contact, and abusive sexual contact must be reported to Coast Guard Criminal Investigative

Service. For more information on sexual offenses, see Sexual Assault Prevention and Response (SAPR) Program, COMDTINST M1754.10 (series) and the Uniform Code of Military Justice.

7. Commandant Directive. Every member of the Coast Guard is charged to take prompt and decisive action to prevent and eliminate sexual harassment. This means that all members of the Coast Guard, no matter their rank or position, must constantly be vigilant for signs of sexual harassment and take action to stop it.
 - a. The CO/OIC and supervisory personnel are directed to not tolerate sexual harassment at their units and are required to take immediate corrective action when it occurs.
 - b. All Coast Guard personnel, both military and civilian, are required to receive Sexual Harassment Prevention (SHP) training as part of the Civil Rights training upon accession into the Coast Guard, that is, within 90 calendar days to the extent possible, and annually thereafter, in the areas of identification, prevention, resolution, and elimination of sexual harassment. Annual training keeps issues current and requires that leadership be actively involved in the prevention of sexual harassment. Auxiliary members must receive training as an element of the basic qualification process. Chapter 5 of this Manual describes this training in detail. SHP training is a substantial part of the Civil Rights training.
8. Responding to Sexual Harassment. When a person experiences sexual harassment, he or she should not ignore the problem or assume it will stop. Harassment usually intensifies when it is ignored because the lack of corrective action is seen as acceptance or encouragement. If you think you are being sexually harassed on the job:
 - a. Tell the harasser that his behavior is unwelcome and must cease immediately.
 - b. Report such behavior immediately to the supervisor or to an official at a higher level.
 - c. Seek advice on how to deal with the situation from your local Civil Rights Office.
9. Documenting Sexual Harassment. It is important to document any experience of harassing behavior, including:
 - a. Dates, times and locations in which events occurred.
 - b. Witnesses to the harassment.
 - c. Specific recollection of comments or behavior.
10. Reporting Sexual Harassment. Sexual harassment is a serious issue and every supervisor and Commander has an obligation to take action when they are made aware of a problem. When sexual harassment has occurred or is taking place the person experiencing harassment can choose to confront the harasser. If the person is uncomfortable, or the situation is so severe that it is dangerous or unreasonable to do so, the person should immediately bring the matter to the attention of a supervisor or CO/OIC in private. If the supervisor is the alleged harasser, the harassment should be reported to next higher level in

the chain of command. If the behavior continues despite confronting the harasser and discussing it with the supervisor, an individual has the right to file a complaint if it is perceived that the problem is not being addressed properly or in a timely manner. Additionally, at any point, individuals experiencing harassment or retaliation have the right to initiate an EEO/EO complaint or seek guidance from a servicing Civil Rights Service Provider.

11. Acts of Reprisal. Acts of reprisal are illegal. If anyone feels that they are being retaliated against or punished or suffering negative consequences as an employee of the Coast Guard because of the fact that they experienced, reported or attempted to stop or prevent harassment, they may also file a complaint regarding the retaliation issue. See Chapter 5 of this manual for details on the process of filing complaints.
12. Responsibilities of the CO/OIC, Managers, and Supervisors. The CO/OIC, Managers, and Supervisors should be sure that their conduct sets an example and is not such that they may be vulnerable to claims of sexual harassment. They should also take affirmative steps to ensure that employees are not involved in harassment by communicating agency policies on harassment, including:
 - a. Inquiring into the facts involved.
 - b. Taking appropriate steps to end the harassment.
 - c. Determining whether disciplinary action is warranted for the harasser.
 - d. Notifying the chain of command.
13. Knowledge and Recording. All levels of leadership need to maintain accountability for the behavior of their subordinates. Leaders and supervisors who fail to recognize acts of sexual harassment and take appropriate action are not performing the responsibilities and duties of their position. Leadership must be completely knowledgeable of sexual harassment prevention policies and must take appropriate administrative and/or disciplinary action once harassment is reported. The CO/OIC, Managers, and Supervisors must ensure that all unit personnel receive SHP training each year.

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CHAPTER 4 PROGRAMS IMPLEMENTING AFFIRMATIVE EQUAL EMPLOYMENT OPPORTUNITY OBLIGATIONS

A. Affirmative Programs.

1. Introduction. The Coast Guard's Affirmative Programs of Equal Employment Opportunity and Equal Opportunity are driven by the affirmative obligation policies introduced in Chapter 3. The preceding chapter described the *obligations* for federal agencies relative to civil rights requirements; this chapter sets forth the types of activities that are authorized and/or required in the *fulfillment* of those obligations at the Coast Guard. The overarching purpose is to accomplish the self-assessment and strategic planning required by the EEOC for all federal agencies (access the CG Management Directive 715 using the following link [MD-715](#)). Special Emphasis Programs (SEPs) support this purpose and help to implement its goals. Other tools, such as the Command Checklist, Climate Surveys, and the EO Review/Assessment assist in achieving a workplace that promotes civil rights and equal opportunity in every aspect of its employment practices, including the hiring, development, advancement, and treatment of employees and applicants for employment. Through its training programs, the Coast Guard affords its members the opportunity to learn about their civil rights and responsibilities. They also obtain proficiencies in agency policies and procedures that help them to exercise those rights and fulfill their responsibilities.
2. Affirmative Programs of Equal Employment Opportunity and Equal Opportunity. These programs are designed to integrate access, inclusion, and equality of opportunity into all aspects of the agency's mission and align civil rights principles with strategic agency plans and objectives.
 - a. Elements of a Model EEO/EO Program. As noted in previous chapters, under EEOC MD-715, the Coast Guard is required to work toward achievement of a Model EEO program through compliance with the six program elements and leadership actions outlined in this section.
 - (1) Demonstrated Commitment from Agency Leadership. The EEOC MD-715 requires agency heads and other senior management officials to demonstrate a firm commitment to equality of opportunity for all employees and applicants for employment. Even the best workplace policies and procedures will fail if they are not trusted, respected and vigorously enforced. Agencies must translate equal opportunity into every-day practice and make those principles a fundamental part of agency culture. This commitment to equal opportunity must be embraced by agency leadership and communicated through the ranks from the top down. It is the responsibility of each agency head to take such measures as may be necessary to incorporate the principles of equal employment opportunity into the agency's organizational structure. To this end, agency heads must issue a written policy statement expressing their commitment to EEO and a workplace free of discriminatory harassment. This statement should be issued at the beginning of their tenure and thereafter on an annual basis and disseminated to all employees. In addition, agency heads and other senior management officials may, at their discretion, issue similar statements when important issues relating to equal

employment opportunity arise within their agency or when important developments in the law occur.

- (2) Integration of EEO into the Agency's Strategic Mission. Equality of opportunity is essential to attracting a qualified workforce capable of supporting and achieving the agency's strategic mission. To this end, and in addition to the regulatory requirements found at 29 C.F.R. Part 1614.102(b)(4), as interpreted in EEOC MD-110, agencies must:
 - (a) Maintain a reporting structure that provides the agency's EEO Director with regular access to the agency head and other senior management officials for reporting on the effectiveness, efficiency, and legal compliance of the agency's Title VII and Rehabilitation Act programs. To emphasize the importance of the position, the agency head should be involved in the selection and performance review of the EEO Director.
 - (b) Ensure EEO professionals are involved with, and consulted on, the management and deployment of human resources. The EEO Director should be a regular participant in senior staff meetings and regularly consulted on human resources issues.
 - (c) Allocate sufficient resources to create and/or maintain Title VII and Rehabilitation Act programs that: 1) identify and eliminate barriers that impair the ability of individuals to compete in the workplace because of race, national origin, sex, or disability; 2) establish and maintain training and education programs designed to provide maximum opportunity for all employees to advance; and ensure that unlawful discrimination in the workplace is promptly corrected and addressed.
 - (d) Attract, develop, and retain EEO staff with the strategic competencies necessary to accomplish the agency's EEO mission, and interface with agency officials, managers, and employees.
 - (e) Recruit, hire, develop, and retain supervisors and managers who have effective managerial, communications and interpersonal skills. Provide managers and supervisors with appropriate training and other resources to understand and successfully discharge their duties and responsibilities.
 - (f) Involve managers and employees in the implementation of the agency's Title VII and Rehabilitation Act programs.
 - (g) Use various media to distribute EEO information concerning federal EEO laws, regulations and requirements, rights, duties and responsibilities and to promote best workplace practices.
- (3) Management and Program Accountability. A model Title VII and Rehabilitation Act program will hold managers, supervisors, EEO officials, and personnel

officers accountable for the effective implementation and management of the agency's program. In ensuring such accountability, the agency must:

- (a) Conduct regular internal audits, on at least an annual basis, to assess the effectiveness and efficiency of the Title VII and Rehabilitation Act programs and to ascertain whether the agency has made a good faith effort to identify and remove barriers to equality of opportunity in the workplace.
 - (b) Establish procedures to prevent all forms of discrimination, including harassment, retaliation, and failure to provide reasonable accommodation to qualified persons with disabilities.
 - (c) Evaluate managers and supervisors on efforts to ensure equality of opportunity for all employees.
 - (d) Maintain clearly defined, well-communicated, consistently applied and fairly implemented personnel policies, selection and promotion procedures, evaluation procedures, rules of conduct and training systems.
 - (e) Implement effective reasonable accommodation procedures that comply with applicable executive orders, EEOC guidance, the Architectural and Transportation Barriers Compliance Board's Uniform Federal Accessibility Standards and Electronic and Information Technology Accessibility Standards. Ensure that EEOC has reviewed those procedures when initially developed and if procedures are later significantly modified.
 - (f) Be mindful of the agency's disability program obligations, including the provision of reasonable accommodations, when negotiating collective bargaining agreements with recognized labor organization(s) representing agency employees.
 - (g) Ensure effective coordination between the agency's EEO programs and related human resource programs, including the Federal Equal Opportunity Recruitment Program (FEORP), the Selective Placement Programs, and the Disabled Veterans Affirmative Action Program (DVAAP).
 - (h) Review each finding of discrimination to determine the appropriateness of taking disciplinary action against agency officials involved in the matter. Track these decisions and report trends, issues and problems to agency leadership for appropriate action.
 - (i) Ensure compliance with settlement agreements and orders issued by the agency, EEOC, and EEO-related cases from the Merit Systems Protection Board, labor arbitrators, and the Federal Labor Relations Authority.
- (4) Proactive Prevention of Unlawful Discrimination. Agencies have an ongoing obligation to prevent discrimination on the bases of race, color, national origin, religion, sex, age, reprisal disability (physical or mental), protected genetic

information, marital or parental status, and to eliminate barriers that impede free and open competition in the workplace. As part of this on-going obligation, agencies must conduct a self-assessment on at least an annual basis to monitor progress, identify areas where barriers may operate to exclude certain groups, and develop strategic plans to eliminate identified barriers to employment.

- (5) Efficiency. Agencies must have an efficient and fair dispute resolution process and effective systems for evaluating the impact and effectiveness of their EEO programs. This requires agencies to:
- (a) Maintain an efficient, fair, and impartial complaint resolution process. Agencies should benchmark against EEOC regulations at 29 C.F.R. Part 1614 and other federal agencies of similar size highly ranked in EEOC's annual report on the federal sector complaints process.
 - (b) Ensure that the investigation and adjudication function of the agency's complaint resolution process are kept separate from the legal defense arm of the agency or other agency offices with conflicting or competing interests.
 - (c) Establish and encourage the widespread use of a fair ADR program that facilitates the early, effective, and efficient informal resolution of disputes. Appoint a senior official as the dispute resolution specialist of the agency charged with implementing a program to provide significant opportunities for ADR for the full range of employment-related disputes. Whenever ADR is offered in a particular workplace matter, ensure managers at all appropriate levels will participate in the ADR process.
 - (d) Use a complaint tracking and monitoring system that permits the agency to identify the location, status, and length of time elapsed at each stage of the agency's complaint resolution process, the issues and the bases of the complaints, the aggrieved parties, complainants, the involved management officials, and other information necessary to analyze complaint activity and identify trends.
 - (e) Identify, monitor, and report significant trends reflected in complaint processing activity. Analysis of data relating to the nature and disposition of EEO complaints can provide useful insight into the extent to which an agency is meeting its obligations under Title VII and the Rehabilitation Act.
 - (f) Ensure timely and complete compliance with EEOC orders and the provisions of settlement/resolution agreements.
 - (g) Maintain a system that collects and sustains accurate information on the race, national origin, and sex and disability status of agency employees. See 29 C.F.R. Part 1614.601 for further guidance.
 - (h) Maintain a system that tracks applicant flow data, which identifies applicants by race, national origin, sex and disability status and the disposition of all

applications. EEOC issues guidance on collecting and maintaining applicant flow data.

(i) Maintain a tracking system of recruitment activities to permit analyses of these efforts in any examination of potential barriers to equality of opportunity.

(j) Identify and disseminate best workplace practices.

(6) Responsiveness and Legal Compliance. Agencies must:

(a) Ensure that they are in full compliance with the law, including EEOC regulations, orders and other written Instructions. See 42 U.S.C. § 2000e-16(b).

(b) Report agency program efforts and accomplishments to EEOC and respond to EEOC Directives and orders in accordance with EEOC Instructions and time frames.

(c) Ensure that management fully and in a timely manner complies with final EEOC orders for corrective action and relief in EEO matters.

b. EEO Program Assessment. The major components of EEO/EO programs are self-assessments and strategic plans of action to correct noted deficiencies and to remove workforce barriers. A “barrier” is a policy, principle, practice, or condition that limits or tends to limit employment opportunities for members of a particular gender, race, ethnicity, or disability status. The Civil Rights Directorate monitors the Coast Guard’s progress toward achieving EEO/EO goals, and awareness through periodic reports of compliance with items delineated in the Civil Rights Command Checklist (see [Appendix G](#)).

c. Roles and Responsibilities.

(1) All USCG Organizations are responsible for EEO/EO programs within their area of responsibility, including certification of all actions and reports.

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

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

3. Special Emphasis Programs (SEPs).

- a. Purpose. Special Emphasis Programs (SEPs) are an integral part of the Coast Guard Civil Rights Program and are utilized to support the objectives of the affirmative programs of equal employment opportunity. The term “Special Emphasis Programs” refers to employment-related activities that focus attention on groups whose participation rates fall below their relevant rate of participation in the National Civilian Labor Force (NCLF).
- (1) SEPs are intended to promote equity, fairness, and equal opportunity; address the unique and special concerns of all targeted groups within the workforce; and support USCG EEO program planning processes and goals.
 - (2) SEPs are a subset of the Affirmative Programs of Equal Employment Opportunity. SEP personnel report to the District Commander. However, servicing civil rights managers and District Commanders will jointly nominate, appoint, and approve volunteer SEP Coordinators and committee members who coordinate special observances. To ensure that planned programs for these special observances conform to the intent of affirmative programs for equal opportunity, all planned activities must be approved by the servicing civil rights manager. The following link lists SEPs that are currently established within the Coast Guard; current [list of USCG SEPs](#).
 - (3) The FWP, HEP, and PWDP are mandated programs, required for units with 50 or more assigned civilians. Establishment of other SEPs may vary by unit pursuant to the availability of personnel, time, support, and recognized need or interest. For example, district forces plan activities that are open to participation by units within the commuting area. As well, units may collaborate in implementing programs for their joint benefit. The execution of these programs ensures that the Coast Guard takes affirmative steps to provide equal opportunity, educational, and career exposure and recognition to minorities, women, and persons with disabilities in all areas of employment.
- b. Elements of Special Emphasis Programs. The important elements of SEPs are the identification of equal employment opportunity deficiencies and workforce barrier removal; education programs and cultural observances; community outreach; and networks and informal partnerships.
- (1) Barrier Analysis Process. The Coast Guard practices a collaborative approach to barrier analysis through a cross-functional team. The Barrier Analysis Team, appointed annually, is made up of Civil Rights and Human Resources Directorate personnel. The team is stratified into three entities: an Executive Guidance Team, an Oversight Committee and a Working Group that conducts barrier analysis of the entire civilian workforce. The Working Group convenes regularly each fiscal year for training, trigger identification, root cause analysis, barrier determination, progress reviews of ongoing plans to eliminate barriers, and periodic updates to the Oversight Committee and Guidance Team.

- (2) Special Observances. Special Ethnic Observances are command functions that support equal opportunity goals and Coast Guard core values. The events and activities are designed to enhance cross-cultural and cross-gender awareness and to promote harmony, pride, teamwork, and esprit de corps among military members, their families, and the civilian workforce. They are conducted to recognize the continuous achievements of all Americans to American culture and to increase awareness, mutual respect, and understanding. The special observance events are an integral part of the Coast Guard's Civil Rights programs and help the Service achieve its objectives for the promotion of equality, dignity, and respect for all members that make up its workforce.
 - (3) Outreach. Outreach initiatives raise greater awareness and support for Coast Guard missions and employment opportunities, especially in geographic areas and within organizations whose demographics will meet the needs of the Service. Outreach efforts include working with Partnership in Education programs, Special Emphasis Programs, Affinity Groups, Recruiters, Auxiliarists, and developing other internal and external collaborations with national and community-based organizations, education institutions and businesses.
- c. Roles and Responsibilities. The Coast Guard proactively embraces and supports the Department of Homeland Security EEO Special Emphasis Programs. In this regard, Commandant (CG-1) and Commandant (CG-00H) work in concert to promote and ensure active participation at the various SEP events and activities at the National, Department, and local levels. In this manner, Commandant (CG-00H) has responsibility for planning and coordinating attendance to the SEP meetings and events at the national level and for SEP activities at the local level generally supported by the LDAC members; Commandant (CG-00H) has responsibility for planning, coordinating and implementing the Executive Champion Ethnic Observances Program at the CG headquarters level. In addition, SEP Coordinators and LDAC members often work collaboratively to plan SEP activities, ethnic observances, professional development events, and other events in support of the CG Special Emphasis Programs at their locations. The following represents some responsibilities:
- (1) Ensuring best practices for federally mandated and optional SEPs.
 - (2) Advising management about matters affecting the employment and advancement of women, members of targeted ethnic groups, and individuals with disabilities.
 - (3) Working in a collaborative manner to explore ways to increase awareness of employment opportunities for low participating groups in the workforce.
 - (4) Promoting cultural awareness and career development through special observances and education programs that focus attention on the unique and special concerns of groups whose participation rates in the federal workforce fall below those found in the National Civilian Labor Force.
- d. Goals of Special Emphasis Programs. The goals of SEPs include:

- (1) Identifying and assisting leadership in removing barriers to civil rights and equal opportunity in recruiting, hiring, training, advancement, and treatment of each targeted group.
 - (2) Educating managers, supervisors, and staff about the various forms of discrimination within the Coast Guard.
 - (3) Monitoring Coast Guard progress in eliminating discrimination and adverse impact on each targeted group in employment by use of EEOC MD-715 elements of a model EEO program.
 - (4) Recognizing the achievements of targeted internal and external persons who have made significant local or national contributions toward raising awareness of the value of diversity in the workplace.
- e. Federal Women's Program. Key objectives of the Federal Women's Program (FWP) are to recruit, hire and promote women to senior management levels including the Senior Executive Service (SES); and provide access to educational resources and self-improvement opportunities for women.
- f. Hispanic Employment Program. Key objectives of the Hispanic Employment Program (HEP) are to ensure that Hispanic personnel receive fair consideration and are selected in hiring, training, career enhancing assignments, and promotion to senior management levels; and increase Hispanic representation at all grade levels including SES and all occupational series within the Coast Guard.
- g. Persons with Disabilities Program. Key objectives of the Persons with Disabilities Program (PWDP) are to ensure Coast Guard compliance with all federal regulations regarding the hiring, training, career enhancement awards, and promotion of persons with disabilities to senior management level including SES. The program is designed to advise leadership, managers, and supervisors on resources available to comply with the Reasonable Accommodation policy as described in this Manual.
- h. Asian American and Pacific Islander Employment Program. The objectives of the Asian American/Pacific Islander Employment Program are to increase the total number of Asian American/Pacific Islander personnel in all employment categories and grade levels including SES; provide opportunities to participate in training and training programs such as details, graduate studies, and others; provide a network of professional and mentoring support; and encourage participation in all Coast Guard sponsored programs and activities.
- i. Native American/Alaskan Native Employment Program. The objectives of the Native American/Alaskan Native Employment Program are to increase the total number of Native American/Alaskan Native personnel in all employment categories and grade levels including SES; provide opportunities to participate in training and training programs such as details, graduate studies, and others; provide a network of professional and mentoring support; encourage participation in all Coast Guard sponsored programs and activities.

- j. African American Employment Program. The objectives of the Black/African American Employment Program are to increase the total number of Black/African American personnel in all employment categories and grade levels including SES; provide opportunities for training and training programs such as details, graduate studies, and others; provide a network of professional and mentoring support; encourage participation in all Coast Guard sponsored programs and activities.
- k. Cultural Observance Events. Educational programs and cultural observances are effective ways to promote the employment and advancement of women, minorities, and persons with disabilities. For a list of cultural events observed by the Coast Guard click on the following link: [USCG Cultural Events](#) (also in Appendix E).
- (1) Educational programs focus on the needs of current employees and provide opportunities to improve skills in such areas as career development, public speaking, or preparing resumes.
 - (2) Cultural observances are opportunities to promote awareness and to recognize the accomplishments of individuals or groups of people and show how their experiences fit into our collective American history.
- k. Measures of Success. For educational programs and cultural observances to be successful, they must be well organized, well attended, and connected to the overall missions of the Coast Guard. The CO/OIC and supervisors should encourage maximum participation at these events.
- l. Funding for Cultural Observances. The Financial Resource Management Manual (FRMM), COMDTINST M7100.3 (series), provides information about how appropriated funds may be used to support activities that further the EEO objectives of the cultural awareness program. All fund-supported events must attempt to educate our workforce about the history and contributions of a particular culture. The FRMM contains the most current guidelines about which uses of appropriated funds are authorized for cultural events, specifically:
- (1) Food. Small samples of ethnic foods may be provided.
 - (2) Speaker Fees. Speaker fees or honoraria may be authorized.
 - (3) Cultural Performances. All cultural observances programs and performances must be approved by the command to ensure they advance EEO objectives. The CO/OIC and supervisors will ensure that projected events amplify the contributions made to the Coast Guard and to society by the featured ethnic or racial group.
4. Partnership in Education Program.
- a. Purpose. This section describes the policy for carrying out the National Partnership in Education (PIE) program for the Coast Guard in accordance with Presidential

Proclamation 5112 and the National and Community Service Act of 1990, 42 USC. § 12642.

- b. Legal Obligations. The PIE program increases the Coast Guards' potential for recruiting a diverse workforce. The PIE Program promotes excellence in education by helping local school systems and community groups, especially in communities with large minority populations, by providing elementary through high school students with opportunities to achieve academic excellence in many fields of study particularly English, history, science, mathematics, engineering, technology, and marine science, and by advancing student awareness of Coast Guard missions and people. In keeping with these goals, Coast Guard units have also developed partnerships with colleges and universities.
- (1) Presidential Proclamation 5112 established the National Partnership in Education program. After its establishment, the President later requested that each Executive Department set up partnerships with local schools. The Proclamation suggested that elements of agency programs include employees volunteering in tutoring programs, sponsoring field trips and tours, participation in educational programs and providing honorariums.
 - (2) The National and Community Service Act of 1990, 42 USC. § 12642, directs the head of each federal agency to design and carry out a comprehensive strategy to involve employees in partnership programs with elementary and secondary schools.
 - (3) 29 C.F.R. Part 1614 directs each federal agency to proactively engage with schools and universities to improve opportunities for federal employment and to help improve local community conditions that may affect employability.
- c. Background. The Coast Guard is committed to providing PIE programs that enhance educational opportunities and career awareness for the Nation's youth through direct participation in educational programs. All members of the Coast Guard family—active duty, reservists, civilians, and retirees—are encouraged to actively participate in their communities. All commands should establish local partnership programs.
- (1) The Coast Guard is committed to achieving diversity in its workforce. Achieving diversity, however, will become increasingly difficult as the competition for qualified women and minority applicants continues to intensify. In response to this, the Coast Guard is committed to continuing to address low participation of minority groups.
 - (2) All units are encouraged to enter into cooperative programs with schools. Volunteers can work directly with students to heighten their awareness of the Service's traditional Core Values—a drug free lifestyle, emphasis on scholarship, personal initiatives and responsibility, and individual self-worth. Coast Guard personnel have the opportunity to inform students of the many rewarding careers

offered, which will enhance the Coast Guard's viability as a possible career opportunity upon graduation from high school.

- (3) Partnerships may extend beyond unit activities. Reservists, civilians, and retirees may be involved in building relationships with local schools, preferably those with large minority or diverse enrollment. Program options may include sponsoring school field trips to units, sending representatives to schools to offer presentations to students on career focus days, recognizing the achievements of students, joint participation in other school and unit events, as well as collaborating with community based organizations and local businesses.
 - (4) Units should register their Partnership in Education programs and activities annually on the USCG Portal PIE Site.
- d. Responsibilities. All Coast Guard unit commanders, CO/OIC, deputy/assistant commandants, and chiefs of headquarters staff elements must comply as follows:
- (1) The Civil Rights Directorate's designee is the Senior Coast Guard Official defined under the National and Community Service Act of 1990. The Director promulgates policy and guidelines for the Coast Guard Partnership in Education program. The Civil Rights Directorate (CRD) provides information and guidelines to PIE Coordinators, and administers a Service-wide program for annual Coast Guard partnership awards.
 - (2) Local Recruiting Commands may assist Partnership in Education Program Coordinators with identifying schools for participation.
 - (3) Unit commanders and the CO/OIC authorize and support PIE programs; appoint a Partnership Program Coordinator and forward the name, address and phone number of the program coordinator to the Civil Rights Directorate; nominate participants for the annual Partnership In Education Awards—individual participation should be recognized through the Medals and Awards Program, or current instructions for civilian honorary awards; and report all program initiatives to CRD, via the USCG Portal PIE Site. A list of Coast Guard Civil Rights Awards is detailed in [Appendix F](#).
 - (4) All commands encourage participation by all active, reserve, auxiliary and civilian personnel and provide a reasonable amount of time for volunteer personnel to participate in program activities. Civilian employees wishing to participate in PIE activities during duty hours, may do so using leave flexibilities such as accrued annual leave, compensatory time off, leave without pay, or; if on an alternative work schedule, credit hours (under a flexible work schedule), or scheduling participation on a regular day off under a compressed work schedule.
 - (5) Partnership in Education Program Coordinators must guide, help, develop, implement, and coordinate partnership programs.

- e. Guidelines. The guidelines are divided into four broad categories based on school needs. Local programs may address any or all of those needs. The guidelines are:
- (1) Advocacy/Advisory Programs. These programs are developed to increase the involvement, for example, of police, firefighters, community leaders, and business people, in terms of goal setting and the role of their particular agency or unit. These leaders provide advice on special academic projects, for example, the Saturday Academy, science fairs, hobbies and computer literacy workshops; special programs, such as school beautification or fitness programs; curriculum committees, for example, oceanography, marine science, engineering, mathematics, information systems management and technology; or help in fund raising activities.
 - (2) Instructional Support Programs. Individuals or groups may participate in subject-specific tutorial services or classroom presentations; provide interpretive services; share subject matter expertise in the classroom; provide guest instructors; participate in a speakers' bureau; help motivate students through career awareness or job shadowing experiences; provide role models to encourage and promote interest in the sciences, technology, engineering, and mathematics (STEM); present contests and awards; establish mentoring programs; provide role interaction as professional partners; work with the school staff to develop new programs or learning materials, which reflect actual application of classroom subjects.
 - (3) Enrichment Programs. Coast Guard members work with specific groups of students to improve individual skill and leisure activities; set up courses for students and staff at the workplace; set up and encourage extracurricular clubs, for example, math, computers, electronics, marine science, boating safety; conduct tours of a Coast Guard unit, district, or workplace; sponsor field trips to unit, region, or cultural events; provide display space for student creations and performances.
 - (4) Extended Service Programs. Coast Guard members provide internships or job placement for summer, part time, or yearlong; discuss career opportunities; provide shadowing experiences; assist in employment/training opportunities and seminars; sponsor tours to provide world of work exposures; recognize outstanding students and staff; initiate a scholarship fund; directly contribute to specific projects; provide technical aid, instruction or services, for example, electronics, marine biology, and technology.
- f. Partnership in Education Funding. Pursuant to the National and Community Service Act of 1990, the Coast Guard's established PIE program is an official function. Accordingly, limited funding and resources may be used to support PIE activities. Collective expenditures of appropriated funds, time, and resources should be reasonable and prudent. Expenses incurred in support of the PIE program should be de minimis, meaning amounts of an inconsequential nature. Thus, for any or all of the stated purposes of the PIE program, nominal items such as rulers, plaques, pins,

- c. List of Awards. The following link lists the awards for which CRD solicits nominations USCG-wide: [Appendix F](#)
6. Civil Rights Command Checklist. In addition to the EEOC and DHS, the Civil Rights Directorate is responsible for oversight of Coast Guard's civil rights functions, ensuring that civil rights requirements are met enterprise-wide. The Civil Rights Directorate must be able to pass compliance information, new and/or changed regulations, and requirements to and from entities in an organized and reliable manner that assures accuracy, consistency, and helps the Service achieve sustained compliance. Use of a compliance checklist can help ensure that program execution, including training, performance proficiencies, and protection of Personally Identifiable Information (PII) comports with the law and is consistent throughout the Coast Guard.
 - a. Legal Mandate. In accordance with the EEOC MD-715, agencies are required to "conduct a self-assessment on, at least, an annual basis to monitor progress and identify areas where barriers may operate to exclude certain groups".
 - b. Procedures.
 - (1) The CO/OIC are responsible for the EEO/EO compliance of their commands. By October 31st of each year, the CO/OIC of units with 50 or more personnel will certify through their Civil Rights Service Provider (CRSP) their knowledge of and compliance with the applicable authority, which are found in the Command Checklist located in [Appendix G](#).
 - (2) For each deficiency, the CO/OIC must submit a statement describing their plan to correct it, and report separately when compliance has been achieved.
 - (3) The CO/OIC are encouraged to engage in ongoing dialogue with their servicing CRSPs in meeting program requirements and completing the annual checklist. For items of non-compliance, the servicing CRSP, and / or a member of the Civil Rights Directorate will contact the CO/OIC to offer further assistance.
7. Defense Equal Opportunity Management Institute (DEOMI) Organizational Climate Survey.
 - a. Purpose. The Defense Equal Opportunity Management Institute (DEOMI) Organizational Climate Survey (DEOCS) is a confidential; command requested organizational development instrument focused on identifying issues of equal opportunity and organizational effectiveness. Giving personnel the anonymous opportunity to express opinions about leadership and EEO/EO atmosphere fosters a healthy command and increases mission readiness. Units, Directorates and offices with, at least, 16 members are required to administer a DEOCS survey within 180 calendar days of a change-of-command or change in Directorate or office head, and then at least annually thereafter or at the request of the CO/OIC. Units, Directorates and offices with subordinate commands or offices are required to offer an opportunity to participate in an annual survey.

- (1) The DEOCS assesses various factors surrounding the command climate in the major areas of: EO/EEO/Fair Treatment; Organizational Effectiveness; and Sexual Assault Prevention and Response. Commanders have the option to add up to 10 locally developed questions (LDQs) and five short-answer questions (SAQs).
 - (2) The DEOCS is a Commandant mandated and approved EO/climate survey. However, a CO/OIC may use a locally developed survey to supplement, but not to replace the DEOCS. Should a CO/OIC choose to use a supplemental survey, the CO/OIC should consult the servicing Human Resources Specialist prior to administering the survey to ensure that it is consistent with applicable collective bargaining agreements.
- b. Requesting a Survey from DEOMI. The unit CO/OIC may request a DEOCS from DEOMI on-line at: <http://www.deocs.net/>, or may contact the servicing CRSP for assistance.
 - c. Survey Administration. The survey is administered at the request of the CO/OIC. The CO/OIC may designate a survey administrator to request the DEOCS assessment who is then responsible for overseeing the assessment process to include requesting, receiving, and distributing survey passwords.
 - d. Feedback from the Survey. The CO/OIC will receive the results of the electronic DEOCS via e-mail four to six business days after the on-line survey closes and the results are requested within the system. DEOCS results appear in an assessment report that contains a statistical analysis of the results and a narrative interpretation of the responses.
 - e. Action Plan. It is strongly encouraged that the CO/OIC, Director, or office chief develop an action plan to address items of concern that were highlighted in the surveys.
 - f. DoD Reporting Requirement. As part of the effort to eliminate sexual assault in the military, The National Defense Authorization Act (NDAA) requires entities within the Department of Defense (DoD) to forward climate survey results to the next level in the chain of command. The Coast Guard remains aligned with the DoD on this critical national initiative. Therefore, unit commanders must share their entire DEOCS results, including narrative comments, with their next higher-level command within 30 calendar days of survey completion. The overall goal is a healthy command climate.
 - g. Contacting DEOMI. For any comments or questions pertaining to requesting or administering the DEOCS, contact the servicing CRSP, or contact DEOMI directly at:

Directorate of Research
Defense Equal Opportunity Management Institute (DEOMI)
366 Tuskegee Airmen Drive
Patrick Air Force Base, FL 32925

(321) 494-2675/3260/4217

After hours: (307) 213-0533

Website: <https://www.deocs.net/public/index.cfm>

<https://www.deocs.net/public/requestAssistance.cfm>

- h. DEOCS Results Assistance. For assistance interpreting the DEOCS report contact the servicing CRSP.
 - i. Safeguards. The DEOCS report must be labeled “For Official Use Only” (FOUO) and must be handled accordingly. When not in use, the report must be stored in a locked cabinet or secure area per DHS Management Directive (MD) 11042.1.
 - j. Relief Process. The DEOCS report is for CO/OIC use only, or whomever he/she designates. To protect any Personally Identifiable Information (PII) as well as to protect the integrity of the survey’s purpose, DEOCS reports must be destroyed by the CO/OIC as part of the relief process. Supervisors (next higher level of command) must destroy their copy of the CO/OIC’s DEOCS report within 90 calendar days of receipt.
8. Equal Opportunity (EO) Review/Assessment.
- a. Purpose. The EO Review/Assessment is an integral part of Coast Guard Civil Rights Directorate activities, and is primarily used as an evaluative management tool for the units that are visited. It also provides a means for monitoring the civil rights climate of the Coast Guard for the development of a continuous improvement program.
 - b. Legal Mandate. In accordance with the EEOC MD-715, agencies are required to “conduct a self-assessment on, at least, an annual basis to monitor progress and identify areas where barriers may operate to exclude certain groups”. EEOC regulations in 29 C.F.R. Part 1614 state that each federal agency must exercise personal leadership in establishing, maintaining, and carrying out a continuing affirmative employment program designed to promote equal employment opportunity in every aspect of agency personnel policy and practice in the employment, development, advancement, and treatment of employees.
 - c. Process. An EO Review team assesses and provides feedback to a unit on the overall civil rights climate and the state of its civil rights program. The team reports unit effectiveness in implementing the Coast Guard’s civil rights mission, identifies best practices, offers recommendations for improving the command’s EO program or climate, and identifies areas that may require unit-wide actions. Periodic EO Reviews are conducted at units throughout the Coast Guard to meet the EEOC MD-715 requirements. The CO/OIC, Managers, and Supervisors who request an EO Review will receive the final written report, which remains as property of the unit. Unit selection will be based on the following:
 - (1) Command Request: Whether they experience an incident or desire to be proactive, commands may request that their servicing CRSPs conduct an EO Review at their unit.

- (2) Chain of Command Request: If a superior command has concerns about a unit due to patterns in complaints, incidents, or other command climate concerns, the organizational element with administrative control of the unit may request an EO Review.
 - (3) Periodic/Rotational: Regional Civil Rights Directors may identify units for assessment to meet the requirements of EEOC MD-715. Results of assessments must be provided to Commandant (CG-00H) for consideration into the overall MD-715 self-evaluation annual requirement.
- B. Civil Rights Training. The Coast Guard must provide a working environment where individual differences are appreciated and individual strengths contribute to the accomplishment of the Service's missions. Toward this end, every member must understand the Coast Guard policies that reference human relations, sexual harassment prevention, and diversity and how they translate into behavior that is expected and/or unacceptable; and how to obtain relief if subjected to discrimination or harassment.
1. Civil Rights Awareness Training. Because issues and service needs in this area constantly evolve, all Coast Guard personnel (military, civilian, and reservist) must participate in civil rights training every three years. This training will be conducted at all accession points, including the Academy, Officer Candidate School, and basic training, starting within 120 calendar days of accession or hiring, and will also be included as a part of the Coast Guard's leadership training programs. In addition, civil rights orientation training must be included in all Coast Guard conducted new employee orientation training. Training should provide information on the discrimination complaint process, contact information, and employees' rights and responsibilities in the EEO/EO complaint process.
 2. Sexual Harassment Prevention (SHP) Training. Through a variety of sources and methods, the Coast Guard provides training to address these needs. The civil rights training incorporates Sexual Harassment Prevention (SHP) training, which is mandatory on an annual basis for all employees both military and civilian. Other courses are targeted for managers and supervisors or may be necessary for the CRSPs.
 - a. Purpose. Sexual Harassment Prevention (SHP) training raises awareness among Coast Guard personnel of behaviors that constitute sexual harassment and teaches actions which should be taken to prevent or eliminate sexual harassment.
 - b. Sexual Harassment is not the same as Sexual Assault. SHP training pertains to employment and conditions of employment, and should never be confused with sexual assault. Sexual assault involves criminal activity and should be reported to the proper law enforcement authorities and investigating and response entities.
 - c. Delivery. SHP training is delivered through computer-based training in the Learning Management System, as a CRSP facilitated stand-alone course, or in conjunction with the triennial Civil Rights Awareness training.

- d. Requirements to Receive SHP Training. All Coast Guard personnel, civilian, military, and reserve members must receive SHP training annually, within 90 calendar days of accession into the Coast Guard and annually thereafter.
 - (1) Coast Guard Auxiliarists receive training as part of the basic qualification process and must comply with the requirements of the Auxiliary Manual, COMDTINST M16790.1 (series).
 - (2) Attending an SHP training session presented in conjunction with the Civil Rights Awareness training session or a CRSP facilitated SHP session, satisfies the annual requirement. Attendance must be documented in Training Management Tool (TMT).
- e. Documentation. Maintaining proper records is essential to facilitating the accomplishment of the training objectives and preventing redundancy or gaps in training. CRSPs use a standardized roster to record attendance and enter the training into TMT. The Civil Rights Zone Manager will keep training rosters on file to support TMT entries and provide a copy to unit training officers, as needed.
- f. Roles and Responsibilities. Training personnel roles and responsibilities associated with SHP training are as follows:
 - (1) The CO/OIC will ensure that training is scheduled for unit personnel; facilitate access to the e-SHP course; participate in showing support for and involvement in an all-hands facilitated discussion after all personnel complete the e-SHP training; and place emphasis on their personal commitment to maintain a workplace free of sexual harassment and to promote resolution of issues at the lowest level. The CO/OIC and supervisors will ensure that training is recorded in the TMT.
 - (2) The CRSPs will provide training for afloat units and other units with internet connectivity insufficient to this task, and coordinate schedules with the CO/OIC. For all other units, CRSPs will provide assistance as requested.

3. Civil Rights Training for Non-Managers.

- a. Purpose. Civil rights training provides military and civilian personnel the knowledge they need to:
 - (1) Understand their roles in developing an awareness of the value that diversity brings to the organization.
 - (2) Understand the basic concepts of civil rights and their roles in demonstrating and achieving equal opportunity.
 - (3) Understand their roles and responsibilities in the civil rights process.
- b. Description and Delivery. This three-hour mandatory training course provides personnel with training in military and civilian civil rights and equal opportunity

responsibilities. Course material will enable the trainee to understand the concepts of diversity, civil rights, and affirmative employment to identify and apply useful strategies for civil rights problem solving; and to explore significant, current civil rights issues and employee centered means to address them. Case studies will be used as a key training tool.

- (1) All trainers must be certified, and authorized by the CRD.
 - (2) The ideal class size is 20 to 30 trainees, not to exceed 40 trainees per instructor. Attendance at each class should reflect the diversity of the unit. Training should be conducted in an environment that is as free from distractions as possible. All attendees must be excused from other commitments for the duration of the class. All hands events do not serve as effective civil rights training venues.
 - (3) Commands will coordinate this training through their servicing CRSPs for the respective command. Exceptions can be made when this is not geographically feasible.
- c. Documentation. Maintaining proper records is essential to facilitating the accomplishment of the training objectives and preventing redundancy or gaps in training. CRSPs use a standardized roster to record attendance and enter the training into Training Management Tool (TMT). The Civil Rights Zone Manager will keep training rosters on file to support TMT entries and provide a copy to unit training officers, as needed.
- d. Roles and Responsibilities. The roles and responsibilities associated with civil rights training are as follows:
- (1) Civil Rights Service Providers (CRSPs) develop triennial plans for delivery of civil rights training within their area of responsibility and schedule the training sessions with the supervisor. They are responsible for conducting required civil rights training sessions each year in order to ensure the commands meet the triennial training requirement, teaching an average of 30 participants in each session, not to exceed 40 participants. CRSPs brief the CO/OIC or supervisor prior to and after conducting training and may provide out-briefs.
 - (2) The CO/OIC and Supervisor introduce the training, placing emphasis on their personal commitment to a workplace environment free of discrimination and harassment. The CO/OIC and supervisors also ensure entry of training completion for all attendees in the TMT and that the Command provides logistical support for training.
 - (3) The CRSP (EOA, EOS, CR Officer, or CR Manager) is responsible for confirming training attendance and delivery, and ensuring that proper documentation of the training is provided to the CO/OIC for entry in the TMT.
4. Civil Rights Training for Supervisors and Managers.

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

- b. About Civil Rights Training for Supervisors and Managers. Most civilian hiring decisions are made by managers and supervisors. Workforce barriers may be unintentionally caused by the employee-supervisor relationships. Awareness of civil rights program requirements and command affirmative program goals is required for all individuals in positions that impact the civilian workforce. Additionally, since resolving complaints at the lowest level begins with the immediate supervisor, awareness of complaint processes and ADR is an essential tool for supervisors in preventing complaints by presenting alternatives to achieving timely resolution of the issues when they arise. Basic information pertaining to the Federal Sector Civil Rights Program:
 - (1) Management roles and responsibilities in the EEO/EO discrimination Complaint process.
 - (2) An overview of civil rights programs, including the Disability Employment Program, Reasonable Accommodation procedures, and Special Emphasis Program (SEP).
 - (3) Management roles and responsibilities regarding EEO Complaints that include the use of ADR as a tool for resolving complaints.
 - (4) Attending civil rights training will facilitate supervisors and managers in clearly articulating their commitment to a fair, inclusive, non-discriminatory workplace that is free of harassment; state their expectations for employee conduct; and understand their personal accountability for a successful civil rights program.

- c. Recommended Training Courses. Some recommended courses/facilities are set forth below. Any of the courses will fulfill the training requirement for Coast Guard leadership:
 - (1) Civil Rights Training for Managers and Supervisors. This two-day civil rights training course is designed for managers and supervisors of civilian employees. It is conducted by the EEOC Training Institute.
 - (2) Leadership Team Awareness (LTA) Seminar. The LTA Seminar is a DEOMI course designed for senior officers (commanders and key staff/department heads 03-06) and senior enlisted advisors (E7/E9, as well as civilians including legal officers, chaplains, and inspector general personnel in leadership positions).
 - (3) Senior Executive Leadership Equal Opportunity Seminar (SELEOS). SELEOS is training for newly selected Flag, Senior Executive, and Command Master

Chief (Gold Badge) members designed to fulfill the Commandant's mandate to bring awareness of Civil Rights, EO, EEO, and Diversity issues. SELEOS is a Coast Guard course tailored to meet Civil Rights Awareness (CRA) and Sexual Assault Prevention (SHP) required training objectives and is the only course able to meet this requirement. Attendees will be credited for completing CRA and SHP upon completion of SELEOS or upon the submission of equivalent certifications. Course dates, locations, and specifics are announced annually via direct correspondence from the Civil Rights Directorate to target attendees. Senior Coast Guard leaders who have not attended this seminar are encouraged to attend at their earliest convenience.

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

- a. Purpose. The purpose of CRSP and Special Emphasis Program Managers (SEPM) training is to provide CRSPs and SEP Coordinators with the tools and knowledge they need to perform their assigned duties.
- b. About Training. CRSP and SEPM training is provided in support of the Coast Guard Civil Rights Directorate. Quotas to attend training courses must be requested from CRD via the servicing CRSP and SEP Coordinators chain of command.
- c. Recommended Training Courses. Descriptions of specific courses for Coast Guard CRSPs and SEP Coordinators are as follows:
 - (1) Equal Opportunity Advisors Course. The Equal Opportunity Advisors (EOA) course, taught at DEOMI, is directed to military members who serve as full-time EOA. The Course is several weeks in duration. Some sessions include other Department of Defense services and some focus on Coast Guard specific training. The curriculum provides EOAs a foundation to understand civil rights, its laws and regulations; and to assess the social climate for the organization in which they serve. It prepares them to provide sound advice and guidance to the CO/OIC and supervisors in order to recognize, prevent, reduce, or eliminate discriminatory practices.
 - (2) Equal Employment Opportunity Counselors Course. The Equal Employment Opportunity (EEO) Counselors course is taught at the EEOC Training Institute, DEOMI, and various governmental and private organizations. The EEO Counselors course is targeted to newly assigned CRSPs. The Course develops a base of knowledge and skills that allow its graduates to serve as effective CRSPs. The training introduces the causes and effects of discrimination, EEO programs for federal employees or applicants for employment, and civilian personnel and human resource management. It concentrates on the roles and responsibilities of EEO/EO Counselors, communication and interviewing skills, documenting EEO inquiries, and resolving EEO complaints, including alternative dispute resolution.
 - (3) Special Emphasis Program Manager Course. The Special Emphasis Program Manager course is taught at the EEOC Training Institute, and at various

government organizations. This SEPM course is targeted for SEP Coordinators. The training concentrates on roles and responsibilities, communication skills, staff coordination, briefing skills, EEO data analyses, and planning and managing effective special emphasis programs. Each District Commander should solicit volunteers, and in conjunction with CRD, appoint a SEP Coordinator at the district level to ensure robust programs and activities take place at subordinate Commands. District Commanders and CRSPs should work jointly in managing and offering guidance to volunteer committees and SEP Coordinators who carry out special emphasis programs.

- (4) The EEO Refresher Training for Counselors Course. This EEO Refresher training for Counselors is targeted for EEO/EO Counselors. It may be conducted by the EEOC Training Institute or other suitable sources. Participants are updated on recent developments in federal sector EEO, and given the opportunity to enhance their skills. Course topics typically include legal and policy updates, regulatory and statutory changes, counseling skills development, and EEO ADR program updates.
 - a. Recommended Sources for Training. Available training sources for CRSP follow:
 - (1) Defense Equal Opportunity Management Institute (DEOMI). DEOMI provides training for military and civilian civil rights personnel and for managers and supervisors with the desired outcome of fostering positive human relations throughout the Armed Forces and enhancing leadership and mission readiness.
 - (2) The EEOC Training Institute. EEOC offers standardized courses specifically for federal EEO professionals.
 - (3) Graduate School, U.S.A. This school offers an array of career related and continuing education courses to include EEO/EO counselor training and ADR for EEO professionals.
 - (4) The CRSPs and Headquarters Staff. Regional Civil Rights Directors, designees, and Headquarters staff conducts periodic civil rights related training.
 - (5) Other Viable Sources. Other Governmental institutions, as well as a host of contractors through U.S. GSA multi-award contract schedules.

CHAPTER 5 PROGRAMS ADDRESSING PROHIBITED DISCRIMINATION**A. The Equal Employment Opportunity/Equal Opportunity Complaint Process.**

1. **Introduction.** The Equal Employment Opportunity/Equal Opportunity (EEO/EO) Complaint Process consists of the Pre-Complaint Process and the Formal Complaint Process. Individuals who believe they have been subjected to unlawful discrimination have the right to access the complaint process. The prohibited bases for discrimination are located in Chapter 3.
2. **Preliminary Steps.** Before filing a formal EEO/EO complaint, the aggrieved must enter the pre-complaint process where an EEO/EO counselor will provide information about complaint process and attempt to resolve the matter giving rise to the complaint. In the Coast Guard, a Civil Rights Service Provider (CRSP) performs the role of an EEO/EO Counselor.

B. The Pre-Complaint Process.

1. **Initial Interview.** When an aggrieved party seeks to address a matter through the (EEO/EO) process, they must first meet with a CRSP. The counselor will explain the complaint process, provide rights and responsibilities, and attempt to resolve the matter. This is the Pre-Complaint Process. The aggrieved party will have an option to address their complaint through “Traditional Counseling” or Alternative Dispute Resolution (ADR). Both processes include attempts to resolve the complaint. However, the later does not include the opportunity to conduct an inquiry into to the allegations, but rather focuses on attempting to resolve the matter. Additionally, during the pre-complaint process:
 - a. Any person or group (military member, civilian employee, applicants for employment, former employees, and certain contract employees) can initiate a pre-complaint. They must contact a CRSP within 45 calendar days of the event giving rise to the complaint.
 - b. Upon initiating contact with the CRSP, the CRSP must advise military members that the (CO/OIC) has up to 15 calendar days to resolve the matter. The CRSP can arrange the meeting with the CO/OIC to attempt resolution, or the military member can arrange this meeting on his/her own. If the resolution attempt with the Command fails, then the military member may continue to the pre-complaint process with a CRSP.
 - c. All parties must cooperate throughout the complaint process.
2. **Confidentiality.** Aggrieved parties are entitled to protection of their identities and confidential information during the pre-complaint process. An aggrieved party has the right to remain anonymous throughout the pre-complaint process unless he/she waives that right.
 - a. Anonymity for military members can only be protected up to the time the aggrieved military member decides to pursue the matter through the complaint process. This is because all complaints initiated by military members require 15 calendar days for the CO/OIC to attempt resolution prior to entering the pre-complaint process.

- b. If the military member contacts a CRSP seeking information about the complaint process, the member will be informed of the 15-day resolution attempt requirement with the Command. If at this point, the military member decides not to pursue the matter, the Command must not be informed of the contact by the member.
 - c. If the military member wishes to initiate a complaint, the military member may attempt resolution of the matter by asking the CRSP to arrange a resolution meeting with the Command.
 - d. Information provided to the CRSP during the pre-complaint process is considered confidential. The CRSP may not share any information with others without the consent of the person who provided it during the pre-complaint process except to those who have a need to know. Statements made during the pre-complaint process must be released to appropriate authority, such as counsel representing the Coast Guard or United States, when required by applicable law, including, but not limited to, when required as part of the Government's discovery obligations in a criminal or civil court proceeding, such as courts-martial, or pursuant to a subpoena issued by competent authority. Subpoenas are never required when otherwise legally mandated or permissible disclosure of information is within the Coast Guard or to another agency of the Federal Government.
3. Conflicts of Interest. Complaints of discrimination naming the Commandant, Vice Commandant, the CRD Director or the second line manager responsible for CRD complaint processing must be processed as conflict of interest (COI) complaints.
 - a. Conflict of interest complaints are forwarded to outside sources, either component agencies, or different governmental agencies for processing. Contact the CRD Solutions and Complaints Division if additional guidance is needed.
 - b. Individuals believed to have a conflict of interest complaint who wish to remain anonymous during the pre-complaint process may contact DHS Civil Rights and Civil Liberties (CRCL) via email at crcl.eeo@hq.dhs.gov.
4. The CRSP EEO/EO Counselor's Report. For the pre-complaint process, the CRSP will prepare an EEO/EO Counselor's Report if the party does not elect the ADR route in lieu of counseling.
 - a. The CRSP must document and preserve all information obtained throughout the pre-complaint process. This information is to remain confidential unless the aggrieved party authorizes disclosure.
 - b. The Counselor's Report must be sent to the aggrieved party within 15 calendar days of filing a complaint.
5. Roles and Responsibilities in the Pre-Complaint Process. The Civil Rights Directorate's field operation provides services for USCG workforce through four (4) Regions and 14 zone locations. The following participants generally referred to as CRSPs, have clearly defined roles and responsibilities in carrying out their respective functions within their Area of

Responsibility (AOR). Unless otherwise noted, these roles and responsibilities apply to the pre-complaint process for both military members and civilian employees/applicants:

- a. Regional Civil Rights Directors - Are the most senior managers for their respective region and zone locations. The Regional Civil Rights Director is accountable for overall civil rights functions within their AOR, effective and timely processing of pre-complaints activity, briefing leadership, promoting and facilitating ADR and establishing and maintaining partnerships with civilian and military management officials.
- b. Zone Managers - serve as team-leaders for their respective location under one of the four regions. The Zone Manager is accountable for effective and timely processing of pre-complaints, ensuring the quality of submitted counselor's reports, ensuring the maintenance of confidentiality throughout the pre-complaint process, the handling of the of Counselor's Report, and all contacts within the AOR, promoting and facilitating ADR; coordinating ADR sessions and discussions; and briefing civilian and military management officials. The Civil Rights Zone Manager also serves as an EEO/EO counselor.
- c. Equal Opportunity Advisor/Equal Employment Opportunity Specialists - serve as the EEO/EO counselor, mediator, trainer and command advisor. The EOA/EEOS facilitates resolution discussions with the aggrieved party and CO/OIC for both civilian and military members; provides information to aggrieved party pertaining to the complaint process, ADR, and forums for matters beyond the scope of the discrimination complaint program; guides aggrieved party through the appropriate steps to attempt resolution at the lowest level; ensures that all informal resolution options have been explored; conducts civil rights training for civilian and military members, and advises and briefs the Command on EEO/EO matters or concerns. The EEO/EO counselor, in most cases, is the first point of contact for the aggrieved party looking to initiate a pre-complaint. The EEO/EO counselor provides information about the complaint process, ADR, and forums for matters beyond scope of discrimination complaint program; conducts a limited inquiry into allegations of discrimination, as necessary to pursue informal resolution of the matter; ensures complaints by military members are processed when they are not resolved within the 15-day resolution period with the CO/OIC.
 - (1) The CRSP will always attempt resolution with the next level CO/OIC within the aggrieved's chain of command, who is not responsible for the actions giving rise to the complaint.
 - (2) The CRSP is accountable for effective and timely processing of pre-complaints, providing the aggrieved party with Notice of Right to File a Discrimination Complaint when resolution efforts are unsuccessful; and safeguarding all information collected and prepared during the complaint process.
 - (3) The CRSP conducts a limited inquiry into the issues giving rise to the grievance, and prepares a report (CRSP's Report). The report includes contact information, statements from witnesses, supporting documents, and resolution efforts.

- (4) The CRSP is responsible for forwarding the report through the chain of command to the Regional Civil Rights Director for review and final dissemination.
- d. The Aggrieved Party - contacts the servicing CRSP for information, or to initiate a complaint of discrimination within 45 calendar days of the alleged incident giving rise to the complaint. If the servicing CRSP cannot be reached, the aggrieved party should contact the Zone, Regional, or Headquarters Office staff. The aggrieved party and all witnesses, including the alleged Responsible Management Official (RMO), must cooperate throughout the complaint process.

C. The Formal Discrimination Complaint Process.

1. Phases. The formal discrimination complaint process includes the following phases:
 - a. Filing. The complainant files formal discrimination complaint.
 - b. Acknowledgement. Regional Civil Rights Director forwards a letter to the complainant that acknowledges receipt of the complaint, provides the next steps in the complaint process, and provides rights and responsibilities. ADR is available throughout the formal complaint process.
 - c. Acceptance or Dismissal. In accordance with 29 C.F.R. Part 1614 processing requirements, the Regional Civil Rights Director will accept or recommend the dismissal of all or a portion of the allegations of a complaint.
 - d. Investigation. An investigator is appointed to prepare a plan, investigate the claims, and compile a report of the relevant documentary and testimonial evidence gathered during the course of the investigation.
 - e. Post-investigative Adjudication and Review. These procedures differ for military and civilian complainants. See Military Post Investigation Roles and Responsibilities and Civilian Roles and Responsibilities in this chapter.
2. Administrative Responsibility of the Civil Rights Directorate. The CRD has administrative responsibilities relative to the Formal Complaint Process, that include receiving and acknowledging all formal complaints, accepting claim(s) for investigation and dismissal authority for military complaints, and issuing Acceptance Letters for all accepted claims. In civilian cases where CRD believes a procedural dismissal, pursuant to 29 C.F.R Part 1614.107, is appropriate, CRD will recommend dismissal without investigation to the DHS CRCL. In military cases, the Commandant (or his/her desinee) will issue final decisions of dismissal as well as Final Agency Decisions (FADs).
3. Administrative Responsibility of DHS CRCL. The DHS CRCL has the responsibility to issue letters dismissing civilian complaints without investigation; to process applications for class certification in class action complaints; to draft, sign, and issue the civilian Final Agency Decision (FAD) based on the Report of Investigation (ROI) whenever civilian complainants elect the FAD in lieu of an EEOC hearing; to issue departmental Final Orders,

wholly accepting, partially accepting, or rejecting EEOC Administrative Judge (AJ) decisions after hearings; to accept the filing of Appeals; to issue decisions on appeals to military FADs.

4. Privacy. Complainants and witnesses are entitled to Privacy Act rights during the formal complaint process. Documents provided to investigators must be protected from disclosure to unauthorized persons in accordance with the Privacy Act, 5 U.S.C. § 552a.
 - a. When a complaint is filed, witnesses, including responsible management officials, will only be provided information about the complaint to the extent necessary to obtain statements during the investigation and further processing of a complaint. In addition, for settlement purposes, Regional Directors may release the ROI or part of it to agency counsel prior to any settlement discussions. The receiving official is required to complete a non-disclosure form.
 - b. The official who engaged in the alleged discriminatory action is considered a witness and is entitled to the same rights as any other witness, including the right to have a representative of his or her choosing at any stage of the complaint process.
 - c. Once in receipt of the ROI, agency counsel may share with witnesses those portions necessary to defend the case.
5. Alternative Processes and Procedures to Address Complaints. A civilian complainant may opt to pursue his or her complaint through forums other than the discrimination complaint process. The decision concerning which alternative procedure to pursue is final and may not be changed. The complainant should contact the servicing Regional Civil Rights Director or CRD Headquarters with any questions regarding election rights. These options are as follows:
 - a. For information pertaining to the grievance procedure, contact a HR specialist or refer to the Administrative Grievance Procedure, COMDTINST 12771.1 (series).
 - b. A negotiated grievance procedure (under an existing collective bargaining agreement).
 - c. The DHS Civil Rights and Civil Liberties (CRCL).
 - d. The Merit Systems Protection Board (MSPB).
 - e. Federal District Court.
6. Amendment/Consolidation of Complaint. At any time during the processing of a complaint, the Regional Civil Rights Director, or CRD Headquarters may amend and/or consolidate complaints that are like or related.
 - a. If a complaint in the formal stage is with the field when an additional claim is made, and no acceptance letter has been issued, the Regional Civil Rights Director will determine if it is like or related.

- b. After the issuance of an acceptance letter or if the complaint has been forwarded to CRD Headquarters at the time an additional claim is made, Headquarters will determine if it is like or related.

7. Class Certification. Current or former civilian employees or applicants seeking to represent a class of potential complainants must seek counseling through the pre-complaint process. Upon the conclusion of counseling, the EEO/EO counselor will prepare an EEO Counselor's Report and provide the potential class representative with Notice of Right to File a Discrimination Complaint. The potential class representative should also be notified that the formal class complaint must be filed with CRD Headquarters. Class certification is obtained through the stages illustrated below:

- a. Stage 1. Within 30 calendar days after receipt of the class complaint, CRD Headquarters will forward the class complaint to the EEOC for a decision on whether to certify or dismiss. CRD Headquarters will also notify the Office of General Law of the complaint and the need for agency representation. CRD Headquarters will also notify DHS CRCL.
- b. Stage 2. The DHS CRCL is responsible for taking final action by issuing a final order on all decisions by EEOC regarding whether to certify or dismiss a class action.
- c. Stage 3. If the class is certified, CRD Headquarters will notify the class members, appropriate representative, and will ensure that the matter is investigated.
- d. Stage 4. If the complaint is resolved by settlement agreement, CRD Headquarters will notify the class members of the terms of resolution and the right to file objections within 30 calendar days. Such settlement agreements must be authorized by DHS CRCL and DHS Office of General Counsel, General Law.

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

- a. All allegations of non-compliance with the settlement agreement must be referred to DHS CRCL for action.
- b. The complainant may withdraw a complaint at any time during the process. Complainants must not be coerced into withdrawing a complaint. Withdrawing a complaint is strictly voluntary. Withdrawal must be in writing and must indicate that the action is voluntary and not due to coercion.

D. Filing a Formal Complaint.

1. Roles and Responsibilities.

- a. The Complainant must cooperate throughout the complaint process. If the matter is unresolved and the pre-complaint stage, then the complainant has the right to file a formal discrimination complaint.
 - b. The Zone Manager serves as senior CRSP for their AOR at the zone level under the region. He/she is accountable for effective and timely processing of pre-complaints; and forwarding Counselor's Report to Regional Civil Rights Director within 10 calendar days of the final interview with the complainant.
 - c. Regional Civil Rights Director serves as senior CRSP for their AOR at the regional level, over the zone. He/she effectively and timely processes formal complaints; acknowledges receipt of complaint; determines whether to accept or recommend dismissal of a complaint to CRD Headquarters; reviews staff EEO/EO Counselor's Reports for sufficiency upon the filing of a formal complaint; issues complaint Acceptance Letters/drafts Dismissal Letters; responds to requests for information/documents for investigations; and administers and facilitates requests for ADR.
 - d. The Civil Rights Directorate Headquarters forwards civilian dismissal recommendations to DHS CRCL and acts on DHS CRCL determinations; reviews all full acceptance and partial dismissal letters; reviews amendment requests and issues acceptance or denials of amendment requests for both civilian and military; responds to requests for prior EEO activity for investigations; disseminates final ROIs; and issues FADs for military members.
 - e. The DHS CRCL issues letters dismissing complaints without investigation for civilian complaints; issues FADs for civilians and reviews appeals for USCG-issued Military FADs; and processes applications for class certification in class action complaints.
2. Required Elements of a Complaint. The complaint must clearly and concisely state the:
- a. Actions, decisions, or terms of conditions of employment alleged to be discriminatory and a basis for each.
 - b. Dates on which the actions or decisions occurred or that the complainant became aware that they were discriminatory.
 - c. Supporting facts for the complainant's belief that discrimination occurred.
 - d. Identity of the Responsible Management Official (RMO).
 - e. Specific remedies requested.
 - f. The servicing Zone CRSP or EEO/EO Counselor will provide an official form for this purpose.
3. Where and When to File. The complainant must forward the formal complaint within 15 calendar days after receipt of the Notice of Right to file to the servicing Regional Civil

Rights Directors office. This information will be supplied during the final interview and in the Notice of Right to File. Although the law allows a complaint to be filed with the head of the agency, in order to avoid delays in processing it is highly encouraged that the complaint be filed with the appropriate processing office (see [Appendix C](#) for a list of Coast Guard Districts and Zones).

4. Acknowledgement Letter Requirements. The Acknowledgment Letter must include:
 - a. The DHS/USCG case number assigned to the complaint.
 - b. Date on which the complaint is considered filed (date on which it was received or date of postmark, if it was mailed). Civil Rights Service Providers must issue acknowledgement letters within five calendar days of receipt of a complaint.
 - c. A brief description of the formal complaint process, including time limits.
 - d. Contact information for Solutions and Complaint Division (CG-00H-2).
 - e. Notice of the complainant's right to request reconsideration (military), to request an EEOC hearing (civilian), or to file an appeal (civilian).
 - f. Contact information for filing requests for reconsideration or appeals.
5. Acceptance Letter. An Acceptance Letter must include:
 - a. The DHS/USCG case number assigned to the complaint.
 - b. A statement identifying each claim accepted for investigation.
 - c. Notice that the complainant may submit a correction of the issues, as stated in the letter, within a prescribed period and that the corrected statement will be made a part of the official complaint file.
 - d. Notice of right of reconsideration (military) or appeal (civilian) when some, but not all, of the claims or issues alleged in the complaint are dismissed, i.e., a partial dismissal. There is no right to an immediate appeal of dismissed claims for partially dismissed claims. See EEOC Management Directive (MD) 110 Chapter 5, Part IV.
 - e. Regional Civil Rights Service Directors must issue acceptance or partial dismissal letters to complainants or forward proposed dismissal letters to CRD Headquarters within 25 calendar days of receipt of a formal complaint. If additional clarification is needed from a complainant, this may be extended.
6. Dismissal Letter Requirements. Only DHS CRCL can dismiss a civilian complaint in its entirety. The Coast Guard can dismiss a military complaint in its entirety, but can only partially dismiss a civilian complaint that has multiple claims based on any of the circumstances listed below:

- a. It is not timely (the complainant did not contact the chain of command, Civil Rights Service Provider, or EEO/EO Counselor within 45 calendar days of alleged discrimination).
 - b. The formal complaint was not filed within fifteen (15) calendar days of receipt of the Notice of Right to File a Discrimination Complaint.
 - c. It fails to state a claim on which relief can be granted.
 - d. It is part of a pattern of misuse of the complaint process for purposes other than those for which it was designed.
 - e. It is identical to one that is pending before or has been decided by the Coast Guard or the DHS.
 - f. The complaint is the basis of a pending civil action, of which the complainant is a party, and at least 180 calendar days have passed since the filing of the complaint or that was the basis of a civil action decided by a United States District Court of which the complainant was a party.
 - g. A complaint raises the same matter and is pending or has been decided by the Equal Employment Opportunity Commission.
 - h. The complainant raised the same matter in a negotiated grievance procedure that permits allegations of discrimination; thus, electing to pursue a non-EEO process.
 - i. The complainant raised the same matter in an appeal to the Merit Systems Protection Board; thus, electing to pursue a non-EEO process.
 - j. It only alleges a proposed personnel action or a step preliminary to such an action.
 - k. It is moot.
 - l. The complainant alleges dissatisfaction with the processing of a previously filed complaint. All proposed dismissals must include:
 - (1) The DHS/USCG case number assigned to the complaint.
 - (2) A statement identifying each claim or issue dismissed, indicating that it will not be investigated.
 - (3) Specification of the regulatory or other basis for dismissal.
 - (4) Notice of right of reconsideration (military) or appeal (civilian).
7. Review of Military Complaint Dismissals. The aggrieved in a military complaint may appeal USCG's dismissal of a complaint to DHS CRCL. The request must be made in writing.

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

8. Review of Civilian Complaint Dismissals. When all claims for a civilian complaint are dismissed, the complainant may appeal the dismissal to the EEOC, Office of Federal Operations (OFO).
 - a. If some but not all claims of a complaint have been dismissed, the agency must notify the complainant in writing of its determination, set forth its rationale for that determination, and notify the complainant that the allegations will not be investigated. The agency must place a copy of the notice in the investigative file. The agency must advise the complainant that an Administrative Judge (AJ) must review its dismissal determination if s/he requests a hearing on the remainder of the complaint, but the complainant may not appeal the dismissal until the completion of the Final Agency Decision (FAD), or final action stage.
 - b. The DHS CRCL reviews the Coast Guard's rationale for dismissing issues without an investigation and may require an investigation of dismissed claims. The DHS CRCL decision on partial dismissal will become part of the Final Agency Decision (FAD).
 - c. The complainant may appeal the dismissal of any issue in the Final Agency Decision (FAD) in the same manner as a dismissal without investigation.
 - d. The complainant may elect an EEOC hearing, and request EEOC to address the dismissed claims. The AJ may support the dismissal, reject the partial dismissal, and therefore permit discovery to develop the record on the dismissed claims, or request a supplemental investigation into the dismissed claims. If the AJ rejects the rationale for partial dismissal, the EEOC hearing will be placed on hold until the dismissed claims are investigated and or supplemental information is gathered.
 - e. The aggrieved may appeal the dismissal of an EEOC AJ decision to EEOC OFO.
9. Formal Investigation and Post-Investigation Procedures. The stages of the investigation and post-investigation include.
 - a. Assignment to an investigator.
 - b. Development and approval of investigative plan.
 - c. Investigative activities.
 - d. Issuance of the Report of Investigation (ROI).
 - e. Election of EEOC hearing (for civilians) or Final Agency Decision (FAD).
 - f. Issuance of the Final Agency Decision (FAD), or a hearing and issuance of the AJ decision.

- g. Issuance of the Final Order.
 - h. Appellate review.
 - i. Request for reconsideration.
10. Investigation Roles and Responsibilities. The following describes the roles and responsibilities of participants in the investigative phase:
- a. The CRD timely assigns the accepted complaint to an investigator; reviews and approves investigative plans; reviews Report of Investigation (ROI) and complaint file for completeness, accuracy, and legal sufficiency; distributes ROI to complainant and his/her representative; notifies civilian complainant of right to elect either a FAD based on ROI or a hearing before EEOC AJ.
 - b. Investigator prepares investigative plan; gathers evidence; and prepares ROI. Authorized to administer oaths and require employees to furnish testimony under oath or affirmation without a promise of confidentiality; does not make or recommend a finding of discrimination.
 - c. Regional Civil Rights Director is accountable for effective and timely processing of pre-complaints and formal complaints; may assist investigator in identifying and contacting sources of requested evidence, but should not be involved in producing such evidence; ensures access for investigator and witness availability as requested.
 - d. The Civil Rights Zone Manager is accountable for effective and timely processing of pre-complaints; ensures access for investigator and witness availability as requested; may assist investigator in identifying and contacting sources for documents, and other evidence; but should not be involved in producing such evidence; ensures access for investigator and witness availability as requested.
 - e. Complainant and Witnesses are responsible for timely providing requested testimony and evidence to Investigator. When any party or witness with exclusive knowledge or control of any matter or item of evidence relevant to an issue of material fact fails or refuses without good cause to testify about the matter or produce the evidence, the AJ or decision maker may make an inference that the testimony or evidence would have supported the opposing party's position on the factual issue.
11. Timeline for ROI Transmittal. The Civil Rights Solutions and Complaints Division will provide the complainant and his/her representative and the servicing Regional Civil Rights Director with a complete copy of the ROI within 180 calendar days after receipt of the formal complaint or the amended formal complaint but no later than 360 calendar days after the filing the original complaint. This period may be extended by:
- a. 90 calendar days with mutual consent of the parties.

- b. 30 calendar days if CRD Headquarters is required to sanitize a file that contains classified material.
12. Military Post-Investigation Roles and Responsibilities. The following describes the roles and responsibilities of participants in the post-investigation process for military complaints:
- a. The CRD issues ROI copies to the complainant and his/her representative; if ADR is applicable, parties will have 30 calendar days to explore ADR; if no notification of successful resolution is received by 31st day after ROI issuance, Commandant (CG-00H) drafts and issues a FAD based on the ROI.
 - b. The Regional Civil Rights Director is accountable for effective and timely processing of formal complaints. If ADR is applicable, the Regional Civil Rights Director will coordinate resolution efforts with the command and notify CRD Headquarters of final resolution results.
 - c. The Civil Rights Zone Manager is accountable for effective and timely attempts at resolution.
 - d. The CO/OIC makes final good faith attempt at resolution and complies with all regulatory timeframes. The Command's participation in resolution efforts is required.
13. The Civilian Post Investigation Roles and Responsibilities. The following describes the roles and responsibilities of participants in the post-investigation process for civilian complaints:
- a. The DHS CRCL reviews AJ decision following a hearing in the event complainant elected an EEOC hearing; issues the Final Order implementing the AJ decision; partially implements the AJ decision, or rejects the AJ decision; drafts and issues FAD upon receipt of ROI from the Commandant (CG-00H) if complainant elects a FAD, or fails to elect a hearing within the 30 calendar day election period.
 - b. The Commandant (CG-00H) forwards ROI to complainant and his/her representative, with the notice of a 30 day hearing/FAD election period; provides copy of ROI to the Office of General Law and EEOC if complainant elects hearing; forwards copy of ROI to EEOC, if complainant elects hearing; forwards copy of ROI to DHS CRCL for FAD preparation if complainant elects FAD, or after no response during the 30 day election period.
 - c. The Coast Guard Office of General Law represents the Coast Guard at EEOC hearings.
 - d. The Regional Civil Rights Director is accountable for effective and timely processing of formal complaints; and making good faith attempts at resolution within 30 calendar days after complainant is provided a copy of a ROI, and provided another opportunity to participate in ADR.

- e. The Civil Rights Zone Manager is accountable for effective and timely attempts at resolution.
 - f. The Complainant elects EEOC hearing or FAD within 30 calendar days after receipt of ROI. When 180 calendar days following the filing of complaint have elapsed without issuance of a FAD, the complainant may request an EEOC hearing.
14. Reconsideration of Final Agency Decision for Military Complaints. Once a military Final Agency Decision (FAD) is issued by CG, a military complainant may request that DHS CRCL reconsider the decision. This request must occur in writing within 30 calendar days of receipt of the FAD. The Office of General Law will be provided a copy of all Requests for Reconsideration, and must have 30 calendar days after receipt to file a Brief in Opposition to the request with DHS CRCL. There is no other appeal opportunity for military members.
15. Appellate Review of Final Agency Decision for Civilian Complainant. A civilian complainant may appeal the FAD to the EEOC OFO within 30 calendar days of the receipt of the FAD. The Office of General Law represents the Coast Guard in opposition to the complainants' appeals.
16. Contents of Final Order. The DHS CRCL Final Order will include notice of the:
- a. Department's intention to implement the AJ's decision fully, partially, or not at all.
 - b. Complainant's right to file an appeal with the EEOC or a civil action in Federal District Court.
 - c. Name of the proper defendant in an appeal or civil action, for example, the Secretary of DHS.
 - d. Applicable time limits for an appeal or civil action.
17. Appellate Review of AJ Decisions and Departmental Final Orders. If the Final Order does not fully implement the AJ's decision:
- a. The CRD Headquarters will notify the Office of General Law, and who will file an appeal of the AJ's decision with the EEOC OFO.
 - b. The complainant may appeal any final decision dismissing the complaint to the EEOC OFO within 30 calendar days of receipt of decision.
 - c. Office of General Law will represent the Coast Guard in appeals to the EEOC and in opposition to complainants' appeal.
18. Distribution of DHS CRCL and EEOC Decisions. Upon receipt of a FAD or Final Order from DHS CRCL, an AJ decision or appellate decision from the EEOC, or a decision on reconsideration from DHS CRCL or the EEOC, CRD Headquarters will forward a copy to

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

19. Enforcing Compliance with Final Orders and Decisions. Department of Homeland Security (DHS) Final Orders that are not the subject of appeals to the EEOC or civil actions are binding on the Coast Guard to the same extent as settlement and resolution agreements that were knowingly and voluntarily entered.
20. Complaint Procedures. Figure 5-1 depicts the stages of the complaint process for both military members and for civilian employees, which are similar to the extent practicable.

U.S. Coast Guard Complaint Procedures Flow Chart

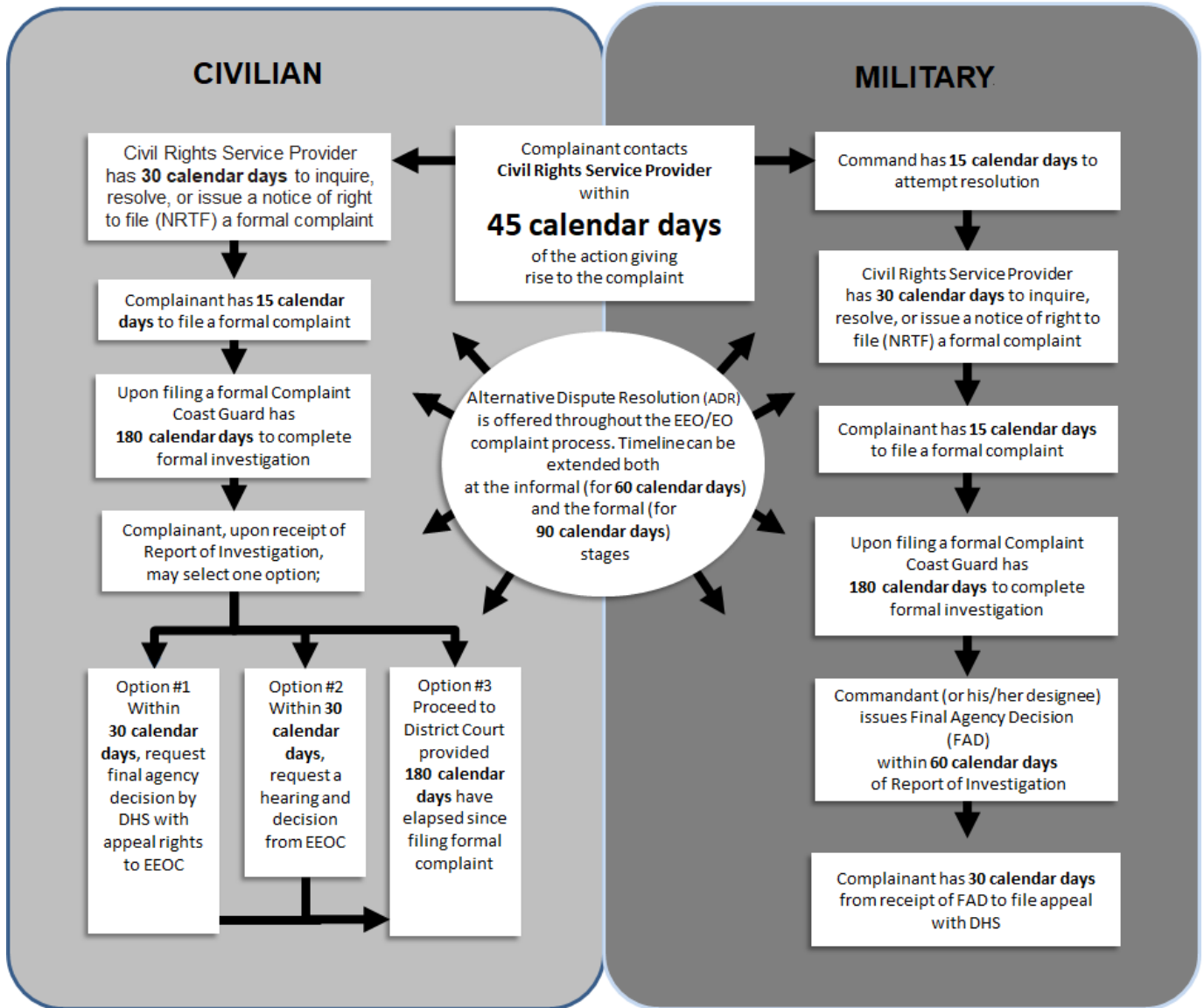


Figure 5-1: U.S. Coast Guard Complaint Procedures

E. Alternative Dispute Resolution (ADR).

1. Definition of ADR. ADR is a process in which a third party neutral (an impartial party who has no stake in the outcome of the proceeding) assists disputing parties with reaching an amicable resolution through the use of various informal methods. The Coast Guard's ADR program offers a variety of approaches, with mediation as the most common process of choice. Resolving disputes is an essential aspect of the administrative complaint process. ADR is encouraged not only as a means of accomplishing prompt resolution, but also as a way to improve workplace communication, raise morale, and return focus to the mission.
 - a. ADR is encouraged during the pre-complaint process, and must be explored before an individual may file a formal complaint. ADR is also available throughout the complaint process. However, in each case, the offer of ADR is subject to servicing CRSP determination of appropriateness.
 - b. Whenever the Coast Guard determines that ADR is appropriate in a particular case, and the employee elects ADR, managers and supervisors are required to participate and make every reasonable effort to resolve the dispute. ADR may also be used for workplace disagreements that do not involve allegations of discrimination. If a ADR is used for a non-EEO related workplace disagreement and bargaining unit employees are involved, the CRSP will contact the servicing workforce employee relations specialist to address labor relations matters.
 - c. All Third Party Neutrals must receive at least 24 hours of ADR training prior to conducting an ADR session. CRD will determine training needs and coordinate this effort.
2. The ADR Request – Formal Complaint. The formal complaint stage offers several opportunities to participate in ADR:
 - a. The formal complaint form offers the complainant the opportunity to participate in ADR.
 - b. The ADR offer is repeated when the Regional Civil Rights Director acknowledges receipt of the formal complaint.
 - c. If a claim is accepted for investigation, the complainant is offered ADR in the acceptance letter.
 - d. When the ROI and Election letter are issued, complainant again is offered an opportunity to request ADR.
 - e. If complainant requests ADR, the Regional Civil Rights Director consults with command/management to determine suitability and an agreement to participate in ADR. A request for ADR in top the formal complaint stage will not prevent the agency from continuing the processing of the complaint in accordance with regulatory timelines prescribed by EEOC Management Directive 110.

3. Remedies Available Through ADR. ADR provides the parties with the opportunity to agree upon remedies that are tailored to address specific situations and areas of concern. This enables parties to mutually agree on creative solutions that would not otherwise be available.
 - a. Remedies most often are nonmonetary solutions that improve the aggrieved party's work environment or terms and conditions of employment such as, but not limited to, professional development opportunities, supervisor training, leadership training, schedule changes, restored leave, priority consideration, and modifications of performance evaluations. In some cases agreement terms may include monetary remedies.
 - b. Some remedies available to civilian employees are unavailable to military members, based on different rules, codes, regulations, and policies for making the aggrieved party whole.
4. Resolution and Settlement Options. A manager with settlement authority, or delegated settlement authority, and the aggrieved party participate in the ADR process. The parties may have their respective representatives participate as well. All CRSPs, EEO/EO Counselors, or external neutrals serve as facilitators only. They do not have decision-making authority. Through facilitated discussions, the parties establish settlement terms. The terms are reduced to writing and signed. A settlement agreement is legally binding.
 - a. In all cases, the CO/OIC, or another appropriate management official, must review and approve any proposed settlement agreements. They must also be notified of the outcome of all discussions between the parties that may result in further proceedings in either the pre-complaint or formal complaint processes, including ADR.
 - b. Prior to entering settlement agreements that involve the expenditure of agency funds greater than two thousand dollars (\$2000), personnel actions, or any other management action that lies outside the scope of management authority, management is required to consult with appropriate agency officials, e.g., Office of General Law, Human Resource Directorate, etc.
 - c. All settlement agreements involving EEO/EO will be monitored and enforced by CRD and DHS CRCL.
5. Remedies Available to Military Members. The remedies available to military members through the discrimination complaint process are limited to make whole relief that would place them where they would have been in the absence of the alleged discrimination. They may not obtain actual or compensatory damages, costs, or attorney's fees and may not be awarded promotions or pay unless improperly withheld. Furthermore, only the Board of Corrections for Military Records (BCMR) may alter records of military personnel. Before being presented to the aggrieved parties, informal resolutions that include awards, assignments, promotions, or pay for military members must be reviewed and approved by the appropriate CO/OIC, and the Coast Guard Personnel Service Center (CGPSC). Copies of all EO settlement agreements must be forwarded to Solutions and Complaints Division (CG-00H-2S) upon finalization.

6. Remedies Available to Civilian Employees and Applicants for Employment. The employee and or applicant for employment may be offered either the position applied for, only if available, or an equivalent position if it is clear that person would have occupied the position but for the alleged discrimination. Other remedies may include, back pay, front pay, reasonable attorney's fees and costs, awards of compensatory damages, and other forms of equitable relief not to exceed the amount the aggrieved party would be entitled to if discrimination were actually found.
 - a. Settlement offers that include back pay, reasonable attorney's fees and costs, or personnel actions for civilian employees require pre-approval from Human Resources and the office of General Counsel, review by the Civil Rights Directorate, and the CO/OIC should be in agreement.
 - b. Copies of all EEO settlement agreements must be forwarded to Solutions and Complaints Division (CG-00H-2S) upon finalization.
7. Confidentiality. Confidentiality is an important aspect of the ADR process, whereas the Administrative Dispute Resolution Act requires parties to maintain confidentiality of communications prepared for the purpose of ADR (with certain exceptions). The parties' agreement to keep ADR session discussions confidential encourages candid and open conversation about the matters in dispute. Parties are entitled to confidentiality during the ADR process as follows:
 - a. Nothing said or given to the Third Party Neutral in confidence during separate meetings with individual parties may be voluntarily disclosed or offered into evidence in a future legal proceeding, unless all parties and the Third Party Neutral agree in writing.
 - b. There will be no written records of the ADR sessions.
 - c. Facts discovered during ADR will not become a part of the official complaint record.
 - d. The Management Representative may consult with Legal and/or Human Resources for questions regarding the legality or enforceability of proposed settlement provisions.
 - e. At the conclusion of ADR discussions, the Third Party Neutral will destroy all notes taken.
8. Exceptions to ADR Confidentiality. Confidentiality does not extend to threats of imminent harm to any person or property, any physical violence during the ADR session, or criminal activity. A settlement agreement that is developed as part of the ADR process becomes a record document once signed by the parties. The neutral facilitator may be required by subpoena to disclose information necessary to:
 - a. Prevent a manifest injustice.
 - b. Help establish a violation of law, or

- c. Prevent serious harm to the public health or safety.
9. Stages of the ADR Process. The ADR process includes the following stages:
- a. The ADR Election (Pre-Complaint) or ADR Request (Formal).
 - b. The ADR suitability determination.
 - c. Command/management representative with settlement authority identification.
 - d. The ADR preparation.
 - e. The ADR session.
 - f. Settlement agreement.
 - g. Coordination of resolution terms.
 - h. Implementation of agreement terms.
 - i. Compliance monitoring.
10. Request and Preparation Phases: Roles and Responsibilities. The following describes the roles and responsibilities of the participants in the ADR request and preparation phases:
- a. Aggrieved party/complainant elects ADR during the pre-complaint and formal complaint processes, informs CRSP of designated representative, cooperates during ADR proceedings, and participates in good faith.
 - b. The CRD Headquarters provides technical advice to CRSPs on ADR matters, consults with Regional Civil Rights Directors on appropriateness assessments and resolution potential, advises and provides direction to command officials on ADR matters including consultation with his or her servicing HR official and servicing legal office, provides ADR services in complex or sensitive cases, monitors and maintains records of all ADR activity, monitors compliance with resolution agreements, and responds to DHS CRCL regarding noncompliance allegations.
11. Civil Rights Service Providers:
- a. The EEO Specialists/EO Advisor serves as a CRSP within their AOR, who explains ADR to the aggrieved party and provides written information about ADR, receives the ADR Election or ADR Request, consults with the Civil Rights Zone Manager or Regional Civil Rights Director regarding the matters appropriateness for ADR, identifies command/management representative, arranges for a third party neutral, serves as a third party neutral in some cases, coordinates ADR Session scheduling and any requested reasonable accommodations, contacts the Office of General Law and/or Human Resources to coordinate review of settlement terms, prepares resolution agreement for

signature (or prepares notice of right to file if ADR fails, records any corrective actions and closes the file).

- b. The Civil Rights Zone Manager serves as the lead CRSP within their AOR, who advises command/management on ADR policy and process, makes ADR appropriateness assessments in consultation with the Regional Civil Rights Director, serves as neutral facilitator for ADR sessions, assures timely coordination of ADR sessions, assures the Office of General Law and/or Human Resources review of settlement terms, reviews final resolution agreement, oversees prompt implementation of resolution agreement, and monitors and documents resolution agreement compliance.
 - c. The Regional Civil Rights Director serves as the senior CRSP within their AOR who advises command/management on ADR policy and process, makes ADR appropriateness assessments, designates third party neutrals for AOR, reviews ROIs to identify early resolution potential, consults with CRD Headquarters and senior management on ADR matters, coordinates ADR sessions for formal complaints, transmits results of all ADR efforts to CRD Headquarters.
 - d. The Third Party Neutral explains the ADR process to the parties, obtains Participation and Confidentiality Agreement and form resolution agreement, conducts the ADR session, assures preparation of the resolution agreement for review and execution by the parties, and informs Civil Rights Zone Manager or Regional Civil Rights Director of ADR outcome.
 - e. The Command/Management Representative will arrange for the logistics of the ADR session, including a suitable location and any funding for third party neutral fees or travel. The Command/Management Representative may consult with the Office of General Law and civilian personnel specialist for advice on the nature and scope of resolution options.
 - f. The DHS CRCL monitors settlement implementations and addresses all non-compliance notifications.
12. Legal and Personnel Consultation and Authorization. Prior to entering settlement agreements that involve the expenditure of agency funds greater than two thousand dollars (\$2,000.00), management must consult with the Office of General Law. When the dispute concerns a civilian employee which involves a personnel action, management must consult with the servicing human resources specialist in the Office of Civilian Workforce Relations (CG-124). The appropriate Coast Guard legal counsel for advice on legal sufficiency of resolution options and proposed resolution terms is the legal counsel of the unit from which the dispute comes, the Legal Service Center, or the Office of General Law. When the dispute concerns a military member, the appropriate personnel reviewing authority for advice on proposed resolution terms is the CO/OIC.

13. The ADR Suitability Factors. Although not exhaustive, the following lists of factors may be helpful in determining whether ADR is appropriate for a particular dispute. No single factor is necessarily determinative.
 - a. Factors suggesting that ADR is appropriate.
 - (1) Availability of an identifiable command/management official with authority to grant the relief requested or that would make the aggrieved party whole.
 - (2) The aggrieved party's preference for resolving the dispute rather than punishing the other person.
 - (3) The parties' interest in maintaining a continuing relationship.
 - (4) The likelihood that the parties would benefit from intervention by a trained mediator to keep them focused on issues and resolution options.
 - b. Factors suggesting that ADR is inappropriate.
 - (1) The dispute does not involve any allegation of discrimination in violation of the anti-discrimination statutes enforced by the Equal Employment Opportunity Commission or in violation of the Coast Guard's policy against discrimination in membership or employment.
 - (2) The dispute implicates collectively bargained rights and/or has substantial potential effect on non-parties.
 - (3) The only conceivable resolution options would set significant legal or policy precedents.
 - (4) The aggrieved party has similar/related EEO/EO claims pending.
 - (5) The dispute involves allegations of waste, fraud, or abuse.
 - (6) The dispute involves alleged criminal activity or violations of the Uniform Code of Military Justice.
 - (7) The aggrieved party requires a finding of fault or culpability to be made.
 - c. ADR Appropriateness. The decision on the appropriateness of the case for ADR must not be the basis for any EEO/EO complaint.
14. Essential Elements of Settlement Agreements. The typewritten settlement agreement must specify:
 - a. The name of the aggrieved party.

- b. The matter being resolved identified by: issue, basis, case number and the date pre-complaint counseling was initiated if the matter is at the pre-complaint stage; or docket number if the matter is a formal complaint that is pending a hearing with EEOC or District Court.
 - c. A statement that the aggrieved party and the Coast Guard voluntarily enter into the agreement.
 - d. The effective date of agreement, including whether effectiveness is contingent upon expiration of a specific period for review of resolution terms by appropriate legal counsel and personnel reviewing authorities.
 - e. What will happen if subsequent review determines that the terms of the agreement are inconsistent with:
 - (1) Applicable laws and regulations; collective bargaining agreements; Coast Guard policy; or cannot be completed within the agreed timeframe.
 - (2) The procedures for addressing alleged noncompliance with resolution terms.
15. Legal and Personnel Review of Resolution Terms. Prior to entering settlement agreements that involve the expenditure of agency funds greater than two thousand dollars (\$2,000.00), personnel actions, or any other management action that lies beyond the scope of management's authority, management must consult with the Office of General Law. If the matter involves a personnel action, management should consult with Human Resource Directorate as well. Prior to a planned ADR meeting the CRSP and/or Third Party Neutral should arrange for the appropriate reviewing authorities to be on call to render a timely review (in-person, by telephone, or by email).
16. Post-ADR Roles and Responsibilities. The following describes the roles and responsibilities of participants in the post-ADR phase of the ADR process:
- a. The CRD Headquarters monitors and maintains records of all ADR activity; coordinates with contract mediator on contractual matters.
 - b. The ADR Facilitator reconvenes ADR to reformulate or renegotiate terms, or terminates ADR process if resolution terms cannot be implemented as written.
 - c. The Regional Civil Rights Director serves as senior Civil Rights Manager for their AOR at the regional level over the zones; is accountable for effective and timely resolution of discrimination allegations; transmits results of all ADR efforts to CRD.
 - d. The Civil Rights Zone Manager serves as senior Civil Rights Manager for their AOR at the zone level under the region; is accountable for effective and timely attempts at resolution; facilitates aggrieved party's return to the complaint process if resolution efforts are unsuccessful.

- e. The Aggrieved party returns to pre-complaint or formal discrimination complaint process for issuance of Notice of Right to File Discrimination Complaint if resolution efforts are unsuccessful.
17. Allegations of Breach of Resolution Agreement and Remedies. If the aggrieved party or complainant believes the agency has not complied with any of the settlement terms, they must notify Department of Homeland Security Office for Civil Rights and Civil Liberties (DHS CRCL) in writing within 30 calendar days after they knew or should have known of the alleged noncompliance. DHS CRCL will make inquiry to CRD Headquarters and request response to the allegations. The Civil Rights Directorate will coordinate the response to DHS CRCL.
- a. Civilian aggrieved parties/complainants may also appeal to the EEOC for a compliance determination if DHS CRCL does not issue a determination within 30 calendar days of its receipt of the allegations of noncompliance.
 - b. If DHS CRCL makes a determination of noncompliance and the aggrieved party/complainant requests enforcement of the agreement term, then aggrieved party/complainant is required to relinquish any benefits received under the resolution agreement, including return of any funds paid.
18. The ADR Process Flowchart. The flow chart Figure 5-2 on the following page describes the ADR process. The ADR Process Flow chart is a general ADR process and does not replace informal ADR requirements for civilian and military members.

U.S. Coast Guard Alternative Dispute Process

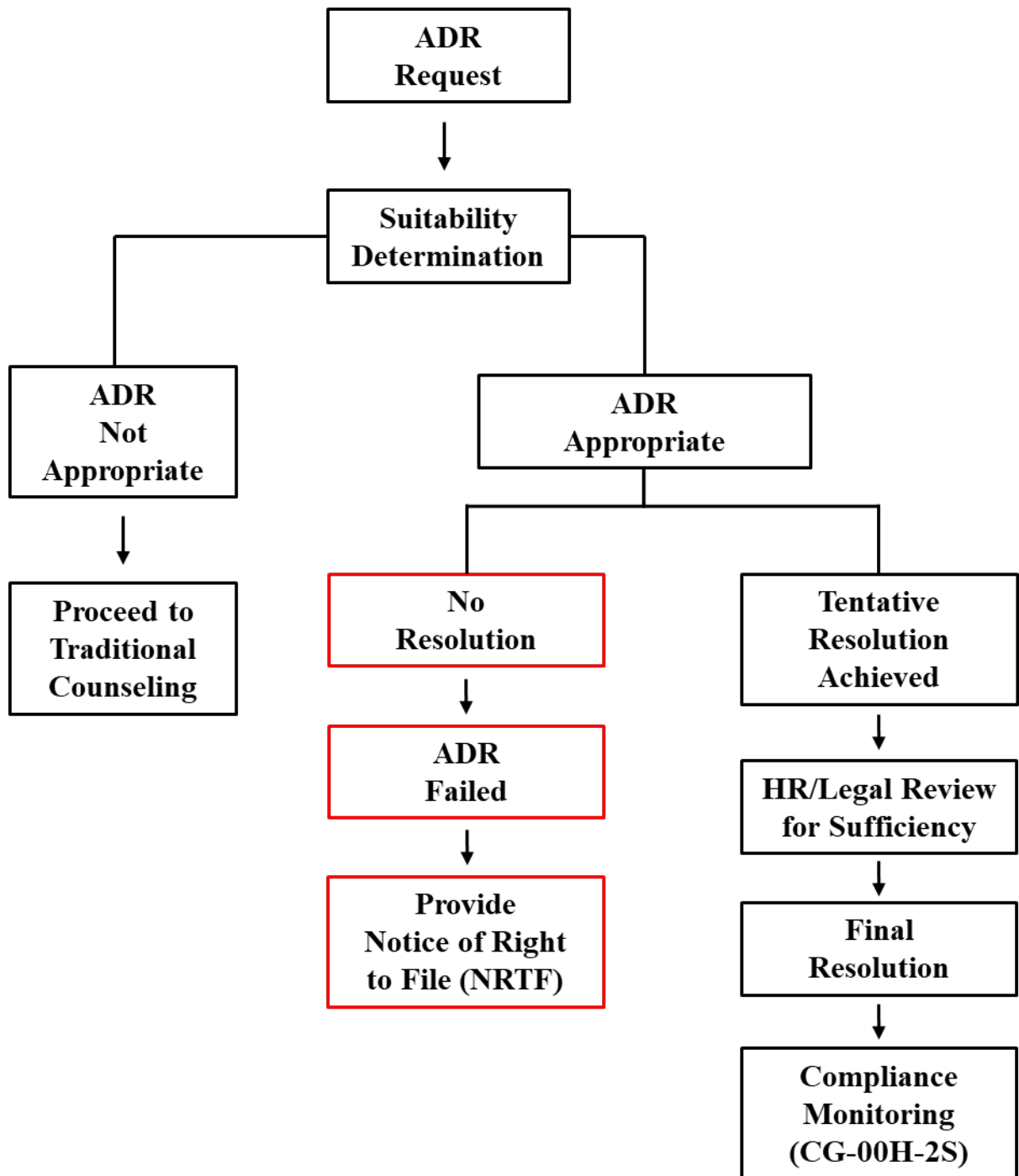


Figure 5-2: Alternative Dispute Resolution (ADR)

CHAPTER 6 REASONABLE ACCOMMODATION AND PERSONAL ASSISTANCE SERVICES FOR QUALIFIED PERSONS WITH DISABILITIES

- A. Introduction. This chapter addresses Coast Guard policies, procedures, and responsible parties for meeting reasonable accommodation needs for qualified employees and applicants for employment with disabilities. It also provides guidance on the requirements to provide Personal Assistance Services (PAS) under Section 501 of the Rehabilitation Act of 1973 as amended.
- B. Reasonable Accommodation Policy.
1. Definition. Reasonable accommodation is a change or adjustment to a work environment that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy the benefits and privileges of employment equal to those enjoyed by employees without disabilities. Reasonable accommodation may include acquiring or modifying equipment or devices; job restructuring; part-time or modified work schedules; reassignment to a vacant position; adjusting or modifying examinations, training materials, or policies; providing readers and interpreters; making the workplace readily accessible to and usable by persons with disabilities.
 2. Legal Authority and Application of Policies. The statutory obligation for the Coast Guard to provide reasonable accommodations is contained in Executive Order 13164 (July 2000), the Rehabilitation Act of 1973, as amended; 29 C.F.R. Part 1614.203(d); and 29 C.F.R. Part 1630. Although many persons with disabilities can apply for and perform jobs without the provision of any reasonable accommodation, there are workplace barriers that keep others from performing jobs that they could do given some form of accommodation. These barriers may be physical obstacles, such as inaccessible facilities or equipment, or they may be procedures or rules, such as rules concerning when work is performed, when breaks are taken, or how essential or marginal functions are performed. Reasonable accommodation process attempts to remove workplace barriers for persons with disabilities.
 3. Reasonable Accommodation Policies Applicable to Civilian Members. It is the policy of the Coast Guard to provide reasonable accommodation to all civilians with a qualified disability within the defined scope and limitations of the law. Reasonable accommodation should be provided to qualified persons with disabilities, unless doing so poses a direct threat to the requester, other employees, or poses an undue hardship to the Agency.
 4. Coast Guard Programs for Persons with Disabilities. An affirmative employment plan for the hiring, placement, and advancement of persons with disabilities has been developed and maintained by the Coast Guard, consistent with its obligations under the Rehabilitation Act of 1973, as amended.
 - a. In keeping with 5 C.F.R. Part 720(c), the Coast Guard developed a plan to promote employment and advancement opportunities for qualified disabled veterans within the Federal Government.

- b. The Coast Guard maintains a Persons with Disabilities Program (PWDP), which is designed to promote the hiring, placement, and advancement of employees with disabilities and to ensure they are employed within a broad range of grade levels and occupations commensurate with their qualifications. The Coast Guard, as all federal agencies, is tasked with assuring that its policies do not unnecessarily exclude or limit persons with disabilities because of working conditions. The PWDP enables the Coast Guard to take a positive and Directive role in fully complying with Section 501 of the Rehabilitation Act of 1973, as amended, and the provisions of 29 C.F.R. Part 1614.203(b).
- C. Roles and Responsibilities. Commanding Officers/Officers-in-Charge (CO/OIC) or their equivalent at all levels of the Service are personally responsible and accountable for ensuring that civil rights laws, regulations, policies, and program standards are proactively applied and rigorously enforced within their commands. It is incumbent on those in leadership positions to create a workplace built on Coast Guard Core Values of Honor, Respect, and Devotion to Duty and to ensure that the workplace is free of discrimination or harassment on any prohibited basis. Likewise, it is incumbent on every member of the Coast Guard to promptly inform their chain of command or a Civil Rights Service Provider (CRSP) of any civil rights concerns or issues when they arise. The specific roles and responsibilities of Specific Administrative Responsibilities of all Coast Guard employees are addressed below.
1. Specific Administrative Responsibilities.
 - a. Director, Civil Rights Directorate, Commandant (CG-00H). The Director, Civil Rights Directorate (CRD) is responsible for implementing the Coast Guard Persons with Disabilities Program (PWDP). The Director is specifically responsible for ensuring that:
 - (1) A nationwide Coast Guard PWDP is established.
 - (2) A Headquarters PWDP Manager from within the Civil Rights Directorate is designated to be responsible for administering the reasonable accommodation program throughout the Coast Guard.
 - (3) Coast Guard procedures for processing reasonable accommodation requests are developed and issued.
 - (4) Managers, supervisors, human resources specialists, CRSP, and employees understand applicable laws, regulations, policies, and procedures regarding reasonable accommodation.
 - (5) The PWDP is in compliance with the provisions of this Policy.
 - (6) Appropriate Human Resources Specialists and Office of General Law Representatives, if applicable, are consulted regarding their role in the reasonable accommodation process.

- b. Persons with Disabilities Program Manager. The Persons with Disabilities Program (PWDP) Manager is specifically responsible to:
- (1) Administer the reasonable accommodations program Coast Guard-wide.
 - (2) Serve as deciding official on appeal of denial of reasonable accommodation requests.
 - (3) Maintain records on all reasonable accommodation requests.
 - (4) Submit consolidated report on reasonable accommodation requests and activities report to the Department of Homeland Security Office of Civil Rights and Civil Liberties (DHS CRCL).
 - (5) Engage and inform the workforce.
- c. Civil Rights Service Provider (CRSP). The CRSPs will advise personnel on the reasonable accommodation process and submit quarterly reports on reasonable accommodation requests or denials to the PDWP Manager; except, upon request, when an appeal is filed on a denial of a reasonable accommodation request.
- d. Civilian Human Resources, Diversity and Leadership Directorate (CG-12). The (CG-12) is specifically responsible to:
- (1) Ensure that all vacancy announcements inform qualified applicants with disabilities that reasonable accommodation may be requested.
 - (2) Serve as decision maker on reasonable accommodation requests from job applicants and provides advice for requests involving undue hardship determinations.
 - (3) Provide assistance to all applicable parties, for example, the supervisor, employee, PWDP Manager, regarding reassignment opportunities to vacant or prospectively vacant positions within the Coast Guard.
 - (4) Ensure that copies of this Policy are made available to all new employees during orientation and to all supervisory employees.
 - (5) Ensure that reasonable accommodation information and a link to the CG Portal are made available to new employees and supervisors. This Manual can be accessed at: <https://cg.portal.uscg.mil/library/directives/SitePages/directives.aspx>
- e. Commanding Officer/Officer in Charge. The CO/OIC is specifically responsible for:
- (1) Consulting with appropriate agency representatives for assistance on reasonable accommodation issues: Civil Rights Service Providers, Human Resources Specialists, Medical Officers, and/or Attorney-Advisors.

- (2) Submitting completed reasonable accommodation request forms and associated records to the servicing CRSP within 10 business days subsequent to the resolution of a reasonable accommodation request.
- f. First Level Supervisor. The First Level Supervisor is specifically responsible to:
- (1) Acknowledge and respond within five business days in writing, using Acknowledgement of Reasonable Accommodation Request, Form CG-6080, to both oral and written requests for accommodation.
 - (2) Seek guidance as appropriate from the servicing CRSP. Supervisors may also seek guidance from their commands, human resource specialists, medical officers, and attorney-advisors.
 - (3) Determine the necessity of obtaining medical documentation and determining its sufficiency for the processing of reasonable accommodation requests.
 - (4) Determine with appropriate guidance if the requester is a qualified individual with a disability and that the request is a reasonable accommodation request.
 - (5) Communicate with the requester regarding the type of accommodation needed and whether or not it would enable the requester to effectively perform the essential functions of the position.
 - (6) Transmit written decision to the requestor within 15 business days unless extenuating circumstances dictate otherwise. Ensure that the individual requesting the accommodation is informed of the reasons for delay.
 - (7) Maintain confidentiality to the extent practicable.
 - (8) Identify the deciding official.
- g. Employees with Disabilities. Employees with Disabilities are specifically responsible to:
- (1) Request an accommodation from their first level supervisor, either orally or in writing, describing, if known, how the accommodation would enable them to perform the essential functions of the position.
 - (2) Provide medical documentation of the disabling condition, upon request.
 - (3) Describe how the requested accommodation, will help them perform essential duties of their job or take advantage of a benefit or privilege of employment.
 - (4) Appeal the Denial of Reasonable Accommodation Request, if applicable, to the national PWDP Manager within 10 business days of receipt of the Denial of Reasonable Accommodation Request.

2. Form Availability. The following forms are available in Appendix C of this Manual, the USCG Electronic Forms database, or by contacting a servicing CRSP:
 - a. Request for Reasonable Accommodation, Form CG-6079.
https://cg.portal.uscg.mil/sites/externaldata/Forms/CG_6079.PDF
 - b. Acknowledgement of Reasonable Accommodation Request, Form CG-6080.
https://cg.portal.uscg.mil/sites/externaldata/Forms/CG_6080.PDF
 - c. Reasonable Accommodation Decision and Reporting Form CG-6081.
https://cg.portal.uscg.mil/sites/externaldata/Forms/CG_6081.PDF
3. Resources. The following resources are available to assist employees and supervisors with reasonable accommodations:
 - a. Job Accommodation Network (JAN) provides free, expert, and confidential guidance on workplace accommodations and disability employment issues. www.askjan.org.
 - b. Employee Assistance and Resource Network provides guidance and a range of free resources to help employers of all sizes tap the benefits of disability diversity. www.askearn.org.
 - c. Computer/Electronics Accommodations Program provides assistive technology and accommodations to support persons with disabilities and wounded, ill, and injured Service members throughout the Federal Government in accessing information and communication technology. www.cap.mil.
 - d. eFedLink is designed to support all federal managers and human resources personnel, to advance the hiring and advancement of persons with disabilities in the Federal Government. www.efedlink.org.
 - e. Department of Transportation Disability Resource Center (DRC) provides job accommodations and related services to employees and job applicants. The Coast Guard and DRC maintain a service agreement to provide accommodations such as interpretive services and personal assistant services, at no cost. www.transportation.gov/drc.

D. Processing Reasonable Accommodation Requests.

1. Requests for Reasonable Accommodation.
 - a. Who May Request an Accommodation. Qualified individuals with disabilities who are employees or applicants for employment may request a reasonable accommodation. Reasonable accommodations may be requested by qualified employees regardless of whether they work part-time or full-time, or are considered "probationary."

- (1) An applicant may request an accommodation orally or in writing from the Human Resources Specialist/Command Staff Advisor (HRS/CSA) who is handling the vacancy recruitment process.
 - (2) A family member, health professional, or other representative acting on a requester's behalf may request an accommodation on behalf of a Coast Guard civilian employee or job applicant. To the extent possible the individual with a disability should be contacted to confirm that he/she in fact wants a reasonable accommodation. The individual may refuse to accept an accommodation that is not needed. Please refer to Third Party Request (Chapter 6, 6-8.4c) for more information.
- b. How to Submit a Request. A request for a reasonable accommodation is a statement from an employee or applicant for employment that, as a result of a medical condition, the individual needs an adjustment or change in the application process, in their job, or in a benefit or privilege of employment. The reasonable accommodation process begins as soon as the request for accommodation is made either orally or in writing. Processing of a request must be initiated immediately and is not contingent on the requester's receipt of a written confirmation for record-keeping purposes. A request does not have to use any special words, such as *reasonable accommodation*, *disability*, or *Rehabilitation Act*. A request is any communication in which an individual asks or states that he/she needs USCG to provide or to change something because of a medical condition. A supervisor, manager, or the PWDP Manager should ask an individual whether she is requesting a reasonable accommodation if the nature of the initial communication is unclear. Persons with disabilities may request a reasonable accommodation whenever they choose, even if they have not disclosed the existence of a disability and need not have a particular accommodation in mind before making the request. Any Coast Guard employee or applicant may consult with Human Resources Specialist (HRS) or a CRSP for further information or assistance in connection with requesting or processing a request for reasonable accommodation.

2. Written Requests for Record Keeping Purposes.

- a. Written Requests. To enable the Coast Guard to keep accurate records regarding requests for accommodation, the person to whom the employee or applicant made the oral request for reasonable accommodation must follow up on the oral request by completing the "Acknowledgement of Request for Reasonable Accommodation," which can be found using the following link; [Form CG-6080](#), or otherwise confirming the request by email.
- b. Written Confirmation. A written confirmation is not required when an individual needs a reasonable accommodation on a repeated basis, for example, the assistance of sign language interpreters or readers. The written form is required only for the first request, although appropriate notice must be given each time the accommodation is needed.

3. Determining Who Will Handle the Request.

- a. Decision Maker. The person who handles the request for accommodation will be referred to as the decision maker. This role can be fulfilled by one of the following offices: An employee's first level supervisor, or in his or her absence, the next available person above the supervisor in the chain of command, for employment accommodation; the CO/OIC; or the senior Human Resources manager responsible for servicing the vacancy, for job application accommodation. In addition, the servicing CRSP will be available as needed to provide guidance and assistance to employees and the decision maker.
- b. Backup Personnel. The decision makers must designate backup personnel, who would be responsible to continue receiving, processing, and providing reasonable accommodation requests when he/she is unavailable. The decision maker must ensure that persons with disabilities are informed about who has been designated as his/her backup. In the absence of the first level supervisor, accommodation requests will be directed to the next available person above the supervisor in the chain of command. The time frames discussed below must not be suspended or extended because of the unavailability of a decision maker.

4. The Interactive Process.

- a. Initial Discussion. Once the decision maker receives a request for a reasonable accommodation, the 15 business day timeframe to make a decision begins. If additional information is needed in order to make a decision, the decision maker must engage with the requester. This is called the interactive process. During the interactive process, the individual requesting the accommodation and the decision maker interact to determine what, if any, accommodation should be provided, or to explore alternatives.
- b. Communication. Communication is a priority throughout the entire process. This involves the decision maker and the requesting employee or applicant taking a proactive approach in searching out and considering possible accommodations, including consulting appropriate resources for assistance. The employee or applicant requesting the accommodation must participate in the process of identifying an effective accommodation. As a first step in the process the decision maker will:
 - (1) Introduce himself/herself to the applicant or employee with a disability as the decision maker for the request process; and
 - (2) Describe the details of the accommodation request process. This initial discussion should happen as soon as possible
- c. Third Party Request. When a third party makes a request for accommodation, the decision maker should, if possible, confirm with the applicant or employee with a disability that a reasonable accommodation has been requested before proceeding. It may not be possible to confirm the request if the employee has, for example, been hospitalized in an acute condition. In this situation, the decision maker will process

the third party request and will consult directly with the individual needing the accommodation as soon as it is practicable. The individual may refuse to accept an accommodation that is not needed.

- d. Importance of Communication in Unclear Situations. Ongoing communication is particularly important, especially in the event that the specific limitation, problem, or barrier is unclear; an effective accommodation is not obvious; or the parties are considering different solutions for providing reasonable accommodation. In those cases where the disability, the need for accommodation, and the type of accommodation that should be provided are clear, extensive discussions are not necessary. Even so, the decision maker and requesting individual should maintain communication to ensure that there is a full and complete exchange of relevant information.
- e. Confidentiality. The decision maker or any other Coast Guard official who receives information in connection with a request for reasonable accommodation may share information connected with that request with other agency officials (such as Legal and/or Human Resources) only when the agency officials need to know the information in order to make determinations about the reasonable accommodation request.
- f. Request for Reassignment. There are specific considerations in the interactive process when responding to a request for reassignment:
 - (1) Reassignment should only be considered if no reasonable accommodation is available to enable the individual with a disability to perform the essential function of his or her current position to or if the only effective accommodation would cause undue hardship. Reassignment must be considered as an accommodation prior to being removed.
 - (2) Reasonable efforts should be made in considering whether there are vacant positions available for reassignment; the decision maker should work with the appropriate servicing Human Resources Specialist and the employee requesting the accommodation to identify placement opportunities. Placement opportunities include:
 - (a) Coast Guard civilian positions for which the employee qualifies, which officials have reason to believe will become vacant over the following 60 calendar days and that are equivalent in terms of pay, grade, promotion potential, status, benefits, and geographic location to the employee's current position.
 - (b) Lower level Coast Guard civilian positions within the local commuting area for which the employee qualifies, which officials have reason to believe will become vacant over the following 60 calendar days, if no equivalent positions are available that are within the same commuting area as the employee's current position.

- (c) Coast Guard civilian positions, either equivalent or lower level, for which the employee qualifies, outside the employee's current commuting area. As with other reassignments not required by management, the Coast Guard will not pay for relocation costs incurred by the employee.
- (3) In the case of multiple vacancies, while nothing prevents the Coast Guard from offering several reassignment opportunities, the Coast Guard is only obligated to offer one reassignment opportunity as a form of accommodation. If there are no vacant positions within the Coast Guard, a Department-wide search within the Department of Homeland Security is to be conducted as a reasonable accommodation of last resort. An employee must be qualified for the vacant position, with or without reasonable accommodation. Reassignment as a form of reasonable accommodation can only be offered to Coast Guard civilian employees and is not available as an accommodation for job applicants.
- (4) When no vacant positions are located within Coast Guard, the decision maker must contact the Office of Civilian Workforce Management (CG-122) to initiate the process of locating vacancies in other DHS Components. (Ref: DHS Directive 259-001-02 of Sep 2016)

5. Request for Medical Documentation.

- a. Right to Know When a Disability is Not Obvious. The decision maker is entitled to know that an employee or applicant has a covered disability that requires a reasonable accommodation. In some cases, the disability and the need for accommodation will be obvious, or already known, to the decision maker. In these cases, the decision maker will not seek any further medical information. However, when a disability and/or need for reasonable accommodation is not obvious, or otherwise already known to the decision maker, the individual may be required to provide reasonable medical documentation explaining the existence of the disability and the individual's functional limitations.
- b. Determination of Necessity Documentation. The decision maker will evaluate the request and make a determination as to whether medical documentation is necessary. If it is necessary, the decision maker will:
 - (1) Request information sufficient to substantiate that the individual has a covered disability and needs the reasonable accommodation requested but will not ask for unrelated documentation.
 - (2) Seek documentation about the disability and/or functional limitations from the individual and/or ask the individual to obtain such information from an appropriate professional such as a doctor. In order to get the most helpful information, all requests for documentation should describe the nature of the job, the essential functions the individual is expected to perform, and any other relevant information. The decision maker may consult with all necessary

servicing CRSPs, legal, and job accommodation resource offices in determining its necessity and appropriateness.”

- c. Information Must Be Sufficient. If the information either provided by the employee’s health professional or volunteered by the individual requesting the accommodation is insufficient to enable the decision maker to determine whether an accommodation is appropriate, further information may be requested.
 - (1) First, however, the decision maker will explain to the individual seeking accommodation, in specific terms, why the information, which has been provided, is insufficient, what additional information is needed, and why it is necessary for a determination on the reasonable accommodation request.
 - (2) The individual may then ask their health care professional or other appropriate knowledgeable professional to provide the missing information.
- d. Release for Consultation with Doctor. Alternatively, if a request for reconsideration has been made, the decision maker and the individual requesting the accommodation may agree that the individual will sign a limited release so that the PWDP Manager may thereafter submit a list of specific questions to the individual’s health care professional or may otherwise contact the individual’s doctor.
- e. Determination of Sufficiency of Documentation. If after a reasonable period of time there is still not sufficient information to demonstrate that the individual has a disability and needs a reasonable accommodation, the decision maker reserves the right to obtain a second opinion to verify physician diagnoses and/or opinions.
- f. Determination of Appropriateness of Documentation. If a request for reconsideration has been made, the PWDP Manager will let the decision maker know whether the documentation demonstrates that a reasonable accommodation is appropriate and provide, if necessary, any additional information about the individual’s functional limitations.
- g. Unsolicited Medical Documentation. In some cases, the individual requesting the accommodation will supply medical documentation directly to the decision maker without being asked. In these cases, the decision maker will consider such documentation and if additional documentation is needed, the decision maker will work with the appropriate officials as set forth in this Section.
- h. Choice of Reviewing Medical Expert. If the decision maker determines that medical documentation submitted must be reviewed by a medical expert, the decision maker, working in conjunction with the CO/OIC, and servicing Human Resource Specialist, will choose the medical expert. Every effort will be made to choose a Coast Guard physician. If an outside physician is chosen, the cost of the review will be at Coast Guard expense.
- i. Documentation Required. The decision maker must advise the employee or applicant who is requesting a reasonable accommodation that his or her failure to provide

appropriate documentation or to cooperate in efforts to obtain such documentation can result in a denial of the request.

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

- a. Confidentiality of Medical Documentation. Under the Rehabilitation Act, medical documentation obtained in connection with the reasonable accommodation process must be kept confidential regardless of whether the information was provided voluntarily or in response to a disability related question. This means that all medical documentation, including information about functional limitations and reasonable accommodation needs that the Coast Guard obtains in connection with a request for reasonable accommodation must be kept in files separate from the individual's personnel file. It also means that any Coast Guard employee who obtains or receives such information is strictly bound by these confidentiality requirements.
- b. Custody of Records. The PWDP Manager will maintain custody of all records obtained or created during the processing of a request for reasonable accommodation, including medical records, and will respond to requests for disclosure of the records. All records will be maintained in accordance with the Privacy Act and the requirements of 29 C.F.R. Part 1611.
- c. Disclosure of Records. This confidential medical information may be disclosed only as follows:
 - (1) The decision maker who requested that the PWDP Manager obtain medical documentation, may be told about necessary restrictions on the work or duties of the employee and about the necessity of providing the accommodation, but medical information should only be disclosed if necessary.
 - (2) First aid and safety personnel may be informed when appropriate, if the disability might require emergency treatment.
 - (3) Government officials may be given information necessary to investigate Coast Guard compliance with the Rehabilitation Act.
 - (4) Human Resource Specialists may require information in accordance with any pending personnel actions.
 - (5) Whenever medical information is disclosed, the individual disclosing the information must inform the recipients of the information about the confidentiality requirements that pertain to it.

7. Time Frame for Processing Requests and Providing Reasonable Accommodation.

- a. Time Frame Depends on Nature of Request. The time limit for providing or denying an accommodation starts as soon as the accommodation is first requested. The Coast Guard will process a request for reasonable accommodation and provide an

accommodation, where appropriate, in a short timeframe as reasonably possible. The maximum time permitted is 15 business days. When a particular accommodation can be provided in less than the maximum amount of time permitted, failure to provide the accommodation in a prompt manner may result in a Rehabilitation Act violation. Decision Makers must not interpret the maximum timeframe to provide an accommodation as meaning that they should routinely take the full length of time allowed. The Coast Guard recognizes, however, that the time necessary to process a request will depend on the nature of the accommodation requested and whether it is necessary to obtain supporting information.

- b. Expedited Processing. In certain circumstances, a request for reasonable accommodation requires an expedited review and decision in a time frame that is shorter than the 15 business days discussed below. This includes where a reasonable accommodation is needed:
- (1) To enable an applicant to applying for a job. Depending on the timetable for receiving applications, conducting interviews, taking tests, and making hiring decisions, there may be a need to expedite a request for accommodation in order to ensure that an applicant with a disability has an equal opportunity to apply for a job. Therefore, the decision maker needs to move as quickly as possible to make a decision and, if appropriate, provide a reasonable accommodation.
 - (2) To enable an employee to attend a meeting scheduled to occur shortly. For example, an employee may need a sign language interpreter for a meeting scheduled to take place in five business days. The following should be completed:
 - (a) If no supporting medical documentation is required and no extenuating circumstances apply, a request for reasonable accommodation must be processed and the accommodation, if granted, provided in no more than five business days from the date the decision maker receives the request, and sooner, if possible. Failure to meet this time frame solely because a decision maker delayed processing the request is not an extenuating circumstance. (See “extenuating circumstances” in this Paragraph at (e) below).
 - (b) If the decision maker believes that it is necessary to obtain medical documentation to determine whether the requesting individual has a disability and/or to identify the individual’s functional limitations, he or she will make such request as soon as possible after receipt of the request for accommodation but before the expiration of the 15-day period. It is recognized that the need for documentation may not become apparent until after the interactive process has begun.
 - (c) If the decision maker requests obtain medical documentation, the 15-business day period is delayed once the requestor is informed that the medical documentation is required. After the requestor obtains and submits the medical documentation, the 15-business day period is no longer delayed. If,

before the medical documentation is provided, the decision maker determines that medical documentation is no longer needed, the decision maker must continue processing the request. The 15-business day period is not delayed while the decision maker determines if medical documentation is needed.

- (d) Examples of accommodations that can easily be provided within this 15-day time frame include:

[1] An employee with diabetes works in an area where employees are prohibited from having food at their desks. The employee requires food or drink to adjust his/her blood sugar. An exception to accommodate the employee may be made immediately.

[2] An employee with a learning disability asks that an agenda, which his supervisor distributes at the beginning of each staff meeting, be distributed ahead of time because the disability makes it difficult to read and the employee needs more time to prepare.

- (3) Extenuating Circumstances. These are factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation. When extenuating circumstances are present, the time for processing a request for reasonable accommodation and providing the accommodation will be extended as reasonably necessary. The decision maker must notify the individual in writing of the reason for the delay and the approximate date on which a decision, or provision of the reasonable accommodation, is expected. Any further developments or changes should also be communicated promptly to the individual. Extensions based on extenuating circumstances must be limited to circumstances where they are strictly necessary. All decision makers are expected to act as quickly as reasonably possible in processing requests and providing accommodation. Acquisitions must also be made as soon as reasonably possible. If the acquisition authority believes that there is a policy or law against providing an accommodation, they must raise the matter with an appropriate authority immediately. Failure to provide an accommodation due to a mistaken understanding of law could result in a violation of the Americans with Disabilities Act. The following are examples of extenuating circumstances:

- (a) There is an outstanding initial or follow-up request for medical documentation or the CO/OIC is evaluating medical documentation that has been provided;
- (b) The purchase of equipment may take longer than 15 business days because of requirements under Federal Acquisition Regulations and/or DHS acquisition policies and procedures;
- (c) Equipment must be back-ordered, the vendor typically used by the Coast Guard for goods or services has unexpectedly gone out of business or the

vendor cannot promptly supply the needed goods or services and another vendor is not immediately available;

- (d) The employee with a disability needs to work with the equipment on a trial basis to ensure that it is effective before the Coast Guard purchases it;
- (e) The accommodation requires new staff to be hired or contracted or an accommodation involves the removal of architectural barriers; and
- (f) If there is a delay in providing an accommodation that has been approved, the decision maker must investigate whether temporary measures can be taken to assist the employee until it can be permanently provided.

- (4) Accommodation on a Temporary Basis. The employee must be clearly informed that they are being provided accommodation only on a temporary, interim basis. For example, there may be a delay in receiving adaptive equipment for an employee with a vision disability. During the delay, the decision maker might arrange for other employees to act as readers. This temporary measure may not be as effective as the adaptive equipment, but it will allow the employee to perform as much of the job as possible until the equipment arrives. If a delay is attributable to the need to obtain or evaluate medical documentation and a determination has not been made that the individual is entitled to an accommodation, the Coast Guard may provide an accommodation on a temporary basis. In such a case, the decision maker will notify the individual in writing that the accommodation is being provided on a temporary basis pending a decision on the accommodation request. The decision maker must ensure that such temporary measures do not replace long-term accommodation and that all necessary steps to secure the long-term accommodation are being taken.

8. Granting of a Reasonable Accommodation Request.

- a. As soon as the decision maker determines that a reasonable accommodation will be provided, that decision should be communicated to the individual and the CO/OIC, absent extenuating circumstances, within 15 business days of the request using the Reasonable Accommodation Decision and Reporting Form (CG-6081).
- b. If the accommodation cannot be provided within that time frame, the decision maker must inform, in writing, the individual, and the CO/OIC of the projected time frame for providing the accommodation.

9. Denial of a Reasonable Accommodation Request.

- a. As soon as the decision maker determines that a request for a reasonable accommodation will be denied, he or she must fill out the Reasonable Accommodation Decision and Reporting Form (CG-6081). The decision maker must inform, in writing, the individual, and the CO/OIC, absent extenuating circumstances, within 15 business days of the request. The explanation for the denial should be written in plain language clearly stating the specific reasons for the denial.
- b. Where the decision maker has denied a specific requested accommodation, but offered to make a different one in its place that was not agreed upon during the interactive process, the denial notice should explain both the reasons for the denial of the requested accommodation and the reasons that the decision maker believes.
- c. Reasons for the denial of a request for a reasonable accommodation may include the following, keeping in mind that the actual notice to the individual must include specific reasons for the denial, for example, why the accommodation would not be effective or why it would result in undue hardship:
 - (1) The requested accommodation would not be effective.
 - (2) Providing the requested accommodation would result in undue hardship. Before reaching this determination, the decision maker must have explored other effective accommodation options that would not impose undue hardship and therefore could be provided. A determination of undue hardship means that the Coast Guard finds a specific accommodation would be prohibitively costly, extensive, substantial, or disruptive or that it would fundamentally alter the nature or operation of business. When considering costs, the Commission considers the overall impact to the Department of Homeland Security, not the costs to the Coast Guard unit. Contact your servicing CRSP for possible resources. Findings of undue hardship must be favorably endorsed by the servicing Legal office.
 - (3) Medical documentation is inadequate to establish that the individual has a disability and/or needs a reasonable accommodation.
 - (4) The requested accommodation would require the removal of an essential job function.

- (5) The requested accommodation would require the lowering of a performance or production standard.
 - d. The written notice of denial also informs persons that they have the right to file an EEO Complaint within 45 calendar days and may have rights to pursue administrative or negotiated grievance procedures. The decision maker must review applicable negotiated agreements and the administrative grievance procedure to determine if grievance procedures apply. The written notice of denial must also explain procedures for informal dispute resolution. Inaction on the part of the decision maker in processing a reasonable accommodation request will be considered a denial of the request.
 - e. If individuals do not agree with the denial, they may appeal to the decision maker, in writing, within five business days of receiving the written notice of denial. Individuals may present additional information in support of their appeal within five business days.
10. Request for Reconsideration. If the decision maker does not reverse the decision, individuals may request reconsideration of the decision, in writing, within 10 business days of receiving the decision. The request for reconsideration must be decided by the PWDP Manager. A response will be issued to individuals within 10 business days of receipt of the request. Pursuing dispute resolution procedures, including seeking a request for reconsideration, does not affect the time limits for initiating statutory and collective bargaining claims. The participation of individuals in any dispute resolution process does not satisfy the requirements for bringing a claim under EEO, administrative, or negotiated grievance procedures.
11. Information Tracking and Reporting.
 - a. Form Requirements. The decision maker must report all requests for accommodation, approvals, and denials to the servicing CRSP. The decision maker must complete the Reasonable Accommodation Decision and Reporting Form (CG-6081), and submit a copy to the requesting employee and to the servicing CRSP within 15 business days of the decision. Information received as part of processing the request must be maintained locally for a period of five years. The servicing CRSP will prepare quarterly reports and forward it to the PWDP Manager.
 - b. Record Maintenance. The PWDP Manager will maintain these records for the length of the employee's tenure with the Coast Guard or five years, whichever is greater.
 - c. Reasonable Accommodation Report. The PWDP Manager will prepare annually a consolidated Coast Guard-wide report, to be submitted to the DHS Office of Civil Rights and Civil Liberties (DHS CRCL) that will be made available to all employees. This report will contain the following information:
 - (1) The number of reasonable accommodation requests, by type, which have been requested during the application process and whether those requests have been granted or denied.

- (2) The jobs, including occupational series and grade level codes, for which reasonable accommodations have been requested.
- (3) The types of reasonable accommodation that have been requested for each of those jobs.
- (4) The number of reasonable accommodation requests, by type, for each job that have been approved.
- (5) The number of accommodation requests, by type that have been denied.
- (6) The number of requests for reasonable accommodation, by type, that relate to the benefits or privileges of employment and whether those requests have been granted or denied.
- (7) The reasons for denial of requests for reasonable accommodation.
- (8) The amount of time taken to process each request for reasonable accommodation.
- (9) The sources of technical assistance that have been consulted in trying to identify possible provisions of reasonable accommodation.
- (10) The identity of the deciding official.

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

E. Accessibility and Inquiries. The Equal Employment Opportunity Commission amended 29 C.F.R. Part 1614.203, the regulation that provides implementation of Section 501 of the Rehabilitation Act of 1973. This law prohibits the Federal Government from discriminating in employment on the basis of disability and requires it to engage in affirmative action for people with disabilities. This amendment requires the Coast Guard to provide Personal Assistance Services (PAS) to persons with targeted disabilities, in addition to reasonable accommodations, unless by doing so would impose an undue hardship on the agency. The process and procedures for executing PAS is the same as the reasonable accommodations procedure discuss prior in this chapter. Personal Assistance Services mean assistance with performing activities of daily living that an individual would typically perform if that individual did not have a disability, and that is not otherwise required as a reasonable accommodation, including for example, assistance with removing and putting on clothing, eating, using the restroom, pushing a wheelchair or assisting someone with getting in and out of vehicles or worksites.

1. Availability of PAS Reasonable Accommodation Procedures. These procedures are available for applicants for employment and employees in written and accessible formats. Requests may be made with the individual's applicable Decision Maker.
2. Inquiries. An employee wanting further information concerning these procedures, the final decision regarding their reasonable accommodation request, or the status of their

reasonable accommodation request, they may contact the PWDP Manager at CivilRightsRA@uscg.mil.

F. Reasonable Accommodation Definitions.

1. Accessible. Enter, operate, participate in, or use safely, independently and with dignity by a person with a disability (i.e., site, facility, work environment, service or program).
2. Appeal Process. Any voluntary mechanism through which an individual can request reconsideration of denial of reasonable accommodation, regardless of whether the person has started the EEO complaint process.
3. Decision Maker. The person who handles the request for accommodation. This role can be fulfilled by one of the following officials: A human resources manager (for applicants only); an employee's immediate supervisor/manager, and CO/OIC or a manager in the employee's chain of command. The decision maker may consult with the appropriate parties (e.g., physician, reasonable accommodation coordinator, etc.) to determine if an individual has a medical condition that substantially limits a major life activity and is eligible for reasonable accommodation.
4. Denial. Decision maker makes an informed decision to deny the employee's specific reasonable accommodation and does not offer an alternative in its place, or an alternative accommodation is offered and declined by the employee.
5. Disability. For the purposes of providing a reasonable accommodation, "disability" is defined as a physical or mental impairment that substantially limits one or more of the major life activities or a record (or past history) of such an impairment.
6. Essential Functions. The fundamental job duties of the employment position that the individual with a disability holds or desires. It does not include the marginal functions of the position. A job function may be considered essential for any of several reasons, including but not limited to: (i) The function may be essential because the reason the position exists is to perform that function; (ii) The function may be essential because of the limited number of employees available among whom the performance of that job function can be distributed; and/or (iii) The function may be highly specialized so that the incumbent in the position is hired for his or her expertise or ability to perform the particular function. Evidence of whether a particular function is essential includes, but is not limited to; (i) the employer's judgment as to which functions are essential; (ii) Written job descriptions prepared before advertising or interviewing applicants for the job; (iii) The amount of time spent on the job performing the function; (iv) The consequences of not requiring the incumbent to perform the function; (v) The terms of a collective bargaining agreement; (vi) The work experience of similar jobs.
7. Extenuating Circumstances. Factors that could not reasonably have been anticipated or avoided in advance of the request for accommodation or situations in which unforeseen or unavoidable events prevent prompt processing and delivery of an accommodation (e.g., identified software is not compatible with existing equipment).

8. Genetic Information. As defined by the Genetic Information Nondiscrimination Act (GINA) of 2008, includes information concerning the manifestation of disease/disorder in family members “family medical history”, information about an individual’s or family member’s genetic tests, the fact that an individual or an individual’s family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual’s family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.
9. Granted. The decision maker makes an informed decision to approve the employee’s specific reasonable accommodation request or an alternative accommodation that both the employee and manager believe will be effective.
10. Individual with a Disability. An individual who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such impairment.
11. Interactive Process. The process by which the individual requesting an accommodation and the decision maker discuss the request for accommodation, determine whether an accommodation will be provided, and examine potential alternative accommodations.
12. Major Life Activities. Major life activities include, but are not limited to: (i) Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, sitting, reaching, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, interacting with others, and working; and (ii) The operation of a major bodily function, including functions of the immune system, special sense organs and skin; normal cell growth; and digestive, genitourinary, bowel, bladder, neurological, brain, respiratory, circulatory, cardiovascular, endocrine, hemic, lymphatic, musculoskeletal, and reproductive functions. The operation of a major bodily function includes the operation of an individual organ within a body system. In determining other examples of major life activities, the term “major” shall not be interpreted strictly to create a demanding standard for disability. Whether an activity is a “major life activity” is not determined by reference to whether it is of “central importance to daily life”.
13. Personal Assistance Services. Assistance with performing activities of daily living that an individual would typically perform if he or she did not have a disability, and that is not otherwise required as a reasonable accommodation, including, for example, assistance with removing and putting on clothing, eating, using the restroom, pushing a wheelchair or assisting someone with getting into or out of a vehicle at the worksite. This accommodation is discussed later in this chapter.
14. Physical or Mental Impairment. (1) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more body systems, such as neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, immune, circulatory, hemic, lymphatic, skin, and endocrine; or (2) Any mental or psychological disorder, such as an intellectual disability (formerly termed “mental retardation”), organic brain syndrome, emotional or mental illness, and specific learning disabilities.

15. Qualified Individual with a Disability. The individual with the disability satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires and, with or without reasonable accommodation, can perform the essential functions of such position.
16. Reasonable Accommodation.
 - a. Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires.
 - b. Modifications or adjustments to the work environment, or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position.
 - c. Modifications or adjustments that enable Coast Guard's employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by its other similarly situated employees without disabilities.
 - (1) Reasonable accommodation may include but is not limited to: (i) Making existing facilities used by employees readily accessible to and usable by persons with disabilities; and (ii) Job restructuring; part-time or modified work schedules; reassignment to a vacant position; acquisition or modifications of equipment or devices; appropriate adjustment or modifications of examinations, training materials, or policies; the provision of qualified readers or interpreters; and other similar accommodations for persons with disabilities.
 - (2) To determine the appropriate reasonable accommodation it is necessary for Coast Guard responsible officials to initiate an informal, interactive process with the individual with a disability in need of the accommodation. This process should identify the precise limitations resulting from the disability and potential reasonable accommodations that could overcome those limitations.
17. Reassignment. Reasonable accommodation of last resort, that, absent undue hardship, is provided to employees (not applicants) who, because of a disability, can no longer perform the essential functions of their job, with or without reasonable accommodation. Reassignments are made only to funded vacant positions and for employees who are qualified to fill and is willing to accept the vacant position. If the employee is qualified for the position, he/she will be reassigned to the job and will not have to compete. If he/she declines a valid reassignment offer, the case must be referred to the servicing human resources specialist in the Office of Civilian Workforce Relations (CG-124) with all relevant documentation.
18. Regarded as Having Impairment. An individual is: “regarded as having such an impairment” if the individual is subjected to a prohibited action because of an actual or perceived physical or mental impairment, whether or not that impairment substantially limits, or is perceived to substantially limit, a major life activity.

19. Targeted Disability. Targeted disabilities are a subset of conditions that would be considered disabilities under the Rehabilitation Act. The federal government has recognized that qualified persons with certain disabilities face significant barriers to employment, which for some people may include lack of access to PAS in the workplace, that are above and beyond the barriers faced by people with the broader range of disabilities. The federal government calls these "targeted disabilities." Note, however, that not everyone with a targeted disability will be entitled to PAS under the new regulations, because only some persons with targeted disabilities require assistance with basic activities like eating and using the restroom. Medical conditions that are more likely to result in the need for PAS include, for example, missing limbs or paralysis due to spinal cord injury.
20. Undue Hardship. Undue hardship means significant difficulty or expense and focuses on the resources and circumstances of the particular employer in relationship to the cost or difficulty of providing a specific accommodation. Undue hardship refers not only to financial difficulty, but to reasonable accommodations that are unduly extensive, substantial, or disruptive, or those that would fundamentally alter the nature or operation of the business. An employer must assess on a case-by-case basis whether a particular reasonable accommodation would cause undue hardship. With respect to the provision of an accommodation, significant difficulty or expense incurred by the Coast Guard. In determining whether an accommodation would impose an undue hardship on Coast Guard, factors to be considered include: (i) The nature and net cost of the accommodation needed under this part, taking into consideration the availability of tax credits and deductions, and/or outside funding; (ii) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility, and the effect on expenses and resources; (iii) The overall financial resources of the covered entity, the overall size of the business of the covered entity with respect to the number of its employees, and the number, type and location of its facilities; (iv) The type of operation or operations of the covered entity, including the composition, structure and functions of the workforce of such entity, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to the covered entity; and (v) The impact of the accommodation upon the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.

G. Personal Assistance Services (PAS).

1. Legal Requirement. The Equal Employment Opportunity Commission amended 29 C.F.R. Part 1614.203, the regulation that provides implementation of Section 501 of the Rehabilitation Act of 1973. This law prohibits the Federal Government from discriminating in employment on the basis of disability and requires it to engage in affirmative action for persons with disabilities. This amendment requires the Coast Guard to provide PAS to persons with targeted disabilities, in addition to other reasonable accommodations, unless doing so would impose an undue hardship on the agency.
2. Personal Assistance Services for Daily Living. Personal Assistance Services is a government term for providing help with performing activities of daily living that an

individual would typically perform if not for his/her disability. Some examples include assistance with removing and putting on clothing, eating, using the restroom, powering a wheelchair or entering and exiting vehicles or worksites.

3. The Services do Not Include Assistance with Job Functions. Personal Assistance Services (PAS) do not help persons with disabilities perform their specific job functions, such as reviewing documents or answering questions that come through a call-in center. The PAS differ from the typical "Reasonable Accommodations" discussed in the beginning of this chapter that help individuals perform job-related tasks, such as providing a sign language interpreters or a reading aide.
4. Personal Assistance Services v. Typical Reasonable Accommodations.

Typical Reasonable Accommodations:	Personal Assistance Services:
<ul style="list-style-type: none"> • It is a non-discrimination requirement under the Rehabilitation Act. • It provides Job-Related services to enable persons with disabilities to perform job and employment functions. • It provides accommodations to perform job duties, such as: special software, sign language entrepreneurs, ergonomic keyboards and chairs, and mobility devices. 	<ul style="list-style-type: none"> • It is an Affirmative Action obligation that goes beyond non-discrimination requirements under the Rehabilitation Act. • It enable persons with targeted disabilities to participate in the workforce. • It does not provide services to allow persons with disabilities to complete the job related functions. • It provides assistance with activities of daily living, such as: removing and putting on clothing, eating, and using the restroom.

Table 6-1: Personal Assistance Service v. Typical Reasonable Accommodations

5. Features Associated with Reasonable Accommodation.
 - a. It is a non-discrimination requirement under the Rehabilitation Act.
 - b. It provides job-related services to enable persons with disabilities to perform job and employment related functions.
6. Eligibility. The Coast Guard is only required to provide PAS to an individual if:
 - a. The individual is an employee of the agency;
 - b. The individual has a targeted disability;
 - c. The individual requires the services because of his or her targeted disability;
 - d. The individual is able to perform the essential functions of the job, without posing a direct threat to safety, once PAS and any required reasonable accommodations have been provided; and
 - e. Providing PAS will not impose undue hardship on the agency.
7. Personal Assistance Services Request Process. The process for a Personal Assistance Services (PAS) request and a Reasonable Accommodation request are the same. Furthermore, both processes utilize the same forms. The Reasonable Accommodation Request Process is discussed earlier in this chapter.
8. Denial of Personal Assistance Services. The Coast Guard is only required to provide PAS to requesting employees who are entitled to them under the regulation. As such, the Coast Guard can deny PAS requests when:
 - a. The requestor is not an employee of the agency;
 - b. The requestor does not have a targeted disability;
 - c. The targeted disability does not create a need for PAS;
 - d. The requester is not able to perform the essential functions of the job, even with PAS and any reasonable accommodations;
 - e. The requester would create a direct threat to safety on the job, even with PAS and any reasonable accommodations; or
 - f. Providing PAS would impose undue hardship on the agency.
9. Confidentiality. Personal Assistance Services is protected under the Privacy Act. All information must be kept confidential and only released to those with a need to know.
10. Information Tracking and Reporting. Personal Assistance Services shall be tracked and reported in a similar manner as reasonable accommodations.

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CHAPTER 7 SOCIAL CLIMATE INCIDENTS

A. About Social Climate Incidents.

1. Definition and Impact. A social climate incident is an action committed by a member or members of a community against Coast Guard military personnel or their family members that is perceived as hostile, harassing, or discriminatory in nature.
 - a. Social climate incidents develop when civilian communities in which Coast Guard members are located, passively or actively, resist accepting or supporting Coast Guard families within their neighborhoods. The treatment is either explicit or implicit based on unlawful discrimination.
 - b. Social climate incidents can have an impact on the emotional, physical, and social wellbeing of Coast Guard members and their families. Moreover, such incidents may have a negative impact on morale and job performance.
2. Addressing Social Climate Incidents. The Coast Guard expects their members and their families to work and live in communities they believe will treat them with fairness, dignity, and respect. When members believe a social climate incident has occurred they must report it through the chain of command. The CO/OIC must take prompt action to investigate and seek resolution of the issues as soon as he/she becomes aware of the incident.
3. Roles and Responsibilities. The information below outlines the roles and responsibilities of personnel responding to social climate incidents. It also contains specific guidance regarding proactive measures that unit commanders may take in order to minimize the potential occurrence of these types of incidents.
 - a. Members. Members should inform their commands as soon as possible after experiencing or learning that members of their family have been subjected to discrimination or harassing behavior by members of their communities.
 - (1) In the event of housing discrimination allegations, the Coast Guard member must also notify the local Coast Guard Housing Office and the Regional Office of Fair Housing and Equal Opportunity, Department of Housing and Urban Development (HUD).
 - (2) For additional information about Coast Guard fair housing policies refer to the Coast Guard Housing Manual, COMDTINST M11101.13 (series).
 - b. The Commanding Officer/Officer-in-Charge. The CO/OIC will inform the chain of command, providing timely, factual information as available. The CO/OIC is responsible for:
 - (1) Establishing ongoing communications with local officials and civic groups in an effort to resolve social climate issues.

- (2) Identifying, investigating, and taking proactive steps to resolve and prevent social climate incidents.
- (3) Conducting, and or assigning an Investigating Officer to conduct an immediate informal inquiry of the incident. This inquiry must be based on the basic precepts of an Administrative Investigation, which is described more fully within the Administrative Investigations Manual, COMDTINST 5830.1 (series).
- (4) Monitoring the social climate of the community.
- (5) Establishing ongoing communications with local officials and civic groups to address social climate incidents.
- (6) Encouraging members to notify the command of any social climate issue as quickly as possible.
- (7) Ensuring that the respective Civil Rights Service Provider (CRSP) is informed of the issue and requesting assistance as needed.
- (8) Contacting the servicing legal office for guidance.
- (9) Taking immediate action to ensure the safety of Coast Guard members and their families.
- (10) Completing an administrative investigation even if the aggrieved party has been relocated from the offending community. Also, the investigation must be completed, even if a complainant declines to file a complaint.
- (11) Providing a command recommendation of transfer action if the member requests a "Social Climate Transfer." This is the least desirable alternative but remains an option if the severity of circumstances warrants such action by CG-PSC. For further information on transferring personnel, see Military Assignments and Authorized Absences, COMDTINST M1000.8 (series).
- (12) Ensuring that the appropriate authorities, for example, law enforcement agencies, school officials, local government officials, chambers of commerce, are immediately notified when harassing or discriminatory actions are committed by members of the community against Coast Guard members or their families.
- (13) Exhausting all alternatives to addressing social climate issues, such as: sanctions or placing an establishment off-limits when it is found to be responsible for harassing or illegal behavior towards Coast Guard members and/or their family members; use of community social action agencies and/or the Department of Justice (DOJ) Community Relations Service (CRS); and other actions that promote positive community relations.

- (14) Providing reports of social climate incidents via the chain of command to Commandant (CG-00H) and Commandant (CG-1).
- c. The Investigating Officer. The Investigation Officer interviews the Coast Guard member and anyone else who has knowledge of the incident, including, if appropriate, reviews the records of law enforcement officials to determine their account of the incident. The Investigating Officer interviews appropriate civilian and community organizations to determine any history of similar incidents in the community. However, an Investigating Officer conducting Standard Investigations under COMDTINST M5830.1 (series) does not have subpoena power, and may not compel civilian witnesses or organizations to participate or provide a statement. In the case of housing discrimination, the Investigating Officer immediately contacts or visits the facility and/or agent concerned to verify facts presented by the complainant. Coordinates efforts with the servicing Legal and Housing Offices to determine to what extent further counsel may be provided to the complainant, and assists the complainant in completing Housing and Urban Development (HUD) discrimination complaint forms. The Investigating Officer conducts an analysis of facts found and provides final report and recommendations to the command regarding the merits of the case.
 - d. The Civil Rights Service Provider. The CRSP provides technical assistance to the CO/OIC in addressing social climate incidents. The servicing CRSP facilitates opportunities for members to report any housing related incidents to HUD and follows up with the USCG Housing Office to obtain case files and documents in order to keep a record of and analyze patterns or practices of community resistance to fair housing, providing the results of such analysis along with its recommendations to the CO/OIC and to Commandant (CG-00H) via the chain of command.
 - e. The Regional Civil Rights Director. The Regional Civil Rights Director ensures proactive response by the CO/OIC when incidents occur, providing timely reports on nature and management of incidents to Civil Rights Directorate as they occur. The Regional Civil Rights Director also provides command perspective and recommendations via the chain of command to Civil Rights Directorate with copy to Commandant (CG-1).
 - f. The Headquarters Civil Rights Directorate. The CRD ensures follow up at the unit/community level through the servicing regional civil rights director and oversees the process for managing social climate incidents. CRD provides guidance on development of Memorandum of Understanding (MOU) with Department of Justice, Community Relations Service, and its Regional Offices to facilitate resolution of social climate incidents. Commandant (CG-00H) provides guidance and direction to commands as requested and coordinates social climate policy development with Commandant (CG-1). Commandant (CG-00H) provides guidance and/or recommendations on appropriate responses to social climate incidents and reviews and analyzes social climate incident and housing

discrimination reports and files, and maintains a database of social climate information.

B. Social Climate Review Process.

1. Guidance and Procedures for Processing Reports. Once a member notifies the command of a discriminatory action towards them or members of their family by the community, the CO/OIC must conduct a preliminary inquiry to determine whether a social climate investigation should be convened. Upon notification, CO/OICs must notify their servicing Civil Rights Service Provider. If the CO/OIC convenes an investigation, he or she should do so within one day of being notified (operations permitting) that an incident has occurred.
 - a. Once assigned, the Investigating Officer will conduct a standard investigation and will interview all military parties involved in order to gather all facts related to the incident. Investigating Officers do not have authority to compel or subpoena civilian witnesses to participate in the investigation. The investigating officer should normally be given two weeks (operations permitting) to conduct the investigation.
 - b. After all the facts have been gathered, the investigating officer must analyze the information and present all of the relevant facts relative to the incident in a report which will follow the general structure of a Report of Investigation as described in the Administrative Investigations Manual, COMDTINST M5830.1 (series).
 - c. The investigating officer has one week (operations permitting) to compile a report. The command has two weeks (operations permitting) to make their determination regarding the allegations.
 - d. If the final determination by the command is that no social climate incident occurred, the command must communicate this finding to the complainant through a counseling forum. If the complainant disagrees with the command's finding, the command should refer them to the proper organization or entity that can best assist them in addressing their allegation(s).
 - e. If the command believes a complainant has suffered housing discrimination, the command Housing Officer will refer the complaint to the state or local Fair Housing Agency, or HUD for processing. Coast Guard Housing Officers should establish and maintain working relationships with the various fair housing agencies within their area of responsibility.
 - f. If the command believes a complainant has suffered non-housing related discrimination, then the CO/OIC has the discretion to impose sanctions. For more information, see the Imposing Sanctions Section following this section.
 - g. Upon completion of the report, it is recommended that the CO/OIC confer with their servicing Legal Office through their servicing CRSP. The CRSP will review the report and add any necessary comments as an Enclosure to the report. Absent

exigent circumstances, the final report must be submitted through the chain of command to Commandant (CG-00H) within 45 calendar days of the incident.

2. Declaring Off-Limits Establishments and Areas. The establishment of off-limit areas is a function of Command. It may be used by Commands to help maintain good order and discipline health, morale, safety, and welfare of Service personnel. The CO/OIC may take action due to racial and other discriminatory practices. Specific procedures for declaring and revoking off limit restrictions are outlined in the Armed Forces Disciplinary Control Boards and Off-Installation Liaison and Operations, COMDTINST 1620.1 (series).
 3. Repeat Incidents. In some areas of the country, there have been repeat allegations of discrimination and/or hostility aimed at Coast Guard personnel by the community. It is vitally important the CO/OIC utilizes all available resources including working with DOJ CRS to determine the best approach in formulating strategies to address allegations of social climate incidents. These proactive actions will help shape future personnel and social climate policy development.
- C. Community Resources. There are several external resources where Coast Guard members and Commands can obtain information and assistance in resolving social climate incidents.
1. Department of Justice Community Relations Service. The Department of Justice (DOJ), Community Relations Service (CRS) is the DOJ “peacemaker” for community conflicts and tensions arising on the basis of race, color, and national origin. This agency helps the Coast Guard CO/OIC develop mechanisms (such as a MOU) to resolve Service members’ complaints of harassment and/or discrimination by members of local communities. They can:
 - a. Identify community or civic groups that can assist the CO/OIC in resolving complaints of discrimination by Coast Guard members.
 - b. Mediate, upon request, disputes between the Coast Guard and community entities regarding Coast Guard member charges of harassment and/or discrimination.
 - c. Provide the CO/OIC with information about relevant race-relations issues within the community for purposes of incorporation into the command’s assessment of the community’s social climate.
 - d. Help restore community order in the face of serious racial violence by effective information and rumor control, engaging community leadership in responding to violence, and coordinating action plans by federal, state, and local officials.
 - e. Once stability is restored, Department of Justice Community Relations Service (DOJ CRS) provides technical assistance and training to avert new violence and improve law enforcement community relations by establishing human relations commissions and community advisory groups.

- f. The DOJ CRS also supports the work of law enforcement by working with and training law enforcement officials in: Recognizing hate crime scene and how to enlist community support in early investigation; breaking down barriers and suspicious residents may hold toward law enforcement officials; creating and opening lines of communication between law enforcement and the community leaders; providing hate crime prevention education programs; and conflict resolutions among other support services.
2. The U.S. Department of Housing and Urban Development (HUD) Regional Office of Fair Housing and Equal Opportunity. The HUD Regional Office of Fair Housing and Equal Opportunity can provide assistance in processing housing discrimination complaints.
 - a. HUD enforces Title VIII of the Civil Rights Act of 1968 (Fair Housing Act), as amended, which prohibits discrimination in the sale, rental, and financing of dwellings and in other housing-related transactions, based on race, color, national origin, religion, sex, familial status (families with children under the age of 18, or who are expecting a child) and disability. In the sale and rental of housing, it is prohibited to refuse to rent or sell housing, inform individuals that housing is unavailable when in fact it is available, show apartments or homes only in certain neighborhoods, or set different terms or conditions for the sale based on race, color, national origin, religion, sex, familial status, and disability.
 - b. The Fair Housing Act also prohibits discrimination in mortgage lending, for example, refusal to provide information regarding loans; imposing different terms or conditions on a loan, such as different interest rates, points, or fees; discriminating in appraising property; refusing to make a mortgage loan.
 - c. Complaints can be filed at HUD Regional Offices throughout the country. In addition, HUD refers many housing discrimination complaints to state and local civil rights agencies.
 - d. Command Housing Officers should assist members in completing and submitting the forms provided by HUD. It is illegal for anyone to threaten, coerce, intimidate, or interfere with anyone exercising a fair housing right or assisting others who exercise that right.
 3. Legal Counsel. Coast Guard legal will not represent a member in a civil suit per the Legal Assistance Program, COMDTINST 5801.4 (series) However they can:
 - a. Provide the respective CRSP, command, and/or the member a general overview of possible legal options to consider for steps in addressing a social climate incident.
 - b. Provide information regarding the process to initiate a civil suit, when civil rights laws have been violated.
 - c. Assist the unit the negotiating a MOU when the CRS is involved.

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

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CHAPTER 8 EXTERNAL PROGRAMS

- A. Introduction. The Civil Rights Directorate is responsible for overseeing and ensuring programmatic compliance of two USCG External Programs: The Language Access Program (LAP) for Persons with Limited English Proficiency (LEP), and The Federal Financial Assistance (FFA) (Grants) programs. A brief description these programs follow.
1. LEP Persons. The USCG Language Access Program for persons with Limited English Proficiency (LEP) provides guidance in developing and implementing reasonable efforts to eliminate or reduce "Limited English Proficiency" as a barrier to accessing the United States Coast Guard (USCG) programs, activities, or events as required by Executive Order (EO) 13166, "Improving Access to Services for Persons with Limited English Proficiency" (August, 2000). This Executive Order (EO) requires that each federal department and agency examine the services they provide to the public, accordingly develop, and implement a system by which LEP persons can have meaningful access to those services without unduly burdening the fundamental mission of the agency.
 - a. Scope. This program covers USCG interactions with LEP individuals that occur within the United States and its territories, including vessels and persons at sea within 12 nautical miles thereof. It applies to all USCG personnel geographically distributed throughout the 50 United States, as well as to locations in American Samoa, Federated States of Micronesia, Guam, Marshall Islands, Northern Mariana Islands, Palau, Puerto Rico, and the Virgin Islands.
 - b. Goal. The USCG will provide meaningful language access to LEP persons to its programs, benefits, and services, and to maintain compliance with civil rights laws by communicating effectively with LEP individuals in languages other than English. The USCG units, including Headquarters Directorates and relevant programs, must incorporate language access considerations into their routine strategic and business planning, identify and translate crucial documents into the most frequently encountered languages, provide interpretive services where appropriate, and educate personnel about language access responsibilities and how to utilize available language access resources in accordance with guidance provided by the Department of Homeland Security (DHS) Language Access Plan. For additional information about the Coast Guard Language Access Program/Plan for persons with Limited English Proficiency visit:
https://www.dhs.gov/sites/default/files/publications/U.S.%20Coast%20Guard%20Language%20Access%20Plan_12-6-16.pdf
 2. Federal Financial Assistance - Grants. Title VI of the 1964 Civil Rights Act is a federal law that protects persons from discrimination on the basis of race, color, or national origin by a recipient of Federal Financial Assistance (FFA). The FFA program is the transfer of anything of value, most often money, from the federal government to a non-federal entity for purposes defined by Congressional mandate. This could include grants, property transfers, loans, personnel details, equipment

leases, sales, or general federal assistance. Accordingly, and as a condition of receiving financial assistance from the Federal Government, grantees must provide access to their programs and services on a nondiscriminatory basis. Furthermore, they must acknowledge and agree to comply with all applicable civil rights laws.

- a. The USCG Grants. The Coast Guard administers two separate grant programs to assist with fulfilling the Service's boating safety enforcement obligations under the Federal Boating Safety Act of 1971. These programs are: the National Nonprofit Organization and State Recreational Boating Safety (RBS) grant programs. The purpose of the National RBS Programs is to reduce the number of accidents, injuries, and deaths on America's waterways, and provide a safe enjoyable experience for the boating public. Both programs encourage greater participation and uniformity in boating safety efforts, while the State program also permits our states and territories to assume a larger share of boating safety education, assistance, and enforcement activities.
- b. Compliance Evaluation and Procedures. The Office for Civil Rights & Civil Liberties (CRCL) at DHS is responsible for conducting all the Compliance Reviews by utilizing the Civil Rights Evaluation Tool, DHS Form 3095, which can be found at [DHS Form 3095](#) and the Civil Rights Evaluation Tool Process at the following link [Civil Rights Tool Review Process](#). The CRCL staff may request support from the components as needed to assist recipients of Federal Financial Assistance who may have difficulties in meeting the required standards for compliance with Title VI non-discrimination requirements.
- c. Title VI Coordinator. Office of Civil Rights Policy, Planning and Resources (CG-00H-1), is responsible for collaborating with the USCG's Grants Office as it pertains to providing information and updates to the grantees and to assist DHS in implementing the grantees compliance review. The USCG Title VI Coordinator may be tasked by DHS, CRCL to provide assistance to grantee in order to achieve or maintain compliance with Title VI nondiscrimination requirements.
- d. Terms and Definitions. Some of the terms associated with the program include the following:
 - (1) Assurances. Applications for and awards of FFA must contain or be accompanied by an assurance that the program will be conducted or the facility operated in compliance with applicable federal civil rights requirements. This is part of the grant process where the grant recipient acknowledges their obligation to comply with all civil rights laws. This action must be recorded on an Office of Management and Budget Standard Form 424B, Assurances, Non-Construction form that is one of the primary means/tools to notify applicants of their civil rights obligations.
 - (2) Compliance Report/Reviews. Recipients must keep and submit records and reports containing information on its program operations and

nondiscrimination activities as DHS may deem necessary to ascertain compliance with civil rights requirements.

- (3) Data Collection. Recipients should collect and maintain data on race, ethnicity, and limited English proficiency showing the extent to which members of minority groups and/or persons with limited English proficiency are beneficiaries of their programs.
- (4) Recipient. An entity that directly or indirectly receives FAA from a federal agency.
- (5) Beneficiary. Refers to individuals and/or entities that directly or indirectly receive an advantage through the operation of a federally assisted program. However, they do not enter into any formal contract or agreement as a condition to receiving the assistance.

B. Environmental Justice. Environmental Justice is a term used to describe federal efforts to avoid inflicting unintended consequences through its programs and activities upon minority or low-income populations (Executive Order 12898-1994). The Coast Guard, through DHS mandates, is required to develop policy that pertains to the protection and health of citizens and the environment, equity in the administration of its environmental programs and the assurance of equal opportunity for involvement in programs relating to environmental law and policy. These policies may include ensuring responsible uses of infrastructure, land, and renewable resources; enforcing environmental quality control; and protecting communities from negative impacts brought on by field operations.

1. Responsibilities.

a. The DHS Office of Civil Rights and Civil Liberties (CRCL).

- (1) Develop policy and guidance for the administration of its environmental programs to protect minority and low-income communities against disproportionately adverse human health or environmental effects in the conduct of its programs and activities.
- (2) Oversee the implementation of Department-wide Title VI compliance programs including Environmental Justice.

b. The USCG Office of Environmental Management (CG-47).

- (1) Act as the Environmental Technical Authority for the USCG.
- (2) Represent the USCG as member of the Environmental Protection Agency – sponsored Environmental Justice Interagency Working Group (EJIWG).
- (3) Collect Service-wide input of activities and initiatives that support Environmental Justice strategies.

- c. The Civil Rights Directorate (CG-00H).
 - (1) The Office of Civil Rights Policy, Planning and Resources (CG-00H-1), provides input annually to the USCG Office of Environmental Management (CG-47).
 - (2) Provide policy support to the USCG Office of Environmental Management (CG-47) on Title VI matters.
 - d. The Office of the Judge Advocate General (CG-094).
 - (1) Provide legal services in support of Coast Guard compliance with federal, state and local environmental requirements. Legal advice to field commanders, program managers, and Headquarters units includes federal, state and local requirements that may affect or constrain Coast Guard activities.
 - (2) Represent the USCG, either directly or through the Department of Justice (DOJ), in environmental enforcement actions against the Service, environmental citizen suits, and challenges to USCG activities brought under environmental statutes.
2. Reporting. The USCG Office of Environmental Management (CG-47) in coordination with the CRD reports annually to DHS CRCL a summary of its activities in support of the DHS Environmental Justice strategies for the Environmental Justice Annual Implementation Progress Report.

Appendix A: Terminology

The following terms specific to civil rights and equal opportunity appear in this manual.

Administrative Judge (AJ)	The AJ is the Equal Employment Opportunity Commission (EEOC) official responsible for conducting hearings and rendering decisions on civilian employee complaints when the employee elects a hearing instead of a Final Agency Decision.
Alternative Dispute Resolution (ADR)	ADR is a process in which a third party neutral (an impartial party who has no stake in the outcome of the proceeding) assists disputing parties with reaching an amicable resolution.
ADR Facilitator	An ADR Facilitator is a third party neutral who assist the aggrieved party and the command with resolving a dispute.
Affirmative Programs	Affirmative Programs are designed to increase under-representation rates in the workforce based on the civilian labor force.
Aggrieved party	An aggrieved party can be anyone with a grievance, such as a civilian or military member, or an applicant for employment.
Area of Responsibility (AOR)	AOR is an acronym used to define an area with specific geographic boundaries for which a person or organization bears responsibility.
Chain of Command	The next higher level to which the Aggrieved party reports for supervisory control, leading ultimately to the Commanding Officer/Officer-In-Charge (CO/OIC). The operative chain of command is the one located in the unit where the dispute arose, whether or not the Aggrieved party is still located in that unit.
Civil Rights	Civil Rights belonging to an individual as a matter of law, especially fundamental freedoms and privileges guaranteed by the U.S. Constitution and subsequent acts of Congress, including the rights to equal employment opportunity.
Civil Rights Service Providers	Servicing CRSPs are responsible for carrying out civil rights functions for CRD.
Civil Rights Directorate	All personnel assigned to or attached to the directorate.

Appendix A to COMDTINST M5350.4D

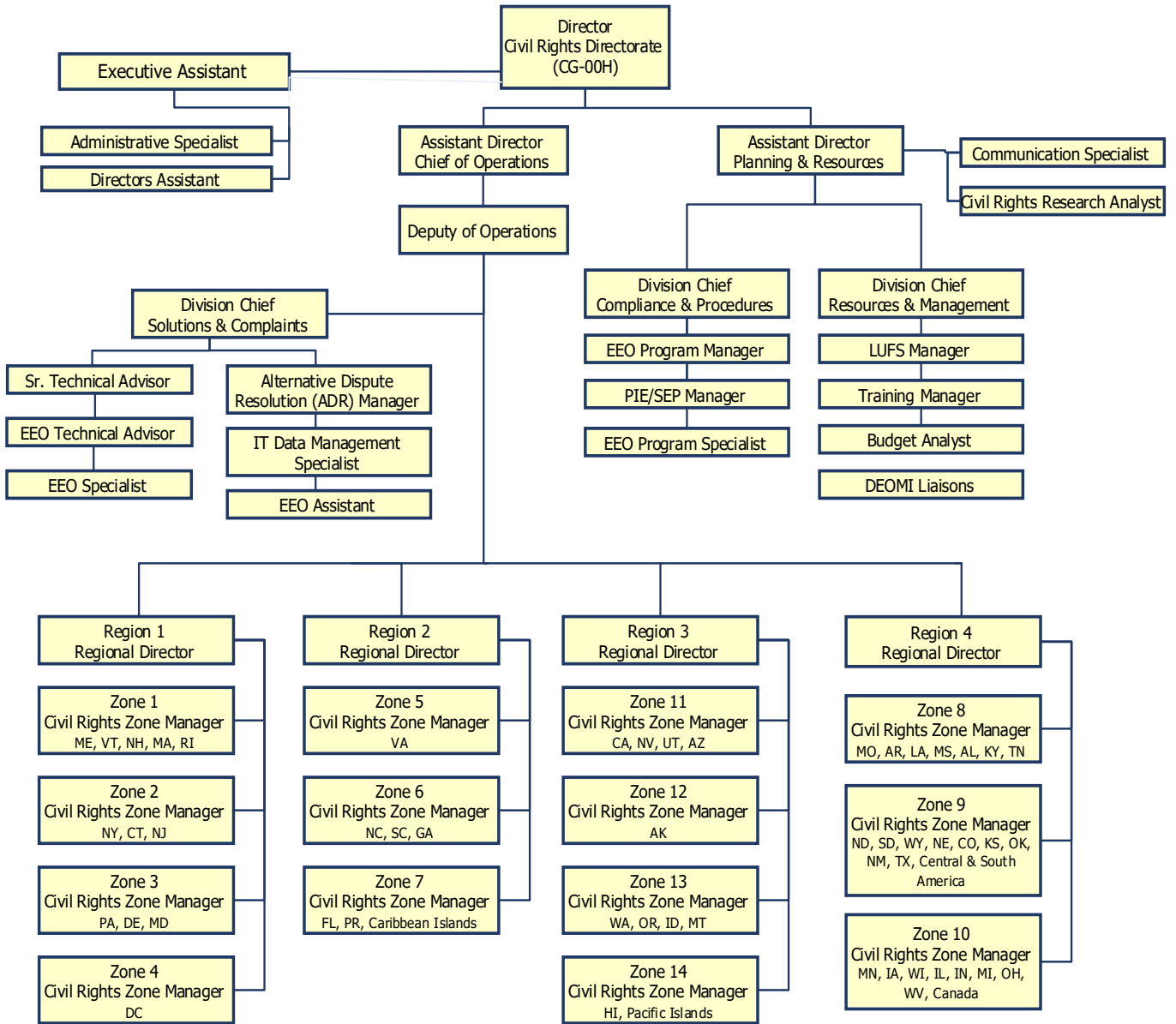
Civil Rights Service Providers (CRSPs)	CRSPs represents all CRD personnel responsible for addressing complaints of discrimination located in regions and zones locations.
Coast Guard Leadership	Within this Manual, the term Coast Guard Leadership refers to senior leadership and management within the organization, military and civilian, which includes the Commandant, area and district commanders, and all flag and senior executive Service officials of the Coast Guard.
Command/Management Representative	The person designated by the CO/OIC to participate in ADR sessions on behalf of command or management.
Commanding Officer/Officer in Charge (CO/OIC)	CO/OIC are: unit commanders, commanding officers, officers in charge, deputy/assistant commandants, chiefs of headquarters staff elements, supervisors, and managers (military/civilian).
Complainant	A Coast Guard member, former member, or an applicant for employment who files a complaint of discrimination based on prohibited factors.
Department of Homeland Security Office for Civil Rights and Civil Liberties (DHS CRCL)	<p>The Office for Civil Rights and Civil Liberties has the authority to direct and oversee the implementation of the integration of CRCL across the Department. The DHS CRCL serves as the foundational DHS organization through which all Department-wide CRCL activities will be overseen, defined, and measured.</p> <p><i>Reference: For more information on this delegation, refer to Department of Homeland Security, Delegation #19002, Issue Date 02/04/2008, Delegation to the Officer for Civil Rights and Civil Liberties to Integrate and Manage Civil Rights, Civil Liberties and Equal Employment Opportunity Programs.</i></p>
Workforce Diversity	<p>Workforce Diversity: Attracting, recruiting, and retaining a workforce from all segments of American society creating a high-performing 21st Century workforce. This will be done by recruiting a military, civilian, and an Auxiliary force that is as richly diverse as America itself, and provide an environment that promotes respect for the individual, and encourages sharing of different views and perspectives.</p> <p>Reference: CG D&I Strategic Plan (2015-2018).</p>

Equal Opportunity Advisor (EOA)/Equal Employment Opportunity Specialist (EEOS)	EOA/EEOS carry out a variety of the civil rights functions, such as: conducting EEO/EO counseling, training, EO reviews, providing CR guidance, assisting commands with DEOCS, etc.
EEO/EO Counselors	These are personnel located at the Headquarters, Regions, and Zones who counsel cases for their servicing area. In some cases (Conflict of Interest), EEO/EO counselor can come in from other Agencies for special cases.
Final Agency Decision (FAD)	A FAD is the final decision on a complaint of discrimination by Coast Guard or the Department of Homeland Security.
EEO Investigator	An individual designated to conduct an investigation into a complaint of discrimination. This individual can be a contract member or an employee from a different agency.
Minority Group	<i>Minority</i> refers only to those groups classified as <i>minority</i> for the purpose of data collection by the Office of Personnel Management and the Equal Employment Opportunity Commission (EEOC). EEOC Directive Number 15 lists the following as <i>minority groups</i> : <ol style="list-style-type: none"> 1. American Indian /Alaskan Native. 2. Asian American and Pacific Islander. 3. Black/African American. 4. Hispanic.
Reasonable Accommodation	Any change in the work environment or in the way things are customarily done that would enable a qualified individual with a disability to enjoy equal employment opportunities.
Regional Civil Rights Director	Each CRD Region is headed by a Regional Civil Rights Director.
Report of Investigation (ROI)	The complete investigative file, including the investigator's summary of investigation and all the elements required in civilian cases under EEOC Management Directive 110.
Responsible Management Official (RMO)	The RMO is usually the individual named in the complaint as the official who took the action alleged to be discriminatory or has immediate personnel authority over the person so named.
Servicing CRSP	Servicing CRSPs are the CRD' personnel who are responsible for facilitating, managing performing the program's civil rights functions.

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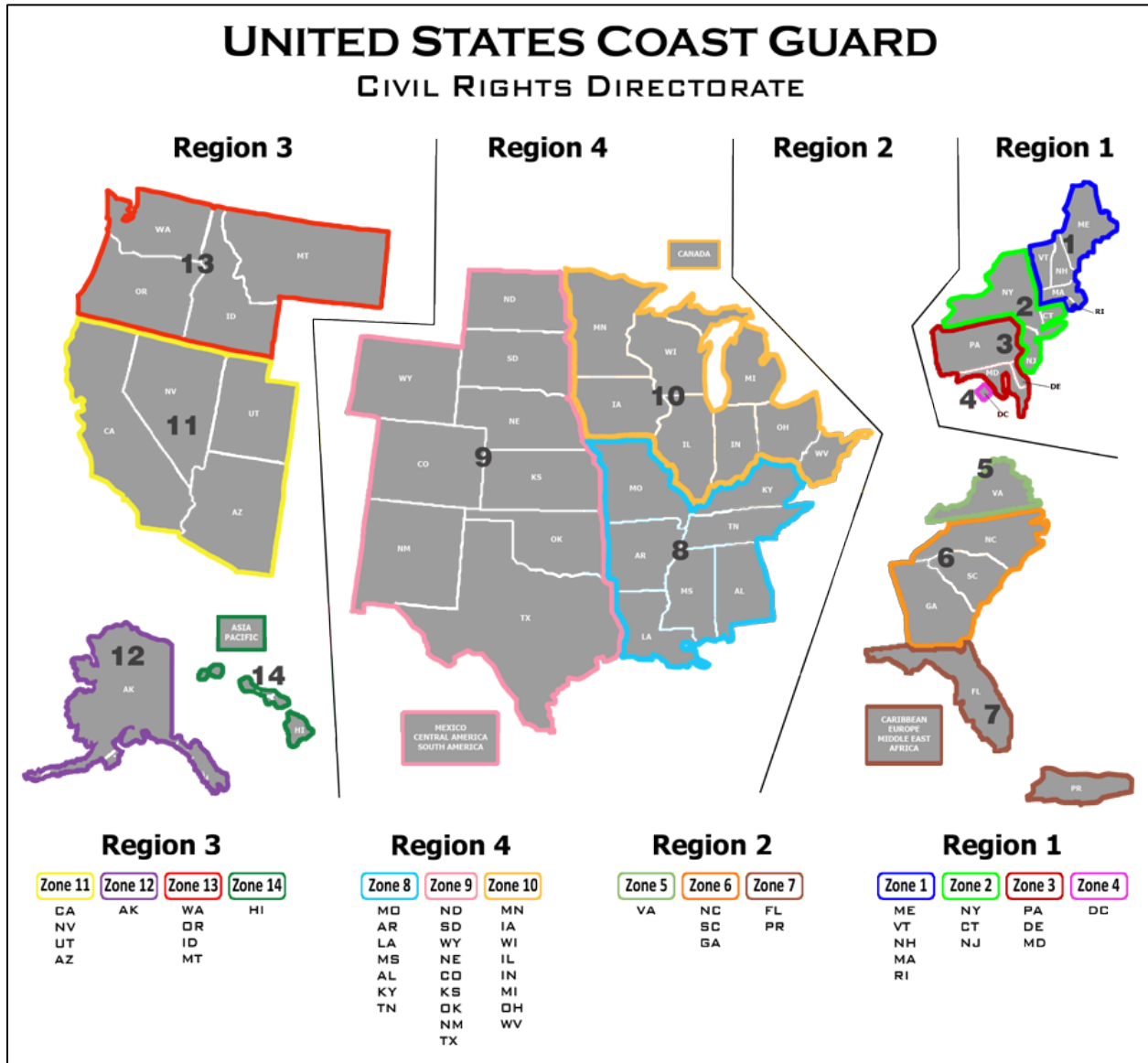
Solutions and Complaints Division	Solutions and Complaints is a CRD division that is responsible for the management of pre-complaints, formal complaints, Anti-harassment and Hate incidents, ADR, and investigations.
Zone Civil Rights Manager	Under each CRD Region are zone offices. The Zone manager leads zone personnel.
Special Emphasis Program (SEP)	SEPs are intended to promote equity, fairness, and equal opportunity; address the unique and special concerns of Hispanics, women, and persons with disabilities within the workforce; and support USCG EEO/EO program planning process and goals.

Appendix B: The Civil Rights Directorate Organization



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Appendix C: The Civil Rights Directorate Regions and Zones by State



The CRD Region and Zone boundaries are delineated by states.

- a. Region 1 covers Northeast states and is contains four zone offices:
 - (1) Zone 1: Maine, Vermont, New Hampshire, Massachusetts, and Rhode Island.
 - (2) Zone 2: New York, New Jersey, and Connecticut.
 - (3) Zone 3: Pennsylvania, Delaware, and Maryland.
 - (4) Zone 4: Washington D.C.
- b. Region 2 generally covers Southeast states and contains three zone offices.
 - (1) Zone 5: Virginia

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- (2) Zone 6: North Carolina, South Carolina, and Georgia.
- (3) Zone 7: Florida, and Puerto Rico.
- c. Region 3 generally covers west coast states along with Alaska and Hawaii and contains four zone offices.
 - (1) Zone 11: California, Nevada, Utah, and Arizona.
 - (2) Zone 12: Alaska.
 - (3) Zone 13: Washington, Oregon, Idaho, and Montana.
 - (4) Zone 14: Hawaii.
- d. Region 4 generally covers mid-west and central states and contains three zone offices.
 - (1) Zone 8: Missouri, Arkansas, Louisiana, Mississippi, Alabama, Kentucky, and Tennessee.
 - (2) Zone 9: North Dakota, South Dakota, Wyoming, Nebraska, Colorado, Kansas, Oklahoma, New Mexico, and Texas.
 - (3) Zone 10: Minnesota, Iowa, Wisconsin, Illinois, Indiana, Michigan, Ohio, and West Virginia.

Appendix D: List of USCG Special Emphasis Programs

List of USCG Special Emphasis Programs
Federal Women's Program (FWP)
Hispanic Employment Program (HEP)
Persons with Disabilities Program (PWDP)
Asian American and Pacific Islander Program
Native American/Alaskan Native Program
Black/African American Program

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Appendix E: List of USCG Cultural Events

List of USCG Cultural Events	
January	Martin Luther King, Jr. Day
February	National African-American History Month
March	Women's History Month
May	Asian American and Pacific Islander Heritage Month
June	Lesbian, Gay, Bisexual, Transgender (LGBT) Pride Month
August	Women's Equality Day
September 15 to October 15	National Hispanic Heritage Month
October	National Disability Employment Awareness Month
November	National Native American Heritage Month

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Appendix F: List of USCG Civil Rights Awards

List of USCG Civil Rights Awards
Federal Asian Pacific (FAPAC) American Council Military Meritorious Service Award
League of United Latin American Citizens (LULAC) Excellence in Service Award.
Society of American Indian Government Employees (SAIGE) Meritorious Service Award
National Association for the Advancement of Colored People (NAACP) Roy Wilkins Renown Service Award
National Image, Inc. (IMAGE) Meritorious Service Award
Blacks in Government (BIG) Meritorious Service Award
LATINA Style Meritorious Service Award
Civil Rights Service Provider of the Year Award (periodically)
The Coast Guard Senior Leader Award (periodically)
The Coast Guard Partnership in Education Awards

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Appendix G: Command Checklist

COMMAND: _____ OPFAC: _____

Region: _____ Zone: _____ District/Area/HQ: _____ Number of Personnel: _____

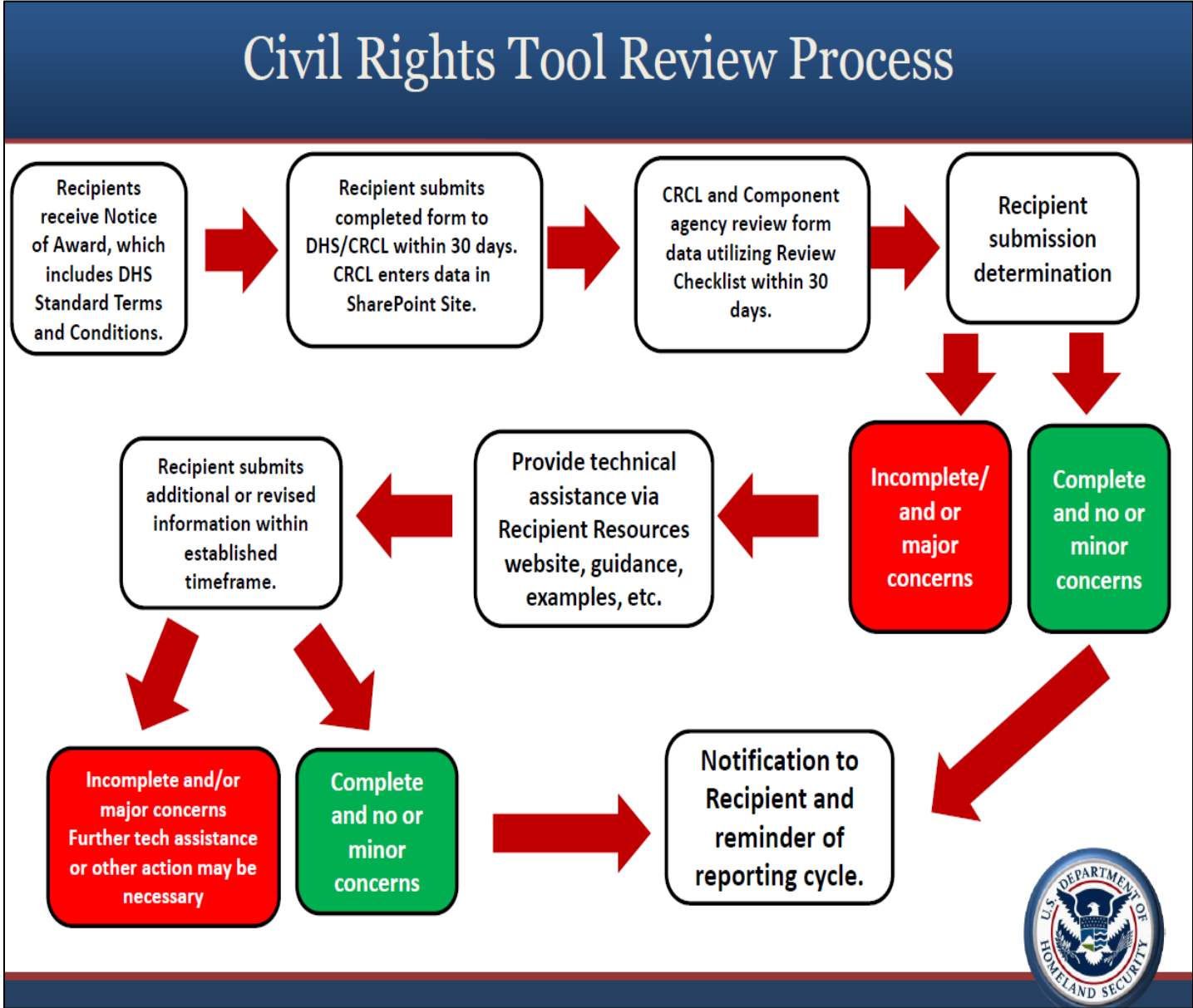
Equal Employment Opportunity/Equal Opportunity (EEO/EO) Compliance Items	Comply	Non-Comply	N/A
Policy & Posting Requirements			
1) Are CG's current EEO/EO policy statements posted at your Command location?			
2) Is the CG's current Anti-Discrimination/Anti-Harassment policy statement posted at your command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

Appendix G to COMDTINST M5350.4D

Equal Employment Opportunity/Equal Opportunity (EEO/EO) Compliance Items	Comply	Non-Comply	N/A
11) Are command personnel up to date in Civil Rights Awareness Training requirements?			
12) Are command personnel up to date with annual Sexual Harassment Prevention training?			
13) Are command personnel up to date with biennial Notification and Federal Employee Anti-discrimination and Retaliation (NoFEAR) Act training requirement?			
Does the Command support workforce initiatives, goals and objectives outlined in the 715 annual report?			
14) Do personnel performance elements include meaningful objectives which support the EEO/EO mission?			
15) Does the command forward reasonable accommodations reports to the servicing Civil Rights Service Providers (CRSPs) in accordance with the Reasonable Accommodations reporting requirement in the Civil Rights Manual? (Chapter 5, Section C, Part 11)			
16) Does the command support Special Emphasis Programs? (i.e. Federal Women's Program, Individuals With Disabilities, Asian American/Pacific Islander, African- American, Hispanic, and Native American/Alaska Native Employment Programs) (29 C.F.R. § 1614, EEOC MD 110).			
17) Does the command support special observances designed to educate the workforce on cultural appreciation?			
Does the Command support workforce initiatives, goals and objections outlined in the MD-715 annual report?	YES		NO
18) Does the command have an active Partnership in Education program (PIE) or collaborate with other units to sponsor a PIE program?			
19) If the command has an active PIE program or collaborates with other units to sponsor a PIE program, is the program registered on the PIE SharePoint Site?			
20) Is the CO/OIC aware that EEOC's MD-715 encourages commands to include EEO/EO objectives in their strategic plans/documents?			
21) Is the CO/OIC aware that EEOC's MD-715 encourages commands to conduct periodic assessments of their workforce; and that EO Reviews, program surveys, command suggestion boxes, assessment inquiries during all hands, etc. are assessment methods?			

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Appendix H: DHS Civil Rights Tool Review Process



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Appendix I: USCG Acknowledgement of a Report of Potential Harassment



Commanding Officer
United States Coast Guard

Street Address
City, ST Zip Code
Phone
Fax
Email:

5350
1 Jan 20XX

MEMORANDUM

From: Name of CO/OIC
CG Unit Name

Reply to Title
Attn of: Name

To: Reporting Party
Thru:

Subj: ACKNOWLEDGEMENT OF A REPORT OF POTENTIAL HARASSMENT

Ref: (a) Coast Guard Civil Rights Manual, COMDTINST M5350.4 (series)
(b) Administrative Investigations Manual, COMDTINST M5830.1 (series)
(c) Equal Opportunity Policy Statement
(d) Anti-Discrimination/Anti-Harassment Policy Statement

1. This letter is to acknowledge your report of an incident of harassment based on [select the factor (s)] (*race, color, religion, national origin, sex, sexual orientation, age (40+), disability, genetic information, marital status, parental status, political affiliation, or other basis protected by law*) when (*give a brief description of the reported harassment*).
2. In accordance with Coast Guard Anti-harassment and Hate Incident (AHHI) procedure within reference (a), I have taken the following actions:
 - a. Notified the Civil Rights Service Provider (CRSP);
 - b. Initiated [select action(s): administrative investigation, informal investigation, or a preliminary inquiry, etc.], as outlined in reference (b).
3. At the conclusion of the investigation, I will make all efforts to report my findings to the Civil Rights Directorate (CG-00H) within 30 days of the receipt of the initial report of harassment.
4. Additionally, you also maintain the right to initiate a complaint of harassment under the EEO/EO complaint, negotiated grievance, merit system protection board appeal, Whistleblower Protection Act, or other statutory grievance procedures. For additional information pertaining to

Appendix I to COMDTINST M5350.4D

the procedures available to you, please contact a servicing civil rights service provider at (888) 992-7387 or visit: <https://www.uscg.mil/Resources/Civil-Rights/Service-Providers/>

5. All Coast Guard personnel shall be treated with respect. References a, c and d reinforce Coast Guard's commitment to its core values of Honor, Respect, and Devotion to Duty. I am personally committed to maintaining a work environment that does not compromise those core values or any other Coast Guard policy.

#

Enclosures (1) File 1
: (2) File 2

Dist:

Copy Unit File

Appendix J: USCG Findings and Outcome of Report of Harassment

**U.S. Department of
Homeland Security**

**United States
Coast Guard**



Commanding Officer
United States Coast Guard

Street Address
City, ST Zip Code
Phone
Fax
Email:

5354
1 Jan 20XX

MEMORANDUM

From: Name of CO/OIC
CG Unit Name

Reply to Title
Attn of: Name
(123) 456-7890

To: COMDT (CG-00H)
Thru: CRSP

Subj: FINDINGS AND OUTCOME OF REPORT OF HARASSMENT

Ref: (a) Coast Guard Civil Rights Manual, COMDTINST M5350.4 (series)
(b) Administrative Investigations Manual, COMDTINST M5830.1 (series)
(c) Equal Opportunity Policy Statement
(d) Anti-Discrimination / Anti-Harassment Policy Statement

6. A report of harassment was made to the Command on _____ by _____.
(Outline the overall dates, times, locations, allegations, including the individuals involved.) In accordance with reference (a), an Administrative Investigation was immediately initiated to find the facts of the alleged incident(s). The investigation was completed on _____ and the report is attached. *See enclosure (1).*

7. Having reviewed the facts found within the investigation, I have determined that the allegations of prohibited harassment are [select one] (*substantiated or unsubstantiated*).
(*Explain the rationale supporting your decision.*)

If actions are taken as a result to the investigation findings whether substantiated or not, provide an explanation for your findings, outcome, and actions. If allegations involve other types of misconduct, the findings and outcomes may be captured within this report along with any actions taken, however this report does not substitute for any additional reporting requirements, for example: bullying, hazing, disruptive behaviors, conduct unbecoming, etc.

- a. Action 1
- b. Action 2, etc.)

8. In accordance with reference (c), all Coast Guard personnel shall be treated with respect. Reference (d) reinforces the Coast Guard's commitment to the core values of Honor, Respect,

Appendix J to COMDTINST M5350.4D

and Devotion to Duty. I am personally committed to maintaining a work environment that does not compromise those core values or any other Coast Guard policy.

#

Enclosures: (3) Administrative Investigation
(4) File 2

Dist:

Copy: Superior Unit/Chain of Command
File

Appendix K: USCG Potential Hate Incident - 48 Hour Report



Commanding Officer
United States Coast Guard

Street Address
City, ST Zip Code
Phone
Fax
Email:

5354
1 Jan 20XX

MEMORANDUM

From: Name of CO/OIC
CG Unit Name

Reply to
Attn of:

To: COMDT (CG-00H)
Thru: CRSP

Subj: POTENTIAL HATE INCIDENT – 48 HOUR REPORT

1. **Date, time and location of the incident.** What day did the incident occur? What time? Where did the incident occur? Were there multiple or repeated incidents? Who were the parties involved? How was the incident brought to the Command's attention?

2. **Bias motivation and description of the incident.** Specify the legally protected status on which the report is based. (*i.e. race, color, religion, sexual harassment, gender based, national origin, disability, age, or sexual orientation*) Also, provide any relevant information about the incident not already stated above. This report should be filed within 48 hours of the complaint and should not be delayed for additional investigation. Units are not required to complete extensive investigation prior to reporting and are encouraged to follow up as more information becomes available.

3. **Action taken by command to investigate and secure evidence.** Identify immediate and future command actions. If there is any evidence to support a claim it should be included with this or follow up reports. Evidence can include photographs, emails, etc.

4. **Does this incident represent a local hate or bias motivated incident trend?**

5. **Is there media or Congressional interest?** Is there media attention at the national or local level? Has the unit been contacted by any reporters or congressional staff?

NOTE: A Findings and Outcome Memo will be forwarded to COMDT (CG-00H) within 30 days of the initial report.

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