



DEPARTMENTS OF THE ARMY AND THE AIR FORCE
JOINT FORCE HEADQUARTERS - NEW YORK
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MNAG-TAG

20 OCT 2020

MEMORANDUM FOR SEE DISTRIBUTION

SUBJECT: Inappropriate/Unprofessional Relationships

1. References:

- a. AR 600-20, Army Command Policy, 24 July 2020.
- b. AFI 36-2909, Professional and Unprofessional Relationships, 14 November 2019.
- c. DMNA Regulation 27-2, Military Justice, 30 October 2003.

2. All service members are reminded of the punitive prohibitions found in AR 600-20, AFI 36-2909, and DMNA 27-2 regarding the Army's, Air Force's and the New York National Guard's policies on inappropriate/unprofessional relationships between service members.

3. The aforementioned regulations speak specifically to inappropriate/unprofessional relationships between service members of different ranks in the reserve components. In general, service members are prohibited from engaging in relationships between Soldiers and Airmen of different ranks which:

- a. Compromise, or appear to compromise, the integrity of authority. This includes relationships that are contrary to the good order and discipline of the Organized Militia and violate the basic standards of conduct expected of a military member such as an officer or NCO engaged in a relationship with the spouse of a subordinate.

- b. Cause actual or perceived partiality or unfairness. This include actions such as disproportional approval of leave, imbalanced scheduling of shifts, and unequal recommendations of military awards.

- c. Involve or appear to involve improper use of rank.

- d. Are, or are perceived to be, exploitative or coercive.

- e. Cause/create actual or predictable adverse impact on discipline, authority morale, or mission accomplishment/command's ability to accomplish its mission.

- f. Involve dating or shared living accommodations, other than those directed by operational requirements. This prohibition of shared living accommodation is not contingent on an intimate relationship. An enlisted service member living in a spare room of an officer's residence would be prohibited regardless of the type of relationship between the two.

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g. Involve intimate or sexual relationships between superiors and subordinates, officers and enlisted personnel, or NCOs and junior enlisted service members. A common misconception is marriage somehow ratifies the prohibited fraternization which took place prior to the marriage. When evidence of fraternization between an officer and enlisted member or an NCO and a junior enlisted service member prior to their marriage exists, their marriage does not preclude appropriate command action to address the prior fraternization.

4. Other prohibited relationships include:

a. Ongoing business activities between service members of different ranks. This includes a broad range of activities such as an Officer or NCO recruiting a subordinate to work in an off duty capacity for their business in order to earn extra money.

b. Gambling. This includes the creation of an office pool for a sporting tournament.

c. Borrowing money from subordinates or superiors. This includes the soliciting of subordinates as investors for an off duty business venture.

d. Recruiter and candidate relationships (intimate personal or close friendship).

e. Service Member and trainee relationships (intimate personal or close friendship).

5. These rules are in place to ensure good order and discipline. When they are violated, it tears at the fabric of trust and faith in the organization and serves as a detriment to effectiveness and cohesiveness. Further, failure to adhere to these prohibitions may result in the full range of adverse administrative and or disciplinary actions.

6. In addition, I must mention the scourge of sexual assault and sexual harassment within our ranks. We experience too many instances of sexual assault and sexual harassment.

a. Sexual assault is a crime. Sexual assault is intentional sexual contact characterized by use of force, threats, intimidation, or abuse of authority or when the victim does not or cannot consent. The term includes a broad category of sexual offenses consisting of the following offenses: rape, sexual assault, aggravated sexual contact, abusive sexual contact, or attempts to commit these acts. Sexual assault can occur without regard to gender, rank, spousal relationship or age of victim. A current or previous dating relationship or the manner, of dress of the person involved with the accused in the sexual conduct at issue, shall not constitute consent.

b. Sexual Harassment:

(1) Sexual harassment is any conduct that involves unwelcome sexual advances, requests for sexual favors, and deliberate or repeated offensive comments or gestures of a sexual nature when:

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

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

(c) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment; and

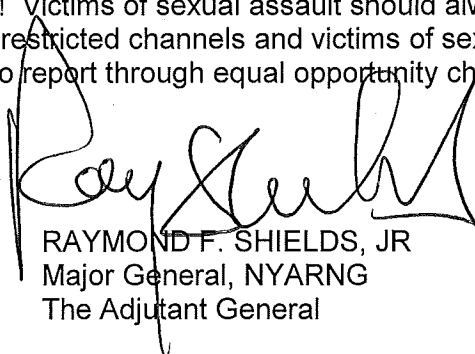
(d) Is so severe or pervasive that a reasonable person would perceive, and the victim does perceive, the environment as hostile or offensive.

(2) There is no requirement for concrete psychological harm to the complainant for behavior to constitute sexual harassment. Behavior is sufficient to constitute sexual harassment if it is so severe or pervasive that a reasonable person would perceive, and the complainant does perceive, the environment as hostile or offensive.

(3) Sexual harassment can occur through electronic communications, including social media, other forms of communication, and in person.

(4) The use of disparaging and/or sexualized terms may contribute to an unlawful hostile environment and thus will not be tolerated. Leaders at all levels will protect their teams against sexual harassment and proactively ensure that their environments are free from all forms of sexual harassment.

7. We have no tolerance for sexual assault or sexual harassment in the New York National Guard. Instances will be investigated, referred when appropriate to military or civilian law enforcement, and when substantiated the perpetrator will be subject to the full range of adverse administrative and disciplinary actions. All service members have a responsibility to protect each other from sexual assault and sexual harassment. If you see something developing that does not look right – STEP IN AND STOP IT! Victims of sexual assault should always feel comfortable to report through restricted or unrestricted channels and victims of sexual harassment should always feel comfortable to report through equal opportunity channels.



RAYMOND F. SHIELDS, JR
Major General, NYARNG
The Adjutant General

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