

LOUISIANA NATIONAL GUARD
ANTI-HARASSMENT POLICY AND PROCEDURES

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1. **Purpose.** This policy is intended to ensure that the Louisiana National Guard (LANG) is taking all necessary steps to prevent all forms of harassing conduct in the workplace before it becomes severe or pervasive.

2. **Definition of Harassing Conduct.** Harassing conduct is defined as any unwelcome verbal, non-verbal, or physical conduct based on any characteristic protected by law, such as race, color, religion, sex (pregnancy, sexual orientation, and gender identity), national origin, age (40 or older), disability (mental or physical), and reprisal when:

a. An employee actually suffers a personal loss or harm with regard to a term, privilege, or condition of employment relating to any of the protected bases; or

b. The behavior can reasonably be considered severe or pervasive creating an intimidating, hostile, or offensive work environment; or

c. An employment decision affecting the employee is based upon the employee's acceptance or rejection of such conduct.

3. **Disability-based Harassment**

a. It is illegal to harass an applicant or employee because he or she has a disability, had a disability in the past, or is believed to have a physical or mental impairment that is not transitory (lasting or expected to last six months or less) and minor (even if he or she does not have such an impairment).

b. Harassment can include, for example, offensive remarks about a person's disability. Although the law doesn't prohibit simple teasing, offhand comments, or isolated incidents that aren't very serious, harassment is illegal when it is so frequent or severe that it creates a hostile or offensive work environment or when it results in an adverse employment decision (such as the victim being fired or demoted).

4. **Policy Against Harassing Conduct**

a. The LANG does not permit harassing conduct by anyone in the workplace. It is the policy of the agency to maintain a work environment free from the harassing conduct described above.

b. The LANG has determined that the most effective way to limit harassment is to treat it as misconduct, even if it does not rise to the level of unlawful harassment actionable under Title VII of the Civil Rights Act of 1964, as amended. A hostile environment claim under Title VII usually requires showing a pattern of offensive

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conduct. The LANG will not wait for such a pattern to emerge. Instead, the LANG will take corrective action to prevent or eliminate conduct before it rises to the level of unlawful harassment.

c. The LANG will not tolerate retaliation against any employee for making a report of harassing conduct under this or any other policy or procedure or for assisting in any inquiry about such a report. Employees who make claims of harassment or provide information related to such claims will be protected against retaliation.

d. This policy is separate and apart from any collective bargaining agreement or statutory complaint process covering harassment.

5. Responsibilities

a. Employee responsibilities:

- (1) Acting professionally and refraining from harassing conduct;
- (2) Becoming familiar with the provisions of this policy, complying with all requirements of the policy, and cooperating with any inquiry under this policy; and
- (3) Promptly reporting any incident of harassing conduct that he or she experiences before it becomes a pattern of misconduct so pervasive and offensive as to constitute a hostile environment.

b. Supervisor and Manager responsibilities:

- (1) Acting promptly and appropriately to prevent harassment in the workplace and retaliation against those who complain of harassment;
- (2) Reporting any incident of harassing conduct that they witness or is otherwise brought to their attention;
- (3) Receiving and handling allegations of harassing conduct promptly and appropriately;
- (4) In consultation with the Human Resources Officer (HRO), providing interim relief to alleged victims of harassment pending the outcome of the investigation to ensure that further misconduct does not occur; and
- (5) In consultation with the HRO, taking prompt and appropriate corrective and disciplinary action, up to and including removal, against personnel who have engaged in harassing conduct or who have not carried out their responsibilities under this policy.

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c. State Equal Employment Manager (SEEM) responsibilities:

- (1) Advising LANG employees of this policy;
- (2) Receiving allegations of harassing conduct;
- (3) Conducting or overseeing inquiries into allegations of harassing conduct;
- (4) Advising supervisors and managers on the provision of interim relief to the alleged victims of harassing conduct pending the outcome of the investigation to ensure further misconduct does not occur; and
- (5) Advising the HRO or other persons who need to know of allegations of harassment and the resolution of those allegations under this policy.

6. Reporting Harassment

a. Any person who believes that he or she has been the subject of an incident of harassing conduct in violation of this policy should report this matter to anyone in the complainant's supervisory chain, an EEO Counselor, or the State Equal Employment Manager.

b. The LANG will protect the confidentiality of any individual bringing harassment claims, to include any information related to any claims, to the greatest extent possible. The maintenance of records and any disclosures of information from these records shall be in complete compliance with the Privacy Act, 5 U.S.C. § 552a. Such information, however, may have to be disclosed to defend the LANG in any litigation to which the information may be relevant and necessary. Further, information may need to be disclosed to those officials and employees within the LANG with a need to know in order to carry out the purpose and intent of this policy.

7. Investigations into Allegations of Harassing Conduct

a. An individual who receives an allegation of harassing conduct or witnesses harassing conduct shall immediately:

- (1) Inform the HRO and seek guidance as to further actions;
- (2) In consultation with the HRO, take action to stop any harassing conduct and prevent further harassment while the allegations are being investigated, including granting of appropriate interim relief to the alleged victim of harassing conduct; and

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(3) In consultation with the HRO, document the allegation received and his or her efforts to address it.

b. When the HRO receives notice of a harassment allegation, he or she will:

(1) Ensure that a prompt, thorough, impartial, and appropriate inquiry is completed; and

(2) Recommend appropriate action to stop any harassing conduct and prevent further harassment, including granting appropriate interim relief to the alleged victim of harassing conduct while the allegations are being investigated.

c. Where an investigation is necessary, a written summary of the investigation shall be prepared by the individual conducting the investigation, in consultation with the Judge Advocate General (JAG). The summary of the investigation or other documentation prepared under this procedure shall be kept confidential, to the extent possible, and provided only to those individuals with a need to know.

8. Actions to Be Taken upon Completion of the Inquiry/Investigation

a. Upon completion of the inquiry/investigation, and in consultation with the HRO, agency management shall promptly evaluate the evidence and determine the appropriate action to take. This responsibility usually shall rest with the first line supervisor of the employee alleged to have engaged in the harassing conduct unless such supervisor is involved in the allegation. The HRO shall be informed of this decision, including a decision not to act.

b. Where the inquiry/investigation establishes that an employee did engage in harassing conduct under this policy, he or she shall be subject to appropriate corrective action, disciplinary or otherwise, in accordance with CNGBI 1400.25, Volume 752, National Guard Technician And Civilian Personnel Discipline And Adverse Action Program.

c. Where the inquiry/investigation establishes that a manager or supervisor did not properly carry out the responsibilities provided for under this policy, he or she shall be subject to appropriate corrective action, disciplinary or otherwise, in accordance with CNGBI 1400.25, Volume 752, National Guard Technician And Civilian Personnel Discipline And Adverse Action Program.

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