

DIVERSITY MANAGEMENT AND EQUAL OPPORTUNITY
Military Equal Opportunity Program

SUMMARY

DIAR 27-3 establishes a military equal opportunity program within the Defense Intelligence Agency (DIA), promulgates policy prohibiting discrimination and reprisal against service members assigned or attached to DIA, outlines the various complaint processes available to service members who believe that they have been subjected to illegal discrimination, and creates the Military Equal Opportunity Council (MEOC).

- 1. Purpose:** This regulation establishes a DIA military equal opportunity program, provides service members who believe they have been the subject of discrimination by DIA the opportunity to raise their discrimination claims; and creates the MEOC.
- 2. Applicability:** This regulation applies to all DIA elements. Although the discrimination complaint procedures of this regulation only apply to service members assigned or attached to DIA, both service members and civilian personnel are prohibited from discriminating against service members in accordance with this regulation.
- 3. Authority:** This regulation is issued under authority of:
 - a. DoD Directive 1350.2, "Military Equal Opportunity Program" (1995).
 - b. Army Regulation 600-20, "Equal Opportunity Program in the Army" (1999).
 - c. Navy and Marine Corps Regulation 5354.1D, "Equal Opportunity Complaint Procedures" (1999).
 - d. Air Force Instruction 36-2706, "Military Equal Opportunity and Treatment Program" (1996).
 - e. Coast Guard Regulation 5350.11B, "Military Civil Rights Manual" (1998).
- 4. Supersession.** This regulation supersedes DIAR 20-18 Change A (15 August 1996), "Diversity Management Programs (Military and Civilian Personnel)."
- 5. Policy:** It is the policy of DIA to:
 - a. Prohibit discrimination against service members based on race, color, religion, gender, or national origin.

b. Prohibit reprisal against any individual for filing a discrimination complaint, and/or for participating in any other manner in the processing of a complaint, or in raising issues of alleged illegal discrimination.

6. Responsibilities:

a. The chief of Diversity Management and Equal Opportunity (MD) shall:

(1) Serve as the principal advisor to the Director, DIA, on matters concerning equal opportunity for service members.

(2) Develop policy concerning military equal opportunity.

(3) Ensure that the complaint procedures for military discrimination complaints are implemented in accordance with this regulation.

(4) Establish and maintain the MEOC.

b. The military equal opportunity advisor assigned to MD is the principal advisor to the chief, MD, on matters concerning equal opportunity for service members. The military equal opportunity advisor shall:

(1) Serve as the liaison to the MEOC.

(2) Be responsible for processing military discrimination complaints in accordance with this regulation.

(3) Advise managers and supervisors and other personnel on matters pertaining to military equal opportunity.

c. Military equal opportunity counselors are trained equal opportunity officers, non-commissioned officers (E-7 and above) and civilian personnel (equivalent pay grade), who shall:

(1) Conduct fact-finding investigation when a service member has filed a discrimination complaint.

(2) Attempt resolution of informal discrimination complaints filed by DIA service members who utilize DIA internal discrimination complaint procedures.

d. Military equal opportunity investigating officers are equal opportunity trained officers, non-commissioned officers (E-7 and above) and civilian personnel (equivalent pay grades) who shall:

(1) Investigate formal discrimination complaints filed by service members assigned to DIA, who utilize DIA internal discrimination complaint procedures.

(2) Report all aspects of the investigation to the chief, MD.

e. The MEOC shall:

(1) Assist in promoting an agency environment that is free from personal, social, or institutional barriers that impede DIA service members from rising to the highest level of responsibility possible.

(2) Identify and make recommendations to improve education and career management opportunities for DIA and military personnel.

(3) Aid DIA in resolving actual and perceived systemic inequities, that adversely affect military personnel.

(4) Communicate with special emphasis program managers to identify military sources for sponsoring special events and for potential recruitment as DIA employees.

f. Managers and supervisors shall:

(1) Establish a working environment that ensures equal opportunity prohibits discrimination and reprisal.

(2) Attempt to resolve, at the lowest level, equal opportunity issues that arise in work units.

(3) Ensure that this regulation is implemented in work units and that appropriate action is taken against personnel who do not comply.

g. DIA military and civilian members shall ensure that they:

(1) Do not illegally discriminate against DIA service members.

(2) Cooperate in all fact-finding investigations of discrimination complaints involving service members.

/s/ John K. Kiehm

JOHN K. KIEHM
Chief of Staff

2 Enclosures

1. Military Equal Opportunity Discrimination Complaint Procedures
2. Military Equal Opportunity Council

Military Equal Opportunity Discrimination Complaint Procedures

1. Military personnel who believe that they have been subjected to unlawful discrimination based on their race, color, gender, religion, or national origin are encouraged to use their chain of command, whenever possible, as the primary and preferred channel to resolve the issue. If the issue remains unresolved, service members may use either of the following options to file a discrimination complaint:

a. File an informal discrimination complaint by contacting MD. If the issue remains unresolved after the informal process, the service member can either:

(1) File a formal discrimination complaint with DIA

(2) File a formal discrimination complaint with his/her parent service

b. File an informal discrimination complaint in accordance with the respective service's discrimination complaint procedures. If the issue remains unresolved after the informal process, he/she can then file a formal discrimination complaint in conformance with their service procedure.¹

c. Service members may seek assistance during the discrimination complaint process from their parent service's legal office.

2. Prohibition Against Reprisal.

a. DIA personnel are prohibited from taking any action that discourages a service member from filing a discrimination complaint or seeking assistance when resolving equal opportunity (EO) issues.

b. Personnel are also prohibited from taking any disciplinary or adverse action against a service member for filing a complaint, seeking assistance, or cooperating with an investigating officer or other official in a discrimination complaint investigation. This does not preclude taking action under the provisions of the Uniform Code of Military Justice (UCMJ) against individuals who file fraudulent complaints.

c. It is the responsibility of the supervisory chain of command to ensure that a complainant is protected from reprisal for filing a discrimination complaint.

¹ Service members opting to use their service procedure(s) may refer to the following regulations: Army (AR 600-20), Navy and Marine Corps personnel (OPNAVINST 5354.1D), Air Force (AFI 36-2706), and Coast Guard personnel (COMDTINST M5350.11B).

d. Service members who believe they have been subjected to reprisal in violation of this regulation should report the matter immediately to their supervisory chain of command or MD.

3. DIA's Military Discrimination Complaint Procedure.

a. Informal Discrimination Complaint Procedure.

(1) A DIA service member who wants to file an informal discrimination complaint using the DIA internal procedure must notify MD in writing, in person, or via telephone within 60 days of the action(s) alleged to be discriminatory. This action does not affect the time limit for filing a complaint within the individual's parent service.

(2) The military equal opportunity advisor will contact the complainant and determine basic facts about the complaint to include, but not be limited to, determining the basis(es) of discrimination, the action(s) alleged to be discriminatory, the date(s) action(s) occurred, individual(s) involved, and remedy(ies) requested. Also, the military equal opportunity advisor will inform the complainant of his/her right to elect mediation instead of traditional fact-finding in his/her informal discrimination complaint.

(3) If the complainant elects traditional fact-finding, either the military equal opportunity advisor or a trained military equal opportunity counselor assigned by the military equal opportunity advisor will conduct the fact-finding investigation and attempt to resolve the issue within 30 days, beginning when the informal complaint is filed.

(4) If the complainant elects mediation, the military equal opportunity advisor will ask the other parties involved in the dispute if they are willing to participate in mediation. If they agree, the military equal opportunity advisor will arrange for a trained mediator to try resolving the dispute within 30 days, beginning when the informal complaint is filed.

(5) If the complaint is resolved, either through traditional counseling or through mediation, a written settlement agreement will be prepared and signed by the complainant and other party or parties involved in the complaint.

(6) If the complaint is not resolved, either through traditional counseling or through mediation, the individual conducting the fact-finding and/or the military equal opportunity advisor will notify the complainant in writing of the options available for filing a formal complaint either with the service or with DIA. These options will include timeframes and requirements for proceeding.

(a) If traditional counseling is used, the individual conducting the fact-finding will prepare a written report within 15 days of its completion. At a minimum, the report will explain the basis(es) of discrimination; the action(s) alleged to be discriminatory; date(s) action(s) occurred; individual(s) involved; remedy(ies) requested; facts of the complaint; individuals interviewed; and resolution attempts. In addition, the report will include copies of all pertinent documents as enclosures.

(b) If mediation is used, the military equal opportunity advisor will prepare a report which, at a minimum, will explain the basis(es) of discrimination; action(s) alleged to have been discriminatory; date(s) action(s) occurred; individual(s) involved; remedy(ies) requested; date mediation occurred; and a statement indicating that mediation did not resolve the complaint.

b. Formal Discrimination Complaint Procedure.

(1) A DIA service member who files an informal discrimination complaint, that is not resolved has 60 calendar days from the date of the alleged discriminatory incident(s) to file a formal discrimination complaint. The formal complaint must be submitted in writing to the chief, MD, using DIA Form 76, "Military Discrimination Complaint" (appendix 1). The form is available on Intelink on the MD Homepage and on DIA FormFlow. Local reproduction of the form is authorized.

(2) The chief, MD, may waive the filing time limits when extenuating circumstances prevent the service member from filing a formal discrimination complaint within the established time frame.

(3) Within 72 hours of receipt of a formal military discrimination complaint, MD shall:

(a) Assign a complaint number.

(b) Ensure that the appropriate General Courts Martial Convening Authority (GCMCA) has been notified of the complaint.

(c) Assign an investigating officer or noncommissioned officer (E7 and above) to investigate the complaint, except when filed by an Army service member. In such case, the complaint will be investigated by a commissioned officer (O-2 and above) or a civilian equivalent.

(4) Individuals conducting investigations must have received formal equal opportunity training within 2 years of the commencement of an investigation and have been trained to conduct military investigations.

(5) Once an investigating officer has been assigned an investigation, the investigation is his/her primary duty until it is completed.

(6) Investigation Procedures:

(a) Prior to beginning the investigation, the investigating officer shall meet with the military equal opportunity advisor in MD and an attorney from the DIA General Counsel office to review appropriate DIA procedures and complainant's service regulations for conducting the investigation and to discuss the complaint, potential witnesses, and documentation.

(b) MD shall provide a progress report to the GCMCA 20 days after an investigation commences and every 14 days thereafter until the investigation is completed. In addition, quarterly reports on formal complaints for U.S. Army personnel will be submitted to Headquarters, Department of the Army, Office of the Deputy Chief of Staff for Personnel, ATTN: DAPE-HR-L, 300 Army Pentagon, Washington, DC 20310. The other military services do not require quarterly status reports.

(c) The investigating officer will interview the complainant both at the beginning and the conclusion of the investigation.

(d) The investigating officer (IO) will obtain a list of potential witnesses from both the complainant and the individual(s) alleged to have discriminated; however, the final determination as to who will be a witness rests with the investigating officer. The IO must interview each individual who may have personal knowledge of the action(s) alleged to be discriminatory. In addition, the IO may also interview witnesses with knowledge of the relationship between the complainant and the individual(s) alleged to have discriminated. Should unit policies or procedures be called into question as contributing factors to perceptions of discrimination or hostile environment, the investigating officer should interview responsible members of the supervisory chain of command and/or members from supporting organizations.

(e) If when preparing, or during, the interview of a service member who allegedly discriminated against the complainant, the investigating officer suspects that the service member has committed an offense in violation of the UCMJ, the investigating officer must advise the service member of his/her rights under Article 31, of the UCMJ.

(f) If the service member being questioned asserts the right to counsel, questioning stops immediately. Questioning may only resume in the presence of a lawyer, if the service member initiates further discussion, or if the service member has consulted with a lawyer and thereafter waives rights, pursuant to a proper rights advisement.

(g) Similarly, questioning of a service member ceases immediately if the service member indicates the desire to remain silent. Once this right is asserted, questioning may resume only if the service member initiates further discussion or if, after an appropriate interval, the service member waives his/her rights pursuant to a proper rights advisement, in accordance with Article 31, of the UCMJ.

(h) After receipt of the complaint, the investigating officer has 30 calendar days to conduct an investigation and prepare a final written report in accordance with appendix 2. If, due to extenuating circumstances, it becomes impossible to conduct a complete investigation within the period allowed, the investigating officer may request in writing an extension, from the chief, MD, not to exceed 30 calendar days. If an extension is received, the investigating officer must inform the complainant of the extension, its duration, and the reasons for which it was requested.

(i) Prior to submission of the final report of investigation, the investigating officer will verbally inform both the complainant and the individual(s) alleged to have discriminated of the

findings and recommendations of the investigation. They will be afforded 72 hours to submit final written comments for consideration by the IO and the GCMCA. These written comments or a statement by the IO noting the refusal of any of the parties to provide final comments after asked will be included in the report of investigation.

(j) The investigating officer will submit the final report of investigation to the chief, MD.

(7) Commanding Officer's Decision:

(a) Within five calendar days of receipt of a final report of investigation from an investigating officer, the chief, MD, will forward the report to the GCMCA through the staff judge advocate of the individual(s) alleged to have discriminated.

(b) Within 14 calendar days of receipt of the final report of investigation, the commander of the alleged offender(s) is required to provide written analysis of the action rendered (if any) as a result of the discrimination complaint to the chief, MD. If the commander disagrees with the IO's findings, the rationale for disagreement should be included in the summary.

(c) Within five calendar days of receipt of a commanding officer's decision, MD will notify the complainant in writing, using DIA Form 76, of the decision and will provide the complainant with a redacted copy of the results of the investigation. The complainant will sign and date the form acknowledging receipt of information. The complainant's signature does not signify agreement with the decision.

(d) The chief, MD, will also notify the complainant's chain of command of the decision in the complaint.

(8) Appeal:

(a) Within seven calendar days of receipt of the decision in the complaint, complainant has the right to appeal to the appropriate GCMCA. The appeal must be in writing on DIA Form 76.

(b) The complainant retains additional rights to appeal a decision of the GCMCA, which may be available within the complainant's applicable service regulations.

(9) Remedies in Discrimination Complaints:

(a) Actions to resolve complaints should focus on changing any inappropriate behavior and/or actions of offending personnel and should avoid targeting the complainant.

(b) If the GCMCA finds discrimination, DIA will work to make the complainant "whole," i.e., restore benefits and privileges lost because of the discrimination or harassment.

(c) If the GCMCA finds discrimination and/or other violation of a punitive article of the UCMJ, the offenders may be charged and prosecuted. Additionally, adverse administrative

actions may be taken to include, but not limited to, reduction in grade, separation, and letters of admonition or reprimand.

(d) When a service member assigned to DIA files a discrimination complaint, the DIA chain of command may take appropriate administrative corrective actions within the affected organizations to remedy the situation. If the administrative actions contemplated involve a service member, DIA will not take such action without prior notice to the GCMCA. If the administrative actions involve a DIA civilian, DIA will take action in accordance with applicable statutes, DIA regulations, or policies.

(10) Follow-up Assessment: Within 45 days following the final decision on a formal complaint of discrimination, MD will follow up with the complainant to assess the working environment for that individual, the effectiveness of any actions taken as a result of the complaint, and to detect and deter any acts or threats of reprisal. This follow-up will be completed within 15 calendar days, and the results will be communicated to the complainant and through the chain of command.

(11) Actions against service members submitting false complaints: Service members who knowingly submit a false equal opportunity discrimination complaint, i.e., a complaint containing information or allegations that the complainant knows to be false, may be punished under the UCMJ. This is not to be confused with complaints that are investigated and for which a finding of discrimination does not result so long as the complainant's testimony is truthful.

**DEFENSE INTELLIGENCE AGENCY
MILITARY DISCRIMINATION COMPLAINT**

Authority: Title 10, USC Section 3013 (g)
Principal Purpose: Formal filing of allegations of discrimination based on race, color, religion, sex national origin, or reprisal.
Routine Uses: This form and the information on this form may be used: (a) to provide complaint data for production of summary descriptive statistics and analytical studies of complaints processing and resolution efforts; (b) to respond to requests from legitimate outside individuals or agencies (e.g. Members of Congress, the White House) regarding the status of a complaint or appeal; (c) to adjudicate this complaint or appeal; or (d) for any other routine uses listed in DIA regulations.
Disclosure: Disclosure is voluntary; however, failure to complete all portions of this form may lead to dismissal of the complaint because of inadequate data.

PART I—COMPLAINANT INFORMATION

1. Name: _____ 2. Rank: _____ 3. SSN: _____
4. Service: _____ 5. DIA Organization: _____ 6. Duty Title: _____
7. Work Telephone Number: _____

PART II- COMPLAINT INFORMATION

8. Basis(es) of Discrimination (Check as many as apply):

Race _____ Color _____ Religion _____ Sex _____

National Origin _____ Reprisal _____

9. Allegation(s) of Discrimination: *(Provide, in as much detail as possible, your allegations of discrimination. Describe the incident(s) and/or behavior(s), date(s) of the occurrence(s), the names of parties involved and witnesses, and the names of individuals to whom you may have previously reported your allegations. Also, provide any additional information that would be helpful in resolving your complaint. Attach additional sheets as necessary.)*

10. Requested Remedy(ies):

11. Affidavit:

I, _____, attest that this entire statement is true. I have filed this complaint without threat of punishment, and without coercion, unlawful influence, or unlawful inducement.

Complainant's Signature

Date

12. Acknowledgment - Diversity Management and Equal Opportunity Office:

I acknowledge receipt of this complaint from _____ (name/rank)
on _____ (date)

Signature

PART III - RESULTS OF INVESTIGATION

13a. Your complaint was investigated by _____ (name/rank) of _____ (service/agency). The complaint was found to be _____ substantiated _____ unsubstantiated based upon the findings listed below:

13b. Acknowledgment of the Complainant Signature Date

PART IV - APPEAL

14a. As the complainant, I acknowledge that I have 7 calendar days to appeal the investigative findings of my complaint to the appropriate General Court Martial Convening Authority, identified to me as _____.

At present I choose: (initial next to appropriate response)
_____ I decline appeal _____ I appeal

14b. Acknowledgment of the Complainant Signature Date

Format for Report of EO Discrimination Complaint Investigation

(Date)

TO: Chief, Diversity Management and Equal Opportunity

As investigating officer for the military equal opportunity discrimination complaint filed by _____ (name/rank) on _____ (date), I provide the following report of investigation for consideration and appropriate action by the Defense Intelligence Agency and the service member's chain-of-command.

1. BACKGROUND INFORMATION:

2. CHRONOLOGY OF EVENTS:

3. ANALYSIS: *The investigating officer will address each allegation separately, providing a thorough review of the facts and circumstances relevant to the allegation(s) and attaching all pertinent documentation.*

4. CONCLUSIONS: *The investigator will make a finding, based upon the preponderance of evidence, whether or not discrimination occurred.*

5. RECOMMENDED CORRECTIVE ACTIONS:

Investigating Officer Signature

Appendix 2

Military Equal Opportunity Council

1. The MEOC shall be structured as follows:

a. Membership:

(1) The MEOC will consist of one primary and at least one alternate member from the Command Element and from each key component outside of the Command Element.

(2) MEOC membership is open to all DIA military and civilian personnel. The MEOC will periodically solicit membership through direct appeal to the workforce, as well as through specific appeal to senior management.

(3) The membership term will be for 2 years; however, there will be no prohibition against members serving consecutive terms. Membership may terminate voluntarily, upon the member's departure from DIA, at the discretion of the member's supervisor, or as a result of a decision by the Chief, MD.

b. Officers: The officers of the MEOC shall consist of a chair, representing MD and serving as the DIA military equal opportunity advisor; a recording secretary; and chairs of any permanent or ad hoc teams. The chair will appoint the recording secretary, who will serve an unspecified term of at least 6 months, and action team chairs. The officers will comprise the MEOC executive board, which serves as the governing body for the MEOC.

c. Advisors: At the discretion of the MEOC executive board, individuals may be appointed as advisors to the board. Such advisors shall have the right to attend and speak at board meetings, and to receive the minutes. However, they may not vote.

2. Meeting Procedures:

a. The MEOC will meet monthly unless the MEOC executive board decides otherwise and has set forth such exception in the minutes of a prior MEOC meeting.

b. The meetings will be made known to the agency, and there will be no restrictions made on attendance by agency personnel or personnel of DIA administratively attached activities.

c. The chair will preside over all meetings, ensuring that an agenda and any necessary background information are available to MEOC members.

d. The chair may call a special MEOC meeting.

Enclosure 2

e. The MEOC executive board may meet as needed. Any MEOC member may attend an executive board meeting.

f. Permanent and ad hoc action teams will meet as needed and provide a written summary of their activities, which will become part of the overall MEOC minutes. Team chairs will represent the views of their teams and will report activity status at each MEOC meeting.

g. All MEOC voting decisions will be approved by a consensus.

h. The MEOC executive board will meet semi-annually with the Director, DIA, to advise on the state of MEOC activities.

3. **Budget:** MD will provide the MEOC with an annual budget.