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CFAO 19-20 - POLICY AND PROCEDURE - SEXUAL CONDUCT INVOLVING PERSONS OF
SAME GENDER

PURPOSE

1. THIS ORDER PRESCRIBES THE POLICY APPLICABLE TO THE ENROLMENT AND EMPLOYMENT OF PERSONS IN RESPECT OF WHOM THERE ARE INDICATIONS OF SEXUAL CONDUCT INVOLVING PERSONS OF THEIR OWN GENDER.

DEFINITION

2. FOR THE PURPOSES OF THIS ORDER, "SEXUAL CONDUCT" MEANS SEXUAL ACTS, OFFERS OR REQUESTS RELATING TO SEXUAL ACTS, ADVOCACY OF SEXUAL ACTS, PROVISION OF DESCRIPTIONS OR DEPICTIONS RELATING TO SEXUAL ACTS EXCEPT IN THE COURSE OF DUTY, OR OTHER CONDUCT OF A LIKE NATURE THAT WOULD PROMOTE OR TEND TO PROMOTE SEXUAL ACTS.

GENERAL

3. THE PRESERVATION OF A HIGH STANDARD OF MORALE AND COHESION IS ESSENTIAL TO THE MAINTENANCE OF THE EFFECTIVE OPERATIONAL CAPABILITY OF THE CF. EXPERIENCE HAS SHOWN THAT COHESION AND MORALE AND HENCE OPERATIONAL CAPABILITY WOULD BE REDUCED TO AN UNACCEPTABLE DEGREE SHOULD CONDUCT OF THE NATURE DESCRIBED IN PARAGRAPH 1 OF THIS ORDER OCCUR WITHIN THE CF.

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4. ANY ACTION TAKEN OR INVESTIGATION CONDUCTED PURSUANT TO THIS ORDER SHALL BE IN SUCH A MANNER AS TO ENSURE MAXIMUM CONFIDENTIALITY, AND TO PROTECT THE PRIVACY AND DIGNITY OF ANY MEMBERS INVOLVED.

PROCEDURE

5. IF A COMMANDING OFFICER HAS REASONABLE GROUNDS TO BELIEVE THAT A MEMBER OF THE CF HAS BEEN INVOLVED IN CONDUCT OF THE TYPE REFERRED TO IN PARAGRAPH 1 OF THIS ORDER, HE SHALL CAUSE A PRELIMINARY INVESTIGATION TO BE MADE.

6. A CO MAY ORDER THAT A PRELIMINARY INVESTIGATION BE CONDUCTED IN ANY MANNER HE DEEMS APPROPRIATE. HOWEVER, A MEMBER SHOULD NOT BE QUESTIONED ON MATTERS RELATED TO THIS ORDER OTHER THAN BY, OR IN THE PRESENCE OF, A MEMBER OF THE SAME GENDER.

7. WHEN A PRELIMINARY INVESTIGATION DISCLOSES EVIDENCE OF CONDUCT OF THE TYPE REFERRED TO IN PARAGRAPH 1 OF THIS ORDER, OR INDICATES THAT FURTHER INVESTIGATION IS REQUIRED, THE CO SHALL CAUSE SUCH FOLLOW-UP INVESTIGATION TO BE CONDUCTED AS HE MAY DEEM APPROPRIATE IN THE CIRCUMSTANCES.

8. WHEN THE REPORT OF A PRELIMINARY INVESTIGATION OR FOLLOW-UP INVESTIGATION DOES NOT CONTAIN REASONABLE SUBSTANTIATION OF CONDUCT OF THE TYPE REFERRED TO IN PARAGRAPH 1 OF THIS ORDER, UNIT PERSONNEL

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RECORDS OF SUCH INVESTIGATION, AND ANY REFERENCE TO THE CIRCUMSTANCES WHICH LED TO THE INVESTIGATION, SHALL BE DESTROYED. IN ANY OTHER CASE, THE CO SHALL FORWARD A CONFIDENTIAL REPORT OF ALL RELEVANT DETAILS TO NDHQ/DGPCO OR DGPCOR, AS APPROPRIATE.

9. UPON RECEIPT AT NDHQ OF THE CONFIDENTIAL REPORT REFERRED TO IN PARAGRAPH 8 ABOVE, AN ADVISORY COMMITTEE COMPOSED OF DGPCO OR DGPCOR AS APPROPRIATE AS CHAIRMAN, AND DPLS AND DMTS AS MEMBERS, SHALL CONVENE AS SOON AS PRACTICABLE TO REVIEW THE REPORT AND CONSIDER THE CAREER DISPOSITION OF THE MEMBER INVOLVED.

10. WHEN THE COMMITTEE CONCLUDES THAT THERE IS NOT REASONABLE CERTAINTY THAT THE MEMBER CONCERNED HAS BEEN INVOLVED IN CONDUCT OF THE TYPE REFERRED TO IN PARAGRAPH 1 OF THIS ORDER, THE COMMITTEE SHALL RETURN ALL COPIES OF THE INVESTIGATION REPORT TO THE MEMBER'S CO, WITH INSTRUCTIONS THAT THE ACTION DESCRIBED IN PARAGRAPH 8 ABOVE IS TO BE TAKEN WITH REGARD TO DESTRUCTION OF RECORDS. IN ANY OTHER CIRCUMSTANCE, THE COMMITTEE SHALL TAKE THE FOLLOWING ACTION:

- A. IF THE CONDUCT IS DETERMINED TO HAVE OCCURRED UNDER UNUSUAL CIRCUMSTANCES, SUCH AS BEING AN ISOLATED INCIDENT WHICH IS OUT OF CHARACTER, OR INVOLVING OTHER THAN WILLING PARTICIPATION, SUBMIT A REPORT TO ADM(PER) RECOMMENDING THAT THE MEMBER BE RETAINED; OR

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B. IN ANY OTHER CIRCUMSTANCES, RECOMMEND THE RELEASE OF THE MEMBER FROM THE CF, NORMALLY UNDER ITEM 5(D) OF THE TABLE TO QR&O 15.01, NOT ADVANTAGEOUSLY EMPLOYABLE, OR, WHERE DISCIPLINARY OR CRIMINAL MISCONDUCT IS INVOLVED, SUCH LESS FAVOURABLE RELEASE ITEM AS THE COMMITTEE MAY DEEM APPROPRIATE.

11. UPON RECEIPT OF THE REPORT OF THE COMMITTEE PURSUANT TO PARAGRAPH 10 ABOVE, ADM(PER) SHALL PERSONALLY:

A. IF THE REPORT IS SUBMITTED UNDER SUBPARAGRAPH 10.A., APPROVE THE RECOMMENDATION OF THE COMMITTEE AND AUTHORIZE THE MEMBER'S RETENTION IN THE CF, UNLESS COMPELLING REASONS EXIST WHICH RENDER THE MEMBER'S CONTINUED SERVICE WHOLLY UNACCEPTABLE. IN THE LATTER CASE, HE SHALL TAKE THE ACTION DESCRIBED IN B. BELOW; OR

B. IF THE REPORT IS SUBMITTED UNDER SUBPARAGRAPH 10.B., TAKE THE ACTION PRESCRIBED BY PARAGRAPH 12 OF THIS ORDER.

12. WHEN ADM(PER) DETERMINES THAT THERE IS SUFFICIENT EVIDENCE TO SUBSTANTIATE THE INITIATION OF RELEASE PROCEEDINGS, HE SHALL: CAUSE A NOTICE OF INTENT TO RECOMMEND RELEASE TO BE DELIVERED TO THE MEMBER, REGARDLESS OF THE STATUS, RANK OR LENGTH OF SERVICE OF THE MEMBER; ENSURE THAT THE MEMBER IS ACCORDED THE OPPORTUNITY TO MAKE

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REPRESENTATIONS THEREON IN ACCORDANCE WITH QR&O ARTS 15.21 OR 15.36 AS APPROPRIATE; AND PERSONALLY TAKE THE DECISION AS TO WHETHER THE MEMBER SHALL BE RETAINED IN OR RELEASED FROM THE CF. WHEN ADM(PER) APPROVES RELEASE OF A MEMBER IN ACCORDANCE WITH THIS ORDER, THE CO SHALL ENSURE THAT THE MEMBER IS AWARE OF HIS OR HER RIGHT TO APPLY FOR REDRESS OF GRIEVANCE UNDER THE PROVISIONS OF SECTION 29 OF THE NATIONAL DEFENCE ACT AND QR&O ART 19.26.

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