

Appendix B: Navy Compliance Assessment of the United States Naval Academy





THE UNDER SECRETARY OF THE NAVY
WASHINGTON DC 20350-1000

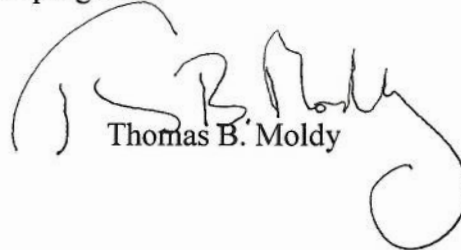
OCT 31 2019

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE (PERSONNEL AND
READINESS)

SUBJECT: U.S. Naval Academy Sexual Assault and Sexual Harassment Compliance
Assessment, Academic Program Year 2018-2019

As requested by your letter dated May 17, 2019, enclosed is the Department of the Navy assessment of the U.S. Naval Academy sexual assault and sexual harassment programs.

Overall, the U.S. Naval Academy is in compliance with the Department's policies regarding sexual assault and sexual harassment. The Department found sufficient evidence of compliance in all functional areas for both programs.


Thomas B. Moldy

Attachments:
As stated

U.S. Naval Academy



Executive Summary

The Department of the Navy (DON) and Office of the Chief of Naval Operations, 21st Century Sailor Office (OPNAV N17) assessed the United States Naval Academy's (USNA) policies, procedures and training for Sexual Harassment Prevention and Reporting programs and Sexual Assault Prevention and Response (SAPR) during Academic Program Year (APY) 2018-2019. The Department used the Sexual Assault Prevention and Response (SAPR) Program Compliance Assessment Tool and the Sexual Harassment Prevention Program Compliance Assessment Tool to conduct its assessment.

Compliance in each area was determined by comparing USNA's programs to the requirements outlined in governing instructions detailed in each section of this report.

Overall, USNA is in compliance with the Department's policies regarding sexual assault and sexual harassment. The Department found sufficient evidence of compliance in all functional areas. The following pages capture observations on USNA's sexual assault and sexual harassment prevention and response programs.

Sexual Assault Prevention and Response Summary



The Department of the Navy (DON) and Office of the Chief of Naval Operations, 21st Century Sailor Office (OPNAV N17) assessed the United States Naval Academy's (USNA) policies, procedures and training for Sexual Assault Prevention and Response (SAPR) during Academic Program Year (APY) 2018-2019. The Department used the Sexual Assault Prevention and Response (SAPR) Program Compliance Assessment Tool to organize its assessment into six functional areas:

- SAPR Program Policy Requirements
- Reporting Options and Procedures
- Commander Response Procedures
- SARC and SAPR VA Procedures
- Case Management Group
- Training

Compliance in each area was determined by comparing USNA's SAPR prevention and response programs to the requirements outlined in the following instructions:

- DoD Instruction (DoDI) 6495.02, "SAPR Program Procedures," Incorporating Change 2, 7 July 2015;
- Secretary of the Navy Instruction (SECNAVINST) 1752.4B, "Department of the Navy (DON) Policy on SAPR," 8 August 2013;
- Office of the Chief of Naval Operations Instruction (OPNAVINST) 1752.1C, "Navy Sexual Assault Prevention and Response Program," 13 August 2015.

Additionally, the Department referenced United States Naval Academy Instruction (USNAINST) 1752.2G, "Sexual Assault Prevention and Response (SAPR) Program," 4 June 2015.

Overall, USNA is in compliance with the Department's policies regarding sexual assault. The Department found sufficient evidence of compliance in all six functional areas. The following pages capture observations on USNA's sexual assault prevention and response programs.

Functional Area 1: SAPR Program Policy Requirements

USNA is in compliance with DoD, DON and OPNAV policy requirements for SAPR programs.

The SAPR Response Team includes two Sexual Assault Response Coordinators (SARCs) who perform their roles in accordance with policy and procedures, including reporting incidents to the chain of command (as appropriate) and opening a case in the Defense Sexual Assault Incident Database (DSAID) within 48 hours. SARCs have unimpeded access to the Superintendent and the immediate commander of the midshipman victim.

While the permanent Victim Advocate (VA) billet has been vacant, there are 29 collateral duty VAs who maintain a 24-hour, seven days per week sexual assault response capability. USNA is in the process of hiring to the vacant VA billet and anticipates having a new staff member onboard next month.

All SARCs and VAs are Defense Sexual Assault Certification Program (D-SAACP) certified.

Recommendations

High Risk Response Team Meeting

Existing cases have not required USNA to conduct a High Risk Response Team meeting. However, the Department encourages USNA to conduct a mock High Risk Response Team meeting to ensure understanding of the process by all parties involved. This meeting should include, at a minimum, the alleged offender's immediate commander, the victim's SARC and SAPR VA, the Military Criminal Investigation Organization (MCIO), the Judge Advocate, the Victim Witness Assistance Program assigned to the case, the victim's healthcare provider or mental health and counseling services provider, and the person who conducted the safety assessment.

USNAINST 1752.2G

USNAINST 1752.2G, "Sexual Assault Prevention and Response (SAPR) Program," dated 4 June 2015 does not include OPNAVINST 1752.1C, "Navy Sexual Assault Prevention and Response Program," dated 13 August 2015, as a reference. Recommend USNA update the instruction to include all required references. (NOTE: revision in progress)

Functional Area 2: Reporting Options and Procedures

USNA is in compliance with DoD, DON and OPNAV policy requirements for reporting options and procedures.

Communications between the Response Team and the Superintendent are effective, and regular training is held to ensure all parties involved (including midshipmen) understand reporting options and procedures. The Commander is notified about incident reports within 24-hours with the appropriate amount of information (non-PII information only for a restricted report).

The victim's privacy is of the utmost importance. USNA ensures that records of sexual assault are compliant with privacy, security, and records management policies.

Functional Area 3: Commander Response Procedures

USNA is in compliance with DoD, DON and OPNAV policy requirements for Commander response procedures.

USNA has 29 collateral duty VAs who maintain a 24-hour, seven days per week sexual assault response capability. They are trained and able to perform a safety assessment of each sexual assault victim, which is done immediately during the initial report. Watchbill VAs do not occupy positions that compromise the midshipman victim's reporting options. In some cases staff in certain positions, such as Company Officers, are trained as VAs, but they will not be put on the watchbill to avoid the possibility of compromising a restricted reporting option.

The SARC met with the Superintendent prior to him taking command on 26 July 2019 and again on 15 August 2019. The SARC reviewed response policy and procedures with him and ensured he received the SAPR Commander's Guide. The Staff Judge Advocate provided the MRE 514 brief. The SARC and/or Prevention staff provide training and orientation to newly assigned personnel, including midshipmen upon arrival for Plebe Summer, civilians, and military staff.

USNA has Memorandums of Understanding (MOUs) with two different civilian medical facilities which include requirements for handling forensic kits and processes for contacting the SARC and the appropriate DoD agency responsible for accepting custody of the Sexual Assault Forensic Examination (SAFE). The Sexual Assault Nurse Examiner (SANE) program at Mercy Medical Center in Baltimore is an excellent resource for the Naval Academy. The current fellowship program offers the opportunity for military SAFE providers to shadow Mercy Medical Center SANE nurses as a way to gain experience, competency, and confidence when providing a SAFE.

Functional Area 4: SARC and SAPR VA Procedures

USNA is in compliance with DoD, DON and OPNAV policy requirements for SARC and SAPR VA procedures.

The SAPR Response Team at USNA consists of two full-time SARCs, one full-time SAPR VA (currently being hired), and 29 collateral duty VAs to provide services for the Brigade of Midshipmen, faculty, and staff. All SARCs and VAs are Defense Sexual Assault Advocate Certification Program (D-SAACP) certified.

The SARC gives the victim a hard copy of the DD Form 2910 with the victim's signature, and advises the victim to keep the copy of the DD Form 2910 and the DD Form 2911 in their personal permanent records. The SARC provides the victim all pertinent information about confidentiality issues, documentation requirements, eligibility for services and resources available in the event of retaliation, reprisal, ostracism, maltreatment, or sexual harassment. The SARC does assist with annual training, but the Director of Prevention Education organizes and manages training requirements and execution at USNA.

The DoD Safe Helpline and other outreach materials are widely distributed at USNA. In addition, the SAPR website and internal intranet also serve as important resources for victims seeking information. The public page provides information on how to get help, how to help a friend or loved one, reporting options, and the 24-hour response line phone number.

Recommendation

Community Engagement

For more than a year USNA has been operating with two Sexual Assault Response Coordinators (SARCs) but no permanent staff Victim Advocates (VAs). This has caused the SARCs to fill the role as VAs. Because of this staffing shortage, SARCs have not had the opportunity to conduct coordination meetings with outside agencies and organizations that are part of the response team, such as DoD law enforcement, MCIOs and civilian authorities. Once the vacant VA position is filled, USNA should resume the practice of conducting regular engagement with outside agencies.

Functional Area 5: Case Management Group

USNA is in compliance with DoD, DON and OPNAV policy requirements for Case Management Group (CMG) procedures with one exception.

The Superintendent acts as CMG Chair and conducts monthly meetings to review individual cases, facilitate monthly victim updates, and direct system coordination, accountability, entry of disposition and victim access to quality services, and to ensure training, processes, and procedures are complete for the system coordination. The lead SARC serves as the co-chair of the CMG. All required CMG members actively participate each month.

The CMG chair ensures retaliation, reprisal, ostracism, or maltreatment allegations involving the victim, SARCs, and SAPR VAs remain on the CMG agenda for status updates until the victim's case is closed or until the allegation has been appropriately addressed.

Due to the size of the command and the rank difference between Superintendent (CO) and victims (midshipmen), USNA has the Battalion Officer, Company Officer or Senior Enlisted Advisor (SEL) participate in the CMG and provide the de-brief to the victim. They are only present in the meeting when their midshipman is being briefed, and they provide the CMG updates on the victim's performance in company, academic or other concerns, and discuss any issues with retaliation. USNA believes that requiring the victim to meet monthly with the Superintendent would be a barrier to reporting. However, each victim is advised that they can request a one-on-one with the Superintendent at any time.

Recommendation

Exception to Policy

USNA should request an official exception to policy from OPNAV N17 for the practice of having Battalion Officers, Company Officers or SELs attend the SACMG and conduct monthly case de-briefs on behalf of the Superintendent.

Functional Area 6: Training

USNA is in compliance with DoD, DON and OPNAV policy requirements for Training.

Every new midshipman receives initial SAPR training on Induction Day, followed by more comprehensive training in the first few weeks of Plebe Summer. Training includes DoD definitions and policy on sexual assault, reporting options, and resources available for victims.

All service members receive annual training on the SAPR program, including policies and procedures. Each different audience (civilians, military staff, midshipmen) receives training separately. Different offices maintain training records for each group.

For more than a year USNA has been operating with two Sexual Assault Response Coordinators (SARCs) but no permanent staff Victim Advocates (VAs). This has caused the SARCs to fill the role as VAs. Because of this staffing shortage, SAPR VAs have not been conducting regular face-to-face training in addition to the initial qualification process. With the permanent VA position vacant, the SARCs have had large caseloads, compromising their ability to provide additional training and engagement with the VAs. However, VAs are provided numerous opportunities to receive training and earn Continuing Education Units (CEUs).

Recommendations

Training Accountability

Consolidate tracking for training under one office to ensure accountability for all members of the command.

Collateral Duty VA Training

Once the vacant VA position is filled, USNA should resume the practice of conducting quarterly engagement/training with collateral duty VAs.

Sexual Harassment Program Summary



The Department of the Navy (DON) and Office of the Chief of Naval Operations, 21st Century Sailor Office (OPNAV N17) assessed the United States Naval Academy's (USNA) policies, procedures and training for Sexual Harassment Prevention and Response during Academic Program Year (APY) 2018-2019. The Department used the Sexual Harassment Prevention Program Compliance Assessment Tool to organize its assessment into six functional areas:

- Sexual Harassment Program Policy Requirements
- Processing Sexual Harassment Complaints
- Responding to Sexual Harassment Complaints
- Training
- Data Collection and Reporting Requirements
- Command Climate Assessments

Overall, USNA is in compliance with the Department's policies regarding sexual harassment. The Department found sufficient evidence of compliance in all six functional areas. Compliance in each functional area was determined by comparing USNA's Sexual Harassment Prevention and Response programs to the requirements outlined in the following instructions:

- DoDI 1020.03, "Harassment Prevention and Response in the Armed Forces," 8 February 2018;
- Department of Defense Directive (DoDD) 7050.06, "Military Whistleblower Protection for Reprisal," 4 April 2015;
- OPNAVINST 5354.1G, "Navy Equal Opportunity Program Manual," 24 July 2017;
- OPNAVINST 5300.13, "Navy Sexual Harassment Prevention and Response Program Manual," 24 July 2017.

Additionally, the Department referenced the USNAINST 5354.1B, "Command Managed Equal Opportunity Program," 12 February 2019.

The following pages capture observations on USNA's Sexual Harassment Prevention and Response programs functional areas.

Functional Area 1: Sexual Harassment Program Policy Requirements

USNA is in compliance with DoD, DON, and OPNAV policy requirements for Sexual Harassment programs.

The USNA includes one Command Climate Specialist (CCS) serving as primary advisor and subject matter expert to Command Managed Equal Opportunity (CMEO) managers, and provides assistance to other members in the chain of command on Equal Opportunity (EO) and Sexual Harassment issues and concerns.

While the CMEO Program met policy requirements, it was recommended additional CMEOs be designated because of the amount of midshipmen at the USNA. Since the Sexual Assault Prevention and Response Office (SAPRO) in-brief of June 2019, four (4) additional CMEO Program Managers were trained and designated, bringing the total to six (6) at USNA (UIC 00161).

The CMEO Program Managers serves for a minimum of 24 months and closely coordinate with the USNA CCS. Specific duties include the following: serve as coordinator for command survey and assessments, coordinate and monitor all command EO and Sexual Harassment training; ensure formal, informal and anonymous complaints are submitted per established guidelines and timelines; ensure personnel who manage the EO and Sexual Harassment complaint process (CCS/CMEO Program Managers) do not normally perform investigations into EO and Sexual Harassment issues; and perform other EO and Sexual Harassment related duties as assigned by the Superintendent, Commandant or NAPS Commanding Officer, as applicable.

All CCS and CMEOs have completed required schools and have been designated in writing to perform their duties in accordance with policy. In addition, USNA has 23 trained Command Resilience Team (CRT) members to conduct a command climate assessment and inform leaders of climate concerns in support of the Brigade, faculty and staff.

Although USNA has not established a 24-hour toll free or local hotline (or advice line), the USNA actively uses the Navy Sexual Harassment advice line and Inspector General hotline and emails, which are prominently displayed on EO Sexual Harassment posters. In addition, Sexual Harassment Response Team members perform their roles in accordance with policy and procedures, including reporting incidents to the chain of command (as appropriate), and maintain a 24-hour, seven days per week sexual harassment response capability.

Recommendations

External Collaboration with Quarterly Military Service Academy Harassment Prevention Working Group

Highly encourage USNA to collaborate externally with other Services. The Office for Diversity, Equity, and Inclusion established a Department working group for CCS, CMEO and Military Service Academy (MSA) EO representatives to meet regularly with Military Services' Directors and Leaders to discuss updates to policy, best practices, and areas of concerns.

Functional Area 2: Processing Sexual Harassment Complaints

USNA is in compliance with DoD, DON, and OPNAV policy requirements for reporting options and procedures.

Communications between the CCS, CMEO Program Managers, and the Superintendent are effective, and regular training is held to ensure all parties involved (including midshipmen) understand reporting options and procedures for both informal and formal complaints (including anonymous). The Superintendent is notified about incident reports within 72 hours of receipt of a formal complaint.

Also, the complainant is notified when an investigation begins, provided information about the investigation process and support resources available (on and off-base), and provided appeal rights.

Functional Area 3: Responding to Sexual Harassment Complaints

USNA is in compliance with DoD, DON, and OPNAV policy requirements for Commander response procedures.

USNA maintains a 24-hour, seven days per week sexual harassment response capability, which also includes on-call (as required) representatives by Chaplains, Midshipmen Development Center, and Fleet and Family Support Center.

All midshipmen are informed of reporting options, procedures, available support resources, points of contact, and process of appealing administrative findings of complaints. Complainants are notified when an investigation begins, and they are provided with information about the investigation process as well as support and resources available. They are notified whether the complaint was found to be substantiated or unsubstantiated, to include any resolution.

The Superintendent ensures appropriate administrative or disciplinary action is taken against midshipmen in cases involving substantiated sexual harassment complaints and ensures MSA leaders at all levels assist and support sexual harassment complainants.

Functional Area 4: Training

USNA is in compliance with DoD, DON, and OPNAV policy requirements for training.

Every new midshipman receives initial Sexual Harassment Prevention and Response training on Induction Day, followed by more comprehensive training in the first few weeks of Plebe Summer. Training includes DoD definitions and policy on sexual harassment, reporting options, retaliation, investigation procedures, and resources available for complainants.

All service members receive annual training on the Sexual Harassment Prevention and Response program, including policies and procedures. Each different audience (civilians,

military staff, and midshipmen) receives training separately. Different offices maintain training records for each group.

USNA previously had one CMEO Program Manager to support 4,400 midshipmen on equal opportunity, discrimination, command climate, and sexual harassment prevention and response. A manpower review was conducted during the DoD on-site visit by the Navy to ensure this staffing shortage was addressed. USNA is currently operating with a total of six (6) CMEOs who have completed formal training and have been designated by the Chief of Staff and Commandant of Midshipmen to collectively address all CMEO matters.

Recommendations

Training Compliance

Add scenario-based training specific to the academy environment for the company grade officers and senior enlisted leaders on sexual harassment prevention. Include Spectrum of Sexual Misconduct diagram to identify, detect, and address sexual harassment, sexual assault, and problematic behaviors, including inappropriate use of electronic communications, social media, and nonconsensual use of private sexual images.

Defense Equal Opportunity Management Institute (DEOMI) should review USNA sexual harassment curriculum/training in accordance with DoDD 1350.2, "Military Equal Opportunity Program," and DoDI 1020.03.

Command Climate Specialist and Command Managed Equal Opportunity Refresher Training

With DEOMI's October 2018 implementation of the updated curriculum that incorporates the Centers for Disease Control and Prevention guiding principles on sexual violence, recommend CCS, CMEO Program Manager and MSA EO representatives be provided a refresher course and/or additional development training.

Functional Area 5: Data Collection and Reporting Requirements

USNA is in compliance with DoD, DON, and OPNAV policy requirements for Data Collection and Reporting Requirements.

USNA collects and tracks data on harassment (including sexual harassment) of informal, formal and anonymous complaints. The data collected includes:

- The number of substantiated and unsubstantiated reports;
- Substantiated incidents of sexual harassment, demographics of the complainant and alleged offenders;
- The relationship between the alleged offender, the complainant, and the duty status;
- A narrative description of alleged incident(s) including use of social media, and the adjudication and disposition of substantiated complaints;
- The action taken in the case of each substantiated report, including the type of disciplinary or administrative sanction imposed; and

- Retaliation complaints associated with complaints of sexual harassment.

Functional Area 6: Command Climate Assessments

USNA is in compliance with DoD, DON, and OPNAV policy requirements for Command Climate Assessments (CCAs).

The Superintendent's direction to the Commandant of Midshipmen mandates the CCA program by ensuring the Military Service Academy DEOMI Organizational Climate Survey (MSA DEOCS) for Brigade of Midshipmen is conducted within 120 days after commander's assumption of command and annually thereafter. A roll up report plan of action and executive summary of the survey are provided to the Brigade leadership and company reports are distributed to respective companies no later than 10 days after completion of a complete assessment.

Recommendations

Timeliness of Military Equal Opportunity Climate Survey Assessment Report

Upon completion of the MSA DEOCS and climate assessment, the Commandant of Midshipmen will provide the final assessment and plan of action to company leadership to brief midshipmen on assessment results and implementation plan no later than 15 January annually.