Appendix D
EO/Sexual Harassment Complaint Processing System
D–1. Entering the complaints processing system

The EO complaints processing system addresses complaints that allege unlawful discrimination or unfair treatment on the basis of race, color, religion, gender, and national origin. Attempts should always be made to solve the problem at the lowest possible level within an organization. Complaints by civilian personnel alleging discrimination should be handled in accordance with the procedures contained in AR 690–600, or as described in DOD and Department of the Army policy implementing 10 U.S. Code 1561, or as provided for in any applicable collective bargaining agreement.

a. Informal complaint.

(1) An informal complaint is any complaint that a Soldier or Family member does not wish to file in writing. Informal complaints may be resolved directly by the individual, with the help of another unit member, the commander or other person in the complainant's chain of command. Typically, those issues that can be taken care of informally can be resolved through discussion, problem identification, and clarification of the issues. An informal complaint is not subject to time suspense. Accumulative numbers may be reported to MACOMS per their request on all informal complaints resolved through commander's inquiry and/or AR 15–6 investigating officer. It is recommended that anyone working on the resolution of informal complaints should prepare a memorandum of record (MFR). The MFR should include information indicating nature of complaint and identifying pertinent information to assist in the identification of unit's command climate.

(2) Although the processing of EO complaints through the unit chain of command is strongly encouraged, it will not serve as the only channel available to Soldiers to resolve complaints. Should the complainant feel uncomfortable in filing a complaint with his/her unit chain of command, or should the complaint be against a member of that chain of command, a number of alternative agencies exist through which the issues may be identified for resolution. Each of these agencies provides expertise in very specific subject areas. Commanders will not preclude Soldiers from using these channels in accordance with the procedures inherent/established by these agencies:

(a) Someone in a higher echelon of the complainant's chain of command.

(b) Inspector General.

(c) Chaplain.

(d) Provost Marshal.

(e) Medical agency personnel.

(f) Staff Judge Advocate.

(g) Chief, Community Housing Referral and Relocation Services Office (CHRRS).

(3) In some informal complaints, the person or agency receiving the complaint may be able to resolve the issue while maintaining the confidentiality of the complainant, as in the case of the chaplain or a lawyer. While maintenance of confidentiality should be attempted, it will neither be guaranteed nor promised to the complainant by agencies other than the chaplain or a lawyer.

(4) Initial actions by these alternative agencies are the same for informal and formal complaints. Any alternative agency that receives an informal complaint of unlawful discrimination or sexual harassment has the obligation to talk with the complainant. The agency should advise the complainant of his/her rights and responsibilities; listen to the complainant and find out as much information as possible concerning the complaint (including what the reasons are behind the complaint and why the individual is using the alternative agency opposed to his or her chain of command); tell the complainant what role that agency has (for example, direct action on behalf of the complainant, information gathering, or referral to another agency or the commander for their action); what support services are available from other organizations that may help resolve the issues; explain the complaint system (principally, the differences between informal and formal complaints); and, then attempt to assure resolution of the issue (through mediation, intervention, counseling, training, and so forth).

(5) The commander must eliminate underlying causes of all complaints. More members of the unit, other than complainant and subject, are affected by complaints, especially those that go unresolved.

b. Formal complaint.

(1) A formal complaint is one that a complainant files in writing and swears to the accuracy of the information. Formal complaints require specific actions, are subject to timelines, and require documentation of the actions taken.

(2) An individual files a formal complaint using a DA Form 7279 (Equal Opportunity Complaint Form).

(3) In Part I of DA Form 7279, the complainant will specify the alleged concern, provide the names of the parties involved and witnesses, describe the incident(s)/behavior(s), and indicate the date(s) of the occurrence(s). For EO complaints, the complainant will also state the EO basis of the complaint (for example, unlawful discrimination

based upon race, color, religion, gender, or national origin. Complainant will be advised of the importance of describing the incident(s) in as much detail as possible to assist in the investigative process).
(4) The block entitled, "Requested Remedy" serves a variety of purposes for both the complainant and the command. The information in this block can vary in terms of the complainant's expectations of the investigative process and his or her reasonableness and credibility. If expectations that are not likely to be met come to the surface, they should be dispelled by the receiving agency (during acceptance of the complaint) through an explanation of the process and the possible outcomes. If the complainant's response is vindictive, vengeful, or malicious, and seems extreme in light of the events or circumstances, this may be helpful to the commander or investigating officer in terms of motive and believability.
(5) Soldiers have 60 calendar days from the date of the alleged incident in which to file a formal complaint. This time limit is established to set reasonable parameters for the inquiry or investigation and resolution of complaints, to include ensuring the availability of witnesses, accurate recollection of events, and timely remedial action. If a complaint is received after 60 calendar days, the commander may conduct an investigation into the allegations or appoint an investigating officer according to paragraph 5, below. In deciding whether to conduct an investigation, the commander should consider the reason for the delay, the availability of witnesses, and whether a full and fair inquiry or investigation can be conducted.
(6) The complainant should file his or her complaint with the commander at the lowest echelon of command at which the complainant may be assured of receiving a thorough, expeditious, and unbiased investigation of the allegations. Depending on the various aspects of the complaint and individuals involved, that lowest level commander may not be the immediate company or even battalion level commander of the complainant.

D–2. Actions of alternative agencies

The agencies listed in paragraph 1*a*(2) of this appendix also serve as alternative avenues available to Soldiers for registering formal EO complaints. Initial actions by these alternative agencies are the same for informal and formal complaints. Upon receipt of a formal EO complaint of unlawful discrimination or sexual harassment, the alternative agency has the obligation to talk with the complainant, advise him/her of his/her rights and responsibilities, find out as much information as possible concerning the complaint (including what the reasons were for using the alternative agency and what the complainant's expectations might be for resolution of the complaint). The agency should also tell the complainant what role that agency has (action, information gathering, or referral to another agency or the commander for their action), what support services are available from other organizations, what the complaint processing procedures are (principally, the differences between informal and formal complaints) and what will be done with the individual's complaint. Receipt of formal complaints by any alternative agency (except Inspector General) will be annotated in writing on the DA Form 7279, Part I, item 9. If the alternative agency decides not to do an inquiry or conduct its own investigation and decides to refer the complaint to another agency or to the appropriate commander for his/her investigation, that referral must be made within 3 calendar days (at the next MUTA 4 or other regularly scheduled training for Army Reserve TPU Soldiers). For the purposes of receiving EO complaints, any commissioned officer is authorized to administer oaths and should do so in block 9a, DA Form 7279, prior to referring the complaint to the appropriate commander. The commander or agency receiving the referral will acknowledge receipt of the complaint in writing (DA Form 7279, Part I, item 11). In cases where the complaint is best resolved by the chain of command, the alternative agency refers the complaint to the commander at the lowest echelon of command at which the complainant may be assured of receiving a thorough, expeditious, and unbiased investigation of the allegations.
a. If during the course of an inquiry or investigation the receiving agency or commander identifies criminal activity, the complaint will be immediately referred to the proper agency (Provost Marshal or CID) for investigation. Refer to chapter 8 of this regulation for incidents of sexual assault.
b. Allegations of unlawful discrimination in housing, both on and off post, will be referred to the housing division for processing under the provisions of AR 210–50.
c. If a complaint is filed against a promotable colonel, an active or retired general officer, inspectors general of any component, members of the Senior Executive Service, or Executive Schedule personnel, the allegation will be transferred directly to the Investigations Division, U.S. Army Inspector General Agency, ATTN: SAIG–IN, Pentagon, Washington, DC 20310–1700 by rapid but confidential means within 5 calendar days of receipt.

D–3. Complaints filed with the Inspector General

a. Complaints filed with the Inspector General will be processed as Inspector General Action Requests (IGARS),

according to AR 20–1, rather than under the procedures outlined in this regulation. As such, no timelines will be imposed on the conduct of the investigation and/or on feedback to the complainant, and DA Form 7279 will not be maintained.
b. Inspector General investigations are confidential and protected from unauthorized disclosure. They will include consultations with persons or activities as deemed appropriate by the Inspector General.
c. Receipt of the complaint will be acknowledged to the complainant and an estimated completion date provided. If the action is not completed by that date, the complainant will be notified and given a new estimated completion date.

D–4. Actions of the commander upon receipt of complaint

a. Upon receipt of a complaint, the commander is required to identify and rectify sexual harassment and the five factors of unlawful discrimination, to include race, color, gender, religion and national origin. The commander will ensure that the complainant has been sworn to the complaint (DA Form 7279, block 9). If not, the commander will administer the oath and annotate it on the complaint form. The commander will fill out block 11 acknowledging receipt of the complaint form. All formal complaints will be reported within 3 calendar days to the first General Courts- Martial Convening Authority (GCMCA) in the chain of command. Additionally, the commander will provide a progress report to the GCMCA authority 21 days after the date on which the investigation commenced and 14 days thereafter until completion.
b. The commander will either conduct an investigation personally or immediately appoint an investigating officer according to the provisions of AR 15–6. Depending on the magnitude of the complaint, the commander may deem it necessary to ask the next senior commander in the chain of command to appoint the investigating officer.
c. The commander will establish and implement a plan to protect the complainant, any named witnesses, and the subject from acts of reprisal. The plan will include, as a minimum, specified meetings and discussions with the complainant, subject, named witnesses, and selected members of the chain of command and coworkers.
(1) Content of the discussions with the above named individuals will include the definition of reprisal with examples of such behavior; the Army's policy prohibiting reprisal; the complainant's rights and extent of whistleblower protection afforded complainants, witnesses, and the subject under DOD Directive 7050.6; encouragement to all the aforementioned individuals to report incidents and/or threats of reprisal; the procedures to report acts and/or threats of reprisal; the consequences of reprisal; possible sanctions against violators; a reminder of the roles and responsibilities of the leadership in the prevention of reprisal and protection of all parties involved; the command's support of a thorough, expeditious and unbiased investigation and good faith in attempting to resolve the complaint; and the need to treat all parties in a professional manner both during and following the conduct of the investigation.
(2) Discretion will be used to determine the extent of information provided and the numbers of personnel addressed in the discussions with the chain of command and coworkers. Investigating officers will treat all those they interview professionally and courteously and will limit their discussion to only those issues relating to the specific complaint.
(3) To prevent the plan from becoming an administrative burden, the plan need only consist of a one-page list (in bullet format) of actions to be accomplished. The commander will annotate the names of the personnel addressed and initial and date the actions as they are completed. The commander will provide a copy of the completed plan to the investigating officer and the EOA. The investigating officer will include the commander's plan to prevent reprisal as an exhibit in the investigative findings. The EOA will retain a copy of the commander's plan to prevent reprisal with the completed case file and use the plan to conduct follow-up assessment of the complaint.

D–5. Timeliness of action

Rapid resolution of EO complaints is in the best interest of both the complainant and the command. Commanders receiving a complaint involving Army Reserve or Army National Guard Soldiers on active duty will make every attempt to resolve the complaint prior to the completion of the Soldiers' active duty tour. If necessary, the Army National Guard Soldiers will remain on active duty until the final resolution of the complaint. After receipt of the complaint, the commander to whom the complaint was given has 14 calendar days (or three MUTA 4 drill periods for Army Reserve TPU Soldiers) in which to conduct an investigation, either personally or through appointment of an investigating officer. If the complaint was referred to the commander from an alternate agency, or if the commander refers the complaint to an alternate agency, the 14 calendar days begins from the date the complaint was referred. If, due to extenuating circumstances, it becomes impossible to conduct a complete investigation within the 14 calendar days allowed (or three MUTA 4 drill periods for Army Reserve TPU Soldiers, that commander may obtain an extension from the next higher commander for usually not more than 30 calendar days (or two MUTA 4 drill periods for Army Reserve TPU Soldiers. After the initial 14-day suspense, all requests for extension must be

requested in writing from the next higher echelon commander. Upon receipt of an extension, the commander must inform the complainant of the extension, its duration, and the reasons for which it was requested. Any additional extensions must be approved in writing by the first general officer in the chain of command. Failure to adhere to prescribed timelines will result in automatic referral of the complaint to the next higher echelon commander for investigation and resolution.

D–6. Conduct of the investigation

a. Investigation. The purpose of any investigation of unlawful discrimination or sexual harassment is to determine to the maximum extent possible what actually occurred, to assess the validity of allegations made by the complainant, to advise the commander of any leadership or management concerns that might contribute to perceptions of unlawful discrimination and poor unit command climate, and to recommend appropriate corrective actions. The commanding officer is responsible for ensuring the investigation is complete, thorough, and unbiased.

b. Initial actions. The commander who acts as the appointing authority will provide the investigating officer (IO) a copy of orders assigning him or her as the IO officer and the initiated DA Form 7279, which identifies the complainant and lists the allegations to be investigated. The IO will review AR 15–6 and AR 600–20 to review procedures applicable to the conduct of the investigation. Should the commander elect to investigate the allegations him- or herself, the procedures for investigating officer apply to the commander.

c. Legal advice. The investigating officer will meet with the servicing staff judge advocate or legal advisor to review how the conduct of the investigation should be conducted under AR 15–6 and AR 600–20. The discussion should include the specific requirements of both regulations, advice on how investigations are conducted, and advice on how to question an interviewee who is suspected of committing a violation of the UCMJ. After the investigating officer completes the investigation, the packet must be submitted for legal review.

d. EOA assistance. The investigating officer (the commander or appointed investigating officer) will meet with the unit's EO advisor prior to conducting the investigation. The EOA will assist the investigating officer in the development of questions to be addressed to the complainant, the subject and any witnesses or third parties. The EOA's skills in complaint handling, conflict resolution, and training in the subtleties of discrimination and sexual harassment enable him or her to advise investigative officers in these complex areas. The EOA will ensure the focus of the investigation is placed squarely on assessing the validity of the allegations and avoids shifting the focus of the investigation against the complainant. The EOA will remain available to the investigating officer for consultation and assistance throughout the conduct of the investigation.

e. Conduct of interviews. The investigating officer must interview every individual who may have firsthand knowledge of the facts surrounding the validity of the allegations. The investigating officer must also interview everyone who can substantiate the relationship or corroborate the relationship between the complainant and the subject. The investigating officer must interview the person who initially received the formal complaint, the complainant(s), any named witnesses, and the subject. The investigating officer should normally interview the subject after interviewing other witnesses, so that he or she will have a complete understanding of the alleged incident. If needed prior to the conclusion of the investigation, the investigating officer should conduct a second interview of the complainant and the subject. The investigating officer may choose to re-interview certain witnesses for clarification of conflicting statements. Should unit policies or procedures be called into question as contributing factors to perceptions of unlawful discrimination or hostile environment, the investigating officer will interview responsible members of the chain of command. It may be advisable to interview coworkers of the complainant and the subject for knowledge they may have about the alleged incidents or the relationship that exists between the complainant and subject.

f. Identification of criminal act. If, when interviewing any Soldier, including the subject, the investigating officer reasonably suspects that the individual has committed an offense in violation of the UCMJ, the investigating officer must advise the Soldier of his/her rights under Article 31, UCMJ. Investigating officers should consult with their servicing judge advocate or legal advisor before giving Article 31 rights warnings, and should record the suspect's election on DA Form 3881 (Rights Warning Procedure/Waiver Certificate). If the Soldier being questioned asks for a lawyer (that is, asserts his or her right to counsel), questioning must stop immediately and the interview must be terminated. Questioning may resume only in the presence of a lawyer, if the Soldier initiates further discussion or if the Soldier has consulted with a lawyer and thereafter waives his/her rights pursuant to a proper rights advisement. Similarly, questioning of a Soldier must stop immediately if a Soldier indicates the desire to remain silent. Once this right is asserted, questioning may resume only if the Soldier initiates further questioning or if after an appropriate interval, the Soldier waives his or her rights pursuant to a proper rights advisement. (See Article 31, UCMJ; Military Rules of Evidence 304 and 305, Manual for Courts-Martial).

g. Supporting documents. The investigating officer should secure copies of any documents that might substantiate or refute the testimony of the complainant, subject, or named witnesses. These documents may include copies of unit and personnel records and the complainant's personal documents. The investigating officer will also procure a copy of the commander's plan to prevent reprisal for inclusion in the final report of investigation.
h. Unit climate, policies and procedures. During the course of the investigation, the investigative officer should note concerns or observations of unit policy, procedures, and individual leadership or management techniques that may have a dysfunctional effect upon unit climate and foster discriminatory behavior and/or a hostile environment.
i. Investigative findings and recommendations. When the investigation is completed, the investigating officer should review the evidence, determine if the investigation adequately addresses allegations, make factual findings about what occurred, and provide recommendations consistent with the findings.
j. EOA review. Prior to submission of the report to the appointing authority, the investigating officer and EOA will meet and review the report. The EOA will attach a memorandum documenting his/her review.
k. Investigative report. The following items are required enclosures to the report presented to the appointing authority—
(1) Orders of appointment as investigating officer.
(2) Copy of the DA Form 7279 with attached continuation sheets.
(3) Copy of the completed/initialed commander's plan to prevent reprisal.
(4) List of questions developed with EO advisor.
(5) Statements/synopses of interviews with complainant(s), named witnesses, and subject(s) and relevant members of the chain(s) of command.
(6) Copies of supporting documents.
(7) Description/assessment of unit policies, procedures that may have contributed to perceptions of unlawful discrimination or sexual harassment within the unit.
(8) Written approval of next higher echelon commander for any approved extensions.
(9) Written explanation of extenuating circumstances that prevented the investigating officer from interviewing any named witnesses, complainants, or subjects.
(10) Written review by the EO advisor.

D–7. Actions by the appointing authority (commander) upon receipt of the report of the investigation

The appointing authority will submit the report of investigation to the servicing staff or command judge advocate for a determination of legal sufficiency. After the legal review is completed, the appointing authority will decide whether further investigation is necessary or whether to approve all or part of the findings and recommendations. If the appointing authority is senior to the subject's commander, the appointing authority may refer the matter to that unit commander for appropriate action(s), unless the appointing authority or a more senior commander has reserved authority to take action on EO matters.
a. Actions to resolve complaints. A complaint is resolved by action to restore benefits and privileges lost because of unlawful discrimination or sexual harassment. Punitive or administrative actions against an offender do not necessarily change offending behaviors or rectify the situation for the individual complainant or unit. Commanders will take corrective action to preclude recurrence of discriminatory or sexually harassing conduct and address any management deficiencies or other contributing factors that caused the allegations to be raised. Commanders will also look at the causes of why complainants raised unsubstantiated complaints. Actions taken (or to be taken) by the commander and the chain of command will be annotated on DA Form 7279, Part III. Specific actions taken against the perpetrator will not be annotated on the form. This information will be discussed with the complainant. The commander and/or EOA will also inform the complainant and the subject(s) of the complaint of his/her right to appeal and make them aware of timelines and procedures to file that appeal. The complainant and subject(s) will sign and date the DA Form 7279 to acknowledge receiving this information. This acknowledgment does not necessarily signify the complainant's agreement with the findings or actions taken to resolve the complaint.
(1) Actions upon substantiated complaint(s). A substantiated EO discrimination or sexual harassment complaint is a complaint that, after the completion of an inquiry or investigation, provides evidence to indicate that the complainant was more likely than not treated differently because of his or her race, color, national origin, gender, or religious affiliation. The standard of proof is a "preponderance of the evidence" standard. This means that the findings of the investigation must be supported by a greater weight of evidence than supports a contrary conclusion, or-in other words evidence that, after considering everything that is presented, points to one particular conclusion as being more credible and probable than any other conclusion. The "weight of the evidence" is not determined by the

number of witnesses or volume of exhibits, but by considering all the evidence and evaluating such factors as the witness's demeanor, opportunity for knowledge, information possessed, ability to recall and relate events, and other indications of veracity. When an allegation of discrimination is substantiated, that finding is annotated on the DA Form 7279, Part II. The commander must decide what corrective action to take. Corrective action may be administrative or punitive.

(a) Administrative action. Offenders will, as a minimum, undergo counseling by a member of the chain of command, presumably their company-level commander. Commanders have the full range of administrative actions available to them to deal with offenders of Army policy on EO (including the prevention/eradication of sexual harassment), to include discharge from the Service, bar to reenlistment, adverse performance evaluations and/or specific comments concerning nonsupport of EO/EEO programs on evaluation reports, relief for cause, administrative reduction, admonition, reprimand, administrative withholding of privileges, and rehabilitative transfer to another unit. Commanders should determine whether the victim desires to be transferred to another unit, but they should not subject the complainant to "double victimization" by requiring that he or she be transferred to another unit while leaving the offender in the unit.

(b) UCMJ. Violators of Army policies on EO and the prevention/eradication of sexual harassment, whose conduct violates a punitive article of the UCMJ, may be charged and prosecuted. Nonjudicial punishments (for example, Article 15) will be posted in the unit area in accordance with AR 27–10. Courts-Martial convictions may be published in installation newspapers and/or posted in the unit area where deemed appropriate.

(2) Actions upon an unsubstantiated complaint. An unsubstantiated complaint is one for which the preponderance of evidence (that is, the greater weight of evidence) does not support and verify that the alleged unlawful discrimination or sexual harassment occurred. In this situation, the commander should determine whether the allegations, though unsubstantiated, might be indicative of problems in the unit that require resolution through EO initiatives or other leadership actions. Should the complaint be found unsubstantiated, the commander will notify the complainant in writing (DA Form 7279s, Part II) and, consistent with the limitations of the Privacy Act and the Freedom of Information Act (FOIA), provide the complainant with a copy of the results of the investigation. The complainant will sign and date the DA Form 7279 to acknowledge receiving this information. This acknowledgment does not necessarily signify the complainant's agreement with the actions taken.

(3) Actions to resolve complaints should focus on changing inappropriate behavior of offending personnel and avoid targeting the complainant. The complainant's job and status should not be affected unless he or she requests such a remedy, and the chain of command will do so only after weighing the impact on readiness.

b. Feedback. The commander will provide periodic feedback, throughout the process, to the complainant and the subject on the status of the investigation.

(1) The commander will provide written feedback to the complainant not later than the 14th calendar day (by the end of the third MUTA 4 period for Reserve components) after receiving the complaint and then provide updates every 14 calendar days (three MUTA 4 drill periods) until final resolution. Written feedback should incorporate any verbal updates provided to the complainant. Written feedback will be as complete as possible consistent with limitations of the Privacy Act and the FOIA. Whenever possible, the commander should meet with the complainant to discuss the status of the investigation, to include findings and actions to resolve the issue. Oral feedback should be consistent with the limitations of the Privacy Act and the FOIA.

(2) Commanders will also provide written feedback to the subject on the outcome of the investigation and subsequent actions to be taken by the chain of command. The chain of command is advised to use discretion in limiting feedback to personnel involved. This feedback should also be consistent with the limitations of the Privacy Act and the FOIA.

D–8. Appeals process

If the complainant perceives the investigation failed to reveal all relevant facts to substantiate the allegations, or that the actions taken by the command on his or her behalf were insufficient to resolve the complaint, the complainant has the right to appeal to the next higher commander in his or her chain of command. The complainant may not appeal the action taken against the perpetrator, if any is taken. If subject(s) of the complaint perceive the investigation has failed to reveal all relevant facts to prove his or her innocence, he or she has the right to appeal to the next higher commander in his or her chain of command. Geographically remote units, field operating agencies, and various other organizations (including tenant units on the installation) will promulgate memoranda of understanding or installation standing support agreements between the installation (supporting) commander and their units. These documents will serve to provide the necessary guidance to unit personnel for the courses of action

to be taken with appeals. EO appeals that may potentially leave the Army chain of command must be forwarded to HQDA, ODCS, G–1, ATTN:DAPE–HR–L for resolution.
a. The appeal must be presented within 7 calendar days (at the next MUTA 4 drill period for Reserve components) following notification of the results of investigation and acknowledgment of the actions of the command to resolve the complaint. The complainant must provide a brief statement that identifies the basis of the appeal. This will be done in writing on the DA Form 7279, Part IV, and the complaint form will be returned to the commander in the chain of command who either conducted the investigation or appointed the investigating officer.
b. Once the appeal is initiated by the complainant, the commander has three calendar days (or one MUTA 4 drill period for Reserve components) to refer the appeal to the next higher unit commander (or installation commander for those tenant units with Memoranda of Understanding that designate an appellate authority).
c. The commander to which the appeal is made has 14 calendar days (or three MUTA 4 periods for Reserve components) to review the case and act on the appeal (that is, approve it, deny it, or conduct an additional investigation). Not later than the 14th calendar day following receipt of the appeal (or appropriate RC timelines), this commander will provide written feedback, consistent with Privacy Act and FOIA limitations, to the complainant on the results of the appeal. This process applies equally to subsequent appeals submitted through the chain of command.

D–9. Final resolution upon appeal

Complaints that are not resolved at brigade level may be appealed to the General Courts-Martial Convening Authority. The only exception to this is where organizations have memorandums of understanding or support that delegate Uniform Code of Military Justice authority to a local commander. Decisions at this level are final.

D–10. Follow-up assessment

The EO advisor (EOA) will conduct a follow-up assessment of all formal EO and sexual harassment complaints, both for substantiated and unsubstantiated complaints, 30 to 45 calendar days (four to six MUTA 4 drill periods for Reserve components) following the final decision rendered on the complaint. The purpose of the assessment is to measure the effectiveness of the actions taken and to detect and deter any acts or threats of reprisal. The EOA will also assess the complainant's satisfaction with the procedures followed in the complaint process to include timeliness, staff responsiveness and helpfulness, and resolution of the complaint. The findings of this assessment will be annotated on DA Form 7279–1 (EO Complaint Resolution Assessment) and maintained by the EOA. The EOA will present findings and recommendations to the commander for further consideration/action within 15 calendar days (second MUTA 4 drill period for Reserve components). After the commander reviews the EOA findings and recommendation, the assessment is attached to the original complaint and maintained with the rest of the file. DA Form 7279–1 is available on the APD Web site.

D–11. Documentation/reporting of formal complaints

a. After the complainant's case is closed, the entire complaint packet will be filed by the EOA who is the first in the complainant's chain of command.
b. The EOA retains the complaint file. Complaints will be retained on file for 2 years from the date of the final decision on the case, using the Army Record Information Management System (ARIMS).
c. In addition to the completed DA Forms 7279 and DA Form 7279–1, the EOA will retain the following information (using the memorandum for record format) for each case:
(1) The name, rank, and organization of the individual who conducted the inquiry/investigation;
(2) Complete report of investigation to include written review by EOA and servicing Staff Judge Advocate; and,
(3) The status or results of any judicial action, nonjudicial punishment, or other action taken to resolve the case.
d. The commander processing the complaint involving Army National Guard Soldiers will send an information copy of the information in *c*, above to NGB–EO within 30 days.

D–12. Actions against soldiers submitting false complaints

Soldiers who knowingly submit a false EO complaint (a complaint containing information or allegations that the complainant knew to be false) may be punished under the UCMJ.

D–13. Complaint procedures for Army Reserve Soldiers serving in the Individual Ready Reserve or those Soldiers not assigned to a unit

a. Complaint filed during active duty tour. Complaint procedures will remain the same as for active duty personnel.

Active and reserve Army commanders, upon receiving a complaint from members of the Individual Ready Reserve (IRR) or Individual Mobilization Augmentee (IMA), from Soldiers performing active duty for special work or temporary tour of active duty, or from any reservist who is not a member of a troop program unit, will make every attempt to resolve the complaint prior to the completion of the Soldier's active duty tour.
(1) *Timelines.* Should the complaint be filed but not resolved prior to the Soldier's release from active duty (REFRAD), the timelines will be modified. The active Army or Reserve Component commander will have 30 calendar days from the filing of the complaint to notify the complainant of the results of the investigation/actions taken to resolve the complaint.
(2) *Appeals.* The complainant and subject(s) of the complaint will have 30 calendar days from notification of the results of the investigation to file an appeal. Appeals filed more than 30 calendar days after notification must be accompanied by a written explanation of the reasons for delay. The commander has the discretion to consider an appeal based on its merits.
(3) *Final decision.* Notification of the commander's final decision will be provided to the complainant and subject(s) of the complaint with information copies to the next higher headquarters and AHRC within 30 calendar days of the receipt of the appeal.
b. Complaint filed subsequent to REFRAD. In the event the complaint is filed after the active duty tour has ended, the complainant will file a sworn complaint on DA Form 7279 (Part I through item 9) to the AHRC EOA. (Soldiers may contact the AHRC EO office for this form at Commander, AHRC, ATTN: ARPC–ZEQ, 9700 Page Boulevard, St. Louis, MO 63132–5200.) Upon the receipt of DA Form 7279, AHRC will forward the complaint to the appropriate commander of the subject(s) of the complaint active duty unit for investigation.
(1) *Timelines.* That commander will have 30 calendar days from date of receipt of the complaint to conduct an investigation and to provide feedback to the complainant. (Extensions, not to exceed an additional 45 calendar days, may be granted by higher echelon commander.)
(2) *Appeals.* Complainants and subject(s) of the complaint will have 30 calendar days from notification of the results of investigation/to appeal/decline appeal. Appeals filed more than 30 calendar days after notification must be accompanied by a written explanation of the reasons for delay. The commander has the discretion to consider an appeal based on its merits.
(3) *Final notification.* Within 30 calendar days of receipt of appeal, the commander will provide notification of final decision to the complainant and subject(s) of the complaint, next higher headquarters, and AHRC.

D–14. Complaint procedures for Army National Guard Soldiers

While on active duty for 30 days or more, ARNG Soldiers will follow the complaint procedure outlined in this regulation. In all other cases, ARNG Soldiers will follow the complaints procedures outlined in National Guard Regulation (NGR) 600–22, National Guard Military Discrimination Complaint System.
a. Jurisdiction. The responsibility for processing the complaint belongs to the commander at the lowest echelon of the subject's chain of command that can assure a thorough, expeditious, and unbiased investigation of the allegations.
b. Complaints involving ARNG Soldiers filed, but not resolved, during an active duty tour. If the duty status changes for the subject of an unresolved complaint, the commander with UCMJ or equivalent authority over the subject will receive the complaint and complete the processing of the complaint.
c. Complaints filed after release from active duty. An ARNG Soldier may file a complaint with the State Equal Employment Manager (SEEM) based upon unlawful discrimination that occurred while the Soldier was on active duty. The complaint must be filed within 180 calendar days of the date of the alleged unlawful discrimination or of the time that the Soldier knew or reasonably should have known of the unlawful discrimination.
(1) If both the complainant and the subject are ARNG, follow NGR 600–22 to coordinate with the appropriate National Guard agency representative for processing.
(2) If the subject is from a different component or branch of the service than the complainant, contact the senior Equal Opportunity office of the subject's component or branch of the service to determine the appropriate jurisdiction with the purview to remedy.
d. Commanders processing a complaint involving an ARNG Soldier will send an information copy of the completed complaint to NGB–EO–CR within 30 days as per paragraph C–11*d*.