COMMONWEALTH OF PUERTO RICO
PUERTO RICO NATIONAL GUARD
JOINT FORCE HEADQUARTERS
THE ADJUTANT GENERAL'S OFFICE
100 GENERAL ESTEVES STREET, SAN JUAN, PUERTO RICO 00901-2104

Hon. Alejandro Garcia-Padilla
Governor

(787) 289-1400

NGPR-AGZ

30 January 2013

POLICY MEMORANDUM NUMBER: 03-13

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SUBJECT: Prevention of Sexual Harassment (POSH) Policy

1. The Puerto Rico National Guard affirms its commitment to the prevention and elimination of sexual harassment in the workplace. As the Adjutant General of Puerto Rico my guidance is to ensure compliance with this policy and that accountability is in effect. Every member of the Puerto Rico National Guard has the right to enjoy a work environment free from sexual harassment. In findings of discrimination, appropriate disciplinary actions will be taken against the harasser.

2. It is important that every member of this organization understand that sexual harassment impedes mission accomplishment and unit/workplace cohesion. Sexual harassment is a form of sex discrimination that violates Title VII of the Civil Rights Act of 1964. Offensive behavior which violates a person's rights granted under Title VII of the 1964 Civil Rights Act; is a violation of the law.

3. Prevention is the best tool to eliminate sexual harassment in the workplace. Supervisors and Commanders are encouraged to take steps necessary to prevent sexual harassment from occurring. They should clearly communicate to every member that sexual harassment will not be tolerated. Also they will ensure to schedule POSH training once annually and that all personnel are fully aware of the procedures for redress regarding discrimination complaints based on sexual harassment, including those filed against members of this chain of command. Moreover, Supervisors and Commanders are also required to support this policy, leading by example and taking immediate and appropriate action when a complaint arises.

4. Sexual harassment is disrespectful, inappropriate and unacceptable behavior that is not compatible with the Army values or the Air Force core values. Every soldier, airmen, technician, beneficiary of services and civilian employee must be able to enjoy a work atmosphere free from all forms of discrimination including sexual harassment. Any person, who believes is a victim of sexual harassment, or who has knowledge of that

kind of behavior is urged to report such conduct immediately.

5. NGR 600-21, Equal Opportunity Program in the Army National Guard defines sexual harassment as a form of gender discrimination that involves unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when:

a. Submission to such conduct is made either explicitly or implicitly a term or condition of a person's job, pay or career, or
b. Submission to or rejection of such conduct by a person is used as a basis for career or employment decisions affecting that person, or
c. Such conduct has the purpose or effect of unreasonable interfering with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

6. Sexual harassment refers to conduct which is offensive to the individual, which harms morale and interferes with the individual's work performance. It created an intimidating and hostile work environment, which directly affects the effectiveness of our mission. Sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature are undesirable, illegal and prohibited.

7. The facts about sexual harassment are that can occur in a variety of circumstances, including but not limited to the following:

a. The victim as well as the harasser may be a woman or a man. The victim does not have to be of the opposite sex.
b. The harasser can be the victim's supervisor, an agent of the employer, a supervisor in another area, a co-worker, or a non-employee.
c. The victim does not have to be the person harassed but could be anyone affected by the offensive conduct.
d. Unlawful sexual harassment may occur without economic injury to or discharge of the victim.
e. The harasser's conduct must be unwelcome.

8. It is helpful for the victim to inform the harasser directly that the conduct is unwelcome and must stop. It is also unlawful to retaliate against a person for opposing employment practices that discriminate based on sex or for filing a discrimination complaint, testifying, or participating in any way in an investigation, proceeding, or litigation under Title VII, or State applicable laws and regulations.

9. Any person in a supervisory or command position who uses or condones implicit sexual behavior to control, influence, or effect the career, pay, or job of a military member or civilian employee is engaging in sexual harassment. Similarly, any military member or civilian employee who makes deliberate or repeated unwelcome verbal comments, gestures, or physical contact of a sexual nature is also engaging in sexual harassment.

10. Supervisors and Commanders are responsible to take immediate disciplinary action against any member engaging in sexual harassment. Allegations of sexual harassment will be process according with NGR 600/22/ANGI 36-3 (National Guard Military Discrimination Complaint System) or NGR (AR) 690-600/NGR (AF) 40-1614 (National Guard Civilian Discrimination Complaint System), as applicable. These regulations prescribe procedures for processing discrimination complaints, to include sexual harassment.

11. If a technician employee or applicant for employment believes that he or she is subjected to sexual harassment, he or she has 45 calendar days to file a discrimination complaint in accordance with NGR (AR) 690-600/NGR (AF) 40-1614. This person should seek help from his/her supervisor, an EEO Counselor, or the State Equal Employment Manager.

12. A person experiencing sexual harassment while on military status should contact his or her Commander, the Equal Opportunity Officer (EO) (Army), the Equal Opportunity Officer (EO) (Air) or the Inspector General. This includes a Traditional Guardsmen soldier/airmen, AGR or ADSW status under Title 32 U.S.C. as well. He or she has 180 calendar days to file a discrimination complaint in accordance with NGR (AR) 600-22/ANGI-36-3.

13. If you have any questions, please contact LTC Ivette Galarza, State Equal Employment Manager at 289-1036 (Office), (787) 948-7860 (Blackberry) or by mail at Puerto Rico National Guard, JFHQ, Human Resources, EEO office, 100 General Esteves Street, San Juan, P.R. 00901-2104. You may also request an appointment by e-mail at ivette.galarza.mil@mail.mil (**Allegations will not be discussed through e-mail messages**).

14. Policy letter No.02-12, 17 February 2012, is rescinded. **A copy of this policy statement must be permanently posted on all bulletin boards and briefed to all personnel from the PRNG.**

15. **"EQUAL EMPLOYMENT OPPORTUNITY IS THE LAW".**

JUAN J. MEDINA-LAMELA, Col (Ret), PRNG
The Adjutant General

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