

## PAC Timeline and Basic Processes

1. Intake Personnel Responsibilities.<sup>1</sup> Whoever physically accepts the NAVMC 11512 (usually EOA/EOR. If other command representative, reach out for EOR/EOA assistance):

a. Ensure NAVMC 11512 is complete and accurate with maximum detail in block 7 before forwarding to commander<sup>2</sup>;

b. Ensure complainant provides desired outcome/remedy in block 8;

c. Counsel complainant on the investigation process, available support services, and appeal rights, ensuring complainant initials all items under block 9.

d. Forward to command without delay (**within 3 duty days**) and ensure a command representative acknowledges receipt by signing block 10e.

e. If command accepts complaint for PI/CI, generate a DASH report number in block 10b and initiate GCMCA notification on behalf of commander **within 3 duty days**.<sup>3</sup>

2. How to Initiate Complaints.<sup>4</sup> Complainants may submit via:

a. Immediate chain of command or EOR (primary/preferred avenue using NAVMC 11512);

b. EOA- forward to commander for action without delay (**within 3 duty days**);

c. Article 138 via SJA to higher commander; or

d. Anonymous reporting- forward to commander for action without delay. Accepted by many different means (just not in person).

(1) If sufficient information from anonymous complaint permits command to initiate a PI/CI, the CO shall convene one and record on NAVMC 11512.

(2) If insufficient info for CI/PI, document reported info on NAVMC 11512 and maintain in files for 2 years with an MFR (see para 14.d.(4) for MFR details).

e. Commanders may also initiate a PI/CI or take action without a complainant (from anonymous or third-party reports of relatives/friends or found during other investigations, etc.) Use NAVMC 11512 without signature in this case.

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<sup>1</sup> MCO 5354.1F, Chapter 5, Para 2.

<sup>2</sup> Consider questions listed in Chapter 3, Para 18.a. when determining if complainant provided enough detail.

<sup>3</sup> *Id.* Chapter 5, Para 2. (“within 3 duty days” is required in chapter 5, para 3d for commanders; not in 2.d.cited here)

<sup>4</sup> *Id.* Chapter 3, Para 14

3. Command receives NAVMC 11512 (Complainant form). Must report **within 90 calendar days** of a single incident or of the last incident in a series. If not, commander discretion whether to take action.<sup>5</sup>

a. Commander has **3 duty days** to determine to dismiss or accept a complaint or whether additional info needed<sup>6</sup>

(1) If more info needed, CO can direct PI/CI (this will trigger DASH report);

(2) Do not dismiss without consulting EOA/SJA. If dismissed:

(a) Annotate reason for dismissal in block 10a;

(b) Provide details in 11a;

(c) Provide copy to complainant and file for 2 years;

(d) No DASH report required.

b. Can dismiss if:<sup>7</sup>

(1) Not under purview- complainant not covered in order or no jurisdiction or authority to remedy (refer to relevant agency if possible)

(2) Complaint without merit- no prima facie (if all facts are true, no violation)

(3) Duplicative- claims are identical to previous claims filed or resolved (even through other avenues- like IG). Ok to readdress if informal resolution did not resolve the matter.

(4) Institutional discrimination- Cannot be handled at command level.

(5) Failure to cooperate- may dismiss at any stage if complainant fails to cooperate with investigation- ensure no retaliation influencing lack of participation.

(6) Lateness- **past 90-day** requirement (**120 days for Reservists**). Not automatically dismissed. Consider facts and consult SJA.

(7) Voluntary withdrawal- Commander may still take action. Ensure no retaliatory action influences and complete blocks 12a-c with signature.

4. Commander Accepts Complaint. Commander must then determine appropriate resolution

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<sup>5</sup> *Id.* Chapter 3, Para 2.

<sup>6</sup> *Id.* Chapter 3, Paras 4 and 15.

<sup>7</sup> *Id.* Chapter 3, Para 16.

process (informal - conflict management or formal - complaint resolution).<sup>8</sup> Also consider complainant request/remedy/outcome, but this is not dispositive; just one factor to consider.

a. Commander Directed Conflict Management (Informal)- commander-directed, does not replace small unit leadership.

(1) Not required prior to using formal process in chapter 5.

(2) If a commander needs more information, the accepted complaint should be processed using formal resolution.<sup>9</sup>

(3) Not permitted for alleged severe and pervasive behaviors.<sup>10</sup>

(4) Once accepted for conflict management, commander has **3 duty days** to initiate actions or resolve the issue(s).<sup>11</sup>

(5) Commander/designee should completely resolve issues informally within **30 calendar days** at lowest level or consider initiating a formal resolution. (chpt 4 para 3)

(6) Commander/designee who facilitated conflict management completes NAVMC 11512 Part II with sufficient detail to accurately account for actions taken to resolve complaint.

(7) Complainant signs block 11f acknowledging command briefed them on resolution.

(8) Commander acknowledges outcome by signing block 11c, closes the case, and:

(a) Determines if command took all appropriate means to resolve complaint.

(b) If behaviors continue, take appropriate action. (Consult with EOA/SJA)

(9) No DASH reporting required unless decision results from PI/CI.

b. Commander Directed Complaint Resolution (Formal). Once accepted for formal resolution, commander will:<sup>12</sup>

(1) Ensure safety/well-being of complainant and refer to EOA for appropriate counseling;

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<sup>8</sup> Consider answers to questions listed in Chapter 3, Para 18.a. when determining how to direct resolution (formal or informal). If not enough information, consider listing these questions in the IO appointing order.

<sup>9</sup> *Id.* Chapter 3, Para 18.b. (Per Chapter 4, para 8, even if the commander determines to resolve the complaint informally through conflict management after a fact-finding inquiry, it will still require a DASH and processed formally).

<sup>10</sup> *Id.* Chapter 4, Para 2.

<sup>11</sup> *Id.* Chapter 3, Para 3.

<sup>12</sup> *Id.* Chapter 5, Para 3.

(2) **Within 3 duty days** of accepting complaint for PI/CI/resolution, submit initial DASH report to GCMCA and convene a CI to determine whether substantiated and what resolution.<sup>13</sup>

(a) Command should appoint IO from different unit;

(b) Direct IO to consult with EOA/SJA.<sup>14</sup>

(c) Give IO **14 days for** sexual harassment investigation and **30 days for all** others

(d) If CA grants extension beyond 30-day timeline must update on DASH to GCMCA detailing progress on that day and **every 14-calendar** days after until completed. Extension requests/approvals need not be in writing but documented in final CI and endorsements and CA must inform complainant and offender of extension, including duration and reason.<sup>15</sup>

(e) IO submits investigation to EOA for advisory opinion (**3 duty days** to complete).

(f) EOA submits to SJA to complete LSR (**7 duty days**)

(g) SJA returns investigation to the CA for final disposition.<sup>16</sup>

(h) If complaint referred to NCIS or CID, they cannot dismiss and must continue to update the DASH report until completed.<sup>17</sup>

(3) CA has **6 duty days** to substantiate or not substantiate the complaint (unless dismissed) and state such administrative findings in the endorsement and on the NAVMC 11512.<sup>18</sup>

(4) CA **has 3 duty days** to notify both parties of the CA's admin findings, their rights to supervised review of the CI, and to appeal CA's findings.<sup>19</sup>

(a) Supervised review includes the entire CI, all enclosures and endorsements, and the CA's final decision.

(b) Complainants or subjects may not have a hard copy or take photographs but may take notes during review.<sup>20</sup>

(5) After disposition, complete block 11b on NAVMC 11512 with sufficient details on all actions taken and then sign Blocks 11c and d.

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<sup>13</sup> *Id.* Chapter 5, Para 3.d. (DASH includes incident dates; names of complainant/subject and their responsible commander(s); type(s) of PAC behavior; IO name; brief incident description). Note: this appears to be the same reporting requirement from Chapter 5, para 2.d., which does not have "3 duty day timeline."

<sup>14</sup> Order only says EOA, but really should be SJA (or at a minimum both).

<sup>15</sup> *Id.* Chapter 5, Para 5.a.(1).

<sup>16</sup> *Id.* Chapter 5, Para 5.a.(2).

<sup>17</sup> *Id.* Chapter 5, Para 5.c.

<sup>18</sup> *Id.* Chapter 5, Para 5.b.(3).

<sup>19</sup> *Id.* Chapter 5, Para 7.

<sup>20</sup> *Id.* Chapter 5, Para 8.

(6) Commander/designee brief complainant on disposition and actions taken. Ensure complainant signs and dates blocks 11f and g to acknowledge.

#### 5. Commander Actions – Substantiated Complaint

a. CA notifies complainant and subject whether substantiated or not (admin findings), in writing, **within 3 duty days** of findings.

b. CA takes appropriate action under facts and circumstances and with SJA advice.<sup>21</sup>

c. After disposition, CA completes block 11b on NAVMC 11512 with sufficient details on all actions taken and then sign Blocks 11c and d on 11512 and updates the DASH to the GCMCA (**within 10 calendar days** after final disposition or action).<sup>22</sup>

6. GCMCA Review and Closeout.<sup>23</sup> Commanders must submit all accepted PAC investigations to the GCMCA to review investigative findings. Purpose is to document review and requires no action unless accompanied by an appeal or the GCMCA requires follow-on action.

a. The GCMCA reviews the completed case file, which includes appeal, if any.

b. Record GCMCA review in block 13a on NAVMC 11512.

c. Commanders notify complainant and subject in writing of all GCMCA decisions.

d. Case considered closed after GCMCA review and approval if no appeal.<sup>24</sup>

e. GCMCA submits final DASH report with completed NAVMC 11512 to MPE **within 5 calendar days** of receiving the CA's notification that final disposition actions are complete.<sup>25</sup>

7. Appeal of CAs findings. Either party may appeal the CA's administrative findings. Either party must submit written appeals **within 30 calendar days** of the CA's findings notification to include in the case file for GCMCA review. Parties can appeal on the following bases:

a. A good faith basis that regulations were incorrectly applied in the case;

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<sup>21</sup> *Id.* Chapter 5, Para 6. (Includes re-assignment, order to cease, informal resolution, NPLOC, poor evaluation, training, court-martial, NJP, 6105, verbal counseling, relief, promotion denial, AdSep, etc.)

<sup>22</sup> *Id.* Chapter 5, Para 16. Disposition only for those relevant to the PAC? (need to clarify the note- does this mean don't report collateral misconduct or actions initially reported as PAC but found to be something else?) (*see also* FN 24 and para 9 in this info paper. If the command follows procedures and doesn't wait for appeal before adjudicating, sends final dash, and then CG submits final dash within 20 days but appeal comes in on day 30- how do we adjust and address?)

<sup>23</sup> *Id.* Chapter 5, Para 9.

<sup>24</sup> This makes it look like the GCMCA will not review the PAC until appeals time expires (30 days). Are we really required to wait or do we close it out and re-open it if and when appealed?

<sup>25</sup> *Id.* Chapter 5, Para 17. (Again, how can we do this swiftly if GCMCA cannot review without appeal time lapsing?)

- b. Facts were ignored or weighed incorrectly;
- c. CA's ordered remedial action was insufficient under the circumstances; or
- d. On any other good faith basis.
- e. Dissatisfaction with the complaint disposition is not a valid basis.
- f. The appellant has the burden to provide evidence establishing the basis for rebutting facts.
- g. PAC appeals process not applicable to appealing corrective command actions resulting from substantiated complaints such as NJP, court-martial, AdSep, adverse FitReps or other avenues that have their own appeal or rebuttal processes.<sup>26</sup>

8. GCMCA Appeal Review<sup>27</sup>

- a. GCMCA appeal decision is final unless about discrimination or sexual harassment.
- b. GCMCA will use the "clear and convincing" evidence standard (75%) as the basis for disapproving administrative findings.
- c. GCMCA must endorse investigation and specifically address any appeal.
- d. Record the GCMCA's decision in block 13a of NAVMC 11512.
- e. CAs notify parties about GCMCA appeal decisions in writing.
- f. If GCMCA finds appeal valid, options include:
  - (1) Return the investigation to the CA for further fact-finding;
  - (2) Disapprove the subordinate commander's administrative findings;
  - (3) Order a new investigation by a different CA.

9. Other Appellate Processes<sup>28</sup>

- a. When a commander initiates a UCMJ or administrative action process, that action takes precedence over any ongoing or contemplated PAC appeal.
- b. To avoid delays, commanders are not required to withhold appropriate admin action while pending appeal.

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<sup>26</sup> *Id.* Chapter 5, Para 14.

<sup>27</sup> *Id.* Chapter 5, Para 11. (see para 12 for appeal procedures applicable for discrimination or sexual harassment).

<sup>28</sup> This is problematic with closing out cases, appeals, and reporting.