

# APPENDIX H: FY 2014 NDAA Requirement Implementation Status



## APPENDIX H: IMPLEMENTATION STATUS OF SECTIONS OF NDAA FOR FY 2014 PERTAINING TO SAPR

This appendix presents the sections from the NDAA for FY 2014 that impact the DoD's SAPR program and the implementation status of these requirements as of January 2015. Many of the FY 2014 sexual assault program provisions are already fully implemented. The majority of the remaining in progress requirements will be implemented upon the issuance of policy documents that capture these provisions, including Change 2 to the SAPR Instruction (DoDI 6495.02), updates to Military Personnel Policy<sup>1</sup>, and revisions of two DoD IG policy documents.<sup>2</sup>

Section	Summary	Implementation Status
1701	Extension of crime victims' rights to victims of offenses under the Uniform Code of Military Justice	<i>Implementing Regulations Pending</i>
1702	Revision of Article 32 and Article 60, Uniform Code of Military Justice	<i>Conforming amendments to MCM pending</i>
1703	Elimination of five-year statute of limitations on trial by court-martial for additional offenses involving sex-related crimes	<b>Implemented</b>
1704	Defense counsel interview of victim of an alleged sex-related offense in presence of trial counsel, counsel for the victim, or a sexual assault victim advocate	<i>In Progress – Amended by Sec. 531 of the FY 2015 NDAA. Conforming amendments to MCM pending</i>
1705	Discharge or dismissal for certain sex-related offenses and trial of such offenses by general courts-martial	<i>Conforming amendments to MCM pending</i>
1706	Participation by victim in clemency phase of courts-martial process	<b>Implemented</b>
1707	Repeal of the offense of consensual sodomy under the Uniform Code of Military Justice	<b>Implemented</b>
1708	Modification of Manual for Courts-Martial to eliminate factor relating to character and military service of the accused in discussion of rule on initial disposition of offenses	<b>Implemented</b>
1709	Prohibition of retaliation against members of the Armed Forces for reporting a criminal offense	<b>Implemented</b>
	Prohibition of retaliation against members of the Armed Forces for reporting a criminal offense	
	Secretary of Defense shall (or require Secretaries of Military Departments to) prescribe regulations that prohibit retaliation against a victim or other member of the Armed Forces who reports a criminal offense	

<sup>1</sup> DoDI 1304.33, "Protecting Against Inappropriate Relations During Recruiting and Entry Level Training," January 28, 2015.

<sup>2</sup> Sec. 1732 (2) In-progress. DoD IG developing uniform policy regarding case determinations.

Section	Summary	Implementation Status
	Secretary of Defense shall submit report to Armed Services Committees with recommendations on whether punitive article should be added to Uniform Code of Military Justice to prohibit retaliation	<b>Report Submitted</b>
1711	Prohibition on service in the Armed Forces by individuals convicted of certain sexual offenses	<b>Implemented</b>
1712	Issuance of regulations applicable to the Coast Guard regarding expedited transfers	<b>Implemented</b>
1713	Temporary administrative reassignment or removal of alleged offender; include in training for new commanders	<b>Implemented</b>
1714	Expansion and enhancement of authorities relating to protected communications of members of the Armed Forces and prohibited retaliatory actions (amending §1034 of title 10, United States Code)	<i>In Progress</i>
	Personnel action is prohibited & provides for correction of military records	
1715	Inspector General investigation of allegations of retaliatory personnel actions taken in response to making protected communications regarding sexual assault. Specifying that "Law or regulation" includes a law or regulation prohibiting rape, sexual assault, or other sexual misconduct in violation of sections 920 through 920c of this title [10 USCS §§ 920-920c] (articles 120 through 120c of the Uniform Code of Military Justice) (amending section 1034(c)(2)(A) of title 10, United States Code)	<b>Implemented</b>
1716	Designation and availability of Special Victims' Counsel for victims of sex-related offenses	<b>Implemented</b>
	Report on the implementation of this program in 90 days	<b>Report Submitted</b>
1721	Tracking of compliance of commanding officers in conducting organizational climate assessments for purposes of preventing and responding to sexual assaults	<b>Implemented</b>
1722	Advancement of submittal deadline for report of independent panel on assessment of military response systems to sexual assault	<b>Report Submitted</b>
1723	Retention of forms in connection with Restricted Reports for 50 years	<b>Implemented</b>
1724	Timely access to Sexual Assault Response Coordinators by members of the National Guard and Reserves	<b>Implemented</b>

Section	Summary	Implementation Status
	Secretary of Defense shall establish minimum standards for the qualifications necessary to be selected for assignment as a SAPR Program Manager, SARC, or SAPR VA and for training, certification, and status	<b>Implemented</b>
1725	Secretary of Defense shall prepare a report on the review (conducted pursuant to 17 May 2013 Secretary of Defense "Stand-down for SAPR training" memorandum) of the adequacy of training/qualifications/experience	<b>Report Submitted</b>
	Secretaries of the Military Departments shall require: •At least one full-time sexual assault nurse examiner at each Military Treatment Facility (MTF) with a 24-hour emergency department •If an MTF does not have a 24-hour emergency department, a sexual assault nurse examiner "be made available" to the victim	<b>Implemented</b>
	Secretary of Defense shall prescribe: •Sexual assault nurse examiner training, and •Sexual assault nurse examiner certification requirements	<b>Implemented</b>
1726	Additional responsibilities of SAPRO director	<b>Implemented</b>
1731	Independent reviews and assessments of Uniform Code of Military Justice and judicial proceedings of sexual assault cases	<i>In Progress</i>
1732	Secretary of Defense shall conduct review in 180 days of practices of the MCIOs in response to allegation that a Service member committed a UCMJ violation, including extent to which MCIO makes a determination of founded or unfounded	<b>Implemented</b>
	Secretary of Defense shall develop uniform policy, to extent practicable, regarding use of case determinations to record results of an investigation of a UCMJ violation and consider feasibility of adopting case determination methods used by nonmilitary law enforcement agencies	<i>In Progress</i>
1733	Secretary of Defense shall conduct review of the adequacy of SAPR training & shall identify common core elements to include in SAPR training	<b>Implemented</b>
	Secretary of Defense shall submit to Armed Services committees a report containing results of the review, including common core elements	<b>Report Submitted</b>

Section	Summary	Implementation Status
1734	Report on implementation of Department of Defense policy on the retention of and access to evidence and records relating to sexual assaults involving members of the Armed Forces	<b>Two Reports Submitted</b>
1735	Review of the Office of Diversity Management and Equal Opportunity role in sexual harassment cases	<i>In Progress</i>
1741	Enhanced protections for prospective members and new members of the Armed Forces during entry-level processing and training: •Report with recommendations regarding need to create new punitive article to address violations of inappropriate and prohibited relationships	<b>Report Submitted</b>
	Enhanced protections for prospective members and new members of the Armed Forces during entry-level processing and training: •Secretaries of the Military Departments (and Secretary of Department in which Coast Guard is operating) shall maintain a policy that defines and prescribes what constitutes inappropriate and prohibited relationships, communication, conduct, or contact (including consensual) among individuals in entry-level processing or training	<b>Implemented</b>
	Secretary of Defense shall require processing for administrative separation any Service member in first substantiated violation of this policy	
	Secretaries of Military Departments shall revise regulations as necessary to ensure compliance	
1742	Commanding officer action on reports on sexual offenses involving members of the Armed Forces (commanding officers shall immediately refer reports of sexual assault to appropriate MCIO)	<b>Implemented</b>
1743	Elevating oversight to senior leadership through an eight-day incident reporting requirement in response to Unrestricted Report of sexual assault in which the victim is a member of the Armed Forces	<b>Implemented</b>
1744	Review of decisions not to refer charges of certain sex-related offenses for trial by court-martial	<b>Implemented</b>
1745	Inclusion and command review of information on sex-related offenses in personnel service records of members of the Armed Forces (for purpose of reducing likelihood that repeat offenses will escape notice)	<b>Implemented</b>

---

Section	Summary	Implementation Status
1746	Prevention of sexual assault at Military Service Academies (Secretary of Defense shall ensure section in MSA curricula outlines honor, respect, and character development as pertaining to SAPR; training shall be provided within 14 days of initial arrival and repeated annually thereafter)	<b>Implemented</b>
1747	Required notification whenever members of the Armed Forces are completing Standard Form 86 of the Questionnaire for National Security Positions (member shall be notified of policy to answer "no" to question 21 if individual is victim of sexual assault and consultation occurred strictly in relation to the sexual assault)	<b>Implemented</b>