

The Complaint Process and Your Responsibility

Lesson Objective: Understand the complaints process and your role as a commander.

Desired Learning Outcomes (DLO):

1. Explain the role of the IG in the complaints process.
2. Explain the duty of the commander to ensure grievances are resolved fairly, impartially, and promptly.
3. Explain how the commander properly directs complaints brought forward by members of the unit.
4. Explain the complaint process.

Scheduled Lesson Time: 30 minutes

Introduction

As a commander, there is a good chance that one person will say or do something which will not “sit well” with another person, and a complaint will be generated. Sometimes the complaint is valid and deals with a very serious issue. Other times, the complaint is based upon a miscommunication or a difference of perception. The Complaints Resolution Program and the CAPR 20-series are there to ensure that all members are treated properly, fairly, objectively, impartially, and with integrity.

1. The role of the IG in the complaints process

The IG is there to help ensure fairness for all members, compliance with regulations, and be an early warning system so that potential problems can be addressed as early as possible.

The following summary of items related to the complaints process are directly copied from CAPR 20-2:

The core role of IG CR is to operate procedures to prevent and identify:

Fraud

Waste

Abuse

Mismanagement or deficiency

Cadet protection issues

Abuse of authority

Reprisal against a member for making a protected communication

Restriction of a member from making protected communications

2. Command duties.

There are two special, “immediately stop what you are doing, call the police, and report to higher HQ right now” situations. One of them is an allegation of sexual abuse. Another is criminal conduct. Local laws vary, and the situations will vary. In these kinds of situations, you will have to decide whether you need to physically step in to protect the member from further harm, and you will have to notify the local law enforcement agency. From a CAP perspective, you must immediately report these kinds of allegations (sexual abuse and criminal conduct) to the general counsel at NHQ. Do NOT start an investigation: this is a matter for the NHQ to decide who is to investigate. You also report the situation to your wing commander as soon as possible. You may contact your wing commander first if you don’t have the NHQ/GC contact information at hand. At the time of this publication, the phone number is 877-227-9142 extension 234. The e-mail is gc@capnhq.gov.

If there is an allegation of a violation of the equal opportunity / nondiscrimination policy, you need to “immediately refer the complaint to the CAP Equal Opportunity Officer (EOO), via the NHQ Equal Opportunity Administrator, to be handled in accordance with CAPR 36-2, *Complaints Under The Civil Air Patrol Nondiscrimination Policy.*” Check the NHQ directory. for the current EOO contact at <https://www.gocivilairpatrol.com/members/cap-national-hq/NHQ-contacts-1/>.

CAPR 20-2 specifically deals with the complaint process. CAP members are required to “report FWA (fraud, waste, and abuse); violations of policies, or directives; abuse (including abuse of authority); cadet protection issues, or misconduct; to an appropriate commander or IG. In addition, CAP members should report any known violations of law relating to these CAP issues.” If you become aware of any of these issues, you are required to report them up your chain of command. If the person involved is your commander, go to his/her commander, or to the IG. If the person involved is the IG, go to the next higher level IG.

For many other issues, including miscommunication or perception differences, you may very well be able to resolve it at your level, and you are encouraged to do so. Having an open door policy can be very reassuring to your squadron members. You should, however, not be afraid to ask for help from higher HQ. Documenting in detail will help you in many ways. Besides being able to answer questions from higher HQ or an investigating officer (“I/O”) later, having the proper questions answered may turn an otherwise indecipherable mess into an obvious solution. The fundamental details of who allegedly did what to whom, when, and where are essential. If you know the regulations well, another question to ask is, “in violation of what CAPR?”

CAPR 20-2 “A member's use of the procedures set forth in this regulation will be free from reprisal by any other member. However, CAP members must understand that when submitting complaints, they are making official statements within CAP channels. Therefore, CAP members may receive administrative or disciplinary action under appropriate CAP regulations for knowingly making false statements. Any commander or inspector general who reasonably believes a complainant has submitted a knowingly false statement should consult with their legal officer before taking any action.”

Quick summary of the commander’s duties:

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- Have an open door policy to recognize problems early, and fix them before things escalate.
- Some problems must be escalated immediately (sexual abuse and criminal conduct), with notification of law enforcement also being required in accordance with local laws.
- Follow (i.e. lead by example) and enforce all CAPRs fairly.
- Any CAP member can use the IG process.
- No retaliation for reporting a problem will be tolerated.
- Members should try to resolve problems at the lowest level possible.
- Members are to use all other means /regs/processes if another is available or required by regulations.
- Members are not to share, send, or discuss IG related materials (complaints, etc) to/with others who not directly involved in the case (except “any CAP commander, elected or regulatory federal, state and local governmental officials or legal counsel”).

3. Directing complaints once they are filed

If a complaint cannot be handled at the local level (for any reason), the commander will elevate the complaint to the next higher commander and/or the IG for that next higher level.

4. The complaints process

Who Can File

For Fraud / Waste / Abuse (FWA) cases, anyone can submit a complaint. If a complaint is submitted anonymously, it is not considered evidence. If an investigation uncovers evidence, that evidence can be used.

Only members can file non-FWA complaints.

Filing the complaint

The complaint can initially be in any form (written, telephone, e-mail, etc), but if it is not in writing, it needs to be put in writing (and signed) within 14 days of the original notification. (This next section is from CAPR 20-2 and while summarized, is mostly copied verbatim.)

- Signing a document means the person affirms it to be “true and correct to the best of [his/her] knowledge.”
- Information submitted to the IG program is an “official statement within official channels.”
- CAP members who “knowingly making false statements and/or communications” are “subject to punitive action (or adverse administrative action).”
- Submit all available documentation, and include a completed CAPF 20.
- Complaints should be submitted to the commander or inspector general of the wing or region to which the complainant is assigned.

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- If the subject is not in the same chain of command as the complainant, the commander or inspector general will forward the complaint to the appropriate commander or inspector general of the unit in the subject's chain of command and will notify the complainant of the transfer.
- Complaints against a commander of a unit subordinate to a wing shall be filed with the wing commander or inspector general.
- Complaints against CAP senior level officials shall be submitted directly to the CAP/IG.
- Complaints against the CAP/IG are submitted directly to the CAP/CC, unless the CAP/CC is a party (complainant, subject or witness) to the complaint.
 - If the CAP/CC is a party to a complaint against the CAP/IG, the complaint will be submitted to the BOG Executive Secretary (CAP Chief Operating Officer).
- Submit the complaint within 60 days of the occurrence or action upon which the complaint is based or within 60 days of the complainant becoming aware of the occurrence or action upon which the complaint is based.
 - Beyond 60 days, submit justification for the IG to decide if there is reason to grant an exception.
- Receipt of a complaint shall be acknowledged in writing by the IG or I/O within 30 days of the effective date of the complaint.

The complaints resolution process

INITIAL DETERMINATIONS

After the complaint is received, the process involves clarifying the issue (making sure the complaint is correctly understood & phrased) and then deciding what to do with the complaint (assist, refer, transfer, formally investigate, or dismiss). Factors involved include (but are not limited to):

- 1) Is the evidence submitted strong enough to warrant an investigation?
- 2) Is the complaint significant enough to warrant an investigation even without evidence?
- 3) Is the complaint best handled via the IG route or is another channel required by the CAPRs?

THE INVESTIGATIVE PROCESS AND CLOSURE

If the decision is made to investigate, one or more I/Os is/are appointed. Investigations should be "completed as quickly as reasonably possible, unless there is a justifiable reason for delay." If the I/O thinks the process will take more than 180 days, s/he needs to notify the appointing authority of this. The I/O needs to make a report every 60 days on the progress of the investigation. The investigation is limited to fact finding: there is no judicial aspect to an I/O's duty. When the I/O finishes the investigation, s/he writes up a report of the investigation and gives it to the appointing authority. The appointing authority (or commander, if that is who was the appointing authority) can accept the results, reject the results, or ask for further investigation. After the results are accepted as final, the commander/appointing authority will decide the course of action and will send a closure letter to the complainant, the subject, the subject's commander, and the I/O. If legal needs to be involved, the commander makes those

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contacts. If either the complainant or the subject of the investigation thinks the investigation was improper, invalid, or inadequate for any reason, an appeal can be made for a next higher IG review.

Becoming a member of the IG team will help you learn this process very well, and will train you how to efficiently handle these matters.

Lesson Summary and Closure

Human interactions may have undesired results. The CAP IG system, Complaints Resolution Program, and the CAPR 20-series are in place to recognize problems early, investigate complaints, and help guide commanders to ensure that all members are treated properly, fairly, objectively, impartially, and with integrity. This is especially true in cases where disciplinary actions may need to be taken.