

FRATERNIZATION

Key references: Article 134, UCMJ; U.S. NAVY REGULATIONS 1165 (applies to both Navy and Marine Corps); OPNAVINST 5370.2C (applies only to Navy); Marine Corps Manual 1100.4 (applies only to MC).

Background: The U.S. Navy has historically relied upon custom and tradition to define the bounds of acceptable personal relationships among its members and undue familiar relationships between officers and enlisted members have traditionally been contrary to Naval custom, because they undermine the respect for authority. *Acceptable conduct varies between the services based on differences in custom and tradition.*

Definition: Generally, fraternization is an undue familiar personal relationship between an officer member and an enlisted member that does not respect the difference in rank or grade. Relationships between officer members and between enlisted members that are prejudicial to good order and discipline or of a nature to bring discredit on the Naval service are undue familiar and also constitute fraternization.

Charging Fraternization:

Article 134, UCMJ: The accused was a Commissioned or Warrant Officer; the accused fraternized with an enlisted member; the accused knew the person was an enlisted member; the fraternization violated the traditions and customs of the accused's service; and **the conduct was prejudicial to good order and discipline or was of a nature to bring discredit on the armed services.** *Although still a valid standard, its applicability is limited since it requires the accused to be an officer, the other person to be an enlisted member, and the conduct was prejudicial to good order and discipline of the service*

US NAVY REGULATIONS 1165: Prohibits personal relationships between officers and enlisted personnel that are undue familiar and do not respect the differences in grade or rank. Such relationships are prejudicial to good order and discipline and violative of service tradition. Conduct is prejudicial to good order and discipline if it calls into question the senior's objectivity, results in actual or an appearance of preferential treatment, undermines the senior's authority and compromises the chain of command. *This regulation is a punitive article; consequently, it is a General Order and violation of it is punishable under Article 92, UCMJ.*

OPNAVINST 5370.2B (the preferred rule): Prohibits undue familiar relationships between officer and enlisted personnel that do not respect the differences in grade or rank (nearly identical language as U.S. NAVY REGULATIONS 1165). It is also a General Order and punishable under Article 92, UCMJ. Relationships covered by this Instruction include undue familiar relationships between officers and enlisted as well as among officers and enlisted whenever the relationship does not respect the differences in grade or rank. Two different tests are applied, depending on rank of those involved:

One Step Test: Relationship between officer and enlisted: If the relationship is found to be undue familiar then it is fraternization. Such a relationship is presumed to be prejudicial to good order and discipline. This also applies to relationships between Chief Petty Officers and junior enlisted (E1-E6) within the same command and some specific positional relationships, e.g., recruiter and recruit, instructor and student.

Two Step Test: In relationships between officers or between enlisted personnel fraternization requires an undue familiar relationship and it must be prejudicial to good order and discipline or service discrediting (there is no presumption that it is prejudicial or service discrediting).

Examples of relationships that may be prejudicial to good order and discipline include: Dating, shared living accommodations, sexual relations, commercial solicitations, private business partnerships, gambling and borrowing money.

Miscellaneous: The Instruction does not require a direct senior-subordinate supervisory relationship. A subsequent marriage does not excuse or mitigate any illegal conduct. The Instruction is gender neutral.

Relationships with other service personnel: Navy personnel are subject to these rules regardless of the other person's service affiliation or service rules.