



DEPARTMENT OF THE NAVY  
UNITED STATES NAVAL ACADEMY  
ANNAPOLIS, MARYLAND 21402-5000

USNA/AACINST 12750.4D  
24/MER

13 JUL 1990

USNA/AAC INSTRUCTION 12750.4D

From: Superintendent

Subj: DISCIPLINARY ACTIONS

Ref: (a) 5 U.S.C. Chapter 75 (NOTAL)  
(b) CPI 752 (NOTAL)  
(c) FPM 751 (NOTAL)  
(d) FPM 752 (NOTAL)  
(e) USNAINST 12771.1A  
(f) USNAINST 5370.6  
(g) CPI 792 (NOTAL)  
(h) USNAINST 12339.2  
(i) CPI 432 (NOTAL)

Encl: (1) Appendix B, CPI 752-B, Schedule of Offenses and Recommended Remedies

1. Purpose. To set forth U.S. Naval Academy (USNA) policy and procedure for disciplinary actions per references (a) through (d).
2. Cancellation. USNA Instruction 12750.4C.
3. Information. This directive is a complete revision and should be reviewed in its entirety; no special markings appear because changes are extensive.
4. Applicability. This instruction applies to all Department of the Navy (DON) employees, as defined in paragraph 4, within the organizations serviced by the Civilian Personnel Department (CPD) except any:
  - a. Individual paid with nonappropriated funds.
  - b. Reemployed annuitant.
  - c. Excepted service appointee under Schedule C, Part 213 of Title 5, Code of Federal Regulations (CFR).
  - d. Individual appointed by the President.
  - e. Individual in a statutorily excepted position that has been determined to be of a confidential, policy-determining, policy-making, or policy advocating character by the President, the U.S. Office of Personnel Management, or the Secretary of the Navy.
  - f. Noncitizen appointed to an overseas position under Civil Service Rule VIII, 5 CFR 8.3.
5. Employee. For:
  - a. Grievable Actions

(1) An individual presently or formerly employed by the Department of the Navy for whom a remedy can be provided (see reference (e)) for exclusions from the Administrative Grievance System.
  - b. Appealable Actions
    - (1) An individual in the competitive service who has completed a probationary or trial period.
    - (2) An individual in the competitive service who is serving in an appointment that requires no probationary or trial period, and who has completed one year of current continuous employment in the same or similar positions under other than a temporary appointment limited to one year or less.
    - (3) An individual in the excepted service who is a preference eligible as defined in 5 U.S.C. 105 and who has completed one year of current continuous service in the same or similar positions.
    - (4) Other covered employees are specified in Appendix A to reference (b).
6. Policy. DON and USNA use discipline as a managerial tool to correct deficiencies in employee conduct and performance, as a deterrent to unacceptable conduct or behavior (such as illegal drug use) and for

13 JUL 1990

correction of other situations which interfere with efficient operations. The objective is to promote the efficiency of the service by ensuring high standards of government service and maintaining public confidence in USNA and DON. Adverse actions, including performance-based adverse actions, may be taken under this instruction only for such cause as will promote the efficiency of the service.

7. Actions Not Covered by this Instruction

- a. A reduction-in-force action (5 U.S.C. 3502).
- b. The reduction in grade of an employee who is given grade retention under 10 U.S.C. 1586.
- c. A separation during probation under 5 CFR 315.804, or a separation during probation based in whole or in part of pre-appointment reasons under 5 CFR 315.805.
- d. The denial of a within-grade increase.
- e. Other actions are specified in reference (b).

8. Schedule of Offenses and Recommended Remedies

- a. Enclosure (1) contains a schedule of offenses and recommended remedies as set forth in reference (b), for use as a guide to administration of discipline. The purposes of the schedule are:

(1) Serve as a guide to management officials in administering discipline. It provides a uniform code of remedies for a reasonably complete list of offenses. The range of remedies promotes the discipline needed to deal with particular situations.

(2) Develop on the part of employees a clearer understanding of what constitutes reasonable cause of disciplinary action and the consequences of misconduct.

- b. The schedule is not intended to cover every possible type of offense. Remedies for offenses not listed will be consistent with remedies for offenses of comparable gravity.

c. Remedies will, in general, fall within the ranges indicated. In unusual circumstances, depending upon the gravity of the offense and the past record of the employee, a remedy either more or less severe than the maximum or minimum range provided for in the schedule may be imposed.

d. The schedule provides for a letter of reprimand as the minimum remedy for offenses. The letter of reprimand should not be confused with letters of caution or requirement or with written warnings as used with performance ratings.

9. Responsibilities

- a. Superintendent, USNA; Activity Heads (tenant activities):

(1) Propose and decide disciplinary actions under this instruction. This authority may be redelegated to subordinate managers and supervisors to the extent deemed appropriate. This authority may be withdrawn and redelegated at any time in the disciplinary action process as deemed necessary. An adverse action may be modified to correct an error of fact or judgement made by a subordinate official to include canceling a disciplinary action and proposing a lesser or harsher remedy after making sure the employees' due process rights have been afforded.

(2) Disseminate to all civilian employees, at least annually, applicable information on standards of conduct prescribed in reference (f).

- b. CPD, Management-Employee Relations (MER) Division

(1) Provide advice and guidance consistent with this instruction to employees and managers of all activities serviced.

(2) Maintain records as required by reference (b).

- c. Supervisors. Supervisors are responsible for:

(1) Communicating to employees standards of conduct and expectations regarding conduct and performance.

13 JUL 1990

- (2) Setting a good example by their own conduct.
  - (3) Monitoring employee conduct and taking or initiating corrective action as required.
  - (4) Referring employees to the Civilian Employee Assistance Program as appropriate under reference (g).
  - (5) Consulting with CPD as appropriate.
- d. Employees. Employees are responsible for:
- (1) Conducting themselves, both on and off duty, in a manner which will make sure their conduct does not reflect adversely on USNA and DON.
  - (2) Complying with the standards of conduct prescribed in reference (f).
  - (3) Following on-the-job work rules, including reporting for work on time and in a condition which will permit safe and reliable performance of assigned duties.
  - (4) Performing their job duties at a fully successful level and in a safe and reliable manner.

Employees who fail to comply with (1) - (4) above may be subject to discipline under this instruction.

e. Discipline is not a CPD function. The decision to take and carry out disciplinary action must be made by the appropriate line supervisor. Proposed disciplinary actions must be justified and procedurally accurate. To assure the latter, before taking any of the written actions cited below, supervisors must contact an Employee Relations Specialist, MER Division, CPD, at extension 2804 or 2533.

#### 10. Choosing Among Disciplinary Actions

a. The purpose of discipline is to correct the offending employee and maintain discipline and morale among other employees.

b. An oral admonishment is the common and informal way by which a supervisor may call an employee's attention to certain deficiencies in his or her conduct or work performance, and to advise the employee that acceptable standards of conduct or performance have been set forth for his or her guidance. Whenever practicable, oral admonishments should be delivered in private. Events which are discussed in oral admonishments will not be made a matter of record or counted as prior offenses when determining the appropriate remedy within the schedule of offenses and recommended remedies (enclosure (1)). They may, however, be included in the specifications of proposed disciplinary action or performance rating warnings in the future.

c. Employees may be formally disciplined by being reprimanded in writing, suspended from duty, reduced in grade, or removed from employment. It is reiterated that enclosure (1) is a guide to management officials and a uniform code for administering discipline when required. If acted upon in a timely manner, one or more offenses committed within a short period of time can be combined in a single action.

d. Letters of caution and requirement are non-disciplinary ways of calling attention to certain aspects of employees' conduct or performance. See paragraphs 10 and 11.

11. Noncontestable Actions. Oral admonishments and letters of caution are not grievable under DON Administrative Grievance System (reference (e)) and are not appealable to the Merit Systems Protection Board (MSPB). Noncontestable actions may be taken by the immediate supervisor. A letter of caution must state:

- a. The reason(s) for issuance.
- b. The action is neither grievable under reference (e) nor appealable to MSPB. Such action may be grievable under a negotiated grievance procedure for bargaining unit employees.
- c. That it will not be made a matter of record in the employee's Official Personnel Folder (OPF).

Neither an oral admonishment nor a letter of caution will be counted as a prior offense in determining a range of remedies under enclosure (1). However, they may be considered in determining an appropriate remedy should an offense later occur.

12. Grievable Actions. Grievable actions include letters of requirement, letters of reprimand, and

13 JUL 1990

suspensions of 14 days or less.

a. Letters of Requirement. Letters of requirement may be issued by the immediate supervisor. A letter of requirement must state:

- (1) The reason(s) for issuance.
- (2) The specific requirement(s) the employee must meet.
- (3) That failure to meet a requirement may lead to disciplinary action.
- (4) The length of time a requirement is in effect.
- (5) The employee's right to file a grievance under reference (e) or under a negotiated grievance procedure, as appropriate.
- (6) That it will not be made a matter of record in the employee's OPF.
- (7) It will not be counted as a prior offense when determining a range of remedies under enclosure (1) to this instruction, but may be considered in determining an appropriate remedy should an offense subsequently occur.

b. Letters of Reprimand. Authority to issue letters of reprimand is delegated to the immediate supervisor or intermediate supervisor as determined by the head of the department or academic division. A letter of reprimand must state:

- (1) The reason(s) for issuance.
- (2) The employee's right to file a grievance under reference (e) or under a negotiated grievance procedure, as appropriate.
- (3) The length of time (two years) it will be retained in the employee's OPF, and during which it may be counted as a prior offense for determining a range of remedies under enclosure (1). (However, as with a letter of requirement or a noncontestable action, the letter of reprimand may continue to be considered when determining an appropriate remedy for a subsequent offense.)

c. A suspension of 14 days or less entitles the affected employee to:

- (1) Advance written notice and a written decision at the earliest practicable date.
- (2) Opportunity to respond orally and/or in writing to the advance notice within five days.
- (3) Representation by an attorney or other representative.
- (4) Opportunity to request additional time to respond orally and/or in writing to the advance notice. The official designated to accept the oral or written reply will make the decision to grant or deny such an extension.
- (5) Other requirements, including the employee's grievance rights, are delineated in CPI 752, reference (b).

The authority to propose suspensions of 14 days or less is delegated to the immediate or intermediate supervisor as determined by the head of the department or academic division. The authority to decide is delegated to the head of the department or the academic division.

### 13. Appealable Actions

a. Appealable actions (removal, suspension for more than 14 days, indefinite suspension, reduction in grade or pay, or furlough for 30 days or less) entitle the affected employee:

- (1) To at least 30 days advance written notice.
- (2) Opportunity to answer orally and/or in writing to the advance notice within 10 days.
- (3) Representation by an attorney or other representative.
- (4) Opportunity to request additional time to respond orally and/or in writing.

13 JUL 1990

(5) A written decision at the earliest practicable date.

(6) Other requirements, including the employee's grievance rights or appeal rights to the MSPB, are delineated in CPI 752, reference (b).

The authority to propose appealable actions is delegated to the head of the department or academic division. The authority to decide is delegated to the Cost Center Head or Activity Head (tenant activities). Cost Center/Activity Heads may redelegate this authority in writing with a copy to the CPD, MER Division.

b. Hearings. Employees will not be provided a hearing in lieu of, or in addition to, the opportunity to respond orally and/or in writing to a notice of proposed action.

c. Duty status during the notice period. Under ordinary circumstances, employees will remain in a duty status in their regular positions during the advance notice period. Other options, including but not limited to, voluntary use of leave, reassignment, detail, etc., may be appropriate in given situations. Supervisors/managers should seek advice from the CPD, MER Division prior to exercising an alternative option.

d. Medical examinations. After reviewing medical documentation supplied by the employee in reply to a proposed action, a medical examination may be ordered or offered if authorized by reference (h).

e. Disability retirement. When the employee has five years or more of civilian service and asserts or documents impairment or disability, the CPD, Compensation and Benefits Division will provide information to him or her concerning disability retirement. An employee's application for disability retirement will not preclude or delay any other appropriate personnel action.

14. Performance-Based Actions. Performance-based actions may be effected using either the procedures of reference (i) or this instruction. The CPD, MER Division can provide advice on the appropriate procedure to follow.

15. Disallowance of an Employee's Choice of Representative

a. An employee's choice of a representative may be disallowed if such representation would result in a conflict of interest or position, conflict with priority needs of the USNA, or would give rise to unreasonable costs to the government. The terms of any applicable collective bargaining agreement govern representation for unit employees.

b. Management officials who make final written decisions on disciplinary or adverse actions are delegated the authority to disallow the employee's choice of representative. In the event the employee disagrees with the determination to disallow a choice of representative, the final decision will be made by a management official higher in the chain of command, but no lower than the head of the department or academic division.

  
B. A. SPOFFORD  
Deputy for Operations

Distribution:  
AA  
CPD (50)  
S

13 JUL 1990

CPI 752-B

SCHEDULE OF OFFENSES AND RECOMMENDED REMEDIESRANGE OF REMEDIES

<u>OFFENSE</u>	<u>FIRST OFFENSE</u>	<u>SECOND OFFENSE</u>	<u>THIRD OFFENSE</u>
<u>ALCOHOL ABUSE</u>			
Unauthorized possession, sale or transfer of alcohol on duty or on a military ship, aircraft, or installation	14-day suspension to removal	30-day suspension to removal	Removal
* Use of, or being under the influence of alcohol on duty or on a military ship, aircraft, or installation	14-day suspension to removal	30-day suspension to removal	Removal
<u>ATTENDANCE</u>			
Excessive unauthorized absence (more than 5 consecutive workdays)	Reprimand to removal	10-day suspension to removal	Removal
Leaving job to which assigned or Department of the Navy premises at any time during working hours without proper authorization	Reprimand to 5-day suspension	Reprimand to 10-day suspension	Reprimand to removal
Unexcused or unauthorized absence on one or more scheduled days of work or assigned overtime	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
Unexcused tardiness	Reprimand	Reprimand to 5-day suspension	Reprimand to removal

Enclosure (1)

13 JUL 1990

CPI 752-B

SCHEDULE OF OFFENSES AND RECOMMENDED REMEDIESRANGE OF REMEDIES (CONTINUED)

<u>OFFENSE</u>	<u>FIRST OFFENSE</u>	<u>SECOND OFFENSE</u>	<u>THIRD OFFENSE</u>
<u>DISCRIMINATION</u>			
Discrimination against an employee or applicant based on race, color, religion, sex, handicap, national origin, or age, or any reprisal or retaliation action against a complainant, representative, witness, or other person involved in the EEO complaint process	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Sexual harassment	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
<u>DRUG ABUSE</u>			
* Unlawful use or possession of drugs or drug paraphernalia on or off duty	Reprimand to removal	Removal	
* Unlawful distribution, sale, or transfer of drugs or drug paraphernalia on or off duty	Removal		
* Unlawful use or possession of drugs or drug paraphernalia on a military ship or aircraft	Removal		
<u>DRUG TESTING</u>			
Refusal to provide a urine sample when required	Reprimand to removal	Removal	

13 JUL 1990

CPI 752-B

SCHEDULE OF OFFENSES AND RECOMMENDED REMEDIESRANGE OF REMEDIES (CONTINUED)

<u>OFFENSE</u>	<u>FIRST OFFENSE</u>	<u>SECOND OFFENSE</u>	<u>THIRD OFFENSE</u>
<u>DRUG TESTING</u>			
Substituting, adulterating or otherwise tampering with a urine sample, testing equipment or related paraphernalia	30-day suspension to removal	Removal	
Attempted or actual falsification, misstatement or concealment of a material fact, record, correspondence or other communication prepared in connection with the collection, handling, transportation or testing of urine samples	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
<u>MISCELLANEOUS OFFENSES</u>			
Betting, gambling, or the promotion thereof on duty or on Department of the Navy premises	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
Careless workmanship resulting in delay in production or spoilage or waste of materials	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
Criminal, dishonest, infamous or notoriously disgraceful conduct	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Disobedience to constituted authorities; deliberate refusal or failure or delay in carrying out any proper order, work assignment or instruction; insubordination, including failure to follow local or higher level policy	Reprimand to removal	5-day suspension to removal	10-day suspension to removal

13 JUL 1990  
CPI 752-BSCHEDULE OF OFFENSES AND RECOMMENDED REMEDIESRANGE OF REMEDIES (CONTINUED)

<u>OFFENSE</u>	<u>FIRST OFFENSE</u>	<u>SECOND OFFENSE</u>	<u>THIRD OFFENSE</u>
<u>MISCELLANEOUS OFFENSES</u>			
Disrespectful conduct, use of insulting, abusive or obscene language to or about other personnel	Reprimand to 5-day suspension	5-day suspension to removal	10-day suspension to removal
Falsification (or aiding or assisting in falsification) of time and attendance records or claims against the government	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Falsification, misstatement, or concealment of material fact in connection with any official record	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
False testimony or refusal to testify in an inquiry, investigation or other official proceeding	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Loafing; wasting time; inattention to duty; sleeping on duty	Reprimand to 5-day suspension	5-day suspension to removal	10-day suspension to removal
Making threats to other employees or supervisor; fighting; engaging in dangerous horseplay	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
* Misuse of a Government vehicle	Reprimand to removal	30-day suspension to removal	Removal

\* 31 U.S.C. 1349(b) requires a minimum suspension of one month even for the first offense, if the misuse was willful, i.e., employee acted either with knowledge that the intended use would be characterized as unofficial or with reckless disregard of whether such use was unofficial.

13 JUL 1990

CPI 752-B

SCHEDULE OF OFFENSES AND RECOMMENDED REMEDIESRANGE OF REMEDIES (CONTINUED)

<u>OFFENSE</u>	<u>FIRST OFFENSE</u>	<u>SECOND OFFENSE</u>	<u>THIRD OFFENSE</u>
<u>MISCELLANEOUS OFFENSES</u>			
Reckless driving or improper operation of motor vehicle:			
Causing personal injury to self or others or damage to government property	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
No personal injury to self or others or damage to government property	Reprimand to 5-day suspension	Reprimand to 10-day suspension	14-day suspension to removal
Unauthorized possession, use, loss or damage to government property or the property of others	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
<u>PROHIBITED PERSONNEL PRACTICE</u>			
Committing a prohibited personnel practice (See 5 U.S.C. 2302)	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
<u>SAFETY</u>			
Failure to observe posted smoking prohibitions	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
Failure to use protective clothing or equipment	Reprimand to removal	5-day suspension to removal	10-day suspension to removal

13 JUL 1990

CPI 752-B

SCHEDULE OF OFFENSES AND RECOMMENDED REMEDIES

RANGE OF REMEDIES (CONTINUED)

<u>OFFENSE</u>	<u>FIRST OFFENSE</u>	<u>SECOND OFFENSE</u>	<u>THIRD OFFENSE</u>
<u>SAFETY</u>			
Violation of safety or traffic regulations on duty or on an installation (on or off duty):			
Causing injury to self or others or damage to property or endangering the safety of self or others	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
No injury or property damage; not endangering the safety of self or others	Reprimand to 5-day suspension	Reprimand to 10-day suspension	Reprimand to removal
<u>SECURITY</u>			
Failure to safeguard classified material:			
Security compromised	Reprimand to removal	14-day suspension to removal	Removal
Security not compromised	Reprimand to 5-day suspension	Reprimand to 14-day suspension	30-day suspension to removal
<u>UNAUTHORIZED DISCLOSURE OR USE OF PROTECTED MATERIAL</u>			
Unauthorized disclosure or use of information or other protected material (e.g., records covered by the Privacy Act or under 42 CFR Part 2 (CEAP records))	Reprimand to removal	14-day suspension to removal	30-day suspension to removal