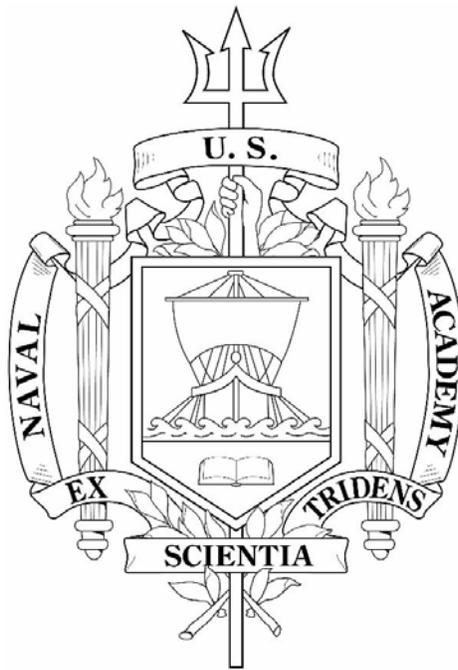


ADMINISTRATIVE CONDUCT SYSTEM MANUAL





DEPARTMENT OF THE NAVY

COMMANDANT OF MIDSHIPMEN
U.S. NAVAL ACADEMY
101 BUCHANAN ROAD
ANNAPOLIS, MARYLAND 21402-5100

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From: Commandant of Midshipmen

Subj: ADMINISTRATIVE CONDUCT SYSTEM MANUAL

Encl: (1) Administrative Conduct System Manual

1. Purpose. To publish the Administrative Conduct System Manual.
2. Cancellation. COMDTMIDNINST 1610.2B
3. Information. The Administrative Conduct System Manual, published as enclosure (1), is published for the information of and compliance by members of the Brigade of Midshipmen and all personnel subordinate to the Commandant of Midshipmen.

CHARLES J. LEIDIG
(Signed)

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CHAPTER 1

INTRODUCTION TO THE CONDUCT SYSTEM

<u>SECTION</u>	<u>SUBJECT</u>
1.0	General (Authority, Purpose, Nature)
1.1	Standards of Conduct
1.2	Basic Principles
1.3	Design of the Conduct System
1.4	Conduct Semester/Year
1.5	Conduct and the Honor Concept
1.6	Graduation Conditions

1.0 General

a. **Authority.** Part V, MCM, 2002, Manual of the Judge Advocate General, Change 13, RCM 306, Title 10, U.S.C. section 6961, Title 10 U.S.C. section 6962(a)(1), Article 2, Article 3, and Article 15, U.C.M.J.

b. **Purpose.** To provide the chain of command from the midshipmen leadership to the officer leadership with means of maintaining good order and discipline while promoting positive behavior changes in midshipmen without the stigma of more severe action such as court-martial or action that would be made part of their permanent service record upon commissioning. The Conduct System is intended to be a leadership resource. It is not designed to be a substitute for leadership; rather, it should supplement a midshipman's ability to exercise professional leadership through accountability and responsibility. Midshipmen will have the ability to take ownership of the Conduct System through involvement in investigations and as adjudicating authorities. The Conduct System also provides a means of preparing midshipmen for the fleet through educating them on the investigation process, legal terminology, and the importance of appropriate corrective measures.

c. **Nature.** The Administrative Conduct System provides disciplinary measures more serious than the non-punitive measures such as EMI, counseling, reprimands, or administrative withholding of privileges, but less serious than trial by court-martial. The first phase of the Conduct System involves an inquiry into alleged misconduct and may include a subsequent hearing conducted by the Adjudicating Authority to determine whether and to what extent a midshipman should be punished. The second phase occurs in cases in which the Adjudicating Authority determines that an offense occurred which warrants a recommendation that the Commandant of Midshipmen review the case or the Commandant personally elects to review the case. The record of the adjudication along with all other documentary evidence will be forwarded to the Commandant, who will review the record and conduct an "Unsatisfactory Conduct" hearing to determine suitability for commissioning. At the hearing, the Commandant will decide among three courses of action: (1) terminating the case and taking no further action; (2) placing the midshipman on conduct probation and/or remediation for a specified period of time; or (3) forwarding the case to the Superintendent with a recommendation the midshipman be discharged from Naval Academy.

1.1 STANDARDS OF CONDUCT. Midshipmen's dedication, commitment to excellence, and exemplary standards of conduct apply both on and off duty, in personal behavior, and in relations with others in the civilian and military communities. They must comply with the spirit and intent of all directives as well as with their substance, and any conduct that might reflect discredit

upon the Brigade of Midshipmen, the Naval Academy, or the Navy, or is in violation of any local, state, or federal law, or indicates questionable personal morals, will be considered conduct unbecoming a U.S. Navy or Marine Corps officer candidate. Midshipmen found to be unsatisfactory in conduct may be recommended for separation, if it is decided that their retention will not be in the best interests of the naval service.

1.2 BASIC PRINCIPLES OF THE CONDUCT SYSTEM

a. **Commander's responsibility.** Commanders are responsible for good order and discipline in their units. Generally, discipline can be maintained through strong positive leadership including, when necessary, administrative corrective measures. Action within the Administrative Conduct System may be required when non-punitive administrative corrective measures are inadequate due to the nature of the alleged offense or the prior record of the midshipman, unless it is clear that only trial by court-martial will meet the needs of justice and discipline. Action within the Administrative Conduct System shall be considered on an individual basis. The chain of command and Adjudicating Authorities considering action within the Administrative Conduct System should consider the nature of the offense, the record of the midshipman, the need for good order and discipline within the Brigade of Midshipmen, and the effect of Conduct System action on the midshipman.

b. **Midshipmen Loyalty to Service.** The Administrative Conduct System (Conduct System) is intended to be correctional and educational rather than legalistic and punitive. Its purpose is to teach midshipmen to accept full responsibility for their actions and performance and to place loyalty to the service above self-interest or loyalty to friends or classmates. The procedures established in this instruction are discretionary to some extent and are designed partly to assist the Superintendent in assembling all pertinent information prior to submitting a report of unsatisfactory conduct and a recommendation for separation to the Secretary of the Navy under Title 10 USC 6962. (The Superintendent may, however, submit such a report without implementing any of the procedures under this instruction.)

c. **Adjudicating Authority's discretion.** An Adjudicating Authority who is considering a case for disposition under the Administrative Conduct System will exercise personal discretion in evaluating each case, both as to whether punishment is appropriate and, if so, the nature and amount of punishment which is appropriate. No superior may direct that a subordinate authority impose punishment in a particular case.

d. **Adjudicating Authority's suspension authority.** Adjudicating Authorities may consider suspending all or part of any punishment awarded under the Administrative Conduct System. This may be appropriate in the case of first offenders or when significant extenuating or mitigating matters are present. Suspension provides an incentive to the offender and gives an opportunity to the Adjudicating Authority to evaluate the offender during the period of suspension.

c. **General nature of system.** The Conduct System provides for counseling, reprimand, award of demerits, restriction, disciplinary tours, conduct probation, and other appropriate sanctions specifically described herein. It is purely administrative in nature and is not governed by the strict rules and procedures provided for in judicial proceedings. Procedural errors or irregularities in the hearing normally do not invalidate the proceedings or any action of the Commandant or Superintendent based thereon; however, those constitutional rights inherent in administrative due process

will be accorded each midshipman.

d. **Application to midshipmen and cadets.** All persons enrolled as midshipmen at the U.S. Naval Academy and all cadets of other service academies temporarily attached to the Brigade of Midshipmen are subject to this instruction as well as to the provisions of local, state, and federal law made applicable to members of the armed services pursuant to Article 134 of the Uniform Code of Military Justice (UCMJ). All midshipmen are further subject to the provisions of U.S. Navy Regulations and applicable instructions and notices.

e. **Double Jeopardy/Multiple Processing of the Same Charge/Limitations on punishment awarded under ACS.**

(1) **Multiple Conduct Charges for the Same Incident.** When several related conduct offenses take place under the same course of action, they will be considered as one event, only one Conduct Report and Case File will be generated, and only one punishment will be awarded. The most serious charge will be used as the primary charge; all others will be listed as secondary charges.

(2) **Conduct and Honor Charges.** A midshipman will not be charged under both the Conduct and the Honor system for the same offense. This does not preclude separate charges for different offenses arising from the same incident. See section 1.4 for further guidance on this issue.

(3) **Conduct and Civilian Charges.** It is **not** considered to be double jeopardy for a midshipman who is subject to prosecution by civil authorities also to be charged under the Conduct System. In taking administrative action pursuant to this instruction, it is not incumbent that the civil action be completed, nor that the midshipman be found guilty of that prosecution.

(4) **Double punishment prohibited.** When punishment has been imposed for an offense under the Administrative Conduct System, punishment may not again be imposed for the same offense in either the conduct or honor systems. Action pursuant to the Administrative Conduct System is not necessarily a bar to later trial by courts-martial, in accordance with the U.C.M.J.

(5) **Increase in punishment prohibited.** Once punishment under the Administrative Conduct System has been imposed, it may not upon appeal or otherwise be increased.

(6) **Multiple punishments prohibited.** When an Adjudicating Authority determines punishment under the Conduct System is appropriate for a particular midshipman, all known offenses determined to be appropriate for disposition within the Administrative Conduct System and ready to be considered at that time, including all known offenses arising from a single incident or course of conduct, shall ordinarily be considered together and not made the basis for multiple punishments.

(7) **Statute of limitations.** Except as otherwise specifically provided, punishment under the Administrative Conduct System may not be imposed for offenses which were committed more than 2 years before the date of imposition.

f. **Attempts to commit an offense.**

(1) An attempt is an act done with the intent to commit a conduct

offense, amounting to more than mere preparation, and tending, though failing, to effect the commission of the offense.

(2) Attempts should be charged as the intended offense. The maximum punishment is the same as the intended offense.

(3) A person who undertakes acts with the specific intent to commit an offense, amounting to mere preparation, then **voluntarily abandons the undertaking, is not guilty**. A person whose undertaking is terminated by unforeseen circumstances is guilty of an attempt.

1.3 DESIGN OF THE CONDUCT SYSTEM. Midshipmen may be charged under the Conduct System for offenses categorized under general types of offenses. Each specific offense there under is codified under six levels of seriousness (or "series") ranging from the least consequential, the 1000 series, to the most serious, the 6000 series, for which a midshipman may be discharged from the Naval Academy based on the nature of the offense. Specific allowable punishments for each series are shown in Chapter 3. Descriptions of all specific offenses under the Conduct System are listed by type in the last chapter in this manual.

1.4 CONDUCT SEMESTER / YEAR. Any offense of which a midshipman is found guilty contributes to the grade for the semester in which the offense took place, regardless of adjudication date or computer entry date.

a. Beginning of Fall conduct semester and conduct year:

(1) Upper three-classes - Fall conduct semester and conduct year will commence at 1200 on the day of graduation.

(2) Fourth Class - Fall conduct semester and conduct year (for conduct grade purposes) will commence at 0001 the first day of academic classes for the Fall semester.

b. End of Fall semester, all classes: 2400 the last day of academic classes. (Note: this does not include final exam days.)

c. Beginning of Spring conduct semester, all classes: 0001 the day following the last day of academic classes for Fall semester.

d. End of Spring semester and conduct year:

(1) Lower three classes and First Class not graduating because of academic or medical reasons -1200 graduation day.

(2) First Class not graduating because of conduct, honor, or performance reasons - upon their graduation.

1.5 CHARGING OFFENSES UNDER THE CONDUCT SYSTEM AND THE HONOR CONCEPT

a. **The same offense charged as both an Honor and a Conduct offense**. To reiterate the statement in section 1.2.e.(2) above, a midshipman will not be charged and processed under both the Conduct and the Honor system for the same offense (i.e., lying, cheating, or stealing). A conduct offense closely related to the honor offense, however, may be charged. Consult the Commandant's Legal Office in questionable cases. The Commandant's Legal Advisor will coordinate with the Character Development Legal Advisor on cases involving possible conduct and honor offenses to determine the appropriate

means of charging under the circumstances of the case.

b. **Improper Use of Midshipmen Responses to Questions.** In accordance with the Honor Concept, midshipmen, just like officers in the Fleet, are expected to answer all questions posed to them honorably and truthfully. In order to address a situation in which a midshipman responds in a self-incriminating manner to questions where the questioner has no basis for asking the particular type of questions, the following will apply. Where disciplinary action is initiated and the sole source of information prompting that action is the midshipman's own response to questioning, which was initiated without any reasonable cause to believe the midshipman had committed or was involved in a conduct violation, the disciplinary action will be terminated. If there is sufficient independent evidence to establish guilt by a preponderance of the evidence, disciplinary action may be taken, but that evidence derived by the improper use of the midshipman's responses, either directly or indirectly, will not be considered. The objection to the consideration of information derived through the improper use of one's responses is personal to the individual whose responses are improperly being considered and may not be raised by anyone other than the midshipman so violated. During an investigation, the accused midshipman should inform the PIO of his/her objection to his/her responses being improperly used as the basis for disciplinary action. The PIO will note the objection in the investigation for review by the Legal Advisor and Conduct Officer and ultimately the Adjudicating Authority if the case proceeds. In an Adjudicative Hearing, the Adjudicating Authority will note a midshipman's objection that his responses have been used against him improperly and will develop all pertinent information on the record. The Adjudicating Authority will also make a determination as to whether or not the midshipman's responses were in fact used improperly against the midshipman and whether or not independent evidence exists to proceed with the case. A midshipman's responses will be considered to have been improperly used against him when:

(1) There was no reasonable cause to believe that the midshipman being questioned had committed or was involved in a conduct violation pursuant to which the questions were being asked, and

(2) The midshipman's answers to the questions resulted in disciplinary action being taken against him, and

(3) The answers provided were the sole basis for a determination of guilt as to the alleged violation.

1.6 Graduation Conditions

a. First Class midshipmen who have at least a 2.0 conduct average (see section 5.0 for calculations) are eligible to graduate with their class, assuming they meet all other graduation requirements.

b. First Class midshipmen may not be allowed to graduate with their class if:

(1) They are suspected of a offense under the Conduct System, the Uniform Code of Military Justice, or federal, state or local law; or

(2) They are the subject of a pending conduct case; or

(3) They are unsatisfactory in conduct; or

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(4) They have unserved restriction as of graduation day. Only the Superintendent, however, may authorize late graduation.

CHAPTER 2
PROCEDURES FOR 1000-6000 SERIES CONDUCT CASES

SECTION	SUBJECT
2.0	Introduction: Possibilities for Addressing a Conduct Offense
2.1	Reporting and Investigation
2.2	Adjudicative Hearing
2.3	Request for Reconsideration (Appeal)
2.4	Unsatisfactory Conduct Procedures
2.5	Recommendation for Separation

FORMS USED IN CONJUNCTION WITH A 1000-6000 SERIES OFFENSE

All of the following paperwork is kept together:

a. **Form 2.** Figure 2-A. The basic report form for a conduct offense, which is maintained electronically in the Midshipman Information Data System (MIDS), is called a Form 2. As the case proceeds through the conduct system, the Form 2 is updated and eventually saved as an electronic record of the disposition of the case. The accused midshipman has 24 hours from notification that a Form 2 has been submitted to make a plea and submit a statement online.

b. **Preliminary Inquiry Report (4000-6000 and variable 3000+ offenses).** Figure 2-B. An investigation must be completed and this form filled out for ALL cases that involve 4000 - 6000 series level of offenses. Additionally, when an offense could be charged as a variable series that includes a 3000 series as an option (e.g. 3000 - 4000, 3000 - 5000, or 3000 - 6000), this form will be used.

c. **Abbreviated Preliminary Inquiry Report (1000-3000).** Figure 2-C. This abbreviated report must be completed as a report of investigation for ALL cases that involve series 1000 - 3000 series level of offense. For offenses that could be charged as a variable series that includes a 3000 series as an option (e.g. 3000 - 4000, 3000 - 5000, or 3000-6000), see paragraph b. in this section above and paragraph d. in this section below.

d. **Acknowledgment and Waiver of Military Suspect's Rights, Investigation and Hearing Rights (4000-6000 and variable 3000+ offenses).** (Figure 2-D. This form must be signed by the accused midshipman in ALL cases that involve 4000 - 6000 series level offenses and 3000+ variable offenses prior to questioning as part of the Preliminary Investigation. This form must also be updated over the course of the investigation if there are any changes to the charges against the accused midshipman.

e. **Notification of Potential Reimbursement for Advanced Education.** Figure 2-E. For midshipmen alleged to have committed conduct offenses after beginning their second class academic year, the Preliminary Investigating Officer shall notify the accused regarding the possibility of Secretary of the Navy directed enlisted service or monetary recoupment based on the accused's attendance at the Naval Academy. The accused must be notified prior to making any decisions regarding the case, i.e. providing a statement or plea. **This form must be signed in ALL cases involving first or second class midshipmen regardless of the level of offense.**

f. **Acknowledgment and Waiver of Investigation and Hearing Rights (1000-3000).** Figure 2-F. This form must be signed by the accused midshipman in

ALL cases that involve 1000 - 3000 series level offenses prior to questioning as part of the Preliminary Investigation. This form must also be updated over the course of the investigation if there are any changes to the charges against the accused midshipman.

g. **Chain of Command Comments.** The Chain of Command submits this form electronically using the PIO, Witness and Chain of Command section of the Form 2 found in MIDS. Statements shall be submitted by members of the accused midshipman's chain of command prior to the adjudicative hearing.

TIMEFRAME FOR A 1000-6000 SERIES OFFENSE

Form 2s should be initiated promptly upon the initiator possessing sufficient information to warrant a conduct report. Reports of misconduct should not be held in abeyance as a counseling or leadership technique. A complete investigation is the responsibility of the Conduct System and the chain of command. The maximum time taken to process a Form 2 from time of receipt by the Company Conduct Officer to receipt by the Adjudicating Authority is listed below by series of offense. Exceptions to this timeline for extenuating circumstances must be approved by the Conduct and Legal Offices.

1000 to 3000	1 working day
4000-6000	3 working days

R

1000-6000 SERIES CONDUCT CASES

2.0 Introduction. As discussed in section 1.2.a, commanders are responsible for good order and discipline in their units. Generally, discipline can be maintained through strong positive leadership including, when necessary, administrative corrective measures. Action within the Administrative Conduct System may be required when non-punitive administrative corrective measures are inadequate due to **the nature of the alleged offense or the record of a given midshipman or both.** Adjudicating Authorities considering action within the Administrative Conduct System should consider the nature of the offense, the record of the midshipman, the need for good order and discipline, and the effect of Conduct System action on the midshipman. While nothing herein should be construed to, in any way, limit the inherent discretion of an Adjudicating Authority to take such authorized action as deemed appropriate before a midshipman is charged under the Conduct System, consideration should be given as to whether another form of corrective action would be appropriate i.e., formal or informal counseling, EMI, administrative loss of privileges in accordance with Chapter 3, paragraph 3.e. Based upon this general guidance, the steps as discussed in sections 2.1 and 2.2 should be adhered to whenever a possible conduct offense has occurred.

FLOWCHART 1000-6000 SERIES OFFENSES

- ◇ Reporting and Investigation
 - Reporting an offense
 - Initiation of Form 2. (Figure 2-A)
 - Service of the Form 2 on the Accused.
 - Assignment of a Preliminary Investigating Officer (PIO).
 - PIO interviews and takes statements from all pertinent witnesses and conducts investigation.
 - Rights and Notifications of Accused.
 - Midshipman makes plea and tenders voluntary statement of respondent if desired or if 1000-3000 series offense.
 - Investigating Officer completes the Preliminary Inquiry Report.
 - Forwarding of the PIO's Report to appropriate Conduct Officer.

- ◇ Review of Investigation
 - Recommendation and Approval of Final Offense Series.
 - Adjudicating authority's options for disposition.
 - Pre-Hearing Notification to midshipman.
 - Rights of an accused midshipman immediately prior to and during a Conduct Adjudication Hearing are given to midshipman.

- ◇ Adjudicative Hearing
 - Adjudicating Authorities Determined.
 - Hearing Scheduled and Conducted.

- ◇ After Adjudication Process.
 - Request for reconsideration submitted by midshipman if desired.
 - Reviewing authority considers request for reconsideration if submitted.
 - Adjudication disposition options:
 - Conduct Case Forwarded to Commandant for Unsatisfactory Conduct Hearing (3 options)
 - No further action in case
 - Midshipman assigned Conduct Probation/Remediation if appropriate
 - Midshipman forwarded to Superintendent with discharge recommendation

 - Conduct Case Forwarded to Commandant for Record Review (no hearing)
 - No further action in case
 - Verbal or written counseling of midshipman
 - Midshipman assigned Conduct Probation/Remediation if appropriate

QUICK REFERENCE GUIDE FOR SECTIONS 2.1 - 2.5

- 2.1 Reporting and Investigation
 - a. Reporting an offense
 - b. Initiation of Form 2. (Figure 2-A)
 - c. Service of the Form 2 on the Accused.
 - d. Assignment of a Preliminary Investigating Officer (PIO).
 - e. PIO interviews and takes statements from all pertinent witnesses and conducts investigation.
 - f. Rights and Notifications of Accused.
 - g. Midshipman makes plea and tenders voluntary statement of respondent if desired or if 1000-2000 series offense.
 - h. Investigating Officer completes the Preliminary Inquiry Report.
 - i. Forwarding of the PIO's Report to appropriate Conduct Officer.
 - j. Recommendation and Approval of Final Offense Series.
 - k. Adjudicating authority's options for disposition.
 - l. Pre-Hearing Notification.
 - m. Rights of an accused midshipman immediately prior to and during a Conduct Adjudication Hearing.
- 2.2 Adjudicative Hearing
 - a. Adjudicating Authorities.
 - b. Time requirements for adjudications.
 - c. Witnesses.
 - d. Admissibility of evidence.
 - e. Conduct adjudication hearing process.
 - f. Possible Awards for 1000-6000 Series Offenses.
 - g. Errors or Irregularities at an Adjudicative Hearing.
 - h. After Adjudication.
- 2.3 Request for Reconsideration (Appeal)
 - a. A request for reconsideration is an appeal to a specified Reviewing Authority
 - b. Rules for submitting requests for reconsideration
 - c. Notice of Reviewing Authority Action
 - d. Reviewing Authorities
- 2.4 Unsatisfactory Conduct Procedures
 - a. Record Review
 - b. Commandant's Hearing for Unsatisfactory Conduct
 - c. Forward for Review by Aptitude System
 - d. Retained within Brigade of Midshipmen by Superintendent
- 2.5 Recommendation for Separation
 - a. Recommendation for Separation
 - b. Superintendent Action
 - c. Check-Out

2.1 Reporting and Investigation

a. **Reporting an offense.** Officers, noncommissioned officers, enlisted personnel, midshipmen, and civilians may report midshipmen who they suspect committed any offense covered by this instruction. Midshipmen, faculty and staff shall report conduct offenses by submitting a Form 2 electronically via MIDS or through the Conduct Office if assistance is needed. Officers, senior enlisted, civilian faculty and midshipmen that enter a Form 2 should, prior to entering the electronic Form 2, inform the midshipman of the charges of which they are accused and their intention to enter a Form 2. Officers, noncommissioned officers, enlisted personnel, and civilians without access to MIDS may contact the Conduct Office to report an incident.

b. **Initiation of Form 2.** Subject to the limitations set forth herein, any person, who has reason to believe a midshipman may have committed an offense defined by this instruction or the U.C.M.J. or violated regulations covered by this instruction, may initiate a Form 2 against such midshipman. All Form 2s alleging a 4000 - 6000 series offense shall be brought to the attention of the Legal Advisor via the Conduct Officer for review. The Legal Advisor must review all Form 2s alleging a 4000 - 6000 series offense and determine whether the offense is a "major criminal offense" as defined by SECNAVINST 5520.3B.

(1) **Charging an offense.** If more than one offense has allegedly been committed by the same midshipman, where such alleged offenses are closely related in time, place, or nature so as to form one course of action/misconduct, such offenses will normally be considered as one event and only one Form 2 will be generated and one punishment awarded. The most serious charge will be used as the primary charge; all others will be listed as secondary charges. Demerits and restriction or tour awards for multiple offense incidents may not exceed the maximum allowed for the primary offense. Any questions as to whether a series of offenses constitutes a single incident should be referred to the Legal Advisor.

(2) **Wording/Writing the Form 2.** The Form 2 should be written in a manner that places the accused on notice of the offense that midshipman is alleged to have committed. The offense description need only be written in a short concise statement in sufficient detail to put the accused midshipman on notice of the offense that was allegedly committed. The offense description need not describe every detail of the circumstances surrounding the alleged offense. The name and company of any other midshipmen involved in the same offense must be included in the offense description.

(a) If the alleged offense is determined not to be a "major criminal offense," the Form 2 shall be processed by the Conduct Officer.

(b) If the alleged offense is determined to be a "major criminal offense," the Commandant of Midshipmen after conferring with the Superintendent shall ensure that Naval Criminal Investigative Service (NCIS) is informed as soon as practicable. After NCIS investigates the allegation, the case will be referred to the Superintendent. As the General Courts-Martial Convening Authority, the Superintendent will decide the appropriate forum for disposition (including but not limited to courts martial, Administrative Conduct System, or no further action in the case). If NCIS commences an investigation, the Legal Advisor shall coordinate with NCIS for all necessary assistance and dissemination of information to command authorities.

c. **Service of the Form 2 on the Accused.** Although the electronic Form 2 greatly aids the Conduct System and provides instant notification to the conduct office and the chain of command of the accused midshipman, it is not a shortcut for proper leadership.

(1) **Form 2s initiated by midshipmen.** A midshipman who enters a Form 2 shall, prior to entering the electronic Form 2, inform the accused of the charges of which the midshipman is suspected and the intention to enter a Form 2. In the rare instance this is not practicable, this requirement will be waived. For example, an exception to this requirement would be for a midshipman in a watchstanding position who, for the purposes of fulfilling their watchstanding duties, must enter numerous Form 2s such that it is not practical to speak to each accused midshipmen prior to entering the Form 2.

(2) **Form 2s initiated by officers, senior enlisted or civilian faculty.** Officers, senior enlisted and civilian faculty that enter a Form 2 should, prior to entering the electronic Form 2, inform the midshipman of the charges of which they are accused and their intention to enter a Form 2. It is understood that this will not be practical for officers, senior enlisted or civilian faculty in certain positions, but an effort should be made to set the example in using the Form 2 and the Conduct System as a leadership tool.

d. **Assignment of a Preliminary Investigative Officer (PIO).** Within two days of a Form 2 being entered into MIDS, an appropriate PIO must be assigned and updated on the Form 2. The seniority of the PIO (Officer, Senior Enlisted or Midshipman) will be determined by the highest series offense charged (for variable series offenses this is the highest series level in the range) for the incident unless otherwise determined by the Conduct Officer or Legal Advisor. Assignments will be made using the following guidelines:

(1) **1000-3000 Series Offenses.** Assignment of a particular PIO will be made by the Company Conduct Officer of the accused midshipman or the corresponding unit Executive Officer if it involves a midshipman on a staff (Battalion, Regimental or Brigade).

(a) **Second, Third and Fourth Class Midshipmen.** If the accused midshipman is a second, third and fourth class midshipmen, then the PIO will be a neutral first class midshipman within the company. Neutral first class is defined as an objective midshipman who is not in the direct chain of command of the accused midshipman (i.e. Platoon Commander or Squad Leader).

(b) **First Class Midshipmen.** If the accused midshipman is a first class midshipman, then the PIO will be the Company Conduct Officer, unless there is a conflict of interests.

(c) **Unit Commander, Executive Officer or Staff Officer (two stripers and up).** If the accused midshipman is a Unit Commander, Executive Officer or Staff Officer, then the PIO will be a first class midshipman from the next higher staff (i.e. a platoon commander must be investigated by a member the battalion staff).

(2) **4000-6000 and Variable 3000+ Series Offenses.** No investigations are required for 3000 level and below offenses, unless ordered by the Company Officer. Investigations for 4000 level offenses are required unless waived by the Battalion Officer. All 5000-6000 level offenses require investigations. Assignment of a PIO will be made by the Battalion Executive Officer of the accused Midshipman. The PIO will be an officer or senior

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enlisted, but not the Company Officer or Senior Enlisted Leader from the accused Midshipman's company.

(3) **Multiple Midshipmen in one Incident.** In cases where two or more midshipmen are accused of misconduct arising from the same incident and the midshipmen are from different companies, the company with the greater number of accused midshipmen involved in the alleged incident or the company with the senior respective Company Officer will be responsible for processing the Form 2 and the related Preliminary Inquiry for all involved midshipmen.

(4) **Conduct Office Discretion.** The Conduct Officer and the Legal Advisor have the discretion to specifically designate a PIO for a case at any level.

NOTE: Addendum A contains a quick reference chart regarding these guidelines.

e. **PIO interviews and takes statements from all pertinent witnesses and conducts investigation.** The investigating officer begins the investigation by interviewing all pertinent witnesses and collecting all available evidence. The investigating officer will collect statements or document interviews with a Results of Interview memo. Once an adequate summary of events is established, in order to determine the proper charges to characterize the incident, the PIO will interview the accused midshipman. The following guidance is provided to assist the PIOs with interviewing the accused midshipman:

(1) Serve the Form 2 on the reported midshipman, and ensure the midshipman involved understands:

(a) The offenses that have been charged in the incident in question.

(b) That the midshipman is allowed 24 hours to enter a plea of either "Guilty" or "Not Guilty", and complete the "Statement of Respondent" if desired.

i. The Statement of Respondent is required for 1000-3000 series offenses.

ii. If secondary offenses are charged, it is permissible for the accused midshipman to plead "Guilty" to some offenses and "Not Guilty" to some.

(2) Present the accused midshipman with the appropriate rights sheet and notification of potential reimbursement (if required).

(a) If the accused midshipman fails to indicate a plea, the Preliminary Investigation Officer will enter a plea of "Not Guilty", initialing the entry and a note indicating "no plea received" will be added to the rights sheet. Normal processing will then continue.

(b) If during the course of the investigation additional charges are added, another rights sheet detailing all the charges related to the case shall be issued and signed. All rights sheets shall be turned in with the PIO Report (see paragraph h.)

(3) Conduct a comprehensive interview with the accused midshipman. If details from the interview are not completely covered in the Statement of Respondent then a results of interview must be documented in a memorandum to the adjudicating authority and included in the PIO Report.

f. Rights and Notifications of Accused

(1) 1000-3000 Series Offenses

(a) **Acknowledgment and Waiver of Hearing.** In 1000-3000 series level cases, the accused midshipman will execute an Acknowledgment and Waiver of Investigation and Hearing (Figure 2-F). The midshipman will have twenty-four (24) hours from notification of the Form 2 to enter a plea, "Guilty" or "Not Guilty," to the charge(s).

(b) **Military Suspect's Rights.** 1000-3000 series level offenses are considered minor and therefore the military suspect's rights as provided by the administrative conduct system and UCMJ Article 31(b) do not apply.

(2) 4000-6000 and variable 3000+ Series Offenses

(a) **Acknowledgment and Waiver of Rights.** In 4000-6000 and variable 3000+ series level cases, the accused midshipman will execute an Acknowledgment and Waiver of Military Suspect's Rights (Figure 2-D). The midshipman will have twenty-four (24) hours from notification of the Form 2 to enter a plea, "Guilty" or "Not Guilty," to the charge(s).

(b) **Notification of Potential Reimbursement for Advanced Education Forms.** If the alleged offense occurred after the accused commenced second class academic year a Notification of Potential Reimbursement for Advanced Education (Figure 2-E) must also be completed prior to responding to the accusations.

g. Midshipman makes plea and tenders voluntary statement of respondent if desired or if 1000-3000 series offense.

(1) **Accused midshipman allowed 24 hrs.** Following a notification of a Form 2 from MIDS, midshipmen will be allowed 24 hours in which to enter a plea and submit a voluntary statement.

(2) **Statement of Respondent.** A statement of respondent may be submitted in MIDS or in memorandum format to the Preliminary Investigative Officer (PIO).

(3) "Not Guilty" plea.

(a) Every midshipman has the absolute right to plead "Not Guilty," whether guilty in fact or not; pleading "Not Guilty" when one did in fact commit the offense is NOT an honor violation. No pressure will be brought on any midshipman to plead "Guilty."

(b) All midshipmen who plead "Not Guilty" will be seen in a face-to-face adjudication with the Awarding Authority.

(4) **"Guilty" plea.** A plea of "Guilty" may be considered as a matter of mitigation to reduce punishment.

(a) By pleading "Guilty," a midshipman acknowledges that the offense was culpably committed as alleged, that the midshipman is liable for punishment, and that the following are relinquished:

- (1) The right later to seek reconsideration, or
- (2) The right to appeal on the issue of guilt or innocence.

(b) A midshipman pleading "Guilty" does, however, retain the following rights:

- (1) The right to present matters in extenuation and mitigation to lessen the punishment imposed.
- (2) The right to request reconsideration or appeal the award itself on the basis of disproportionality of punishment.

(5) **Waiver of Hearing**

(a) Midshipmen who waive their right to a hearing concerning the alleged offense(s) waive their right to confront and cross-examine witnesses against them and to call character witnesses. They retain the right to submit written matters to the Adjudicating Authority, including character reference letters as matters in extenuation and mitigation.

(b) The Adjudicating Authority retains the discretion to hold a hearing and require the presence of the accused midshipman in all cases.

h. Investigating Officer Completes The Preliminary Inquiry Report (Figure 2-B and 2-C). The Investigating Officer shall thoroughly investigate the circumstances associated with an alleged offense(s), complete a detailed report, and submit it in the provided format according the respective series level. If during the course of the investigation further offenses are uncovered, the Investigating Officer shall inform the Conduct Officer and the Legal Advisor. A determination will be made on whether to assign an additional Investigating Officer to address the additional offenses or if the original Investigating Officer will include any additional charges in the final report on the original incident. Any request for investigative assistance through civilian or Naval Academy Complex Security sources or Naval Criminal Investigative Service will be coordinated through the Conduct Office and Legal Advisor. (This will not normally be necessary for a 1000-3000 series offense.)

(1) **Contents of Preliminary Inquiry Report (Figure 2-B).** The report shall contain a summary of events and synopsis of the facts surrounding an alleged offense as supported by the enclosures to the report (statements, Results of Interview memorandums, documentary evidence, etc.). This means that all of the facts listed should be derived from the enclosures to the report. The report will also contain a summary of offenses that breaks down each offense by element and provides detailed facts that do/do not support each element, which are also taken from the information in the enclosures to the report. Finally, the Investigating Officer should make a recommendation as to whether there is sufficient evidence that an offense has been committed. Additionally, the PIO report should include, as enclosures, statements from all witnesses; statement(s) from the accused (if such a statement is provided); a written waiver of rights form indicating the accused declined or agreed to waive his or her rights to remain silent (Figure 2-D); the Notification of Potential Reimbursement for Advanced

Education, if applicable; and all other relevant documents, such as log entries, leave papers, chits, etc.

(2) **Contents of Abbreviated Preliminary Inquiry Report (Figure 2-C).** The report shall contain a list of offenses and a summary of facts surrounding the alleged incident. Additionally, the PIO report should include the written waiver of rights form (Figure 2-F).

(3) **Filing the Preliminary Inquiry Report in MIDS.** The Form 2 in MIDS provides the ability to attach the Preliminary Inquiry Report in Word Document format. This additional information, filed electronically with the Form 2, will permit the chain of command access to review the PIO report prior to making their comments on the accused midshipman.

i. **Forwarding of the PIO's Report to appropriate Conduct Officer.** Upon completion, the PIO's report will be forwarded to the Adjudicating Authority, via the chain of command as follows:

(1) **1000-3000 series offense cases.** The Form 2 and PIO report with enclosures shall be submitted to the Company Conduct Officer for preparation and forwarding to the Adjudicating Authority via the chain of command.

(2) **4000-6000 and variable 3000+ series offense cases.** The Form 2 and PIO report with enclosures shall be submitted to the Commandant's Conduct Officer and Legal Advisor. A copy of the original report and all enclosures shall be forwarded to the chain of command for their review and comment. The chain of command includes: the Company Commander, Senior Enlisted Leader, Company Officer, and Battalion Officer. Each member of the chain of command shall enter comments on the Form 2 in MIDS for inclusion in the final package for the Adjudicating Authority.

j. **Recommendation and Approval of Final Offense Series.** Many of the offenses listed in chapter 7 have variable series levels. Once the investigation is complete, the chain of command, Conduct Officer, and Legal Advisor shall review the case and make a recommendation for the final series level. The ultimate decision and approval is follows:

(1) **Highest possible level is between 1000-3000.** The Company Commander reviews the case and makes a recommendation for final approval by the Company Officer.

(2) **Highest possible level is between 4000-6000 and variable 3000+.** The Conduct Officer and Legal Advisor make a recommendation based on input from the chain of command. The final approval will be made by the Deputy Commandant.

k. **Adjudicating authority's options for disposition.** Following review of the Form 2 and PIO's report, the Adjudicating Authority and, in certain instances the Conduct Officer and Legal Advisor, may take one or more of the following actions:

(1) **Modify the Form 2.** Upon receipt of a Form 2 and the accompanying Preliminary Inquiry Report, the Adjudicating Authority, in 1000-3000 series cases, or the Adjudicating Authority, Conduct Officer and/or Legal Advisor in the 4000-6000 and variable 3000+ series cases, may alter the charges on a Form 2 to more appropriately reflect the circumstances of the alleged offense. Individuals through whom Form 2s are routed may make recommendations concerning changes to Form 2s in their respective comments.

Exception: Form 2s originated by the Deputy Commandant, Aptitude Officer, Conduct Officer, Legal Advisor or the OOW will not be downgraded or changed in any way except by authority of the Commandant, Deputy Commandant, Legal Advisor or Conduct Officer.

(a) Changing the nature of the alleged offense. In keeping with the guidelines and requirements listed above, Form 2s may be adjusted so that delinquency codes and offense titles coincide with the facts as presented on the submitted Form 2 or which emerge during the Preliminary Inquiry. **If the basic nature of an alleged offense, as initially reported, is changed, the midshipman will be given an additional 24 hours to make a plea, and submit a statement if appropriate/desired.**

(2) Dismiss the alleged offense(s) without a hearing; or

(3) Schedule a hearing to adjudicate the alleged offense(s).

Note: Cancellation/Deletion of Conduct Report (Form 2). A Form 2 for 4000-6000 series offenses may be deleted only by the Commandant, Deputy Commandant, Conduct Officer, or the Legal Advisor. Note that deleting a Form 2 is not the same as a finding of not guilty, modification to a Form 2, or a dismissal.

1. **Pre-Hearing Notification.** In the event a hearing is directed by the Awarding Authority, the accused Midshipmen will be provided a reasonable notice of time and place for such a hearing, to permit time for the Midshipmen to prepare his or her defense. For 1000-3000 series offenses, no pre-notification is normally required. For 4000 to 6000 series offenses, 24 hours is considered reasonable. Requests for delay of a Conduct Hearing must be submitted to the Awarding Authority, via the Company Conduct Officer, in the case of 1000-3000 series offenses and/or via the Conduct Officer in the case of 4000-6000 offenses, sufficiently in advance of a hearing to permit proper consideration of the basis for the request prior to the hearing's commencement. Untimely requests will be denied. Requests will only be granted for good cause.

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m. **Rights of an accused midshipman immediately prior to and during a Conduct Adjudication Hearing.**

(1) **Right to Counsel.** Accused midshipmen have the right to consult with legal counsel prior to a hearing. However, accused midshipmen do not normally have a right to have counsel present during the hearing. Counsel will only be permitted in a hearing in extremely unusual circumstances, usually involving extremely complex cases. A request to have counsel present in a hearing should be submitted to the Adjudicating Authority, via the Legal Advisor, within a sufficient amount of time prior to a hearing's commencement to permit an opportunity for substantive review of such request. The accused midshipman may seek civilian counsel at his or her own expense, or military counsel provided at no cost through the Office of Legal Counsel located in Dahlgren Hall, telephone extensions 3-2268 and 3-4188.

(2) **Right to testify or remain silent.** No adverse inference will be drawn from a midshipman's decision to remain silent. Remaining silent will not prevent the accused midshipman from questioning or cross-examining witnesses. If, however, a midshipman chooses to make a statement during the hearing concerning a particular offense, the midshipman is expected to answer any questions the Adjudicating Authority may have concerning that offense.

If the midshipman fails to do so, the Adjudicating Authority, using his or her discretion, may disregard any or all statements made by the midshipman relative to the offense.

(3) **Right to inspect all evidence to be considered by the Adjudicating Authority during the hearing.**

(4) **Right to object, before the hearing, to evidence scheduled to be considered by the Adjudicating Officer during the hearing.**

(5) **Right to call reasonably available witnesses and be notified of witnesses scheduled to be called by the Adjudicating Authority.**

(6) **Right to present evidence in his or her own defense.**

(7) **Right to present an oral and/or written argument in support of his or her defense.**

2.2 Adjudicative Hearing

a. **Adjudicating Authorities.** The adjudicating authorities are listed in Table 2-A below by series and by rank of the senior accused midshipman.

Adjudicating Authorities

Series	
1000	Squad Leader
2000	Platoon Commander
3000	Company Commander
4000	Company Officer
5000	Battalion Officer
6000	Deputy Commandant

Table 2-A

(1) **Delegation of Adjudicating Authority.** The responsibility of adjudicating authority for 1000-6000 level offenses will NEVER be delegated to someone junior in the Chain of Command except as provided in paragraph (3). The adjudicating authorities were designated such that only 1000 series offenses and 6000 series offenses have a single adjudicating authority, 2000 - 5000 series offenses have several possible adjudicating authorities to eliminate the requirement for delegating the authority. When a sole adjudicating authority is unavailable due to incapacity, death, departure on leave, detachment without relief, or absence due to orders, the officer who succeeds to that position shall also assume the responsibilities of adjudicating authority.

(2) **Senior Adjudicating Authorities.** For purposes of this instruction, if an adjudicating authority is unavailable or personally involved, a Senior Adjudicating Authority may hear any case within the Chain of Command as follows:

6000 Level- Deputy
5000 Level- Battalion Officer
4000 Level- Battalion Officer
3000 Level and below- Company Commander

(3) **Cases involving two or more midshipmen in the same or related incident.** For offenses alleged to have been committed by more than one midshipman, it is normally appropriate to have one Adjudicating Authority for all involved, regardless of class, company, or offense level. It is the collective responsibility of all Adjudicating Authorities to determine if the group of offenders from a related incident should be heard at one time by a single authority. If so, in the case of 1000-3000 series offenses, the senior Company Officer of the accused midshipmen shall be the Adjudicating Authority. Additionally, if the cases of two or more midshipmen involved in the same incident are heard by different Adjudicating Authorities, the Adjudicating Authorities should attempt to maintain that level of consistency of punishment that is in keeping with good order and discipline among the members of the Brigade.

(4) **Commandant's discretion.** The Commandant of Midshipmen retains the right to exercise his prerogative to adjudicate or assign an adjudicating authority to any case alleging a violation of this instruction as a matter in his sole discretion.

(5) **Supervised Midshipmen Adjudications:** The Commandant of Midshipmen retains the right to assign any level offense to Midshipmen for supervised adjudication. The Company Officer retains the right to assign 1000-3000 level offenses to Midshipmen for supervised hearings. The following table applies to supervised adjudications:

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Series	Adjudicator	Supervisor
1000	Squad Leader	Company Officer
2000	Platoon Commander	Company Officer
3000	Company Commander	Company Officer
4000	Company Commander	Battalion Officer
5000	Battalion Commander	Battalion Officer
6000	Brigade/Regimental Commander	Deputy Commandant

Table 2-A(1)

b. **Time requirements for adjudications.** During the academic year, all cases for which a 1000-3000 series offense is the primary offense should be adjudicated within five working days from the completion of the Preliminary Investigating Officer's Report. If exceptional circumstances prevent adjudication within five working days notify the Conduct Officer. If a 1000-3000 series offense is not adjudicated within the five working days the following may occur:

(1) The offense may be dismissed in cases in which a "Not Guilty" plea is entered and the chain of command has not exercised due diligence in processing the case.

(2) Midshipmen may submit a request for reconsideration in accordance with paragraph 2.3.j of this instruction.

Note: During leave and summer training periods, every attempt will be made to expeditiously adjudicate offenses. There is no requirement to notify the Conduct Officer if the adjudication is not completed within five working days during these time periods.

c. **Witnesses.** Conduct System Adjudicative Hearings are intended to be non-adversarial. As such, the Adjudicating Authority need not necessarily

call witnesses to establish the facts and circumstances regarding cases, unless witnesses are requested by the accused, have relevant testimony to provide, and are reasonably available. With the exception of privileges, the Military Rules of Evidence do not apply to Conduct System Adjudicative Hearings. The Adjudicating Authority may rely solely upon documentary evidence to find a midshipman guilty of the offense(s) charged. In the event witnesses are called by the Adjudicating Authority, the following shall apply:

(1) There is no authority to subpoena witnesses to appear and testify at a hearing, however, military personnel and federal civilian employees may be directed to do so by an appropriate commander or supervisor. Other civilians who agree to appear will do so at their own expense. The Adjudicating Authority may use any reasonable method to obtain statements of witnesses, including, but not limited to, telephone interviews, depositions, etc. A witness normally should be informed of the nature of the investigation before his statement or testimony is taken. The Adjudicating Authority should protect witnesses from improper questions, harsh or insulting treatment, and unnecessary inquiry into his or her private affairs.

(2) Witnesses testifying on the merits at an Adjudicative Hearing should be sworn. The Adjudicating Authority and the Legal Advisor are authorized to administer oaths.

(3) Witnesses other than the midshipman whose conduct is the subject of investigation normally will not be present at the adjudicative proceedings except when they are testifying. In some cases, however, if it is deemed necessary by the Adjudicating Authority, an expert witness may be allowed to hear evidence presented by other witnesses in order that he/she may be sufficiently advised of the facts to give informed testimony as to the technical aspects of the case.

(4) Witness testimony is normally elicited by questions and answers. However, to conserve time and resources, a witness may be asked to confirm a prior written statement that will be made an exhibit. The witness is subject to questioning on the substance of such statement by all parties.

(5) The Adjudicating Authority will direct military and civilian witnesses who are subject to Navy authority and request other witnesses not to discuss their statement or testimony with other witnesses, or with persons who have no official interest in the proceedings, until the hearing is completed. This is appropriate to eliminate the possibility that disclosures of the substance of a statement or testimony may influence the statement or testimony of witnesses still to be heard.

d. **Admissibility of evidence.** Generally, a Conduct Hearing is not subject to exclusionary rules precluding the use of relevant evidence. However, certain limitations apply with regard to evidence that may be considered. The Adjudicating Authority is tasked with considering all reasonably available facts, subject to the following:

(1) **Irrelevant Evidence.** The Adjudicating Authority may decline to consider immaterial, unduly repetitious, or incompetent evidence.

(2) **Circumstantial Evidence.** Without limitation, the Adjudicating Authority is permitted to give greater weight to credible circumstantial evidence, and reasonably deduced inferences from such evidence, than to direct evidence to the contrary, as a matter within his or her discretion.

(3) **Privileged Communications.** The rules as set forth in the Manual for Courts-Martial, United States, 2002, as amended, concerning privileged communications apply to Adjudicative Hearings.

(4) **Polygraph Tests.** No evidence regarding the results, taking, or refusal of a polygraph (lie detector) test will be received or considered in connection with Adjudicative Hearings.

(5) **Self-Incrimination.** As discussed above, neither the accused midshipman nor any witness, civilian or military, will be compelled to incriminate himself or herself under the U.C.M.J. or answer any question, the answer to which might tend to incriminate him or her, or to make a statement or produce evidence if the statement or evidence is not material to the issue and may tend to incriminate him or her. However, a person declining to answer a question on the basis of U.C.M.J. Article 31(b), or Constitutional grounds must specifically state such. Whenever it appears appropriate and advisable to do so, the rights of a witness or the accused midshipman should be explained by the Adjudicating Authority.

(6) **Involuntary Admissions.** A midshipman's confession or admission, obtained by unlawful coercion or inducement likely to affect its truthfulness, will not be considered as evidence. The fact that an accused midshipman was not advised of his or her rights under Article 31(b), U.C.M.J., the Fifth Amendment of the United States Constitution, or the rights granted under these procedures, before a confession or admission was made, does not, of itself, prevent acceptance of the confession or admission as evidence. The Adjudicating Authority may accept and consider such an admission or confession, so long as he or she determines the admission or confession was not coerced or otherwise secured under circumstances that would undermine its truthfulness or accuracy.

(7) **Bad Faith/Unlawful Searches.** If a member of the Armed Forces, acting in an official capacity, conducted or directed a search which he knew was patently unlawful on its face pursuant to the provisions of the Fourth Amendment of the United States Constitution as applied to the military community, the evidence so obtained will not be considered against the midshipman whose rights were violated. In all other cases, evidence obtained as a result of any search or inspection may be accepted.

e. **Conduct Adjudication Hearing Process.** The following format should be followed during all Conduct adjudicative hearings.

(1) The midshipman concerned will report to the Adjudicating Authority by stating name, class, and company.

(2) If not already done, the midshipman will be provided the opportunity to review any evidence that was forwarded with the Preliminary Inquiry Report or other evidence that the Adjudicating Authority intends to consider.

(3) The midshipman will be informed of his or her right to present witnesses and evidence in his or her own behalf. The accused midshipman or the Adjudicating Authority may call relevant witnesses to testify on the merits of the accusation, especially if documentary evidence alone does not adequately establish the facts necessary to make a finding as to culpability. If there is a guilty finding, a reasonable number of character witnesses may be called by the midshipman if they are reasonably available.

(4) In keeping with the guidelines for Preliminary Inquiries, if, during a hearing involving a 1000-3000 series offense, the Adjudicating Authority suspects or identifies a 4000-6000 series offense or an honor offense may have been committed, the hearing will be recessed and the matter promptly referred to the Conduct Officer and Legal Advisor. The midshipman will not be asked to answer any further questions or make a statement of any kind.

(a) **Lower Series Offenses:** If, during the adjudication of a 5000 or 6000 series offense, it is determined that a lower series offense better captures the misconduct, the adjudicating authority may dismiss the original charge and charge the Midshipman with the lower series offense. The elements of the new offense will be presented to the accused Midshipman and he/she shall be given a chance to enter a plea to the new offense. In the event that it is determined that a higher series offense more accurately captures the misconduct the hearing shall be held in abeyance per paragraph 2.2 e(4).

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(5) If it is determined that the accused is not the only midshipman involved in the incident and it appears that other midshipmen should be charged for their actions, the Adjudicating Authority may choose from the following two options.

(a) Hold the adjudication in abeyance. If the Adjudicating Authority suspects that further investigation may reveal information that may affect the finding for the accused midshipman, then the adjudication shall be held in abeyance, and the case shall be reopened for further investigation.

(b) Continue the adjudication. If the Adjudicating Authority does not suspect that further investigation will significantly affect the finding for the accused midshipman, then the adjudication will continue and an investigation will be opened following the adjudication to determine the involvement of the other midshipmen.

(6) If a determination of guilt is reached, matters in extenuation and mitigation will be considered prior to awarding punishment. Following the awarding of punishment, the Adjudicating Authority will ensure the midshipman fully understands the punishment that has been awarded.

f. Punishment Considerations for 1000-6000 Series Offenses

(1) Not every offense should result in the award of the maximum possible punishment. The overall philosophy of the system is that delinquencies and resultant awards should be handled at the lowest appropriate level consistent with good order and discipline. However, when a midshipman violates the same delinquency code for the third time during the same academic year, it will automatically be handled as a next higher series offense.

(2) In awarding punishment, considerations should include the deliberateness of the offense, the experience of the midshipman, and the amount of judgment exercised. Non-deliberate offenses usually involve some degree of ignorance or carelessness which must be considered in ascertaining the appropriate award. In determining whether gross carelessness, ignorance, or neglect is involved, consideration should be given to whether or not the matter is of such importance as to dictate special attention or precautions,

or whether circumstances indicate a complete lack of comprehension of the part of the midshipman.

(3) Ignorance of regulations or directives is no excuse for a violation of those directives when it is caused by negligence on the part of the midshipman. Such factors as whether or not a responsible individual would have taken additional precautions must be considered.

(4) Negligence implies a failure to initiate precautions to prevent a reasonably foreseeable occurrence, disregard of a requirement, or failure to give proper attention through indifference.

TABLE OF AUTHORIZED PUNISHMENTS: 1000-6000 SERIES

	1000	2000	3000	4000	5000	6000
Demerits	0-15	15-30	30-50	50-70	70-90	100
Restriction (days) ¹	0	0-7	0-14	0-21	0-45	0-60
Tours ¹	0-5	0-10	0-15	0-20	0-20	0-20
Extra Duty (hours) ¹	5	10	15	20	30	30
Reduction in Rank (months) ^{1,2}	0	0	0	0-1	0-2	0-3

NOTES:

1. Values listed for Restriction, Tours, Extra Duty and Reduction in Rank reflect the maximum permitted award for that series offense.

2. Reduction in Rank may only be recommended by an Adjudicating Authority and must be awarded by the Commandant.

Table 2-B

(5) **Suspension of Awarded Punishment.** Although punishment for 1000-3000 offenses should not normally be suspended, any portion or the entirety of the foregoing punishments may be suspended by the Adjudicating Authority who awarded such punishment. Awards of demerits, however, shall not be suspended more than the next lower series. A complete explanation of the suspension process and the appropriate guidelines are found in section 3.1.

g. **Errors or Irregularities at an Adjudicative Hearing.** Procedural errors or irregularities in adjudicative hearings will be grounds to invalidate such proceedings only in those cases where an accused midshipman's rights were abridged such that fundamental fairness demands the outcome of such proceedings be set aside. Irregularities not amounting to the above will be considered harmless error and will not be the basis to reevaluate such proceedings in the event subsequent action is based on such earlier proceedings, i.e., Unsatisfactory Conduct Hearings that are based upon earlier adjudicative hearings.

(1) **Harmless Errors.** If a harmless defect in the proceedings is detected, the Adjudicating Authority shall take such steps as are required to remedy such defect, so long as the rights of the accused midshipman are not substantially prejudiced.

(2) **Substantial Errors.** In case of substantial errors, the Appeal Authority/Reviewing Authority may direct the Adjudicative Hearing be reopened and additional matters be considered or errors corrected or remedied. The midshipman involved is responsible for alleging substantial error within the time period noted above for requests for reconsideration.

(3) **Effect of failing to request reconsideration.** Absent good cause, failure by the midshipman to allege error, or to otherwise appeal or request reconsideration of findings and/or punishment awarded during an Adjudicative Hearing within the time period permitted above, constitutes a waiver by the midshipman of any claims of error, unjustness, or disproportionality he or she may otherwise have been entitled to raise.

h. After Adjudication.

(1) **1000-3000 series offenses.** The entire Form 2 package, including all collected paperwork, is immediately given to the Company Conduct Officer, who will fill out the required forms (see Chapter 3) and, if applicable, see to it that restriction is begun the day of award. The Company Conduct Officer will also update the Form 2 in MIDS. The entire package will remain with the midshipman's service jacket in company area.

(2) **4000-6000 series offenses.** Immediately following the adjudication the Company Conduct Officer will fill out the required forms (see Chapter 3) and, if applicable, see to it that restriction is begun the day of award. The Company Conduct Officer will also update the Form 2 in MIDS. The entire Form 2 package, including all collected paperwork, is immediately forwarded to the Conduct Officer for further processing or filing in the midshipman's conduct record.

2.3 Request for Reconsideration (Appeal)

a. A request for reconsideration is an appeal to a specified Reviewing Authority. A midshipman may appeal the disposition of his or her case only on the basis of either of two points: (1) a finding is unjust; or (2) the punishment awarded is disproportionate to the offense(s) committed.

(1) Appeal of a finding of guilty.

(a) Only midshipmen who plead "Not Guilty" may request reconsideration of a finding of "Guilty."

(b) An appeal of a finding of "Guilty" based upon the unjustness of the finding will be reviewed to determine whether there was sufficient evidence to substantiate the charge by a preponderance of the evidence.

(2) Appeal of the punishment awarded.

(a) Regardless of plea, any midshipman who considers the punishment awarded disproportionate to the offense, may request reconsideration of the award itself.

(b) An appeal of a punishment award based upon the disproportionality of the punishment will be reviewed to determine whether the level of the original punishment awarded was an abuse of discretion under the circumstances of a given case. An assigned punishment should not be changed simply because the Reviewing Authority would have awarded a different punishment.

b. Rules for submitting requests for reconsideration.

(1) Midshipmen must serve restriction or tours while making a Request for Reconsideration.

(2) Requests for reconsideration shall be in writing and must include the appellant's reasons for regarding the punishment disproportionate or for regarding the finding unjust.

(3) All requests for reconsideration must be routed through the Adjudicating Authority and the Conduct Officer for evaluation by the Commandant's Legal Advisor before being forwarded to the Reviewing Authority. The Legal Advisor is not limited to an examination of written matter comprising the record of proceedings but may make inquiries and examine any additional matter deemed relevant to the proceeding underlying the request, as well as the request itself. Upon review of whatever material is deemed appropriate, the Legal Advisor will provide appropriate advice to the Reviewing Authority.

(4) Time Limits on Requests for Reconsideration

(a) Requests for reconsideration must be submitted to the Adjudicating Authority within five working days of the midshipman receiving notice of the punishment awarded, unless the midshipman receives an extension of time from the Adjudicating Authority, which must be requested in writing. The day of notice does not count. Failure to submit a request for reconsideration within the prescribed time limit may result in the appeal being denied as untimely. If such a denial is made, both the findings and punishment awarded will become final and a permanent part of the midshipman's record, not subject to later appeal or complaint.

(b) If the request for reconsideration is not acted upon within five working days of its receipt by the Adjudicating Authority, the midshipman may request, in writing, that any unserved punishment that has been designated for review be temporarily stayed until the request is acted upon. The request may be included within the reconsideration letter or made by special request chit. Days in which the Adjudicating or Reviewing Authority is not available due to travel, TAD, leave, etc., are excludable.

c. Notice of Reviewing Authority Action. After review of an appeal/request for reconsideration, the Reviewing Authority will inform, in writing, the midshipman and the Adjudicating Authority concerned of the determination, and immediately forward the request and all accompanying paperwork to the Conduct Officer.

d. Reviewing Authorities. Reviewing authority is not delegable. For purposes of requests for reconsideration, Reviewing Authorities are:

(1) Commandant - for 4000-6000 series offenses adjudicated by the Deputy Commandant.

(2) Deputy Commandant - for 4000-6000 offenses adjudicated by subordinates.

(3) Battalion Officer - for 1000-3000 offenses adjudicated by subordinates.

2.4 Unsatisfactory Conduct Procedures. If a midshipman becomes unsatisfactory in conduct as a result of being found guilty at adjudication, that midshipman's overall record will be reviewed by the chain of command, the Conduct Officer, and the Commandant's Legal Advisor. Recommendations are forwarded to aid the Commandant in deciding from the alternatives listed below. A midshipman may also become unsatisfactory in conduct by other means as detailed in section 5.1.

a. **Record Review.** The Commandant shall review the midshipman's entire record (academic, aptitude, conduct and physical) and decide from the following options:

(1) **No further action.** The Commandant will take no action beyond the punishment already assigned by the adjudicating authority.

(2) **Formal verbal or written counseling.** The midshipman is counseled by the chain of command regarding the unsatisfactory conduct and the appropriate documentation is included in the midshipman's conduct and service records.

(3) **Placement of midshipman on Conduct Probation and/or Remediation.** The Commandant will assign the midshipman to Conduct Probation and/or Remediation in a written letter delineating the terms of successful completion. The Commandant may choose to have a meeting with the midshipman and the midshipman's chain of command and personally deliver the letter or have the letter separately served on the midshipman.

b. **Commandant's Hearing for Unsatisfactory Conduct.** If a Commandant's Hearing is held, the following will occur:

(1) The midshipman will be notified in writing of the hearing by a "NOTICE OF COMMANDANT'S HEARING FOR UNSATISFACTORY CONDUCT," prepared and signed "By direction" by the Commandant's Legal Advisor.

(2) The Conduct Officer will schedule a hearing with the Commandant and so notify the midshipman and the midshipman's chain of command. The entire chain of command including officers and midshipmen will be present for the hearing unless military obligation or other good cause prevents attendance.

(3) During the Unsatisfactory Conduct Hearing the Commandant shall consider the information provided during the hearing, the midshipman's prior conduct record, and the midshipman's overall suitability for commissioning. The Commandant may, at his or her sole discretion, take one of the following courses of action at the conclusion of the hearing:

(a) **No further action.** The midshipman is counseled by the chain of command regarding the unsatisfactory conduct and the appropriate documentation is included in the midshipman's conduct and service records.

(b) **Placement of midshipman on Conduct Probation and/or Remediation.** The Commandant will verbally assign the midshipman to Conduct Probation and/or Remediation. A written letter further delineating the terms of successful completion of conduct probation and/or conduct remediation will be separately served on the midshipman by the Conduct Office.

(c) **Recommendation for Separation.** The Commandant will inform the midshipman that the case will be forwarded to the Superintendent of the Naval Academy with a recommendation of separation for the subject midshipman.

c. **Forward for Review by Aptitude System.** The Commandant may direct the chain of command to convene an appropriate Aptitude Board to review the midshipman's overall record. Forwarding the midshipman to the Aptitude System does not in any way restrict his other options in the Conduct System as detail above.

d. **Retained within Brigade of Midshipmen by Superintendent.** If a midshipman is forwarded to the Superintendent with a recommendation for separation by the Commandant, and the Superintendent decides to retain the midshipman within the Brigade of Midshipman, then the Commandant may take the following actions:

(1) **No further action.** The midshipman is counseled by the chain of command regarding the unsatisfactory conduct and the appropriate documentation is included in the midshipman's conduct and service records.

(2) **Placement of midshipman on Conduct Probation and/or Remediation.** The Commandant will assign the midshipman to Conduct Probation and/or Remediation in a written letter delineating the terms of successful completion to include any instructions or terms specified by the Superintendent. The Commandant may choose to have a meeting with the midshipman and the midshipman's chain of command and personally deliver the letter or have the letter separately served on the midshipman.

e. **Chain of Command Input to Commandant:** At least three days prior to any unsatisfactory conduct hearing the Company Commander, Company Senior Enlisted, Company Officer, and Battalion Officer shall submit a signed recommendation to the Legal Advisor. The recommendation shall speak to the Midshipman's performance and a recommendation for retention or separation.

A

2.5 Recommendation for Separation

a. **Recommendation for Separation.** In the event the Commandant recommends the midshipman for separation from the Naval Academy, the following will occur:

(1) A transcript of the Commandant's hearing will be prepared.

(2) A memorandum recommending separation will be prepared and forwarded to the Superintendent and include the basis for the recommendation. All documents relied upon during the hearing by the Commandant including a record of the Commandant's hearing will be forwarded with the Commandant's memorandum.

(3) A copy of the Commandant's memorandum and all enclosures will be provided to the midshipman before the matter is forwarded to the Superintendent for review and action.

b. **Superintendent Action.** If the Superintendent concurs with the Commandant's recommendation for discharge, the midshipman will be so advised in writing, and further advised of his or her right to submit a statement to the Secretary of the Navy showing cause why he or she should be retained at the Naval Academy. The Legal Advisor shall be responsible to ensure the

midshipman is advised of all rights regarding his or her potential discharge from the Naval Academy.

c. **Check-Out.** Unless otherwise authorized to do so, midshipmen recommended for discharge by the Superintendent may not begin checking-out until a Show Cause Statement has been waived or submitted. Requests to begin the check-out process at any other time must be made via the chain of command and Legal Advisor by special request chit.

SAMPLE FORM-2

Case Number: XXXXXX
Alpha: XXXXXX
Formatted Name: First Middle Last
Company: 13
Ac Yr: 2005
Ending:
Semester: FALL, SPRING
Commit Date: DD-MMM-YYYY
Creation Date: DD-MMM-YYYY
Created By: Screen name of accuser
Level Awarded: 1000-6000
Primary Offense: Highest level offense [CODE ARTICLE.....]
Secondary Offense(s): Additional offense(s) [CODE ARTICLE.....]
Other Cases Awaiting Adjudication: Case number of any pending conduct cases [XXXXXX]
Reporter Type: Accuser [OFFICER, MIDSHIPMAN, CIVILIAN, OTHER]
Status: Indicates current status of the case in the conduct process
PIO Assigned: Rank/Name of assigned PIO
Other PIO (CO and SEL excluded): Rank/Name of assigned PIO (used if PIO is not in list)
Date PIO Notified: DD-MMM-YYYY
PIO Completion Date: DD-MMM-YYYY
PIO Status: Indicates current status of Investigation / PIO Report
Incident Summary: Text block for short summary of conduct offense in narrative form.
Validated: Used for MIDS calculation purposes [YES, NO]
Adjudicator: Position of Adjudicating Authority [DEPUTY COMMANDANT, etc.]
Award Date: DD-MMM-YYYY
Commandant Hearing Date: DD-MMM-YYYY
Demerits Awarded: Net amount of demerits awarded (awarded – suspended = 0-100)

	Awarded	Suspended	In Effect For	End Date	Deferred	Deferred Date	Vacated	Vacated Date
Restriction:	<i>Days</i>	<i>Days</i>	<i>Months</i>		<i>[Yes, No]</i>		<i>[Yes, No]</i>	
Tour Type: <i>[Room, Area]</i>			<i>Months</i>		<i>[Yes, No]</i>		<i>[Yes, No]</i>	
Loss of Privs:	<i>Days</i>	<i>Days</i>	<i>Months</i>		<i>[Yes, No]</i>		<i>[Yes, No]</i>	
Loss of Car Privs:	<i>Days</i>	<i>Days</i>	<i>Months</i>		<i>[Yes, No]</i>		<i>[Yes, No]</i>	
Lost Leave:	<i>Months</i>	<i>Months</i>	<i>Months</i>		<i>[Yes, No]</i>		<i>[Yes, No]</i>	
Extra Duty:	<i>Hours</i>	<i>Hours</i>	<i>Months</i>		<i>[Yes, No]</i>		<i>[Yes, No]</i>	
Conduct Probation	<i>Months</i>							
Remediation Award	<i>Months</i>							

Related Case

Commit Date: *DD-MMM-YYYY*

Award Comment: *Text block for short summary of awarded punishment in narrative form. Used to back up punishment matrix.*

Accused

Midshipman Statement: *Text block for Accused Midshipman to enter voluntary statement.*

Rights

Acknowledged: *[YES, NO]*

Primary Offense Plea: *[GUILTY, NOT GUILTY]*

Plead By: *Accused Midshipman's screen name*

Plead Date: *DD-MMM-YYYY*

Second Offenses

List of additional offense(s)

PIO, Chain of Command, Witness Statements

List of electronically attached statements

Figure 2-A

SAMPLE PRELIMINARY INQUIRY REPORT (4000-6000 and variable 3000+ series offenses)

Date _____

From: _____

In the case of _____ Form 2, Case # _____

Major offenses reported:

(fill in Primary Offense code and description [i.e. 7.10.12 (major) Drinking or possessing alcohol in violation of Federal, State, or Local law.]. If multiple counts of the same offense occurred, detail each count here.)

Other offenses reported & investigated:

(fill in Secondary Offense codes and descriptions [i.e. 7.10.12 (major) Drinking or possessing alcohol in violation of Federal, State, or Local law.]. If multiple counts of the same offense occurred, detail each count here.)

1. I have interviewed the following witnesses and their statements are attached.

Accuser: _____

Witness: _____

Witness: _____

Others: _____

2. The following items of real evidence and/or documents are available:
(Attach copies of documents if practical).

a.

b.

3. Summary of Events:

(Give a basic summary of the events surrounding the Conduct Offenses. Ensure it is detailed enough to give the Adjudicating Authority a clear picture of the events and the individuals involved)

4. Summary of Offenses:

(Detail the elements of the offense and supporting evidence for each. If the evidence does not support all the elements of an offense, state which element is not met and why. Example:

a. MIDN W.T. Door meets the elements of 7.10.12 (major) Drinking or possessing alcohol in violation of applicable federal, state, or local law as detailed below:

THE ELEMENTS OF THE OFFENSE OF DRINKING OR POSSESSING ALCOHOL IN VIOLATION OF APPLICABLE FEDERAL, STATE, OR LOCAL LAW ARE:

- Yes - (1) That you drank or possessed alcoholic beverages; and
- MIDN Door purchased alcohol at Joe's Liquor store

Yes - (2) That the drinking or possessing of alcoholic beverages was contrary to applicable federal, state, or local law.
- MIDN Door is under the legal drinking age.
- Joe's Liquor store did not ask to see MIDN Door's ID to verify his age.)

5. Comments of the Investigating Officer:
*(State your recommendation on **findings** based on the evidence you presented in para 4. Include any additional recommendations you may have, or information you believe should be brought to the attention of the Adjudicating Authority.)*

6. My investigation is complete / My investigation is incomplete due to _____

7. The accused desires the following witnesses to appear on his behalf:

a. _____

b. _____

Investigating
Officers Signature: _____
Printed Rank,
Name and Billet: _____

Figure 2-B

SAMPLE PRELIMINARY INQUIRY REPORT (1000 - 3000)

Date _____

From: _____

In the case of _____ Form 2, Case # _____

Offenses reported:

(fill in Primary Offense code and description [i.e. 7.10.12 (major) Drinking or possessing alcohol in violation of Federal, State, or Local law.]. If multiple counts of the same offense occurred, detail each count here.)

2. Summary of Events:

(Give a basic summary of the events surrounding the Conduct Offenses. Ensure it is detailed enough to give the Adjudicating Authority a clear picture of the events and the individuals involved)

3. Comments of the Investigating Officer:

(State your recommendation on finding based on the evidence you presented in para 4. Include any additional recommendations you may have, or information you believe should be brought to the attention of the Adjudicating Authority.)

4. My investigation is complete / My investigation is incomplete due to

Investigating

Officers Signature: _____

Printed Rank,

Name and Billet: _____

Figure 2-C

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SAMPLE RIGHTS SHEET (4000-6000 and variable 3000+ series offenses)

UNITED STATES NAVAL ACADEMY ADMINISTRATIVE CONDUCT SYSTEM
ACKNOWLEDGMENT AND WAIVER OF MILITARY SUSPECT'S RIGHTS,
INVESTIGATION AND HEARING RIGHTS

Place: Location

I, Midshipman Third Class First MI Last (Alpha, Company) have been advised by (Rank and Name) that I am suspected of - Charges (copy from Conduct Offenses and Elements) under the USNA Administrative Conduct System.

I have also been advised that:
(Initial each numbered statement)

_____ (1) I have the right to remain silent and make no statement at all;

_____ (2) Any statement I do make can be used against me in a trial by court-martial, or other judicial or administrative hearing;

_____ (3) I have the right to consult with a lawyer prior to any questioning. This lawyer may be a civilian lawyer retained by me at no cost to the United States, a military lawyer appointed to act as my counsel at no cost to me, or both;

_____ (4) I have the right to have my retained civilian lawyer and/or my appointed military lawyer present during this interview; and

_____ (5) I may terminate this interview at any time, for any reason.

_____ I understand my rights as related to me and as set forth above. With that understanding, I have decided that I **do / do not** desire to remain silent, **do / do not** desire to consult with a retained or appointed lawyer, and **do / do not** have a lawyer present at this time. I make this decision freely and voluntarily. No threats or promises have been made to me.

Signature: _____ Witnessed by: _____

Printed Name: _____ Printed Rank, _____
Name and Billet:

Date and Time: _____ Date and Time: _____

I have been further advised that:
(Initial)

_____ (1) I have the right to a full, impartial preliminary investigation.

_____ (2) That I may have access to this investigation once completed.

_____ (3) That I may provide information and evidence to the Preliminary Inquiry Officer.

In addition to the above listed rights, a preliminary investigation will be conducted at the discretion of the Conduct Officer or Legal Advisor. Understanding these rights, I have decided to plead to the offense(s) as follows:

(Copy from above charges)

7.07.03 Guilty / Not Guilty
7.10.12 Guilty / Not Guilty

I make this decision freely and voluntarily. No threats or promises have been made to me.

Signature: _____ Witnessed by: _____

Printed Name: _____ Printed Rank, _____
Name and Billet:

Date and Time: _____ Date and Time: _____

Regardless of my plea, I may request a hearing be held on the offense(s) by the Adjudicating Authority. If I request a hearing, one shall be held by the Adjudicating Authority. If I elect to waive my hearing I understand that I will be asked to provide a detailed statement regarding my involvement in the alleged offense. The Adjudicating Authority may still require a hearing if I decline to provide a statement or if he/she feels a hearing is necessary. My presence would be required at the hearing. At the hearing I would have the following rights:

- _____ (1) To confront and cross-examine witnesses
- _____ (2) To present evidence and witnesses
- _____ (3) To testify or remain silent

Having been informed of my rights, I understand my rights to a Hearing and elect to:

_____ Waive my right to a hearing before the Adjudicating Authority.

_____ Request a hearing before the Adjudicating Authority

I understand that if the Adjudicating Authority finds that I committed one or more of the suspected offense(s) and awards punishment, I may request reconsideration of the finding(s)/punishment. I understand that such request must be made in writing within 5 working days of imposition of punishment and must allege either that the punishment was unjust or was disproportionate to the offense(s). I understand that if I request reconsideration, the case will be forwarded to the appropriate superior authority for review and action as provided under the Administrative Conduct System. I understand that if I request reconsideration, my punishment may not be increased by the Reviewing Authority.

Signature: _____ Witnessed by: _____

Printed Name: _____ Printed Rank, _____
Name and Billet:

Date and Time: _____ Date and Time: _____

SAMPLE NOTIFICATION OF POTENTIAL REIMBURSEMENT

NOTIFICATION OF POTENTIAL REIMBURSEMENT
FOR ADVANCED EDUCATION

Date: _____

From: Commandant's Legal Advisor

To: Midshipman _____ Alpha# _____

Subj: NOTIFICATION OF POTENTIAL REIMBURSEMENT FOR ADVANCED EDUCATION

Ref: (a) 10 U.S.C. 2005

1. All midshipmen are required to complete the educational requirements specified in the agreement they signed on Induction Day and, when applicable, upon the commencement of their second class year. This advisement is to notify the named midshipman that, per reference (a), if they fail to complete the education requirements in the agreement, they will serve on active duty for a period specified in the agreement. Further, should the midshipman fail to complete the period of active duty in the agreement, either voluntarily or due to misconduct, the midshipman may be required to reimburse the government. This notification is given for the benefit of the midshipman before they make any decisions regarding their pending conduct action.

2. This advisement supplements the prior notices concerning the service obligation of midshipmen (active duty service or financial recoupment of the costs of education) that were provided to you prior to your induction to the Naval Academy and upon commencement of your second-class academic year.

Acknowledged:

_____ Date: _____

Printed Rank, Name and Billet: _____

Figure 2-E

SAMPLE RIGHTS SHEET (1000-3000 series offenses)

UNITED STATES NAVAL ACADEMY
ADMINISTRATIVE CONDUCT SYSTEM
ACKNOWLEDGMENT AND WAIVER OF
INVESTIGATION AND HEARING RIGHTS

Place: Location

I, Midshipman Third Class First MI Last (Alpha, Company) have been advised by (Rank and Name) that I am suspected of - Charges (copy from Conduct Offenses and Elements) under the USNA Administrative Conduct System.

I have also been advised that:
(Initial)

_____ (1) I have the right to a full, impartial preliminary investigation.

_____ (2) That I may have access to this investigation once completed.

_____ (3) That I may provide information and evidence to the Preliminary Inquiry Officer.

In addition to the above listed rights, a preliminary investigation will be conducted at the discretion of the Conduct Officer or Legal Advisor. Understanding these rights, I have decided to plead to the offense(s) as follows:

(Copy from above charges)

7.07.03 Guilty / Not Guilty

7.10.12 Guilty / Not Guilty

I make this decision freely and voluntarily. No threats or promises have been made to me.

I understand that if the Adjudicating Authority finds that I committed one or more of the suspected offense(s) and awards punishment, I may request reconsideration of the finding(s)/punishment. I understand that such request must be made in writing within 5 working days of imposition of punishment and must allege either that the punishment was unjust or was disproportionate to the offense(s). I understand that if I request reconsideration, the case will be forwarded to the appropriate superior authority for review and action as provided under the Administrative Conduct System. I understand that if I request reconsideration, my punishment may not be increased by the Reviewing Authority.

Signature: _____ Witnessed by: _____

Printed Name: _____ Printed Rank, _____
Name and Billet:

Date and Time: _____ Date and Time: _____

Figure 2-F

CHAPTER 3
DISCIPLINARY MEASURES:
RULES AND EXPLANATIONS

SECTION	SUBJECT
3.0	Factors in Assigning Disciplinary Awards
3.1	Suspension of Awarded Punishment
3.2	Deferring Restriction or Tours
3.3	Explanation of Types Of Punishment
3.4	Other Disciplinary Measures
3.5	Conduct Probation/Remediation
3.6	Separation

3.0 Factors in Assigning Disciplinary Awards

1. The Table of Authorized Punishments (Table 2-B, copied below) provides guidance for the administration of equitable discipline within the Brigade of Midshipmen while permitting exercise of discretion in individual cases.

2. Each offense is assigned a delinquency series. Not every offense will result in the award of the maximum possible punishment. The overall philosophy of the system is that delinquencies and resultant awards should be handled at the lowest appropriate level consistent with good order and discipline. In some cases, for example, justice may be served when the Adjudicating Authority, using appropriate discretion, dismisses a 1000-3000 series offense rather than taking administrative disciplinary action. This might be appropriate in a case when there is no prior misconduct and the midshipman successfully completes a remedial probationary period in which he or she completes some form of non-punitive measure (e.g., EMI or counseling) to address the deficiency. In other cases, it may be appropriate to adjudicate the offense but suspend some or all of the punishment during a specified period of time. The punishment could later be imposed if the midshipman completes further misconduct during the period of suspension. The above notwithstanding, when a midshipman violates the same delinquency code for the third time during the same academic year, it will automatically be handled as a next higher series offense.

3. Offenses under this instruction, including those assimilated from the UCMJ, are designed to teach midshipmen the behavior that is expected of them. Midshipmen should comport themselves in this manner at all times; they are expected by the American public, whom they serve, to act appropriately. There is no "service-connection" requirement for an offense to have been committed under this instruction. Additionally, for any offense that is specifically listed in the Manual for Courts-Martial (2002) as an offense under Article 134 UCMJ (e.g., part IV, paragraphs 61- 113), the element that the conduct was to the prejudice of good order and discipline or was of a nature to bring discredit upon the armed forces is deleted as a required element under this instruction.

4. **Multiple Conduct Charges for the Same Event.** When several conduct offenses take place during the same course of action, they will be considered as one event. Only one Form 2 (chapter 2) will be generated. Only one punishment will be awarded. The most serious charge will be used as the primary charge. All others will be listed as secondary charges. Demerit and restriction or tour awards for multiple offenses may not exceed the maximum allowed for the primary offense. Any questions as to whether a series of offenses constitutes a single incident should be referred to the Conduct

offenses constitutes a single incident should be referred to the Conduct Office.

TABLE OF AUTHORIZED PUNISHMENTS: 1000-6000 SERIES

	1000	2000	3000	4000	5000	6000
Demerits	0-15	15-30	30-50	50-70	70-90	100
Restriction ¹ (days)	0	0-7	0-14	0-21	0-45	0-60
Tours ¹	0-5	0-10	0-15	0-20	0-20	0-20
Extra Duty ¹ (hours)	0-5	0-10	0-15	0-20	0-30	0-30
Loss of Class Privileges ¹ (months)	0	0-1	0-2	0-3	0-4	0-6

NOTES:

1. Values listed for Restriction, Tours, Extra Duty and Loss of Class Privileges reflect the maximum permitted award for that series offense.

Table 2-B

3.1 Suspension of Awarded Punishment

a. Suspension of award is the setting aside of all or part of the award of punishment on the condition of no further offenses. Awards of demerits shall not be suspended more than the next lower series. For example: Awarded demerits for a 4000 series level offense shall not be suspended below 30 demerits.

b. The Adjudicating Authority may only suspend a punishment up to the maximum suspension period for their position. Unless specifically stated the period of suspension is assumed to be the maximum as detailed below:

- (1) Company Commander - 45 days
- (2) Battalion Commander - 90 days
- (3) Company Officer, Brigade/Regimental Commander - 180 days
- (4) Deputy Commandant, Battalion Officer - 1 year

c. **Completion of suspension.** If the midshipman completes the period of suspension without committing any further offenses, the suspended portion of the punishment will be remitted without further action.

d. **Vacation of a suspended punishment.** If the Midshipman commits an offense within the period of suspension, the accused Midshipman's chain of command shall immediately notify the original adjudicating authority of the new offense. In cases adjudicated by the Deputy Commandant, the chain of command shall inform the Conduct Officer or the Commandant's Legal Advisor.

(1) **Vacation of the suspended punishment is not mandatory but is within the discretion of the original adjudicating authority.**

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(2) If the original awarding authority elects to vacate the suspension, the Conduct Officer shall be informed of the vacated punishment and the Form 2 will be updated by the Conduct Office. The Midshipman will begin serving the previously awarded punishment immediately upon being notified of the vacated suspension.

3.2 Deferring Restriction or Tours. Under certain circumstances, the serving of restriction or tours may be deferred, or delayed, for a certain period of time.

a. **Deferment of Restriction.** Midshipmen who feel they have extraordinary circumstances may request to defer restriction. A request to defer restriction must be made to the Adjudicating Authority by Special Request Chit. The Awarding Authority will promptly notify the midshipman of the decision. Copies of the approved chit will be routed by the midshipman to the Conduct Officer. The midshipman will remain on restriction until notified of deferral. Once restriction is deferred, the midshipman will not be allowed to serve the restriction on an intermittent basis such as on days of personal preference. Once commenced, restriction will run continuously. Midshipmen who have deferred restriction must present a copy of the approved Special Request Chit to the Officer of the Watch who will annotate the deferment on the Restriction Muster Card. The Company Conduct Officer shall update the Form 2 in MIDS.

2. **Deferment of Tours.** Midshipmen who feel they have extraordinary circumstances may request to defer tours. The midshipman must serve tours until notified deferral. A Special Request Chit for deferral may be submitted to the Adjudicating Authority via the midshipman's chain of command. A copy of the chit, if approved, must go to the Battalion Officer of the Watch stating the exact time frame that will be missed. Once an election to defer tours is approved, the midshipman will not be allowed to serve the tours on an intermittent basis on the days of personal preference. Once commenced, tours will run continuously until completion. Midshipmen remain eligible to stand watch. However, they will neither serve nor receive credit for area or room tours during their periods of watch.

3.3 Explanation of Types of Punishment

a. **Demerits.** Demerits are numerical points awarded when a midshipman is found guilty of a conduct offense. A midshipman's semester conduct grade is based solely upon the total demerits earned for that particular semester. Demerit levels for each particular series of offense are listed in Table 2-B, "Table of Authorized Punishments." For a full explanation of how demerits are used to determine grades, see Chapter 5, CONDUCT STANDING, GRADING SYSTEM, AND UNSATISFACTORY CONDUCT ALTERNATIVES.

b. **Restriction**

(1) Restriction is the moral restraint to specified limits as delineated below. The award of any restriction at all is optional, but, when awarded, must not exceed the maximum set forth in Table 2-B above, "Table of Authorized Punishments."

(2) Restriction and the Fourth Class. The Deputy Commandant may award restriction to fourth class midshipmen at any time; other awarding authorities may not award restriction to the Fourth Class prior to return from Christmas Leave without prior authorization from the Deputy Commandant.

(3) Any midshipmen in a restricted status shall remain in their company areas until all restriction has been served. Midshipmen may leave their Company areas without special permission for the following reasons only:

(a) Attendance at scheduled academic classes.

(b) Use of academic facilities for completion of academic studies.

(c) Participation in required military activities, including marching tours in specified locations. In case of a conflict, the midshipman on restriction should ask his chain of command for clarification.

(d) Scheduled meals.

(e) Attendance at religious services within the confines of the Naval Academy.

(f) Two hour workout daily within the confines of the Yard prior to 1915.

(g) Participation in varsity or intramural athletics, club sports, and sanctioned Brigade Support Activities.

Note: Although midshipmen do not need special permission to leave their company areas to take part in these activities, they are still required to go to Main Office and sign out the Restriction Muster Sign-Out Log for all activities except class, military drill, and mandatory meals.

(4) **Special Permission to Leave Company Area.** A midshipman wishing to leave the company areas for any reason except those listed above must inform the Company Duty Officer (CDO) of his intention to request permission from the Officer of the Watch. He will go directly to Main Office for permission. (Note that the CDO is not the permitting authority.) The midshipman will then check back in with Main Office before returning to the company area and advising the CDO of his return.

(5) **Prohibited Activities for Restricted Midshipmen**

(a) No midshipmen with unserved restriction may take town or weekend liberty until all days of restriction have been served.

(b) Midshipmen with unserved restriction are not allowed escorting privileges at any time.

(c) Use of company wardrooms is prohibited for all restricted midshipmen.

(6) **When Restriction is/is not served**

(a) Midshipmen serve restriction consecutively following its award, beginning at the next available restriction muster on the same day the case is adjudicated, except as noted in paragraph (c) below, including weekdays, weekends, final exam periods, holidays, and leave days.

(b) A midshipman may not be placed on restriction before a finding of guilt by anyone except the Commandant and the Deputy Commandant.

When prior restriction is ordered, the restriction will be used as a form of restraint prior to disciplinary action being taken, and the midshipman will later be given day-for-day credit if restriction is subsequently awarded for the offense.

(c) Additionally, midshipmen will not serve restriction when they are:

(1) hospitalized; or

(2) on movement orders; or

(3) in the on-section watch or serving as Company CDO. Any member of the watch section who is not posted on watch will make every restriction muster. Likewise, any member of the Company Duty section who is not CDO will make every restriction muster. A restricted midshipman who is Company CDO will get no credit for that day of restriction.

(7) A midshipman receives credit for one day of restriction if at least one restriction muster during that calendar day is attended. However, a restriction muster may only be missed for an authorized reason. A midshipman will receive no credit for any day during which he is excused from all musters because of hospitalization or attendance at an event with higher priority. A day of restriction ends at 2400.

(8) Violation of Restricted Status

(a) A violation of the assigned restriction status will be considered a direct violation of an order of the Awarding Authority who imposed the restriction.

(b) Violation of restricted status solely by being late to or missing a muster will be processed as follows:

(1) A Form 2 will be initiated charging unauthorized absence.

(2) That day of restriction will not count as a day served.

(9) **Restriction over Leave Periods.** All midshipmen regardless of class will serve restriction over leave periods with exceptions as noted below. Specific leave policies shall be noted in separate Commandant Notices. Extra credit will not be given for restriction served during a leave period or on a holiday. Only day-for-day credit will be given.

(a) Christmas Leave. Midshipmen in a restricted status will be granted at least seven days of leave from the time of the last exam in December until the reform of the Brigade in January.

(b) Summer Leave. Midshipmen in a restricted status over the summer training period will be granted at least 14 days of leave. If a midshipman received at least 14 days of leave prior to entering a restricted status they will not normally be granted any additional leave while on restriction.

(10) **Restriction Leading to Late Graduation.** Only the Superintendent of Midshipmen may authorize late graduation. Route all requests for late graduation due to Conduct issues through the Conduct Office.

(11) **Brigade-Wide Restriction.** The Commandant may restrict the entire Brigade of Midshipmen, or any portion thereof, for incidents of widespread misconduct.

(12) **Restriction Musters**

(a) Restriction musters will be conducted by the OOW. Formations will be held in an appropriate location as determined by the OOW, per the following procedures:

i. Midshipmen will report to restriction musters in the uniform of the day and be prepared for inspection.

ii. When the restriction muster formation is called to attention, any midshipman not in formation at that time will be marked absent. Midshipmen will not be marked present if they arrive late for muster. No assumption as to the whereabouts of absent midshipmen will be made.

iii. Midshipmen will be inspected in ranks at every muster, and only after the inspection will their attendance at the muster be noted on the restriction card. Midshipmen who are judged by the OOW to be unsatisfactory in personal appearance at any restriction muster will not receive credit for standing restriction that day. However, the midshipmen are expected to attend all further musters that day, regardless of credit. Any additional finding of unsatisfactory appearance that day will result in conduct action by the OOW.

iv. The MOOW shall act as Restriction Commander for the purpose of restriction musters and to ensure accountability.

v. Restriction musters and associated personnel inspections should be completed in less than 30 minutes.

(b) Restriction musters will be held in accordance with the following schedule during the Academic Year:

<u>Saturday/Sunday/ Holidays/Leave Days</u> *	<u>Weekdays</u>
0630	0630
1015 (except Sunday)	2000
1530	2230
2000	
2230	

*At least one random muster will be held as determined by the OOW.

Note: Summer Months. From graduation to the reform of the Brigade, the Saturday schedule will be used Monday through Friday for restriction and tours.

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(c) Absence from a Restriction Muster.

i. Automatic **Authorization.** Activities superseding Extra Duty and restriction musters and the marching of tours constitute automatic authorization to miss a restriction muster. However, the midshipman must report to the Main Office before each activity and indicate in the

Restriction Muster Sign Out Log the reason for missing the muster. (Note that the marching of tours takes precedence over attendance at restriction muster.)

ii. Special Permission to Miss Restriction Muster. The OOW or someone higher in the chain of command may, in special cases, grant permission for a midshipman to miss a restriction muster. As stated elsewhere, credit will be given for a day of restriction if one muster is attended. The OOW may not authorize a restricted midshipman to sign out of a restriction muster in order to participate in any activity that is prohibited for restricted midshipmen.

(d) Duties of the MOOW. As stated before, the MOOW is the Restriction Commander and is solely responsible for taking attendance at every muster.

i. Prior to Muster. Approximately 10 minutes prior to restriction muster, the MOOW will request the restriction cards from the OOW. Once he receives the cards, the MOOW will look through them, ensuring that there are no erroneous or extraneous entries. Five minutes before the muster, the MOOW will escort the OOW down to restriction muster.

ii. Conduct of the muster. At the appropriate time, the MOOW will call the restricted midshipmen to attention and prepare them for inspection. While the restrictees are being inspected, the MOOW will call roll in order to discern who is present and who is absent. ONLY THE MOOW WILL PERFORM THIS TASK. The MCMO will ensure that restrictees have no part in the conduct of the restriction muster.

iii. When the muster is over, the MCMO will return to Main Office and initial the cards of those members who were present at the muster. Once this is completed, the MCMO will check the cards of those members who were not present against his restrictee sign-out log. All those who were not signed out and were not present at the muster will be marked UA on their cards.

iv. The MOOW will then return all the restriction cards to the OOW. The cards will be kept in the OOW's closet until the next restriction muster. Under no circumstances will the restriction cards be kept at the MOOW desk in Main Office. The MOOW will report all apparent unauthorized absences from every restriction muster to the OOW. The OOW will then investigate these absences and take the proper action against the individuals.

v. Sign-Out Log. The MCMO will monitor the use of the sign-out log. The restricted midshipman must come to Main Office to personally enter all the pertinent data into the log book in order to sign out for an authorized activity. Upon completion of that activity the restricted midshipman will personally sign in with a return time and return to company area. Midshipmen on restriction will not be allowed to sign out of a scheduled muster in order to utilize their two hour workout or to study in academic buildings.

c. **Tours.** Midshipmen found guilty of conduct violations may be awarded tours as punishment. Marching tours will normally be given. In extraordinary circumstances Battalion Officers may approve requests or assign room tours. Tours may be awarded with or in lieu of restriction. Marching of tours takes precedence over attendance at restriction muster.

(1) **Liberty privileges.** Midshipmen serving tours are not in a restricted status (unless they were also awarded restriction) and may take liberty on any specific day after tours are served if they are otherwise eligible. Allowances will be made for the midshipman's Sabbath.

(2) **Deviations from timetables below.** In cases when tours would carry over into leave and holiday periods, the Battalion Officer may authorize the serving of additional tours to a maximum number of four tours per day in an effort to complete assigned tours prior to the leave period.

(3) **Validation of tours.** At the completion of each area or room tour, the midshipman will report to the MOOW for the tour to be validated on the Tours Accountability Form, Figure 6-F.

(4) **Area (Marching) Tours**

(a) Area tours are conducted in the working uniform of the day and marched under supervision of the MOOW in Tecumseh Court. Tours shall be marched in a counter clockwise square. The boundaries for the tour area are the mulched area around the Brigade of Midshipmen Flag Pole, the curved walkway near the Enterprise Bell, the visitor's boundary white line which connects those two areas, and red beach on the other side. Tours shall be marched at a normal marching pace with military pieces (rifles) in hand. In the event there are multiple Midshipmen marching tours, they shall be marched single file. One area tour consists of 45 minutes of marching, followed by 15 minutes of rest.

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(b) Midshipmen serving area tours will attend a muster and inspection conducted by the Midshipman Officer of the Watch (MOOW) on 4-0 prior to serving any area tours. Deficiencies in appearance may be handled by ordering the midshipman to correct the deficiency and revoking credit for the first hour (if necessary), issuing a Form 2, both, or simple counseling.

(c) Allowable time periods for area tours: (Area tours may only be marched during the prescribed times. No tours will be marched during a home football game.)

<u>Monday-Friday</u>	Saturdays
0530-0615	0900-0945
	1000-1045
	1600-1645
	1930-2015

(d) Records for tours will be kept by battalion designated personnel. Completed tours will be documented on the Tours Accountability Form (Figure 3-E). That same person is responsible for informing the OOW of those midshipmen on restriction who will miss restriction musters while marching tours.

(e) Varsity athletes will be excused on game days.

(f) Exempt or excused midshipmen will notify the duty monitor prior to their absence.

(g) Monitoring will be done in accordance with battalion policies. The duty monitor will initial tour sheets for all successfully

completed tours and forward completed tour sheets to the Conduct Office via the Company Conduct Officer.

(h) Failure of the pre-tour inspection or failure to execute the tour in a professional manner will result in the tour not counting. The unsatisfactory tour will, however, be completed.

(5) **Room Tours.** Room tours consist of supervised confinement to the 4-1 Conference Room. One room tour lasts for one and one half hours. Room tours should only be assigned in extraordinary cases where the adjudicating authority feels that the midshipman would benefit from the dedicated time spent in a room instead of marching.

(a) During the Room Tour. Inspections during the tour are made by the MOOW during each tour. The midshipman must either stand or sit at the table in the 4-1 Conference Room in the uniform of the day throughout the room tour. Eating, drinking, talking, and sleeping are not allowed. Talking is only permitted for the midshipman to answer authorized questions posed by the chain of command or watchstanders. Studying during room tours is highly encouraged.

(b) Leaving the room. The midshipman may leave the 4-1 Conference Room to attend prescribed formations, devotional services, sick call, or summons by the chain of command, but must inform the MOOW before departure. The midshipman may also leave the room to use the head nearest the room, or to accept an official telephone call.

(c) Allowable time periods for room tours. Room tours may be served on Saturdays and Sundays, and on any holiday that is part of a three day weekend. Room tours may not be served during a home football game.

<u>Saturday</u>	<u>Sunday</u>	<u>Holidays</u>
1400-1530	1400-1530	1450-1530
1530-1700	1530-1700	1530-1700
2000-2130	2030-2200**	2000-2130
2130-2300		

** This time period only effective on a Sunday proceeding a Monday holiday.

(d) When room tours may not be served. Room tours may not be served while a midshipman is absent from the Naval Academy, in the hospital, or medically excused from duty other than area tours.

d. Reduction in Rank

(1) Officer Awarding Authorities may recommend reduction in rank to the Commandant for major level offenses. The Midshipman shall revert to the class as annotated by the Commandant. The Midshipman will become a member of that class, wear the uniform and insignia of that class and room with a member of that class for the period of time assigned. The Midshipman will observe all rates and privileges of the assigned class. The Midshipman will meet all requirements and functions of the lower class. The Midshipman will not be allowed to attend class functions of his/her original rank while serving in a reduced rank status such as 1/C Superintendent Calls/Dinners, Ring Dance, and Youngster Luau. The reduction in rank shall not impact the Midshipman's academic progress or change his/her alpha number, pay, or other such administrative matters.

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(2) Provided the Midshipman adheres to all provisions of this punishment, his/her reinstatement to the original rank will be considered upon a written request, via chain of command, to the Commandant at a set date. The request shall be submitted no earlier than fourteen days prior to the date of reinstatement.

R

(3) In the event a Midshipman fails to adhere to the provisions of this punishment his/her case shall be forwarded to the Commandant for further consideration.

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(4) Adjudicating authorities requesting Reduction in Rank shall forward Figure 3-H to the Conduct Office upon completion of the adjudication. Reduction in Rank shall not commence until the Commandant of Midshipmen has signed and approved Figures 3-F and 3-H.

3.4 Other Disciplinary Measures

a. Extra Duty

(1) **As Part of the Award for a Conduct Offense.** Extra duties may be assigned as part of an award by an adjudicating authority. (Extra duties assigned as a result of an Adjudicative Hearing shall be performed in addition to such extra duties as may be ordered in connection with being in a restricted status) Guidelines for Extra Duty are delineated in paragraph (3). A description of the award of extra duty should be entered in the "Award Comment" section of the Form 2.

(2) **All Restricttees Subject to Extra Duties as Needed.** During the Academic Year, all midshipmen in a restricted status are subject to perform Extra Duties as directed by the Battalion Officers or Officer of the Watch. Guidelines for Extra Duty are delineated in paragraph (3). Because the routine for midshipmen is complex during summer and leave periods, the Conduct Officer or OIC Naval Academy Summer Programs will delineate the normal workday for restricttees and assign extra duty accordingly.

(3) Guidelines for the performance of Extra Duty

(a) Extra duty shall:

(1) Consist of upkeep and maintenance and administrative tasks in and around Bancroft Hall.

(2) Be performed on a not-to-interfere basis with other military obligations such as academic classes, drill, intramurals, and mandatory lectures.

(3) Monitored and documented on the Extra Duty Accountability Form (Figure 3-G) by the battalion midshipman chain of command

(b) Extra duty shall not:

(1) Include fatigue duties.

(2) Extend to more than two hours per day without permission from the Deputy Commandant.

(3) Be performed during study hours.

(4) Be performed on the midshipman's Sabbath.

(4) **Reduction of Restriction for Extra Duty.** Days restriction should not be reduced in exchange for the performance of extra duty except under extraordinary circumstances and then may be reduced only by the Deputy Commandant or the Commandant. Requests for reduction of restriction for performance of extra duty in extraordinary circumstances will be submitted to the Conduct office.

b. **Removal from Extracurricular Activities.** Only the Commandant of Midshipman may remove members and managers of intercollegiate teams, competitive club teams, and intramural or other extracurricular activities from all activities. Team activities include meetings, practices, training, competition, social functions, and any other team related activity. Extracurricular activities include all organized midshipmen activities under the supervision of the Midshipmen Activities Officer. A midshipman may be removed if that midshipman has:

(1) been placed on Conduct Probation, or

(2) been found unsatisfactory in conduct by the Commandant and is recommended for separation, or

(3) accumulated, in the Commandant's judgment, excessive deferred restriction.

(4) is charged with an offense under the U.C.M.J. that could result in greater than one year of confinement or is charged with a felony or equivalent offense in a federal, state or foreign jurisdiction.

c. **Reduction of Rank.** Any midshipman striper who has demonstrated an inappropriate sense of duty (i.e., habitual lateness, violation of standing or specific instructions, inefficiency, misconduct, etc.) may be recommended for reduction. Recommendations for reduction will be made by letter from the Company Officer through the Battalion Officer and the Deputy Commandant to the Commandant for review/action. Recommendations involving members of the Brigade or Regimental Staffs will be made by the Conduct or Aptitude Officer through the Deputy Commandant to the Commandant for review/action. The Superintendent will be advised of all proposed reductions of senior (5 stripers and above) members of the Brigade Staff.

d. **Administrative Loss of Privileges.** Privileges may be withheld or modified in conjunction with, or instead of the processing of a Conduct Report (Form 2). Examples of privileges that may be temporarily withheld or modified as administrative corrective measures are:

All Classes: special liberty
All Classes: attendance at yard events
All Classes: voluntary movement orders
Upperclass: civilian clothes
Upperclass: yard parking
Upperclass: wardroom
Upperclass: reduction to lower class liberty
Upperclass: weekends (see subparagraph (1) below)

(1) **Deprivation of normal liberty.** Deprivation of normal Fourth Class liberty as a punishment, and, except as curtailed by the award of restriction, is not authorized. Deprivation of normal Upperclass liberty may

be administered only by the Company Officer or officer's superior in the chain of command.

(2) **Notifying the Chain of Command.** The Modification of Privileges form (Figure 5-G) will be circulated through the chain of command. When privileges are modified or withheld in conjunction with a Form 2, MIDS shall be updated by the Company Conduct Officer and a copy of the Loss/Modification of Privileges Form will be forwarded to the Conduct Officer.

(3) **Maximums.** Privileges may be withheld from a midshipman, in writing in lieu of an Adjudicative Hearing according to the following maximums:

<u>OFFICER</u>	<u>AUTHORIZED PERIOD</u>
Company Officer	30 days
Battalion Officer	90 days
Deputy Commandant	1 year

(4) Midshipmen may initiate the Loss/Modification of Privileges Form, but must have them approved by an Officer as follows:

(a) Company and Battalion Commanders may fill out the Loss/Modification of Privileges Form and take them to their respective Company or Battalion Officers for approval. Other Company or Battalion Stripers may request that their Company or Battalion Commanders initiate the Loss/Modification of Privileges Form for them.

(b) Regimental and Brigade Stripers with four stripes and above, may fill out the Loss/Modification of Privileges Form and take them to the Commandant, or Deputy Commandant for approval. Other Regimental and Brigade Stripers may request that their Regimental or Brigade Commander initiate the Loss/Modification of Privileges Form for them.

(c) The midshipman initiating the Loss/Modification of Privileges Form will be responsible for routing copies to all appropriate members of the errant midshipman's chain of command.

Note: Whenever privileges are withheld in lieu of punishment based upon adjudication of a charge forwarded on a Form 2, the withholding authority must inform the effected midshipman of the nature of the privilege which has been withheld, the limits such action places on the midshipman's privileges, and the time period such privilege will be withheld.

3.5 Conduct Probation/Remediation

a. Conduct Probation

(1) Conduct Probation is an alternative to separation and may be imposed by the Commandant:

(a) as a result of a finding of guilt for a 4000-6000 series Conduct offense, in lieu of a recommendation to the Superintendent for separation;

(b) any time a midshipman's conduct has been determined to be unsatisfactory, as defined in Chapter 2, and the midshipman has not been recommended for separation;

(c) as a result of being retained by the Superintendent following a recommendation for separation; or

(d) at the Commandant's discretion upon a review of the facts of the case.

(2) Probation is limited to those cases where unusual mitigating or extenuating circumstances exist, or to midshipmen in the fourth class whose records of performance may be too brief to provide an adequate evaluation.

(3) Terms of probation will be established by the Commandant and the periods of probation will be in effect for a stated period of time.

(4) A midshipman will normally be placed on probation only once, and violation of the terms of that probation will usually result in a recommendation for separation.

(5) Each midshipman placed on probation will be notified in writing that he has been placed on probation; what the terms of the probation; that successfully meeting the terms will result in the probation automatically terminating without further action following the designated period; and that violation of the terms is justification for separation from the Naval Academy. Probation letters may be issued by the Conduct Officer or the Commandant's Legal Advisor by direction for the Commandant.

(6) The Commandant has numerous sanctions which he may impose as part of conduct probation. These include, but are not limited to, the following:

(a) Reduction in Rank.

(b) Successful completion of IMPACT training.

(c) Successful completion of Conduct Remediation.

(d) Reassignment of Companies.

(e) Assignment to the Brigade ADEO to actively participate in the Right Spirit Campaign for the term of their probation.

(f) Loss of consumption of alcohol and/or patronage to any establishment that serves alcohol.

(g) Loss of privilege to represent the United States Naval Academy in any capacity including participation in athletic events, BSA's, and Club Sports.

(h) Loss of privilege to participate at Brigade Class Events for example Ring Dance, Youngster Luau, Herndon.

b. Conduct Remediation

(1) Conduct Remediation is an alternative to separation and may be imposed by the Commandant, but is not considered punishment.

(2) The Conduct Remediation Program will be administered by the Conduct Officer.

(3) At the completion of the program, the midshipman's mentor will forward to the Commandant, via the Conduct Officer, a report summarizing the midshipman's program with a recommendation for disposition. The Commandant may choose from the following options:

(a) Consider the midshipman successfully remediated and remove the midshipman from the program

(b) Assign the midshipman to further remediation; or

(c) Deem them remediation unsuccessful and forward the case to the Superintendent with a recommendation for separation.

3.6 SEPARATION

a. The separation authority for the Naval Academy is the Secretary of the Navy. When a midshipman is found guilty of committing any major offense (except 7.07.09, Hazing, first offense, which is, by law, a non-separation offense), the Commandant of Midshipmen may recommend to the Superintendent that the midshipman be separated from the Naval Academy.

b. If either the Superintendent or the Secretary of the Navy disapproves the recommendation for separation and returns the case to the Commandant, unless otherwise directed, the Commandant may hold an additional "Unsatisfactory Conduct" hearing or may immediately place the midshipman on conduct probation and/or remediation for a specified period of time.

c. Once the Superintendent has recommended that a midshipman be separated from the Naval Academy and has signed the endorsement to the midshipman's Show Cause Statement, the midshipman shall immediately begin check-out procedures and will be placed on leave pending discharge while awaiting the Secretary of the Navy's final action.

RESTRICTION ORDER

Award Date: _____

From: Awarding Authority
To: Midshipman _____

1. You are hereby placed in a restricted status until the awarded restriction of _____ days is served. You are considered to be in a duty status during the term of your restriction.

2. While in a restricted status, you will adhere to the following rules and regulations:

a. You will serve restriction consecutively and immediately following its award - including weekdays, weekends, final exam periods, holidays, and leave periods.

b. You shall restrict yourself to your Company area. Use of Company wardrooms is prohibited. The limits of this restriction will be continuously in effect except for attendance at scheduled academic classes, use of academic facilities for completion of academic studies, participation in required military activities, scheduled meals, attendance at religious services within the confines of the Naval Academy, two hour workout daily within the confines of the Yard prior to 1915, and participation in intramural athletics, club sports, and sanctioned Brigade Support Activities.

c. You are required to report to Main Office and sign out in order to take part in any activity other than class or military drill. You shall sign-out immediately prior to your authorized activity and sign-in immediately upon completion of your activity.

d. At no time will extra credit be given for serving restriction during a leave period or on a holiday. Only day-for-day credit will be given.

e. All restriction musters will be conducted by the OOW in an appropriate location as determined by the OOW. Restriction musters will be held at the times set forth in paragraph 3 below. You will report to musters in the uniform of the day with musters being called to order at prescribed times. If you are not present at the time the muster is called, you will be marked absent. The OOW will hold at least one random muster on weekends, holidays, and leave periods.

f. You will report to all restricted musters prepared for a personnel inspection. If you are found to be unsatisfactory at inspection, you will not receive credit for restricting that day. Regardless of this, you are still on restriction and you will attend all further musters that day. Any additional finding of unsatisfactory at later restricted musters that day will result in conduct action.

3. Restriction musters will be held in accordance with the following table:

Day	Times					Comments
	0630	1015	1530	2000	2230	
Monday - Friday	X			X	X	
Saturday	X	X	X	X	X	At least one random muster as announced by OOW
Sunday	X		X	X	X	
Holidays	X	X	X	X	X	
Leave Days	X	X	X	X	X	

4. You will remain eligible for watch and duty as normally assigned, however, you will not serve restriction during the standing of watch or duty as CDO. You may not restrict on days when you serve as CDO; you will restrict while on off section watch or on duty other than as CDO. When standing watch or serving as CDO, you will inform the OOW of your status, and it will be so noted in the Restriction Muster Sign-Out Log in Main Office. All other restriction limitations remain in effect, unless exceptions are required by the normal watch routine (i.e., access to a company wardroom is authorized only if you are required to be there for watch purposes). Additional watches will not be scheduled, nor will you switch watches with other midshipmen during periods of restriction.

5. You do not rate town or weekend liberty or escorting privileges until all days of your restriction have been served.

6. Any violation of the assigned restricted status will be considered a direct violation of an order of the Awarding Authority who imposed the restriction.

8. You will report immediately to Main Office to receive your restriction card and attend the very next muster.

9. You will deliver the Main Office Restriction Acknowledgment to the OOW, AOOM, MOOW, AMOOW or MCMO and ensure that it is filled out and returned to the Conduct Office.

10. Upon completion of your restriction, you will personally deliver your completed restriction card to the Conduct Office within ONE working day. Your restriction will not be considered complete until this action is taken.

Figure 3-A

MIDSHIPMAN'S ACKNOWLEDGEMENT OF RESTRICTION FORM

Date: _____

From: _____
(Midshipman)

To: _____
(Awarding Authority)

Subj: AWARD OF RESTRICTION

1. I have been found guilty of a conduct offense and acknowledge the following:

a. I realize that I am considered to be in a duty status throughout the duration of my restriction. _____ (initial)

b. The following facts concerning my restriction pertain:

_____ Number of days restriction awarded _____
(initial)

_____ Date restriction is to begin _____
(initial)

_____ Date restriction is to end _____
(initial)

c. I have been given a restriction order form explaining restriction requirements. I have read the form and understand the requirements.

2. I will read the Administrative Conduct System Manual, Chapter 5, paragraph 5.3, which explains restriction requirements more fully. Within 24 hours of signing this form. _____ (initial)

3. I understand that summer training or a movement order may supersede restriction. I realize that once the purpose of the movement order or training is fulfilled, I am obligated to report back to USNA as soon as possible, even through my orders or movement orders may not have expired. _____ (initial)

4. I will abide by all restriction requirements to the best of my ability.

5. I will report to Main Office immediately to receive my restriction card and attend the very next muster.

6. If at any time I become unsure about what is required of me, I will seek advice from my chain of command or the Conduct Officer, Room 3116, Bancroft Hall, X37019.

(Signature of Midshipman)

Figure 3-B

RESTRICTION CARD

RESTRICTION MUSTER CARD FOR _____, _____, _____
 NAME ALPHA CO

_____ DAYS OF RESTRICTION AWARDED ON _____

	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA
0630														
1015														
1530														
2000														
2230														
RANDOM														
DATE														

	SU	MO	TU	WE	TH	FR	SA	SU	MO	TU	WE	TH	FR	SA
0630														
1015														
1530														
2000														
2230														
RANDOM														
DATE														

Figure 3-C

MAIN OFFICE RESTRICTION ACKNOWLEDGEMENT

Date: _____

From: _____

To: Conduct Officer

Subj: MAIN OFFICE RESTRICTION ACKNOWLEDGMENT

1. On _____ at _____, Midshipman _____ Class
(date) (time)

_____ of _____ Company reported to Main
Office to commence restriction for a period of _____ days.

2. Midshipman _____ has received a properly annotated
restriction card and is aware that his/her restriction begins at the very
next muster at _____.
(time)

(OOW, AOOW, MOOW, AMOOW)

(Printed Name and Rank)

SEND THIS ACKNOWLEDGMENT OF RESTRICTION TO THE CONDUCT OFFICE IMMEDIATELY

Figure 3-D

REDUCTION IN RANK

Date: _____

From: Commandant of Midshipmen
To: Midshipman _____

Subj: REDUCTION IN RANK

Ref: (a) Administrative Conduct System Manual

1. As a result of your adjudication on _____ by _____ I have awarded you _____ months of reduction in rank. You shall revert to the rank of _____.

2. You shall revert to the class as annotated. You will become a member of that class and will wear the uniform and insignia of that class. You will observe all rates and privileges of the assigned class. You will meet all requirements and functions of the lower class. You will not be allowed to attend your original class functions while serving in a reduced rank status such as 1/C Superintendent Calls/Dinners, Ring Dance, and Youngster Luau. The reduction in rank shall not impact your academic progress or change your alpha number, pay, or other such administrative matters.

3. Provided you continue to adhere to the provisions of this punishment your reinstatement to your original rank will be considered upon a written request to the original adjudicating authority.

Commandant of Midshipman

Figure 3-F

Reduction in Rank Recommendation

Date: _____

From: _____, Officer Awarding Authority
To: Commandant of Midshipmen, U.S. Naval Academy
Via: (1) Conduct Officer
(2) Legal Advisor

Subj: REDUCTION IN RANK RECOMMENDATION

1. I have found that Midshipman _____ has committed the following major offense(s) under the Administrative Conduct System:

2. I have considered the information provided to me in this Midshipman's case package, the Midshipman's conduct and aptitude records, statements from his/her chain of command, and evidence/statements presented by the Midshipman on his/her own behalf. Based on the nature of the offenses and the information before me, I recommend that Midshipman _____ be reduced to the rank of _____ for _____ months.

3. I do/do not recommend that the midshipman change companies for the duration of the RIR period.

OFFICER'S SIGNATURE

Date: _____

From: Commandant of Midshipmen
To: Awarding Authority

Subj: REDUCTION IN RANK RECOMMENDATION

1. Reduction in rank: _____ Approved _____ Disapproved

2. Change Companies: _____ Approved
_____ Disapproved
_____ Other

3. Midshipman _____ may request reinstatement to _____ Classman by letter to me via the chain of command and awarding authority no earlier than _____ (Commandant will select date).

Commandant of Midshipmen

Figure 3-H

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CHAPTER 4
DUTIES AND RESPONSIBILITIES

SECTION	SUBJECT
4.0	Introduction
4.1	Adjudicating Authority
4.2	Accused Midshipman
4.3	Preliminary Investigative Officer
4.4	Company Conduct Officer
4.5	Brigade Conduct Officer
4.6	Conduct Officer
4.7	Commandant's Legal Advisor

4.0 Introduction. In order for the Conduct System to function efficiently and fairly, specific duties and responsibilities are assigned to members of the Commandant's Staff and the Brigade of Midshipman. The following are the explanations of those responsibilities by position.

4.1 Adjudicating Authority

- a. Conduct a fair and impartial hearing.
- b. Determine whether the accused is guilty by a preponderance of the evidence by considering all known, relevant circumstances associated with the case.
- c. Determine an appropriate punishment in light of the alleged offense(s), the accused's prior overall performance, chain of command input, the accused's rank and billet within the class/Brigade, the need to maintain good order and discipline, as well as any extenuating/mitigating evidence that the accused presents.
- d. Advise the accused, in person, of "Guilty" and "Not Guilty" findings. If the accused is found "Guilty," advise the accused of the extent and nature of the punishment awarded. (Note: even if the adjudication is conducted without a hearing, the accused shall be advised of the Adjudicating Authority's findings and the punishment awarded, if any, in person, by an appropriate member in the chain of command).
- e. Following adjudication of a case, the Adjudicating Authority shall provide the related documents to the Company Conduct Officer for entry of the findings and punishment (if awarded) into the midshipman's Form 2 in MIDS. Upon entering the finding/punishment into MIDS, the Company Conduct Officer shall forward the case file to the Conduct Office.

4.2 Accused Midshipman

- a. Obtaining legal counsel, if desired. Although military legal counsel will be made available at no expense to the accused through the Office of Legal Counsel, the accused midshipman is responsible to make contact with counsel and exercise this right.
- b. Meeting submission deadlines established by the Conduct Officer or PIO. If an accused midshipman cannot meet a submission deadline, it is the accused's responsibility to contact the officer concerned to obtain an extension. In all cases where the requested extension will result in a delay of the Preliminary Inquiry or Adjudicative Hearing, the request will be made in writing and delivered to the PIO or Adjudicating Authority for

approval/disapproval.

c. Ensuring that witnesses requested by the accused are identified to the Conduct Officer at least two days prior to the hearing. The accused midshipman has the responsibility of contacting and notifying witnesses that they request.

d. Notifying the PIO of any potential alibi defense prior to completion of the Preliminary Inquiry. Should the accused midshipman fail to provide information by the appropriate deadline, absent extremely unusual circumstances, the Adjudicating Authority as a matter within his or her discretion may disregard evidence of alibi offered by the accused midshipman at the adjudicative hearing.

4.3 Preliminary Inquiry Officer Further directions are included in section 2.1 paragraph e.

a. The Preliminary Inquiry Officer will be responsible for conducting a fair and impartial inquiry into the facts and circumstances surrounding alleged misconduct. Preliminary Inquiry Officers should seek assistance from the Conduct Officer and Legal Advisor as required, and should not hesitate to request the assignment of an assistant PIO or legal counsel from the Leadership, Ethics, and Law Department, in more complex cases, if such is deemed necessary and appropriate by the PIO.

b. The PIO shall complete and serve the Military Suspect's Acknowledgment and Waiver of Rights form, and inform the accused midshipman of the requirement to submit a plea within 24 hours of service.

4.4 Company Conduct Officer. Company Conduct Officers will be responsible for performing such duties and actions as described below:

a. **Assign a Preliminary Investigative Officer for a 1000-3000 series level offense.** The PIO will be assigned using the guidelines listed in section 2.1 paragraph d. Addendum A contains a quick reference chart regarding these guidelines.

b. **Receive and prepare Preliminary Inquiry Officer's report for adjudication in 1000-3000 level cases.** The complete conduct package when prepared for an adjudication should include the following attachments:

- (1) Form 2 (Figure 2-A)
- (2) Preliminary Inquiry Report with enclosures (Figure 2-B or 2-C)
- (3) Statement of Respondent (if applicable)
- (4) Appropriate Rights Sheets and Notification of Potential for Reimbursement (Figures 2-D, 2-E and/or 2-F)
- (5) Printouts of Chain of Command Statements from the Form 2 in MIDS
- (6) Complete printout from the following MIDS modules:
 - (a) Full report from Company Officer System.
 - (b) Most recent semester's Aptitude Comments from Company Officer System.

- (c) All previous Form 2s from Conduct - Record Offenses.
- (d) Full report from Midshipman - Performance Record.

(7) Blank Restriction Order (see Chapter 3, Figure 3-A), Midshipman Acknowledgement of Restriction form (Figure 3-B), Main Office Restriction Acknowledgement (Figure 3-D), Tours Accountability Form (Figure 3-E), Loss/Modification Of Privileges Form (Figure 3-F), and Extra Duty Accountability Form (Figure 3-G).

(8) Any character witness statements or other pieces of evidence submitted by the accused midshipman for review by the Adjudicating Authority.

c. Schedule, setup and attend Conduct Adjudication.

d. After the award is made. The Company Conduct Officer will:

(1) **Complete all forms associated with punishment assigned at adjudication:** Restriction Order (see Chapter 3, Figure 3-A), Midshipman Acknowledgement of Restriction form (Figure 3-B), Main Office Restriction Acknowledgement (Figure 3-D), Tours Accountability Form (Figure 3-E), Loss/Modification Of Privileges Form (Figure 3-F), and Extra Duty Accountability Form (Figure 3-G).

(2) **For 1000-3000 series level cases:** Ensure that the Form 2 is immediately updated in MIDS and the conduct package is filed in the company files "Not guilty" and dismissed Forms 2 must also be given to the Secretary for forwarding to the Conduct Office in order that the record may be closed.

(3) **For 4000-6000 series level cases:** Ensure that the Form 2 is immediately updated in MIDS and the conduct package is forwarded to the Conduct Office for filing or further processing. "Not guilty" and dismissed Forms 2 must also be given to the Secretary for forwarding to the Conduct Office in order that the record may be closed.

4.5 Brigade Conduct Officer

a. Assist Conduct Officer in training all Company Conduct Officers to properly execute their respective duties under this instruction. Additionally the Brigade Conduct Officer will train the Company Conduct Officers on the operation of the MIDS system as it pertains to conduct offenses.

b. Act as a liaison between the Conduct Office and Company Conduct Officers to enhance consistency in the administration of the Conduct System within the Brigade, thereby enhancing good order and discipline at the Naval Academy.

c. **XYZ Case studies.** The Brigade Conduct Officer is instrumental in providing feedback to the Brigade of Midshipmen in the form of XYZ case studies that outline a case by describing the summary of events, offenses that were charged, a summary of adjudication and punishment, and the final disposition of the case. The Brigade Conduct Officer shall:

(1) Draft XYZ cases for adjudications at the Deputy Commandant and Battalion Officer level and submit them to the Conduct Officer for review and final approval by the Deputy Commandant.

(2) Upon approval, distribute XYZ cases to Company Conduct Officers in accordance with distribution policy.

4.6 Conduct Officer

a. Prior to forwarding a 4000-6000 series level offense case to the Adjudicating Authority, the Conduct Officer shall:

(1) Ensure that the PIO serves the Form 2 on the accused midshipman, informing the accused of the requirement to submit a plea within 24 hours of service, and ensure that the PIO completes the Military Suspect's Acknowledgement and Waiver of Rights form and, as applicable, the Notice of Potential Reimbursement.

(2) Provide assistance to the PIO as necessary, to include obtaining reports from outside agencies.

(3) Coordinate with the PIO to ensure timely completion of the PIO report.

(4) Review all available documentation for completeness and accuracy.

(5) Ensure the accused midshipman's Company and Battalion Officers know that a 4000-6000 series level offense has been charged against the midshipman.

b. If a hearing to adjudicate a 4000-6000 series level offense is contemplated, the Conduct Officer shall:

Note: For 4000-6000 series level offense(s) previously delegated by the Deputy Commandant, the following may be performed by the delegated Adjudicating Authority or a designated subordinate.

(1) Provide the accused midshipman an opportunity to review the materials provided to the adjudicating authority, to include the PIO report with enclosures, Chain of Command Comments and Character or Material witness statements.

(2) In cases not delegated, forward the original report to the Commandant's Legal Advisor for review.

(3) Schedule the Adjudicative Hearing, informing the midshipman and accused midshipman's chain of command.

(4) Provide to the Adjudicating Authority a complete hearing package to include: Military Suspect's Acknowledgement and Waiver of Rights form and, as applicable, the Notice of Potential Reimbursement; PIO report with enclosures; all written comments from the accused midshipman; written comments from midshipman's chain of command; a complete printout of the midshipman's MIDS record; and any statements or evidence submitted by the accused midshipman.

(5) In delegated cases, report the findings and punishment to the Conduct Officer.

c. Additionally, the Conduct Officer will be responsible for the following administrative matters:

(1) Maintain necessary records, ensuring that a copy of the PIO report is placed in the midshipman's conduct file. In cases adjudicated by the Deputy Commandant, ensure that an audio recording of the hearing is maintained for two years, or until the midshipman has graduated, whichever is longer.

(2) Train Company Conduct Officers and PIOs to properly execute their respective duties under this instruction to enhance consistency in the administration of the Conduct System within the Brigade, thereby enhancing good order and discipline at the Naval Academy.

(3) Prepare and serve on the accused midshipman a Notice of Unsatisfactory Conduct Hearing Letter after the Adjudicative Hearing, as appropriate.

4.7 Commandant's Legal Advisor

a. Provide advice to the Commandant concerning whether consistency in the administration of the Conduct System is being maintained and offer recommendations to enhance consistency when required.

b. Assist in the training of other personnel assigned specific duties under the Conduct System.

c. May appoint PIOs in 4000-6000 series level offense cases and assign assistant PIOs and legal counsel as appropriate.

d. Assist the Deputy Commandant in reviewing reports of 4000-6000 series level offenses to determine whether the offenses ought to be delegated to subordinate Adjudicating Authorities.

e. Review all PIO reports regarding 4000-6000 series level offenses that are not delegated by the Deputy Commandant and all referred PIO reports. Advise Adjudicating Authorities on whether sufficient evidence exists to support forwarding the case to an adjudicative hearing.

f. Be present during all Unsatisfactory Conduct hearings to ensure the rights of accused midshipmen and witnesses are maintained/protected.

g. Provide Adjudicating Authorities such other opinions and advice as is deemed appropriate.

h. Advise the Commandant of Midshipmen on the legality of placing midshipmen on conduct probation, conduct remediation and/or recommending such midshipmen for discharge.

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CHAPTER 5
CONDUCT STANDING, GRADING SYSTEM, AND UNSATISFACTORY CONDUCT ALTERNATIVES

<u>SECTION</u>	<u>SUBJECT</u>
5.0	Grading System
5.1	Conduct Standing (explanation of terms)
5.2	Counseling, Warning, and Notification of Deficient
5.3	Commandant's Discretion Regarding Unsatisfactory Conduct
5.4	Unsatisfactory Conduct Procedures

5.0 Grading System. A conduct average is calculated by averaging the point values for all of the midshipman's semester conduct grades. The semester conduct grade is based solely upon accumulated demerits for that particular semester. (Demerits are numerical points awarded when a midshipman is found guilty of a conduct offense.) Table 5-A below shows demerit levels and point values for each letter grade.

a. Conduct grades:

<u>DEMERIT RANGES PER LETTER GRADE</u>					
<u>LETTER GRADE</u>	<u>POINT VALUE</u>	FIRST CLASS	SECOND CLASS	THIRD CLASS	FOURTH CLASS
A	4	0-25	0-25	0-30	0-35
B	3	26-45	26-45	31-49	36-60
C	2	46-60	46-60	50-70	61-80
D	1	61-70	61-70	71-80	81-90
F	0	70 >	70 >	80 >	90 >

Table 5-A

a. Offenses pending adjudication at semester's end. Midshipmen who are charged with conduct that have not been adjudicated by the end of the conduct semester will receive a grade of "Incomplete" in conduct until the case is adjudicated. After adjudication, the appropriate grade will be entered by the Conduct Office.

5.1 Conduct Standing. A midshipman's conduct standing is also based upon demerits. There are three categories of standing: proficient, deficient, and unsatisfactory.

a. Proficient. A semester letter grade ranging from A through C.

b. Deficient. A deficiency status remains until a letter grade of "C" or better is earned the semester following the Deficient semester. This status exists if:

(1) A letter grade of D or F is earned; or

(2) Demerits exceed two-thirds of the yearly demerit allowance (YDA) (see column labeled "(2/3 YDA) DEFICIENCY LEVEL" in Table 2-B below).

c. Unsatisfactory. An unsatisfactory status remains until a letter grade of "C" or better is earned the end of the semester following the

semester in which the midshipman became unsatisfactory. This status exists if:

- (1) Guilt is determined in a 6000 series offense; or
- (2) guilt is determined for two separate 5000 or higher series primary offenses committed within two consecutive conduct semesters, or three separate 5000 or higher series primary offenses in a career at the Naval Academy; or
- (3) Guilt is determined for three separate 4000 or higher series primary offenses committed within two consecutive conduct semesters, or four 4000 or higher series primary offenses in a career at the Naval Academy; or
- (4) Terms of a previous probation are violated; or
- (5) A letter grade of F for two consecutive semesters is earned; or
- (6) Demerits exceed the yearly demerit allowance (see Table 5-B below); or
- (7) Demerits exceed the cumulative demerit allowance (see Table 5-B below); or
- (8) A conduct average of 2.0 becomes mathematically impossible to achieve by graduation date; or
- (9) Guilt is determined for two primary or secondary alcohol related offenses/incidents (7.10 series delinquency code); or
- (10) Guilt is determined for two separate instances of sexual harassment, harassment of another midshipman, racial/ethnic discrimination or harassment, and/or gender-biased discrimination or harassment (07.09 series delinquency code).

YEARLY/CAREER DEMERIT ALLOWANCES

CLASS	YEARLY DEMERIT ALLOWANCE	(2/3 YDA) DEFICIENCY LEVEL	CAREER DEMERIT ALLOWANCE
1/C	140	95	335
2/C	140	95	315
3/C	160	110	270
4/C	180	125	180

Table 5-B

d. First Class Midshipmen. Subject to approval by the Superintendent, the Commandant may recommend delayed graduation for first class midshipmen who become Unsatisfactory in Conduct during the second semester of their first class year. As approved, such delayed graduation will occur between the scheduled graduation date and the end of the following Fall Semester.

5.2 Counseling, Warning, and Notification of Deficient Status

a. Counseling by the Company Officer/Senior Enlisted Leader/Company Commander. The Company Officer, Company Senior Enlisted Leader and/or the

Company Commander, should counsel any midshipman they believe to be at risk based on significant or recurrent misconduct. The motivation for counseling, as well as specific guidance given, will be documented and placed in midshipman's service record.

b. **Notification of Deficient Status.** When a midshipman becomes deficient, the Company Officer, Senior Enlisted Leader and the Conduct Office receive a notification of DEFICIENT CONDUCT STANDING from the Midshipman Information Data System (MIDS). Midshipmen who are in a deficient conduct standing should be notified of their status by their chain of command, at which time the Company Officer, Senior Enlisted Leader and/or Company Commander should also counsel the midshipman, document the counseling session, and file the documentation in the midshipman's service jacket. Failure to complete this notification and counseling of a midshipman in a deficient conduct status does not preclude processing further processing for unsatisfactory conduct.

5.3 Commandant's Discretion Regarding Unsatisfactory Conduct. In determining the conduct standing of a midshipman, the Commandant of Midshipman has significant discretion to exercise leadership and maintain good order and discipline within the Brigade of Midshipmen. Generally speaking, the trigger for a Commandant's Unsatisfactory Conduct review of a case for possible separation will be either a 6000 series offense or a case involving one of the two triggers set out in section 5.1 relating to multiple alcohol and harassment offenses. However, the Commandant may unilaterally elect to review a midshipman's conduct record for Unsatisfactory Conduct processing if, in his discretion, he determines that this is warranted based on the egregiousness of an individual offense or series of offenses or based on the totality of a midshipman's conduct record. If the Commandant elects to review a particular case, all of the options discussed in section 2.4 will be available to him up to and including recommending the midshipman for separation.

5.4 Unsatisfactory Conduct Process. If a midshipman becomes unsatisfactory in conduct, as detailed in section 5.1, that midshipman's overall record will be reviewed by the chain of command and the Conduct and Legal Offices. Recommendations are forwarded to aid the Commandant in deciding the final disposition. The options and procedures for a midshipman that is unsatisfactory in conduct is detailed in section 2.4.

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CHAPTER 6
MIDSHIPMEN INFORMATION DATA SYSTEM (MIDS)

SECTION	SUBJECT
6.1	General Information
6.2	Entering a Form 2
6.3	Updating a Form 2
6.4	Validating a Form 2

6.1 General Information. Midshipmen Information System (MIDS) is developed according to the Administrative Conduct System Manual. It allows for online entry and tracking of Form-2s for midshipmen in the Brigade.

6.2 Entering a Form 2

a. **Who can enter a Form 2.** The MIDS system allows for electronic entry of Form-2s by the following people using the noted MIDS Module:

- (1) Conduct Office - Conduct-Validate/Maintain Mid Offenses
- (2) Battalion Officers, Company Officers and Senior Enlisted Leaders - Conduct-Record Offenses
- (3) Company Commanders - Conduct-Record Company Offenses
- (4) Company Conduct Officers - Conduct-Record Company Offenses
- (5) First Class Midshipmen - Conduct(1/C Mids Only)-Record Offenses
- (6) Faculty and Staff Personnel - Conduct-Report Mid Offenses

b. **Required information for a Form 2.** Individuals charging an offense are required to enter the following information:

- (1) [Alpha] - Alpha Code of the accused midshipman.
- (2) [Semester] - Semester of commit date (Fall, Spring or Summer).
NOTE: Only plebes can be charged with offenses during the Summer. Offenses for all other classes are recorded with Fall Conduct Semester during the Summer months.
- (3) [Commit Date] - Actual commission date of offense. Enter date by clicking on calendar icon and selecting appropriate date.
- (4) [Level of the Offense] - Highest series level of offenses being reported. Select level from drop-down menu.
- (5) [Primary Offense] - Offense code and description of highest level offense from incident being reported. Select offense code from drop-down menu.
- (6) [Secondary Offense] - Offense code and description of other offenses from incident being reported, if necessary. It is possible to select multiple items from the Secondary Offense list. Select non-contiguous items by holding the [Control key] when clicking items. Select a range of items (contiguous) by clicking the first item, then holding down the [Shift] key when clicking the last item.

(7) [Reporter Type] - Category of reporting individual (Midshipman, Officer, Civilian, CDO, or Other).

(8) [Incident Summary] - Brief description of events surrounding offense. The Incident Summary should be written in a short concise statement in sufficient detail to put the accused midshipman on notice of the offense he or she is alleged to have committed.

6.3 Updating a Form 2

a. **Entering a plea.** Midshipmen shall read and acknowledge their rights, enter a statement, and enter a plea for each charge on a Form-2 within 24 hours of notification. To enter a plea the midshipmen use the Conduct - Enter Plea module located on the Midshipmen menu in the MIDS system. Midshipmen are allowed to update the plea until the Conduct Office has validated the Form-2.

b. **Investigating Conduct Cases.** The MIDS system allows for the investigation of all series offenses to be tracked online.

(1) **Assigning a PIO.** PIOs can be assigned to conduct cases by the Conduct Office, Battalion Officers, and Company Officers via the Conduct - Assign PIO module or directly from the Form 2.

(a) PIOs selected from the list of values on the page are notified by email of their assignment.

(b) PIOs assigned via the Other PIO field must be notified by the user making the assignment.

(c) Other individuals receiving a carbon copy of the assignment email include the accused midshipman, Conduct Office personnel, Battalion Officer, Company Officer, Company Senior Enlisted, Company Commander, and Company Conduct Officer.

(2) **Uploading a Preliminary Investigative Officer (PIO) Report into MIDS.** Preliminary Investigative Officers should use the Conduct - Record Offenses module to enter their reports on the preliminary investigation. These reports can be entered by clicking the button [Insert New Record] under the heading of "PIO, Chain of Command, Witness Statements" located at the bottom of the Form-2. Enter the name of the file (complete with path) or click [Browse] and select the file name from the list. To view the document/file click the [Uploaded File] link. The file will be opened in the default application for the file type; i.e. Acrobat Reader for pdfs, Microsoft Word for doc files, etc. NOTE: To update a previously stored PIO Report, enter the name of the file (complete with path) or click [Browse] and select the file name from the list.

c. **Adding Chain of Command/Witness Statements.** Additional statements from members of the Chain of Command, Character Witnesses or Material witnesses may be added to the Form 2. These statements can be entered by clicking the button [Insert New Record] under the heading of "PIO, Chain of Command, Witness Statements" located at the bottom of the Form-2. Select the appropriate title from the [Position] drop-down menu, and type the statement in the provided box.

d. Adjudicating Conduct Cases

(1) Conduct cases shall be adjudicated in adherence to the rules detailed in the chapter 2. The following individuals may use the indicated MIDS modules to enter rulings into the Form 2:

- (a) Conduct Office - Conduct-Validate/Maintain Mid Offenses
- (b) Battalion Officers, Company Officers and Senior Enlisted Leaders - Conduct-Record Offenses
- (c) Company Commanders - Conduct-Record Company Offenses
- (d) Company Conduct Officers - Conduct-Record Company Offenses

(2) MIDS provides checks in some of the above modules to prevent the user from entering punishments that exceed the level of offense or are in excess of the adjudicator's designated limits. MIDS provides a warning in an attempt to enforce the rule of adjudicating all offenses for a midshipman in the same hearing.

e. Entering Awarded Punishments. MIDS allows for punishments to be detailed on the Form-2 record and automatically calculates the End Dates for all punishments except Conduct/Honor Probation and Remediation.

(1) **Awarded Punishment.**

- (a) [Demerits Award] - Enter only the net amount of demerits (Awarded Demerits - Suspended Demerits = Net Demerits)
- (b) [Restriction] - Enter the days of Restriction awarded
- (c) [Tour Type] - Select the type of tours (Area or Room) from the drop-down menu and enter the number of tours awarded.
- (d) [Loss of Privs] - Enter the days of Loss of Class Privileges awarded.
- (e) [Loss of Car Privs] - Enter the days of Loss of Car Privileges awarded.
- (f) [Lost Leave] - Enter the months of Loss of Leave awarded.
- (g) [Extra Duty] - Enter the hours of Extra Duty awarded.
- (h) [Conduct/Honor Probation] - Enter the months of Conduct or Honor Probation awarded, as appropriate.
- (i) [Remediation Award] - Enter the months of Conduct or Honor Remediation awarded, as appropriate.

(2) **Suspended Punishment.** Punishments may be suspended within the limits and guidelines established in section 3.1. Enter the amount of punishment that is suspended and how long it is suspended in months.

(3) **Deferred Punishment.** Restriction and Tours may be suspended within the limits and guidelines established in section 3.2. Select whether a punishment will be deferred from the drop-down menu and insert the date that the punishment will begin using the calendar icon.

(4) **Vacated Punishment.** Suspended punishments may be vacated if another offense occurs during the period of suspension. Commit Date for the new offense must be designated on the Form-2 with the suspended punishment in the [Related Case Commit Date] field before the suspended punishment may be vacated.

(5) **[Award Comment].** A short narrative shall be entered that includes the following:

(a) Statement of findings. (i.e. Accused midshipman was found "Guilty/Not Guilty" of the following offenses...)

(b) Complete text of all punishment awarded. (i.e. 100 Demerits/25 suspended, 60 Days Restriction, 20 Area Tours, 30 Hours of Extra Duty and 12 Months Loss of Class Privileges)

(c) Notes on any further disposition which may include but is not limited to: Forwarded to Commandant, Forwarded to Supt, Separated by Supt, Retained by Commandant, Retained by Supt, Placed on Conduct Probation/Remediation for __ months.

(d) Notes on any vacated suspensions to include case number of new offense.

6.4 Validating the Form 2

a. **Verification.** Prior to validating a Form 2 the Conduct Office ensures the following:

(1) Form 2 is entered properly and charges are correct.

(2) Conduct case was adjudicated properly and the Form 2 was updated accordingly

(3) Awarded punishment was properly input in to the punishment matrix on the Form 2 and the Award Comment is complete.

b. **Validating.** A Form 2 is validated by selecting "yes" from the drop-down menu in the [Validated] field. This may only be done by the Conduct Office using the Conduct-Validate/Maintain Mid Offenses module. NOTE: When the Conduct Office has validated a Form-2, the users of Conduct-Record Offenses and Conduct-Record Company Offenses can only modify the award comment.

c. **Calculations performed upon validation.** Once the record has been validated the Conduct Standing of the accused midshipman is calculated and updated. If the midshipman is determined to be Deficient or Unsatisfactory according to guidelines found in chapter 5, email will be sent to the Conduct Officer, Company Commander, Company Officer, and the Senior Enlisted Leader.

CHAPTER 7
SPECIFIC CONDUCT OFFENSES

SECTION	SUBJECT
7.0	Introduction - How to use this chapter
7.1	Reporting Offenses and assigning an investigator
7.2 - 7.4	DELETED
7.5	Regulations, Orders, Instructions
7.6	Duty
7.7	Fourth Class Indoctrination System
7.8	Communications and Official Reports
7.9	Standards of Behavior
7.10	Alcoholic Beverages
7.11	Drugs and Controlled Substances
7.12	Military Bearing/Civilian Appearance
7.13	Room Condition and Appearance
7.14	Safeguarding Government and Personal Property
7.15	Weapons and Fireworks
7.16	Unauthorized Persons in Building, Mess, and Restricted Area
7.17	Private Official and Classified Materials
7.18	Absences or Tardiness
7.19	DELETED
7.20	DELETED
7.21	Limit Violations
7.22	Usurping
7.23	Operation of vehicles
7.24	Telephones
7.25	Violation of Regulations - Conduct Office Use Only

7.0 Introduction

a. In this chapter are listed various specific conduct offenses. Only typical vice all possible delinquencies are listed herein. Those individuals involved in the administration of the conduct system will rely on these typical delinquencies for guidance and seek the advice of the Conduct Office in cases not covered.

b. **OFFENSE CODES.** The offense code for any conduct offense is a four-digit number consisting of the section number plus the specific offense number. For example, "Violation of oral or written orders specifically addressed to an individual" is code 0501; "Articles in windows" is 1305, "Absent without authority (24 hours or more)" is 1801, etc.

c. Sections 7.1 through 7.4 were deleted from this chapter with the change from COMDTMIDNINST 1620.10L to CSORM Section 2 in the summer of 1990. They were narrative sections that were rewritten and placed in other chapters of this Conduct Manual. Because of complications to the computer system that would have been caused by renumbering the following offense codes, they have remained the same for this chapter and begin with code 0501, "Violation of oral or written orders specifically addressed to an individual." For the same reason, codes for offenses that have been deleted or rewritten remain in the computer record; as deleted codes; those offenses rewritten have been assigned new codes.

d. **Attempts to commit an offense.**

(1) An attempt is act done with the intent to commit a conduct offense, amounting to more than mere preparation, and tending, though failing, to effect the commission of the offense.

(2) Attempts should be charged as the intended offense. The maximum punishment is the same as the intended offense.

(3) A person who undertakes acts with the specific intent to commit an offense, amounting to, mere preparation, then voluntarily abandons the undertaking, is not guilty. A person whose undertaking is terminated by unforeseen circumstances is guilty of an attempt.

7.1 Reporting Offenses and Assigning an Investigator Copied below are pertinent paragraphs from section 2.1 that are useful when considering charging an offense and writing a Form 2.

a. **Reporting an offense.** Officers, noncommissioned officers, enlisted personnel, midshipmen, and civilians may report midshipmen who they suspect committed any offense covered by this instruction. Midshipmen, faculty, and staff shall report conduct offenses by submitting a Form 2 electronically via MIDS if practicable or shall contact the Conduct Office for assistance. Officers, noncommissioned officers, enlisted personnel, and civilians without access to MIDS may contact the Conduct Office to report an incident.

b. **Initiation of Form 2.** Subject to the limitations set forth herein, any officer, senior enlisted, or midshipman in a position of authority that has reason to believe that a midshipman may have committed an offense defined by this instruction or the U.C.M.J. or violated regulations covered by this instruction, may initiate a Form 2 against such midshipman. All Form 2s alleging a 4000-6000 series offense shall be brought to the attention of the Legal Advisor via the Conduct Officer for review. The Legal Advisor must review all Form 2s alleging a 4000-6000 and variable 3000+ series offenses and determine whether the offense is a "major criminal offense" as defined by SECNAVINST 5520.3B.

(1) **Charging an offense.** If more than one offense has allegedly been committed by the same midshipman, where such alleged offenses are closely related in time, place, or nature so as to form one course of action/misconduct, such offenses will normally be considered as one event and only one Form 2 will be generated, and one punishment awarded. The most serious charge will be used as the primary charge; all others will be listed as secondary charges. Demerits and restriction or tour awards for multiple offense incidents may not exceed the maximum allowed for the primary offense. Any questions as to whether a series of offenses constitutes a single incident should be referred to the Legal Advisor.

(2) **Wording/Writing the Form 2.** The Form 2 should be written in a manner that places the accused on notice of the offense that midshipman is alleged to have committed. The offense description need only be written in a short concise statement, again, in sufficient detail to put the accused midshipman on notice of the offense that was allegedly committed. The offense description need not describe every detail of the circumstances surrounding the alleged offense. The name and company of any other midshipmen involved in the same offense must be included in the offense description.

c. **Assignment of a Preliminary Investigative Officer (PIO).** Within two days of a Form 2 being entered into MIDS an appropriate PIO must be assigned

and updated on the Form 2. The seniority of the PIO (Officer, Senior Enlisted or Midshipman) will be determined by the highest series offense charged (for variable series offenses this is the highest series level in the range) in the incident unless otherwise determined by the Conduct Officer or Legal Advisor.

7.2 - 7.4 Deleted

7.5 REGULATIONS, ORDERS, INSTRUCTIONS

Disobedience to orders and regulations normally is more serious than a mistake in judgment. Orders are given with the expectation of compliance both in spirit and in letter.

Orders may be addressed to an individual or to a group in general. Examples of orders addressed to an individual are a verbal order, such as "Midshipman Doe, do this now," or a written order, such as "The following midshipmen must turn in lacrosse equipment: Midn 2/C Doe..." An example of an order addressed to a group is, "All third class midshipmen will empty their basement lockers by..."

Failure to comply with an order to be at a particular event or location at a particular time should be charged under section 7.18 Absences or Tardiness.

<u>Delinquency</u>	<u>Level</u>	
01. Violation of oral or written orders specifically addressed to an individual.	3000-5000	
02. Demonstrating gross ignorance of instructions, regulations, or directives.	4000	
04. Violation of oral or written orders, instructions, or other directives addressed to a group rather than a particular individual with major effect.	4000-5000	
05. Violation of Midshipmen Regulations with minor effect. (Specify the article which is violated. If the misconduct is specifically described by another delinquency code, that delinquency code should be used.)	2000-3000**	
**NOTE: Second and subsequent minor violations in a related incident may be charged as 4000 series offenses.		
06. Violation of Midshipmen Regulations with major effect. (Specify the article which is violated. If the misconduct is specifically described by another delinquency code, that delinquency code should be used.)	4000-5000	
07. Violation of reduction in rank.	6000	R

7.6. DUTY

Considerations in determining correct awards for delinquencies involving duty should include the nature of the duty, the position of the midshipman, and whether the delinquencies resulted from laxness, carelessness, negligence, or gross negligence.

Failing to assume a responsibility, evading a regulation, permitting other midshipmen under one's command or control to evade responsibility or regulation, and overlooking or failing to report breaches of regulations are all delinquencies which indicate poor motivation and a low concept of duty.

<u>Delinquency</u>	<u>Level</u>
01. Intentional failure to properly perform a duty.	4000-5000
02. Interfering with an individual who is performing a duty.	4000-5000
03. Aiding, abetting, counseling, commanding, or procuring the commission of an offense punishable by this instruction. The level for the aider/abettor shall generally be the same as that for the offense committed by the principal. Code 1005 will be used for aiding abetting an alcohol offense.	variable
<u>EXCEPTIONS:</u> When the principal is of a lower class than the aider/abettor, the level for the aider/abettor will be 5000, except when the level of offense for the principal is 6000; in that case, the level for the aider/abettor will also be 6000.	
04. Failing to properly perform a duty through negligence, laxness or ignorance with major effect.	4000
05. Failing to correct or report a delinquency.	3000
06. Unauthorized assumption of authority.	3000
07. Failing to properly perform a duty through negligence, laxness, or ignorance with minor effect.	2000
08. Failing to consult with the proper authority when faced with a conflicting duty; or taking advantage of a conflicting duty.	3000
09. Failure to use good judgment - minor effect. (If the misconduct is specifically described by another delinquency code, that delinquency code should be used.)	3000
10. Failure to use good judgment - major effect. (If the misconduct is specifically described by another delinquency code, that delinquency code should be used.)	4000

7.7 **FOURTH CLASS INDOCTRINATION/DEVELOPMENT SYSTEM**

| D

U.S. Code 6964 states in section (c) that "...no midshipman may be dismissed for a single act of hazing except by sentence of a court-martial." Related offenses, however, may result in separation.***

Report all suspected hazing cases to the Conduct Office BEFORE adjudication.

Upper classmen have a duty to both lead and be responsible for fourth classmen, and in the process of that duty are to behave in a professional manner at all times. General Order No. 1-90 states, "Touching of fourth-

class midshipmen with hand or any other object by an upperclassman for any reason other than for their own safety will be strictly prohibited..."

Fourth classmen have a duty to abide by the terms of the Fourth Class Indoctrination System. Note that if a fourth classman fails to obey a direct order, he should be charged under code section 7.5 Regulations, Orders, Instructions.

<u>Delinquency</u>	<u>Level</u>
03. Failure to maintain a professional relationship with a Fourth Class. <u>NOTE</u> : This includes, but is not limited to, dating and unprofessional social relationships.	5000
04. Failure to participate in the Fourth Class Indoctrination System when required.	4000
05. Failure to know plebe rates.	1000
07. Violations or abuse of the Fourth Class Indoctrination System not amounting to hazing.	5000
08. Failure to report hazing or abuse of the Fourth Class Indoctrination System.	5000
09. and 10. <u>Moved to 7.9.38 and 7.9.39</u>	
11. Unprofessional electronic communications with Fourth Class/upperclass in violation of MIDREGs. <u>NOTE</u> : This includes, but is not limited to, Instant Messenger, ICQ, chat rooms, or any comparable mode of communication.	3000-5000

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7.8 COMMUNICATIONS AND OFFICIAL REPORTS

The proper preparation and timely submission of official communications, records, and reports develop habits and attention to detail which are prerequisites to successful performance. "Report" refers to an official communication (oral or written) required by order, duty, regulation, or other directive, and includes, but is not limited to, conduct reports, muster and taps reports, academic accountability cards and logs. An individual entry in a cumulative log may also be considered a report for these purposes.

The intentional submission of false reports will normally be handled under the Honor System.

<u>Delinquency</u>	<u>Level</u>
01. Destroying a report or document.	5000
02. Failing to submit a report; demonstrating <u>gross</u> laxness, or inattention to detail in the submission of a report or document; or losing a report	2000-4000
04. Submitting a required report or document late.	2000
05. Failure to sign an accountability log (includes Main Office sign in, accountability log, etc.)	2000

7.9 STANDARDS OF BEHAVIOR FOR ALL MIDSHIPMEN

The act of hazing is a breach of Federal law set forth by Congress in 10 United States Code Section 6964, wherein hazing is defined in section (a) as "any unauthorized assumption of authority by a Midshipman whereby another Midshipman suffers or is exposed to any cruelty, indignity, humiliation, hardship, or oppression, or the deprivation or abridgement of any right." Section 6964 further states in section (c) that "...no Midshipman may be dismissed for a single act of hazing except by sentence of a court-martial." Related offenses, however, may result in separation.***

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Standards of decorum, and conduct expected of a commissioned officer and a gentleman are also expected of midshipmen. This includes actions or words which would bring discredit upon the Naval Academy when the individual is identifiable as a member of the Brigade of Midshipmen or the U.S. Navy.

<u>Delinquency</u>	<u>Level</u>
01. Marriage	6000
02a. Fraternalization between midshipmen that undermines good order and discipline within the Brigade of Midshipmen. This refers to unduly familiar relationships not of a romantic or sexual nature.	3000-4000
02b. Fraternalization between midshipmen that undermines good order and discipline within the Brigade of Midshipmen. This refers to unduly familiar relationships of a romantic or sexual nature.	5000-6000
03. Sexual misconduct (Sexual acts on the grounds of the Naval Academy or in other such places under military control, including ships or other craft, or under other circumstances that are service discrediting or prejudicial to good order and discipline within the Brigade of Midshipmen)	6000
<u>NOTE:</u> Examples of sexual misconduct include fondling, displays of affection or sexual activity on a Midshipman rack, oral sexual activity, sexual intercourse, sexually motivated nudity, indecent sexual acts, indecent exposure, and homosexual acts.	
04. Sexual harassment (aggravated) as defined in current SECNAV,OPNAV, and USNA instructions. Examples include, but are not limited to, inappropriate requests for sexual favors to gain some privilege, right or other benefit.	6000
05a. Fraternalization with enlisted personnel involving unduly familiar relationships not of a romantic or sexual nature or similar relationships in violation of Navy or USNA policies or Midshipmen Regulations.	4000-5000
05b. Fraternalization with enlisted personnel involving unduly familiar relationships of a romantic or sexual nature or similar relationships in violation of Navy or USNA policies or Midshipmen Regulations.	6000

- 05c. Fraternalization with enlisted personnel assigned to USNA as Faculty or Staff in violation of Navy or USNA policies or Midshipmen Regulations. 6000
- 06a. Fraternalization with officers involving unduly familiar relationships not of a romantic or sexual nature or similar relationships in violation of Navy or USNA policies or Midshipmen Regulations. 4000-5000
- 06b. Fraternalization with officers involving unduly familiar relationships of a romantic or sexual nature or similar relationships in violation of Navy or USNA policies or Midshipmen Regulations. 6000
- 06c. Fraternalization with officers assigned to USNA as Faculty or Staff in violation of Navy or USNA policies or Midshipmen Regulations. 6000
07. Disrespect or insubordination to a superior or an individual in position of authority. 3000-5000
08. Sexual harassment as defined in current SECNAV, OPNAV, and USNA instructions. Examples include, but not limited to, inappropriate comments, gestures and looks, displaying suggestive photos/posters, and inappropriate electronic communication. 3000-6000
09. Discrediting [or Disorderly] Public Conduct; acts done while identifiable as a member of the U.S. Navy which tend to reflect discredit on the Brigade of Midshipmen or the Navy in the eyes of the public. 5000-6000
- NOTE:** This will be charged ONLY if the offense takes place in view/hearing of members of the general public (on or off USNA grounds).
10. Challenge to personal combat; threat of physical violence, minor. 4000
- NOTE:** When the challenge or threat culminates in physical action, code 0725 (6000 series), assault, will be charged.
12. Discrediting personal conduct; acts which tend to reflect disgrace or discredit oneself. 4000
13. Gambling on the grounds of the Naval Academy, any ship or military station. This includes gambling by phone or internet. 4000
14. Obscene, profane, provoking, or improper language or gestures. 3000-4000
15. Misconduct while serving tours. 2000
- NOTE:** Credit will be taken away for tours served during the period of misconduct.
16. Improper conduct during a military obligation. 1000-3000

NOTE: Examples of military obligations include but are not limited to, lectures, football march-overs, formations, and parades.

17. Public display of affection. 3000-4000

NOTE: "Public" includes, but is not limited to, academic spaces, common areas in Bancroft Hall, and places open to the general public. Acceptable forms of behavior include escorting by arm, brief kiss or hug appropriate to occasion.

EXCEPTIONS: Conservative PDA may be acceptable when not in uniform. For example hugging, kissing, and hand holding.

18. Unauthorized removal of food, utensils, or plates from King Hall. 1000-3000

19. Overdrawing midshipman or civilian account. 3000

20. Interfering or talking to a midshipman serving tours. 1000

21. Operating sound equipment in a manner which disturbs other midshipmen or for the benefit of midshipmen serving tours. 1000

22. Destructive behavior prejudicial to good order and discipline, with major effect, including, but not limited to "recon raids" and "rumbles." 4000-5000

NOTE: Includes physical injury or damage to property.

23. Conviction of a felony by federal, state, or local authorities. 6000

24. Fleeing/avoiding police. 5000-6000

25. Destructive behavior prejudicial to good order and discipline, including, but not limited to "recon raids" and "rumbles" 3000

26. Reproducing copyrighted material for commercial purposes. 6000

27. Reproducing copyrighted material for personal use 4000

28. Aggravated abuse of Naval Academy Data Network (NADN) 5000

NOTE: Unauthorized use of another individual's user number and password should normally be handled under the Honor Concept.

29. Failure to report an instance of sexual harassment. 3000-5000

30. Racial/ethnic discrimination or harassment. This includes written or verbal comments such as offensive racial/ethnic slurs and jokes as well as the displaying of offensive material, written or pictorial. 5000

31. Abuse of Naval Academy Data Network (NADN). 3000

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| 32. | Failure to report offenses involving illegal drugs. | 5000-6000 | |
| 33. | Possession, viewing, or displaying of pornographic materials in Bancroft Hall or on the Naval Academy complex. | 4000-6000 | |
| 34. | Displays of affection in Bancroft Hall rooms. | 4000-5000 | |
| | NOTE: Displays of affection include, but are not limited to, massages, sitting on a lap, kissing, and touching. | | |
| 35. | Gender-based discrimination or harassment. This includes written or verbal comments such as offensive gender-based slurs and jokes as well as the displaying of offensive material, written or pictorial. | 3000-5000 | |
| 36. | Harassment of another midshipman. This includes, but not limited to offensive or unsolicited comments, e-mails, instant message, or letters; comments or actions designed to ostracize an individual or group; or stalking. | 3000-6000 | |
| 37. | Unduly familiar relationship with Faculty or Staff (Officer, Enlisted, or Civilian) which results in perceived or actual preferential treatment or involves actions which may reasonably be expected to undermine good order and discipline. | 4000-6000 | |
| 38. | Hazing - first offense | 6000*** | A |
| 39. | Hazing, second and subsequent offenses, or multiple instances charged at one time. | 6000 | |

7.10 ALCOHOLIC BEVERAGES

Midshipmen have not been prohibited from access to alcoholic beverages because it is recognized that education in principles of moderation serve to foster proper attitudes based upon judgment, self-restraint, and self discipline.

Definitions:

alcohol - beverage with any percentage of alcohol content. (May include "non-alcoholic" brews.)

under the influence - any impairment of one's ability to function normally.

trafficking - making alcohol available in any way to someone under the legal drinking age.

<u>Delinquency</u>	<u>Level</u>	
01. Risky Drinking (.08 to .15 BAC)	3000-4000	A
02. Abusive Drinking (.15 to .2 BAC)	4000-5000	R
03. Extreme Drinking (above .2 BAC)	6000	A
05. Aiding/abetting an alcohol offense	variable*	

NOTE: The level for the aider/abettor shall generally be the same as that for the offense committed by the principal.

EXCEPTIONS: When the principal is of a lower class than the aider/abettor the level for the aider/abettor will be 5000, except when the level of the offense for the principal is 6000; in that case, the level for the aider/abettor will also be 6000.

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| 06. | Drinking, possessing, or introduction of alcohol into Bancroft Hall or aboard ship. | 6000 | |
| 07. | Trafficking of alcohol in Bancroft Hall or aboard ship. | 6000 | |
| 08. | Under the influence of a nature which brings discredit upon the naval service, outrages public decency, or results in a breach of the peace. | 6000 | |
| 09. | Drinking or under the influence while on duty. | 6000 | R |
| 10. | Trafficking of alcohol under prohibited circumstances other than Bancroft Hall or aboard ship. | 5000 | |
| 11. | Under the influence of alcohol in public or on any Navy ship or military station. | 5000 | |
| 12. | Drinking or possessing alcohol in violation of applicable Federal, State, or local law. (This includes underage drinking.) | variable**
(1st = 4000,
2nd = 5000,
3rd = 6000) | A |
| 13. | Drinking or possessing alcohol in circumstances prohibited by Midshipmen Regulations, other than in Bancroft Hall or aboard ship. | variable**
(1st = 4000,
2nd = 5000) | |

****NOTE:** A first offense for either 1012 or 1013 will be at the 4000 level. Second and subsequent offenses will be 5000 levels. 1013 violations will be considered subsequent offenses for 1012 and vice versa.

14. Drunk driving, or driving under the influence of alcohol. 6000

7.11 DRUGS AND CONTROLLED SUBSTANCES

"Narcotics and other controlled substances" are: amphetamine, cocaine, heroin, lysergic acid diethylamide, marijuana, methamphetamine, opium, phencyclidine, and barbituric acid, including phenobarbital and secobarbital. "Controlled substance" also means any substance which is included in Schedules I through V established by the Controlled Substances Act of 1970.

Prohibited anabolic steroids include all compounds banned by current Department of the Navy regulations which have not been prescribed by authorized medical personnel.

<u>Delinquency</u>	<u>Level</u>
01. Unauthorized possession of marijuana, narcotics, or other controlled substances.	6000
02. Unauthorized use of marijuana, narcotics, or other controlled substances.	6000
03. Unauthorized sale and/or transfer of marijuana, narcotics, other controlled substances, or anabolic steroids.	6000
04. Unauthorized use or possession of anabolic steroids.	6000
05. Driving under the influence of marijuana, narcotics, or other controlled substances.	6000

7.12 MILITARY BEARING/CIVILIAN APPEARANCE

It is incumbent upon a midshipman to maintain a proper appearance at all times, both in and out of uniform. As an aspiring naval officer, a midshipman should never forget that he is representative of both the Naval Academy and the United States Navy.

<u>Delinquency</u>	<u>Level</u>
01. Unauthorized wearing of insignia or class stripes to which one is not entitled.	4000
02. Unsatisfactory appearance in uniform.	3000
<u>NOTE:</u> Discrepancies must be specified.	
04. Wearing a deteriorated, discreditable, or soiled item of uniform.	1000
05. Possession of a deteriorated or discreditable item of uniform.	1000
07. Wearing an improper uniform in Bancroft Hall.	1000
08. Not properly shaven.	1000
09. Improper haircut.	1000
10. Wearing an improper uniform outside Bancroft Hall.	3000
11. Wearing civilian clothes or accessories not in conformance with clothing standards delineated in Midshipman Regulations.	2000
12. Wearing civilian clothes when not authorized.	4000

7.13 ROOM CONDITION AND APPEARANCE

<u>Delinquency</u>	<u>Level</u>
01. Failure to have the door fully open when members of the opposite sex are present.	3000

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01b	Locking a room door when members of the opposite sex are present.	5000	A
02.	Use of unauthorized means of entrance to or exit from Bancroft Hall during unauthorized periods for the particular method used.	3000	
03.	Unprepared for inspection.	2000	
04.	Lights or sound equipment on when unauthorized.	2000	
05.	Articles in windows.	2000	
06.	Violation of regulations concerning bedding.	1000	
07.	Gear, clothing, etc., in passageway during unauthorized periods.	1000	
08.	Not meeting prescribed standards of cleanliness.	1000	
09.	Failure to have door open when room is unoccupied.	1000	
10.	Articles outside window.	1000	
11.	Tampering with Bancroft Hall window stops.	5000	A

7.14 SAFEGUARDING GOVERNMENT AND PERSONAL PROPERTY

<u>Delinquency</u>	<u>Level</u>
01. Destruction or damage to government property, intentional or grossly negligent, of a value of more than \$500.00. *	6000
02. Destruction or damage to government property, intentional or grossly negligent, of a value of \$500.00 or less. *	5000
03. Causing a fire in, or in the vicinity of, any government property.	5000
04. Losing weapon or sword.	5000
05. Removing articles from buildings, rooms, or containers (i.e., lockers, drawers) without the permission of proper authority.	3000
06. Negligent destruction or damage to government property; failure to safeguard government property. *	2000
07. Leaving money or valuables unsecured in Bancroft Hall.	1000
09. Destruction or damage to private property, intentional or due to gross negligence. *	6000

EXCEPTION: This does not refer to destruction or damage to one's own property, however, depending on the circumstances,

such an action may be covered by another offense code.

10. Destruction or damage to private property due to carelessness or negligence.* 4000

***NOTE:** Restitution for the damage or destruction may be made a part of the award by the Awarding Authority, subject to concurrence by the Commandant of Midshipmen.

7.15 WEAPONS AND FIREWORKS

<u>Delinquency</u>	<u>Level</u>
01. Careless handling of a weapon.	5000
02. Igniting or possessing fireworks on or in the vicinity of government property.	4000
04. Possession or maintenance of any firearm, ammunition, dangerous weapon or instrument, or highly explosive article on one's person or aboard USNA.	5000

7.16 UNAUTHORIZED PERSONS IN BUILDING. MESS AND RESTRICTED AREA

<u>Delinquency</u>	<u>Level</u>
01. Introduction of, or failure to remove, unauthorized person from Bancroft Hall.	5000
03. Introduction of, or failure to remove, unauthorized person from King Hall or other restricted USNA areas or buildings.	4000
04. Entering a restricted area.	4000
05. Unauthorized entry onto Bancroft Hall or any USNA building roof.	5000-6000

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7.17 PRIVATE OFFICIAL AND CLASSIFIED MATERIALS

<u>Delinquency</u>	<u>Level</u>
01. Losing [Carelessness in handling or safeguarding] classified material.	5000
02. Losing [Carelessness in handling or safeguarding] private official material.	4000
05. Possession of a false, altered, or unauthorized identification card, pass, or similar document (includes driver's license, military ID card, or other forms of identification).	6000

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7.18 ABSENCES OR TARDINESS

Inherent in a midshipman who is self-disciplined and who possesses a strong sense of duty is the characteristic of reporting on time. The midshipman must learn to allow sufficient time for unknown circumstances and unforeseen

delays in reporting. Being on time to formations when a group or unit may be delayed because of an individual's tardiness, such as a return trip formation from a football game, is more important than being on time to a formation which affects only the individual.

The seriousness of tardiness is only partly indicated by the length of time involved. Also to be considered is the degree of judgment exercised by the midshipman in attempts to report for duty. For example, a midshipman may be only slightly late, but if actions indicate lackadaisical, unconcerned planning, that midshipman should be dealt with more severely than should one who was substantially late in spite of trying to exhaust all means of reporting on time.

<u>Delinquency</u>	<u>Level</u>
01. Absent without authority; 24 hours or more.	5000-6000
02. Absent without authority; intentional or due to gross negligence (less than 24 hours)	5000
03. Absent without authority; less than 24 hours but more than 30 minutes. *	3000-4000
05. Absent without authority, 30 minutes or less. *	1000-3000
06. Absent without authority through negligence from military obligation (musters, formations, etc.) *	1000-3000
10. Absent without authority from academic class; intentional or due to gross negligence.	4000-5000
11. Absent without authority from academic class; 15 minutes or less. *	1000-3000
12. Absent without authority from academic class; greater than 15 minutes or through negligence.*	3000-4000
13. UA after signing taps.	5000-6000

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***NOTE:** The third alleged violation of this offense during the same academic semester shall be processed as a major offense - 7.18.10.

7.19 and 7.20 Deleted

7.21 LIMIT VIOLATION

<u>Delinquency</u>	<u>Level</u>
02. Violation of academic limits as established by regulation, instruction, or notice (e.g., study hour).	2000

7.22 USURPING

The offense of "usurping" involves taking advantage of basic class or special authorizations when unsanctioned or to which one is not entitled.

All usurping offenses may be charged under this code except for the following:

Wearing of civilian clothes when unauthorized must be charged under code 1212 (4000).

Usurping offenses involving automobiles must be charged under code 2309 (4000).

<u>Delinquency</u>	<u>Level</u>
01. Usurping any basic class or special authorizations and privileges except automobile or civilian clothes privileges.	3000

7.23 OPERATION OF VEHICLES: GROUND, WATER, OR AIR

For drunk driving offenses, use code 1014 (6000), listed under section 7.10 Alcoholic Beverages.

<u>Delinquency</u>	<u>Level</u>
01. Carelessness in operating a vehicle which results in an accident or endangers lives or property.	5000
04. Leaving the scene of an accident.	5000
06. Allowing unauthorized person to operate vehicle.	3000
EXCEPTION: If the unauthorized person is a subordinate, code 0603, Aiding and Abetting, must be used.	
09. Driving, riding in, maintaining, operating, or parking a motor vehicle in violation of Midshipman Regulations.	4000*

*NOTE: First Class automobile privileges will normally be denied for any midshipman found guilty of a second offense, to become effective when the midshipman becomes a First Class.

7.24 TELEPHONES

<u>Delinquency</u>	<u>Level</u>
01. Unauthorized use of official/unofficial telephone.	2000

NOTE: Using an official government telephone for personal matters without prior permission and/or using a pay telephone during unauthorized periods.

EXCEPTION: If the unauthorized use of the telephone involved a long distance call for which one intentionally did not pay, the case may be handled under the Honor system.

7.25 VIOLATION OF REGULATIONS

<u>Delinquency</u>	<u>Level</u>
25. Violation of UCMJ, Navy Regulations, SECNAV and OPNAV instructions, General Orders, and Federal or State law.	variable

NOTE: Normally a 6000 series, but in certain cases may be a 5000 series. This code is reserved for use by the Conduct Office only.

CONDUCT OFFENSES BY SERIES

1000 SERIES OFFENSES

0705 Plebe rates
0805 Late report/document
0920 Interfering w/mid serving tours
0921 Loud sound equipment/playing for mids serving tours
1204 Wearing deteriorated/discreditable uniform
1205 Possessing deteriorated/discreditable uniform
1207 Wearing improper uniform in Bancroft
1208 Improperly shaven
1209 Improper haircut
1307 Gear, etc., in hall during unauthorized periods
1308 Not meeting cleanliness standards
1309 Door closed to unoccupied room
1310 Articles outside window
1407 Unsecured money/valuables in Bancroft

2000 SERIES OFFENSES

0804 Submitting report late
0915 Misconduct while serving tours
1211 Civies not in conformance w/MidRegs
1303 Unprepared for inspection
1304 Unauthorized use of lights/sound equip
1305 Articles in windows
1406 Negligent destruction/failure to safeguard govt property
2102 Violation of academic limits
2401 Unauthorized use of official phone

3000 SERIES OFFENSES

0605 Failure to correct/report delinquency
0606 Unauthorized assumption of authority
0607 Failure to perform duty
0608 Failure to consult w/authority in conflicting duty
0609 Failure to use good judgment -minor effect
0919 Overdrawing bank acct
0925 Horseplay outside Bancroft
1202 Unsat appearance
1210 Improper uniform outside Bancroft
1301 Failure to have door fully open when opposite sex present
1302 Unauthorized means of entrance/exit Bancroft at unauthorized times
1405 Unauthorized removal of items from places or containers
2201 Usurping
2306 Allowing unauthorized person to drive

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4000 SERIES OFFENSES

0502 Gross ignorance of regs
0604 Failure to perform duty -major effect
0610 Failure to use good judgment -major effect
0704 Failure to participate in 4/C Indoc System
0802 Failure to submit report/gross laxness in submission thereof
0910 Challenge to personal combat/minor threat
0912 Discrediting personal conduct
0913 Gambling
0927 Reproducing copyrighted material for personal use
1201 Unauthorized wearing of insignia/stripes
1212 Unauthorized wearing of civies

1410 Careless destruction of private property
1502 Igniting/possessing fireworks
1603 Introduction/failure to remove unauthorized person from USNA -other
1604 Entering restricted area
1702 Losing private official material
2309 Driving, riding in, parking, maintaining auto in violation of Mid Regs

5000 SERIES OFFENSES

0703 Failure to maintain professional relationship with 4/C
0707 Abuse of 4/C Indoc System -not hazing
0708 Failure to report hazing
0801 Destroying document/report
0928 Abuse of NADN
0930 Racial/ethnic harassment
1010 Trafficking alcohol outside Bancroft
1011 Drunk in public/ship/military installation
1301b Locking a Bancroft Hall room door when opposite sex present | A
1311 Tampering with Bancroft Hall window stops
1402 Destruction govt property -under \$500
1403 Causing fire on govt property
1404 Losing weapon or sword
1501 Careless handling of weapon
1504 Weapons/ammo/explosives on Yard
1601 Introduction/failure to remove unauthorized person from Bancroft
1701 Losing classified material
1802 UA -intentional under 24 hrs
2301 Careless driving -resulting in accident or life or property endangerment
2304 Leaving scene of accident

6000 SERIES OFFENSES

0507 Violation of reduction in rank | R
0901 Marriage
0903 Sexual misconduct
0904 Sexual harassment (aggravated - favors, etc)
0905b Frat with enlisted personnel, of a romantic or sexual nature
0905c Frat with enlisted personnel, assigned to USNA as faculty or staff
0906b Frat with officers, of a romantic or sexual nature
0906c Frat with officers, assigned to USNA as faculty or staff
0923 Conviction of felony by civil courts
0926 Reproducing copyrighted material for commercial purposes
0938 Hazing -1st offense | R
0939 Hazing -subsequent or multiple offenses | A
1003 Extreme Drinking
1006 Drinking/possessing alcohol in Bancroft/ship
1007 Trafficking alcohol in Bancroft/ship
1008 Service-discrediting drunkenness (includes arrests)
1009 Drinking or under the influence on duty | R
1014 Drunk driving
1101 Possession of drugs
1102 Use of drugs
1103 Sale/transfer of drugs
1104 Use/possession of steroids
1105 Drugged driving
1401 Destruction govt property ~ over \$500
1409 Destruction private property -intentional
1705 Possession of false/altered ID

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ADDENDUM A

Punishment and Adjudicating Authorities

Punishments

Series	Demerit	Restriction (Days)	Tours	Extra Duty (Hours)	LOCP (Months)
1000	0 - 15	0	5	5	0
2000	15 - 30	7	10	10	1
3000	30 - 50	14	15	15	2
4000	50 - 70	21	20	20	3
5000	70 - 90	45	20	30	4
6000	100	60	20	30	6

Maximum punishment permitted per series offense.
(No minimum required punishment)

Range of Demerits requires at least ____, but no more than ____.
(Demerits may not be suspended more than next lower series.
e.g. For a 4000 level offense you may not suspend below 30 demerits.)

Adjudicating Authority

Series	1/C Accused	2/C and 3/C Accused	4/C Accused
1000	Company Commander, Company Officer	Platoon Commander	Squad Leader
2000	Battalion Commander, Company Officer	Company Commander	Platoon Commander
3000	Regimental Commander, Company Officer	Battalion Commander	Company Commander
4000	Company Officer		
5000	Battalion Officer		
6000	Deputy Commandant		

Preliminary Investigations

Series	Preliminary Investigating Officers	PIO Report	Report Submitted to
1000	4/C-2/C - Neutral First Class not Squad Leader or Platoon Commander 1/C - Company Conduct Officer CC/XO Staff - Next higher staff	Abbr. PIO Report required	Company Conduct Officer
2000			
3000			
4000	Company Officer or Senior Enlisted Leader w/i Batt, but not CoC	PIO Report required	Conduct Office via CoC
5000			
6000			

Offense Series

Series	Review / Recommendation	Approval
1000	Company Commander	Company Officer
2000		
3000		
4000	Conduct / Legal Office with input from CoC**	Deputy Commandant
5000		
6000		

**SEL, CO and BattO