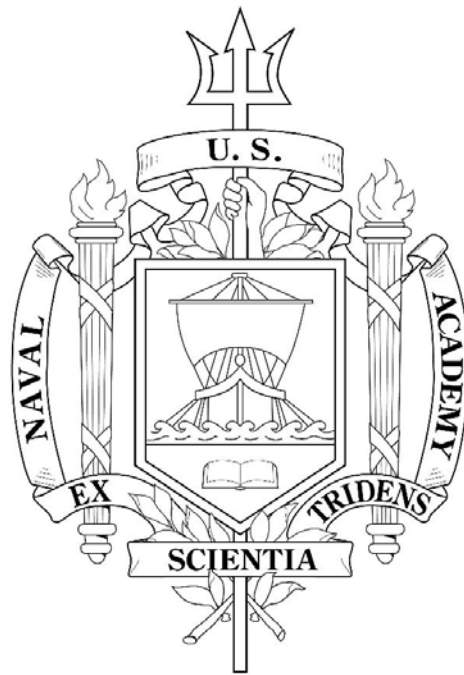


MIDSHIPMEN

PERFORMANCE AND CONDUCT

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 PERFORMANCE AND CONDUCT MANUAL

Encl: (1) Administrative Performance and Conduct Manual

1. Purpose. To publish the Administrative Performance and Conduct Manual.
2. Cancellation. COMDTMIDNINST 1610.2A
3. Information. The Administrative Performance and Conduct 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.


MATTHEW KLUNDER

Distribution:
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Co. Performance Ofcrs
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* THIS SHOULD BE ONE OF YOUR
MANY LEADERSHIP TOOLS, BUT NOT
THE ONLY ONE. ACTIVE & POSITIVE
MENTORING IS ALSO A HUGE KEY
TO SUCCESSFUL DEVELOPMENT!

GOOD LUCK!

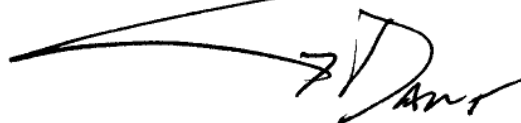


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CHAPTER 1

INTRODUCTION TO THE PERFORMANCE AND CONDUCT SYSTEM

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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 Midshipmen the opportunity to learn how to use counseling, remediation, and discipline, when necessary, as part of effective leadership. The Midshipmen Performance and 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 accountability, authority, and responsibility. Midshipmen take ownership of the Performance and Conduct System through their involvement in investigations, performing counseling, attending hearings, assessing guilt or innocence, and assigning discipline with delegated authority. The Performance and Conduct system also provides a means of preparing Midshipmen for the Fleet by educating them on the investigative process, legal considerations and the importance of appropriate corrective measures. The Midshipmen Performance and Conduct system should serve to hold Midshipman accountable to the standards set forth in MIDREGS, other USNA instructions and regulations, and to US Navy instructions and regulations during his/her time at the Academy. Performance, both positive and negative, in tandem with other leadership criteria, will be used as a pre-requisite for advancement to the next class.

The Midshipmen Performance and Conduct System is intended to be remedial and educational rather than legalistic and punitive. The system is designed to be deliberate and to promote positive behavior changes through discipline that permits Midshipmen to show a renewed willingness to adhere to the rules and regulations of the Naval Academy and accept personal responsibility for his/her actions.

The Midshipmen Performance and Conduct System, along with the Academy’s rigorous course of study, serves to foster the bedrock that will guide Midshipman actions. The Midshipmen Performance and Conduct System should be a source of pride for each and every Midshipman at the Academy. While there is not an official ‘merit system’ structured to methodically reward good Performance, each Midshipman must have a strong moral conviction to uphold the high standards in order to guard the reputation of the Academy and live up to the examples of those who have gone before.

c. **Nature.** The Midshipmen Performance and 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. It provides counseling, reprimand, and award of demerits, restriction, disciplinary tours, Performance

probation/remediation programs (USNA 180), 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.

1.1 STANDARDS OF PERFORMANCE. Midshipmen's dedication, commitment to excellence, and exemplary standards of Performance 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 substance, spirit, and intent of all directives. Any Performance that reflects 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 Performance unbecoming a U.S. Navy or Marine Corps officer candidate. Midshipmen found to be unsatisfactory in Performance 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 PERFORMANCE AND CONDUCT SYSTEM

a. **Levels of corrective action.** Midshipmen come from different cultures and regions with various methods of discipline. Midshipmen who violate regulations should be awarded appropriate action.

1. Form-1 Performance Counseling form. The lowest action for discrepancies and misconduct is counseling, or entering a Form-1. Though the Form-1 can be written to record and reward positive behavior, it can also be used to address negative behavior. Negative Form-1's are not punitive, but may result in counseling or Extra Military Instruction (EMI). EMI is never punitive and is designed to assist midshipmen in correcting a specific discrepancy in appearance or behavior or adapting to military life. The purpose of the Form-1 is to record behavior trends that will encourage positive behavior without punitive consequences. Form-1 usage will encourage chains of command to document positive and negative behavior, thus requiring them to become more directly accountable for midshipmen development.

2. Form-2 Misconduct Report form. When appropriate corrective action requires more than counseling or EMI, punitive action may be used by initiating a Form-2. The Form-2 identifies who is suspected of committing an offense and it delineates whether the offense is considered a minor, major or 6K level offense. Chapter 2 in this manual describes the different level offenses. Chapter 4 identifies the types of punishments.

b. **Unit Commanders' responsibility.** Commanders are responsible for good order and discipline. Generally, discipline can be maintained through strong positive leadership including, when necessary, administrative corrective measures. Action within the Performance and Conduct System may be required when non-punitive administrative corrective measures (form-1 and EMI) are inadequate. The chain of command and Awarding Authorities considering action within the Midshipman Performance and 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 action on the midshipman.

c. **Midshipmen Loyalty to Service.** The Performance and Conduct System is intended to be correctional and educational rather than legalistic and

punitive. Its purpose is to teach midshipmen to accept full accountability 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 Performance 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.)

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 the Administrative Performance and Conduct System.

(1) **Multiple Charges for the Same Incident.** When several related offenses take place under the same course of action or incident, they will generally be considered as one event, only one Report and Case File will be generated, and only one punishment will be awarded for the known offenses. 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 Performance/Conduct and the Honor systems for the same offense. This does not preclude separate charges for different offenses arising from the same incident. The Commandant may, however, assign Honor remediation for a singular conduct offense that contains an honor element (i.e. stealing or using/possessing a false ID).

(3) **Civilian Charges and the Performance/Conduct system.** 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 Performance and Conduct System. In taking administrative action pursuant to this instruction, it is not incumbent that the civil action be completed, nor the midshipman be found guilty by civil authorities.

(4) **Double punishment prohibited.** When punishment has been imposed for an offense under the Performance and Conduct System, punishment may not again be imposed for the same offense in either the Performance and Conduct or Honor systems. Action pursuant to the Performance and 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 Performance and Conduct System has been imposed, it may not be increased upon appeal.

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

1.3 DESIGN OF THE PERFORMANCE AND CONDUCT SYSTEM. Midshipmen may be charged under the Performance and Conduct System for offenses categorized under two general types of offenses: Major or Minor. Certain particularly discreditable major level offenses (6K) may be expedited directly to the Commandant. A midshipman may not be separated for a minor level offense, but the potential for separation exists for major level offenses.

1.4 PERFORMANCE 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. Performance semesters are:

Summer- (4/c only) I-day until 0001, first day of fall class
Fall- (Upper class) 0001, day after graduation until 2400, last day of fall class (not including final exams)
Spring- 0001, day after Fall classes until 2400, Graduation Day.

1.5 CHARGING OFFENSES UNDER THE PERFORMANCE AND CONDUCT SYSTEM AND THE HONOR CONCEPT

a. **Improper Use of Midshipmen Responses to Questions.** In accordance with the Honor Concept, midshipmen, 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 Performance Officer and ultimately the Awarding Authority if the case proceeds. In an Adjudicative Hearing, the Awarding Authority will note a midshipman's objection that responses have been used improperly and will develop all pertinent information on the record. The Awarding 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 when:

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

(2) The midshipman's answers to the questions resulted in disciplinary action being taken, 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 Performance average (see chapter 6 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 an offense under the Performance and 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 Performance; or

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

CHAPTER 2
SPECIFIC CONDUCT OFFENSES

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2.1 Introduction

This chapter lists typical Conduct offenses. All contingencies and possibilities are not contained in this instruction, but can be entered using a general offense. Those individuals involved in the administration of the Performance and Conduct system will rely on these typical delinquencies for guidance and seek the advice of the Performance Office in cases not covered. Details and evidence on the part of the accuser are paramount and can aid in the smooth and fair execution of the system.

a. **OFFENSE CODES.** The offense code for any Conduct offense is a four-digit number consisting of the section number plus the specific offense number. The first two digits identifies the category of offense, the second two identify specific offenses, the last digit (as applicable) denotes the revision number of this instruction.

b. Attempts to commit an offense.

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

2.2 REGULATIONS, ORDERS, INSTRUCTIONS, DUTY

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

b. 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 X, do this now," or a written order, such as "The following midshipmen must turn in lacrosse equipment: Midn 2/C X, MIDN 3/C Y..." An example of an order addressed to a group is, "All Third Class Midshipmen will empty their basement lockers by..."

c. 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 ignorance, laxness, carelessness, negligence, or gross negligence. The effects of the delinquency should also be considered.

d. 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>Offense Code</u>	<u>Delinquency</u>	<u>Level</u>
0201.3	Violation of a regulation due to gross ignorance of instructions, regulations, or directives (including MIDREGS).	Minor
0202.3	Direct and intentional violation of oral or written order addressed to an individual or group.	Variable
0203.3	Violation of Midshipmen Regulations with minor effect. (Specify the MIDREGS article which is violated. If the offense is specifically described by another delinquency code, that delinquency code should be used.)	Minor
0204.3	Violation of Midshipmen Regulations with major effect. (Specify the MIDREGS article which is violated. If the offense is specifically described by another delinquency code, that delinquency code should be used.)	Major
0205.3	Intentional failure to perform a duty.	Major
0206.3	Interfering with an individual who is performing a duty.	Variable
0207.3	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 0504 will be used for aiding/abetting an alcohol offense.	Variable
0208.3	Failing to properly perform a duty through negligence,	

laxness or ignorance or report/correct a delinquency. **Variable**

0209.3 Failure to use good judgment.
(If the offense is specifically described by another
Delinquency code, that delinquency code should be used.) **Variable**

2.3 FOURTH CLASS INDOCTRINATION/DEVELOPMENT SYSTEM

The act of hazing is a breach of Federal law set forth by Congress in 10 United States Code 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."

Upper class midshipmen have a duty to both lead and be responsible for fourth class midshipmen and in the process of that duty are to behave in a professional manner at all times. Fourth class midshipmen have a duty to abide by the terms of the Fourth Class Indoctrination System.

***Report all suspected hazing cases to the Performance Office BEFORE adjudication.**

U.S. Code 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.

<u>Offense Code</u>	<u>Delinquency</u>	<u>Level</u>
0301.3	Failure to support or participate in the Fourth Class Indoctrination System when required.	Minor
0302.3	Violation of the published Fourth Class indoctrination system Standard Operating Procedures, or temporary directives put in place by Brigade or Regimental leadership.	Variable
0303.3	Hazing*	Major
0304.3	Unprofessional electronic communications between Fourth Class/upperclass in violation of MIDREGs. <u>NOTE</u> : This includes, but is not limited to, Instant Messenger, ICQ, chat rooms, Facebook, or any comparable mode of communication.	Minor

2.4 STANDARDS OF BEHAVIOR

Standards of decorum, and Performance expected of a commissioned officer and a gentleman/lady 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>Offense Code</u>	<u>Delinquency</u>	<u>Level</u>
0401.3	Fraternization that undermines good order and discipline within the Brigade of Midshipmen. This refers to unduly familiar relationships not of a romantic or sexual nature.	Major

- 0402.3 Fraternization that undermines good order and discipline within the Brigade of Midshipmen. This refers to unduly familiar relationships of a romantic or sexual nature. **6K**
- 0403.3 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 is service discrediting or prejudicial to good order and discipline within the Brigade of Midshipmen) **6K**
- NOTE: Examples of sexual misconduct include fondling, displays of affection or sexual activity on a Midshipman rack (clothed or unclothed), oral sexual activity, sexual intercourse, sexually motivated nudity, indecent sexual acts, indecent exposure, lying in the rack together, having the door locked with a member of the opposite sex, and homosexual acts. This charge also includes sexual assault.**
- 0404.3 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. **Major**
- 0405.3 Disrespect or insubordination to a superior or an individual in position of authority (including company Senior Enlisted Leaders). **Variable**
- 0406.3 Challenge to personal combat; threat of physical violence. **Major**
- NOTE: When the challenge or threat culminates in physical action, code 0421 (UCMJ series), assault, will be charged.**
- 0407.3 Inappropriate use of computer or government network. **Major**
- 0408.3 Possessing, generating, viewing, or displaying of pornographic materials in Bancroft Hall or on the Naval Academy complex. **Major**
- 0409.3 Displays of affection (anytime in Bancroft Hall or when in uniform in public) **Major**
- NOTE: Displays of affection include, but are not limited to: massages, sitting on a lap, kissing, and touching.**
- 0410.3 Harassment of another midshipman(non-sexual). 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. **Variable**
- 0411.3 Destruction or damage to government or private property, intentional or due to gross negligence. **Major**
- 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.**

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.

- 0412.3 Introduction of, or failure to remove, unauthorized person from Bancroft or King Hall. **Minor**
- 0413.3 Entering a restricted area, including roof areas or any area marked as such. **Major**
- 0414.3 Unauthorized means of ingressing or egressing either Bancroft Hall (not including "class doors") or the Naval Academy grounds (i.e. "jumping the wall") **Major**
- 0415.3 Possession or use of a false, altered, or unauthorized identification card, pass, or similar document (includes driver's license, military ID card, or other forms of identification). **6K**

NOTE: The use or attempted use of false, altered, or unauthorized identification with the intent to deceive is an HONOR violation. Possession (without an attempt to use, is strictly a CONDUCT offense).

- 0416.3 Usurping any basic class or special authorizations and privileges. (Including unauthorized wearing of civilian clothes and the use of "class doors") **Minor**
- 0417.3 Carelessness in operating a vehicle which results in an accident or endangers lives or property. **Major**
- 0418.3 Parking in violation of Midshipmen/military base Regulations. **Minor**
- 0419.3 Driving, maintaining, or operating a motor vehicle in violation of Midshipman Regulations. **Minor**

NOTE: Automobile privileges may be suspended for up to 6 months for any midshipman found guilty of an offense specifically involving an automobile. First Class automobile privileges can be denied for any underclass midshipman found guilty of a second offense, to become effective when the midshipman becomes a First Class.

- 0420.3 Failure to have the door fully open when members of the opposite sex are present. **Minor**
- 0421.3 Violation of UCMJ, Navy Regulations, SECNAV and OPNAV instructions, General Orders, and Federal or State law. **Major/
6K**

2.5 ALCOHOL AND DRUGS

Midshipmen are not 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.

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.

Narcotics and other controlled substances - 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>Offense Code</u>	<u>Delinquency</u>	<u>Level</u>
0501.3	Risky Drinking (.08 up to .15 BAC) *First offense should be documented with a Form-1.	Minor
0502.3	Abusive Drinking (.15 up to .2 BAC)	Major
0503.3	Extreme Drinking (>.2 BAC)	Major
0504.3	Aiding/abetting an alcohol offense	Major
0505.3	Drinking, possessing, or introduction of alcohol into Bancroft Hall or aboard ship.	Major
0506.3	Trafficking of alcohol (providing to minors).	Major
0507.3	Under the influence of a nature which brings discredit upon the naval service, outrages public decency, or results in a breach of the peace.	6K
0508.3	Drinking or under the influence while on duty.	6K
0509.3	Under the influence of alcohol in public or on any Navy ship or military station.	Major
0510.3	Drinking or possessing alcohol in violation of applicable Federal, State, or local law. (This includes underage drinking.)	Major
0511.3	Drinking or possessing alcohol in circumstances prohibited by Midshipmen Regulations, other than in Bancroft Hall or aboard ship (ie, plebes drinking, drinking on Movement order when not approved).	Major
0512.3	Drunk driving, or driving under the influence of alcohol.	6K
0513.3	Use, Possession, sale, or transfer of illegal drugs.	6K

2.6 MILITARY APPEARANCE (PERSONAL AND LIVING SPACES)

<u>Offense Code</u>	<u>Delinquency</u>	<u>Level</u>
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0601.3 Unsatisfactory appearance in uniform (pattern of behavior). **Minor**

NOTE: Discrepancies must be specified and should have been documented as form-1s prior to entry as a form-2.

0602.3 Unprepared for inspection, room or uniform, due to laziness or negligence. **Minor**

0603.3 Unsatisfactory room standards. To include tampering with window stops, thermostat, minor contraband, placing items on the outside windowsill, etc. **Minor**

2.7 ABSENCES OR TARDINESS

Timeliness and accountability are attributes of a midshipman who is self-disciplined and who possesses a strong sense of duty. Midshipmen must learn to allow sufficient time for unknown circumstances and unforeseen delays when reporting. Being on time to formations when a group or unit may be delayed because of an individual's tardiness should be given greater emphasis than arrival to an obligation that affects only the individual.

The seriousness of tardiness is only partly indicated by the length of time involved. The degree of judgment exercised by the midshipman in attempts to report for duty should also be considered. For example, a midshipman may be only slightly late, but if actions indicate lackadaisical attitude or unconcerned planning, that midshipman should be dealt with more severely than one who was substantially late due to extenuating circumstances. Communication with chain of command is also paramount in accountability situations.

<u>Offense Code</u>	<u>Delinquency</u>	<u>Level</u>
0701.3	Absent without authority, intentional, from a military obligation or formation.	Major
0702.3	Absent without authority; greater than 24 hours.	Major
0703.3	Absent without authority, due to negligence, from military obligation.	Minor
0704.3	Absent without authority, less than 15 minutes, from academic class.	Minor
0705.3	Absent without authority, intentional or greater than 15 minutes, from academic class.	Minor
0706.3	UA after reporting for taps (touch and go)	Major
0707.3	UA from tours or restriction *will normally be adjudicated by Conduct/Performance Officer. Day of restriction will not count without additional sanctions imposed unless a pattern of behavior or negligence has been established.	Minor

**CHAPTER 3
 EXECUTION OF THE PERFORMANCE AND CONDUCT SYSTEM**

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3.0 FORMS USED IN CONJUNCTION WITH MAINTAINING GOOD ORDER AND DISCIPLINE

a. **Form 1.** Figure 3-A. Counseling form. The form is used to document positive and negative behavior. The Form-1 is designed to mirror processes in the fleet, to aid in developing midshipmen when punishment is not required to promote change and to document good behavior when applicable. This will help to document trends in behavior that a midshipman can use as feedback to encourage good behavior. All officers, faculty, and midshipmen within the chain of command are encouraged to use the system. The Company Officer and Senior Enlisted maintain authority to validate Form-1 to prevent duplication or malicious use of the system.

b. **Form 2.** Figure 3-B. An electronic report form for a conduct offense, which is maintained in the Midshipman Information Data System (MIDS), is called a Form 2. As the case proceeds through the investigation and adjudication process, the Form 2 is updated and eventually saved as an electronic record of the disposition of the case. The Form-2 has a link (Figure 3-D) to the Midshipmen Rights (must be acknowledged by all midshipmen charges with a major offense) and to the Potential Reimbursement (must be acknowledged by all 1st and 2nd Classmen) pages. The accused midshipman has 24 hours from notification that a Form 2 has been submitted to make a plea and submit a statement online. The chain of command can also submit comments via the Form-2.

d. **Preliminary Inquiry Report (Major offenses).** Figure 3-C. An investigation must be completed and this form filled out for ALL major level cases (including 6K level), unless waived by the awarding authority and the Performance Officer. Minor level cases do not require an investigation unless the company leadership mandates this form is completed.

3.1 TIMEFRAME FOR OFFENSES

a. Form 2s should be initiated promptly upon the initiator possessing sufficient information to warrant an official accusation. An objective investigation is the responsibility of the Performance Officer and the chain of command. The suggested time to process a Form 2 from time of receipt by the Company Performance Officer to receipt by the Awarding Authority is listed in Table 3-A by series of offense. Exceptions to this timeline for extenuating circumstances should be approved by the Performance and Legal Offices.

Offense	Investigation Deadline (From date of form entry)	Award Deadline (from Date of Form Entry)
Minor	1 working day	3 working days
Major	3 working days	5 working days
6K	5 working days	As the Commandant schedule allows

Table 3-A

FLOWCHART MAJOR OFFENSES

- ◇ Reporting and Investigation
 - Reporting an offense via Form-2 (Figure 3-B)
 - Serving the Form 2 via e-mail on the Accused (makes plea and statement, acknowledges rights and potential reimbursement).
 - Assignment of a Preliminary Investigating Officer (PIO) by the Battalion XO or Performance Officer.
 - PIO interviews and takes statements from all pertinent witnesses and the accused.
 - Investigating Officer completes the Preliminary Inquiry Report and submits to Performance Officer.

- ◇ Review of Investigation
 - Approval and recommendation as necessary of final offenses charged.
 - Investigation and pertinent paperwork is forwarded to highest awarding authority with options for disposition.
 - Pre-Hearing Notification to midshipman.

- ◇ Adjudicative Hearing
 - Midshipman is reminded of Article 31 Rights.
 - Final adjudicating authority determined.
 - Hearing Scheduled.

- ◇ After Adjudication Process
 - Request for reconsideration submitted by midshipman if desired.
 - Reviewing authority considers request for reconsideration if submitted.
 - Adjudication disposition options:
 - Case forwarded to Commandant for Unsatisfactory Performance Hearing (3 options)
 - No further action in case
 - Midshipman assigned Performance Probation/Remediation if appropriate (USNA 180)
 - Midshipman forwarded to Superintendent with discharge recommendation
 - Case forwarded to Commandant for Record Review (no hearing)
 - No further action in case
 - Verbal or written counseling of midshipman
 - Midshipman assigned Performance Probation/Remediation if appropriate

3.2 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 Performance Office if assistance is needed. Officers, senior enlisted, 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. Midshipmen with the intention to submit a Form 2 on another midshipman, MUST, within 24 hours of entry, inform the accused midshipman of their intentions. Officers,

noncommissioned officers, enlisted personnel, and civilians without access to MIDS may contact the Performance Office to report an incident.

Multiple alleged offenses that are closely related in time, place, or nature so as to form one course of action/misconduct 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

(1) **Wording/Writing the Form 2.** The Form 2 should be written in a manner that places the accused on notice of the offense that is alleged to have been committed. The offense description need only be written in a short concise statement in sufficient detail to put the accused midshipman on notice. 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 Performance 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, the Performance and 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. **Assignment of a Preliminary Investigative Officer (PIO).** Within one day of a Form 2 being entered into MIDS, an appropriate PIO must be assigned and updated on the Form 2.

Minor Offenses. (Investigation not required) Should the company leadership desire an investigation, the company Performance officer or a neutral (outside direct command chain) midshipman will investigate. 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 Performance Officer or Legal Advisor.

Major Offenses. Assignment of a PIO will be made by the Company Officer acting in the role of Battalion Executive Officer for the battalion of the accused midshipman. The Performance Officer will assign PIO in the absence of the Battalion XO. The PIO will be an officer or senior enlisted, but not the Company Officer or Senior Enlisted Leader from the accused midshipman's company.

(1) **Multiple Midshipmen in One Incident.** In cases where two or more midshipmen are accused of offenses 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.

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

d. **PIO interviews and takes inquiry statements from all pertinent witnesses and conducts investigation.** The officer begins the inquiry by interviewing all pertinent witnesses and collecting all available evidence. The Inquiry 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. Investigating Officer's should remain cognizant, throughout the investigation of the following midshipman rights:

(1) **"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.

(2) **"Guilty" plea.**

(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 disproportionate punishment.

(3) **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 Awarding Authority, including character reference letters as matters in extenuation and mitigation.

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

e. **Investigating Officer Completes The Preliminary Inquiry Report** (Figure 3-C). The Inquiry Officer shall thoroughly inquire into 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 Inquiry Officer charges the midshipman (the accused or other midshipmen involved).

(1) **Contents of Preliminary Inquiry Report (Figure 3-C).** 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 or do not support each element, which are also taken from the information in the enclosures to the report. Finally, the Inquiry 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 3-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) **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.

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

(1) **Major offense cases.** The Form 2 and PIO report with enclosures shall be submitted to the Commandant's Performance Officer and Legal Advisor. A copy of the original report and all enclosures shall be posted electronically on MIDS for chain of command 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 may enter comments on the Form 2 in MIDS for inclusion in the final package for the Awarding Authority. The Performance Officer and Legal Advisor make a recommendation to the Deputy Commandant and Commandant based on input from the chain of command for the Awarding Authority.

(2) **Minor offense cases.** Company Officer holds authority to adjudicate but may delegate awarding authority within their company leadership for minor level offenses.

(3) **Variable offense cases.** The Commandant's Performance Officer will make recommendations to the Battalion Officer who will determine the appropriate level for a variable offense adjudication.

g. **Awarding authority's options for disposition.** Following review of the Form 2 and PIO's report, the Awarding Authority and, in certain instances the Performance 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 Awarding Authority, or Performance Officer

and/or Legal Advisor in major cases, may alter the charges on a Form 2 to more appropriately reflect the circumstances of the alleged offense and 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. Individuals through whom Form 2s are routed may make recommendations concerning changes to Form 2 in their respective comments.

A Form 2 originated by the Deputy Commandant, Aptitude Officer, Performance 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 Performance Officer.

(2) Dismiss the alleged offense(s) without a hearing.

Note: A Form 2 for major series offenses may be deleted only by the Commandant, Deputy Commandant, Performance Officer, or the Legal Advisor. Deleting an offense should be reserved for accusations made in error (i.e. the wrong midshipman was identified or an alpha code was entered in error). A dismissal or finding of not-guilty should be determined based on the evidence presented.

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

h. **Pre-Hearing Notification.** One day notice is normally considered reasonable for major offenses. Requests for delay of a Performance hearing must be submitted to the Awarding Authority, via the Company Performance Officer, 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.

i. **Rights of an accused midshipman immediately prior to and during a Performance 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 Awarding 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 Awarding Authority may have concerning that offense. If the midshipman fails to do so, the Awarding 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 Awarding Authority during the hearing.**

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

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

(6) **Right to present evidence in defense.**

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

3.3 Adjudicative Hearing

a. **Awarding Authorities.** The awarding authorities are listed in Table 3-B below by series and by rank of the senior accused midshipman.

Awarding Authorities

Series	1/C Accused	Underclass Accused
Minor	Company Officer	As delegated by Company Officer or Commander
Major	Battalion Officer or Company Officer (as delegated)	
6K Major	Deputy Commandant review or Commandant	

Table 3-B

(1) **Determining Awarding Authority.** The Company Officer and Company Commander should determine appropriate First Class Midshipmen within the chain of command for awarding punishment for minor offenses. For major offenses, the Commandant's Performance Officer will coordinate with Battalion Officers to determine appropriate authority.

(2) **Delegation of Awarding Authority.** When a sole awarding 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 awarding authority.

(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 awarding authority for all involved, regardless of class, company, or offense level. It is the collective responsibility of all awarding 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 minor offenses, the senior Company Officer of the accused midshipmen shall be the awarding authority. Additionally, if the cases of two or more midshipmen involved in the same incident are heard by different awarding authorities, the awarding 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 adjudicate or assign an awarding authority to any case alleging a violation of this instruction.

b. **Time requirements for adjudications.** During the academic year, all cases for minor offenses should be adjudicated within three working days from the date of the Form-2. If exceptional circumstances prevent adjudication within three working days, the Company Officer should communicate with the Commandant's Performance Officer.

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

c. **Witnesses.** Adjudicative Hearings are intended to be non-adversarial. As such, the awarding 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 Performance System Adjudicative Hearings. The awarding 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 Awarding Authority, the following shall apply:

(1) Other civilians who agree to appear will do so at their own expense. The Awarding 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 inquiry before his statement or testimony is taken. The Awarding 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 Awarding Authority and the Legal Advisor are authorized to administer oaths.

(3) The Awarding 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.

(4) **Self-Incrimination.** As previously discussed, 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 Awarding Authority.

(5) **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 Awarding 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.

(6) **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.

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

(1) The midshipman concerned will report to the Awarding Authority by stating name and rank.

(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 Awarding 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 Awarding 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 minor offense, the Awarding Authority suspects or identifies a major offense or an honor offense may have been committed, the hearing will be recessed and the matter promptly referred to the Commandant's Performance Officer and Legal Advisor. The midshipman will not be asked to answer any further questions or make a statement of any kind.

(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 Awarding Authority may choose from the following two options.

(a) Hold the adjudication in abeyance. If the Awarding 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 Awarding 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 Awarding Authority will ensure the midshipman fully understands the punishment that has been awarded.

e. Punishment Considerations for 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 during the same academic year, the punishment must be equal to or higher than the previous punishment.

(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 to 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.

f. 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 Performance hearings that are based upon earlier adjudicative hearings.

(1) **Harmless Errors.** If a harmless defect in the proceedings is detected, the Awarding 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 investigation be reopened and additional matters be considered or errors corrected or remedied. The midshipman involved is responsible for alleging substantial errors 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 or unjustness that may otherwise have been raised.

g. After Adjudication

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

(2) **Major offenses.** Immediately following the adjudication the Company Performance Officer will fill out the required forms and, if applicable, ensure that restriction is begun the day of award. The Company or Battalion Performance Officer will also update the Form 2 in MIDS. The entire Form 2 package, including all collected paperwork, is immediately forwarded to the Commandant's Performance Officer for further processing or filing in the midshipman's Performance record.

3.4 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 one 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.** Only midshipmen who plead "Not Guilty" may request reconsideration of a finding of "Guilty." An appeal will need to indicate that there was not sufficient evidence to substantiate the charge by a preponderance of the evidence.

(2) **Appeal of the punishment awarded.** Regardless of plea, any midshipman who considers the punishment awarded disproportionate to the offense, may request reconsideration of the award itself. Such an appeal should address 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 awarded punishment 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 Awarding Authority via the Performance Officer and Legal Advisor before being forwarded to the Reviewing Authority. The Performance Officer and the Legal Advisor 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 Awarding Authority within **five** working days of the midshipman receiving notice of the punishment awarded, unless the midshipman receives an extension of time from the Awarding 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 will 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 Awarding Authority, the midshipman may request, in writing, that any unserved punishment that has been designated for review be temporarily suspended 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 Awarding 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 Awarding Authority concerned of the determination, and immediately forward the request and all accompanying paperwork to the Performance Officer.

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

(1) Commandant - for major offenses adjudicated by the Deputy Commandant.

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

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

3.5 Unsatisfactory Performance Procedures. If a midshipman becomes unsatisfactory in Performance as a result of being found guilty at adjudication, that midshipman's overall record will be reviewed by the chain of command, the Performance Officer, and the Commandant's Legal Advisor. Recommendations are forwarded one day prior to hearing to aid the Commandant in deciding from the alternatives listed below. A midshipman may also become unsatisfactory in Performance by other means as detailed in section 6.1.

a. **Record Review.** The Commandant shall review the midshipman's entire record (academic, aptitude, Performance 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 awarding authority.

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

service records.

(3) **Placement of midshipman on Performance Probation and/or Remediation.** The Commandant will assign the midshipman to Performance Probation and/or Remediation (USNA 180) 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.

(4) **Commandant's Hearing for Unsatisfactory Performance.** The Commandant shall consider the information provided during the hearing, the midshipman's prior Performance 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.** Appropriate documentation is included in the midshipman's performance record.

(b) **Placement of midshipman on Performance Probation and/or assignment to a Remediation program (USNA 180).**

(c) **Recommendation for Separation.**

(5) **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 Board does not in any way restrict other options in the Performance System as detail above.

b. **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.**

(2) **Placement of midshipman on Performance Probation and/or assignment to a Remediation program (USNA 180).**

3.6 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 summary 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.

FORM-1

Type of Counseling:

Positive	Negative
----------	----------

REPORTER:

--

Alpha:

--

Name:

--

Company:

--

Ac Yr:

--

Semester:

--

Commit Date:

--

Creation

--

Date:

[APPEARANCE, BEHAVIOR, MOTIVATION, COMPETENCE, BEARING, PROFESSIONALISM, PHYSICAL ABILITY, MORAL DECISION, COMMITMENT]

Reason

Description

Counseling

Comments:

Counseled By:

Name:		Rank
-------	--	------

EMI awarded:

--

Validated:

(by Company Officer
or Senior Enlisted)

--

Figure 3-A

SAMPLE FORM-2

Case Number: 080XXX
Alpha: 112000
Name: First Middle Last
Company: 13
Ac Yr 2008
Ending Semester: FALL, SPRING, SUMMER (Plebes only)
Commit Date: DD-MMM-YYYY
Creation Date: DD-MMM-YYYY
Created By: Screen name of accuser
Level Awarded: Major
Primary Offense: Highest level offense [CODE ARTICLE.....]
Secondary Offense(s): Additional offense(s) [CODE ARTICLE.....]
Other Cases Awaiting Adjudication: Case number of any pending Performance cases [XXXXXX]
Reporter Type: Accuser [OFFICER, MIDSHIPMAN, CIVILIAN, OTHER]
Status: Indicates current status of the case in the Performance process
PIO Assigned: Rank/Name of assigned PIO
Other PIO 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 Performance offense in narrative form.
Validated: Used for MIDS calculation purposes [YES, NO]
Adjudicator: Position of Awarding Authority [DEPUTY COMMANDANT, etc.]
Award Date: DD-MMM-YYYY
Commandant Hearing Date: DD-MMM-YYYY
Demerits Awarded:

	Awarded	In Effect For	End Date	Deferred	Deferred Date
Restriction:	Days	Months		[Yes, No]	
Tour Type: [Room, Area]		Months		[Yes, No]	
Loss of Car Privs:	Days	Months		[Yes, No]	
Lost Leave:	Months	Months		[Yes, No]	
Extra Duty:	Hours	Months		[Yes, No]	
PERFORMANCE Probation	Months	Months			
Remediation Award	Months	Months			
Reduction in Rank	Months	Months		[Yes, No]	

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 3-B

SAMPLE Preliminary Inquiry Report (Major Offense and when requested for minor offenses)

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 Facts:

(Give a basic summary of the events surrounding the Performance Offenses. Do not speculate. Ensure it is detailed enough to give the Awarding 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 Awarding Authority. You may speculate here is desired.)

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

Investigating

Officers Signature: _____

Printed Rank,

Name and Billet: _____

Figure 3-C

Form-2 (Major) Electronic Notification: (Automatically emailed to midshipmen charged with major level offenses)

UNITED STATES NAVAL ACADEMY ADMINISTRATIVE PERFORMANCE SYSTEM

You are currently charged with violating regulations as specified on your Electronic Form-2 (on MIDS) under the USNA Performance System. The charges are subject to change and you will receive subsequent emails if that occurs.

You have 24 hours from receipt of this email to enter your plea(s), acknowledge your rights, and to make a statement (if you choose to make one)

Notification of Rights and Potential Reimbursement Link

**ACKNOWLEDGMENT OF MILITARY SUSPECT'S RIGHTS,
INVESTIGATION AND HEARING RIGHTS**

Read and check the appropriate boxes. If you have any questions, please call the Performance Office at X7011.

- (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. My decision may be changed at anytime I choose.

- (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 regards to entering my plea(s) for the offenses I have been charged, I make this decision freely and voluntarily. No threats or promises have been made to me.

Regardless of my plea, I may request a hearing be held on the offense(s) by the Awarding Authority. If I request a hearing, one shall be held by the Awarding 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 Awarding 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 Awarding Authority.
- Request a hearing before the Awarding Authority

I understand that if the Awarding 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 Performance System. I understand that if I request reconsideration, my punishment may not be increased by the Reviewing Authority.

**NOTIFICATION OF POTENTIAL REIMBURSEMENT
FOR ADVANCED EDUCATION**

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 mis-Performance, 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 Performance action.

2. This advisement supplements the prior notices concerning the service obligation of midshipmen (active duty service or financial recumbent 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.

Signature: _____

Figure 3-D

CHAPTER 4
DISCIPLINARY MEASURES: RULES AND EXPLANATIONS

4.0 Factors considered in Assigning Disciplinary Awards.....4-1
 4.1 Suspension of Awarded Punishment.....4-2
 4.2 Deferrment of Restriction or Tours.....4-2
 4.3 Types of Punishment.....4-2
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4.0 Factors in Assigning Disciplinary Awards

1. The Table of Authorized Punishments (Table 4-A, copied below) provides guidance for the administration of equitable discipline within the Brigade of Midshipmen while permitting exercise of discretion in individual cases.

TABLE OF AUTHORIZED PUNISHMENTS RANGES:

	Form-2 Minor	Form-2 Major	6K
Demerits	0-50	0-90	0-100
Restriction (days)	0-9	0-15	0-21
Tours ¹	0-10	0-20	0-30
Reduction in Rank ² (months)	Not Eligible	0-2	0-3
Loss of Car Privileges ³ (months)	0-6	0-6	0-12

NOTES:

1. Applies only when tours are awarded in lieu of restriction. Tours will be marched daily, at 0530 during normal restriction tours and tracked by the Company Performance Officer and in Main Office.
2. Midshipman may be reduced by 1 rank.
3. May be awarded for cases specifically involving an automobile.

Figure 4-A

2. Offenses are categorized as majors and minors. 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 Awarding Authority, using appropriate discretion, changes a minor offense to a Form-1 counseling form 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. The above notwithstanding, a

midshipman who violates the same delinquency code during the same academic year must be awarded a higher punishment with each subsequent violation.

3. Offenses under this instruction, including those included in the UCMJ, are designed to teach midshipmen the behavior that is expected of them. Midshipmen should comport themselves in a manner appropriate for an Officer and Gentleman/Lady at all times; they are expected by the American public, whom they serve, to represent the Armed Forces in a dignified manner. Midshipmen, whether in or out of uniform, are expected to behave in accordance with this instruction at all times.

4.1 Suspension of Awarded Punishment. Suspension of awarded punishment is at the sole discretion of the awarding authority. The length of suspension should be clearly understood and documented in the validated Form-2.

4.2 Deferring Restriction. Midshipmen with extraordinary circumstances may request to defer restriction. Either in the Performance hearing or via special request chit, an officer awarding authority may defer restriction. The Performance Officer must be informed immediately and the Form-2 must be annotated. Restriction will be automatically deferred or postponed for approved movement order or training assignments.

4.3 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 Performance 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 4-A, "Table of Authorized Punishments." Midshipmen exceeding yearly or career demerit ceilings are subject to review by the Commandant of Midshipmen. For a full explanation of how demerits are used to determine grades, see Chapter 6, PERFORMANCE STANDING, GRADING SYSTEM, AND UNSATISFACTORY PERFORMANCE ALTERNATIVES.

b. Restriction

(1) Restriction is the physical 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 4-A above, "Table of Authorized Punishments." Restriction is tracked by Main Office via a Restriction Card (Table 4-B)

Midshipmen on restriction are prohibited from:

1. Town or Weekend Liberty.
2. Exiting the confines of the Naval Academy (for these purposes, NAVSTA Annapolis is NOT considered part of Naval Academy grounds) for anything other than a legitimate Varsity team practice.
3. Signing out of a restriction muster for an activity lower in priority than restriction.

Midshipmen on restriction shall:

1. Attend all muster and duties administered unless they are required to attend an event higher on the Table of Priorities (Chapter 1, MIDREGS)
2. Be restricted to company area, except for attending musters, duty, and authorized excusals. Authorized excusals include academic classes, use of academic facilities when required to complete academic projects, religious events within the yard, physical work-out, and varsity, club, and intramural activities. Other possible excusals must be cleared via the Performance

Officer or the OOW.

3. Sign out in Main Office immediately prior to authorized excusals and immediately upon completion. PT gear is never authorized for Main Office. Midshipmen do not need to sign out for class, military drill, and mandatory meals.

4. Wear an inspection quality working uniform (SDB's or Whites for restriction muster) at ALL times, except during PT or while sleeping.

5. Be in a restricted status immediately following being awarded restriction unless specifically deferred by the awarding authority.

Miscellaneous Guidelines on Restriction:

a. Only Friday, Saturday and Sunday count as a day of restriction served for all four classes. Midshipmen in a restricted status will muster daily (Monday through Sunday) at 0530 to march a tour for accountability purposes.

b. Restriction is automatically deferred when a midshipman is:

(1) Hospitalized or Sick in Quarters (SIQ)

(2) Participating in summer training

(3) On an authorized Movement Order

c. A midshipman may not be placed on restriction before a finding of guilt by anyone except the Commandant and the Deputy Commandant. When restriction before a finding of guilt is authorized, 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.

d. Restriction that ends on a non-leave day terminates at 2359. Restriction that ends on a leave day terminates at 1200, to count as a full day and to minimize unsafe traveling.

e. Midshipmen on restriction MUST attend at least three musters in order for the day to count, regardless of excusals as noted above. Special circumstances will be considered for credit by the OOW and the Performance Officer.

(1) Violation of Restricted Status

(a) Violation of restricted status in any manner (late, UA, out of uniform, sleeping, etc) will be processed as follows:

(1) A minor Form 2 will be initiated charging offense 0703.3, for tracking purposes.

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

(2) **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, each leave day will count as a day of restriction. Midshipmen on restriction

during a leave period are not authorized a break in restriction unless authorized by the awarding authority or as promulgated in a Commandant's notice and approved by company officer.

(3) **Holiday Restriction.** Promulgated per Commandant's Notice.

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

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

(6) **Restriction Schedule (Monday-Thursday)**

0530- Muster in Rotunda in working uniform with issued rifle. Tours will commence at 0545 and be complete by 0630.

(7) **Restriction Schedule (Friday-Sunday)**

0530- Muster in Rotunda in working uniform with issued rifle. Tours will commence at 0545 and be complete by 0630.

1300- Restriction muster in Rotunda in SDBs or Whites.

1630- Restriction muster in Rotunda in SDBs or Whites.

2000- Restriction muster in Rotunda in SDBs or Whites.

2230- Restriction muster in Rotunda in SDBs or Whites.

The OOW may authorize additional surprise musters and duty requirements as necessary. Notification for an unscheduled event should be announced via the 1MC at least 10 minutes prior.

Restriction Musters

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.

a. Prior to Muster. Approximately five minutes prior to restriction muster, the MOOW and Senior Restrictree will review the restriction cards and ensure that there are no erroneous or extraneous entries. The Senior Restrictree will then go to the muster area to take accountability. The MOOW will escort the OOW to restriction muster.

b. 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.

c. The Senior Restrictree shall act as Restriction Commander for the purpose of restriction musters and to ensure accountability. He or she will be held accountable for proper reporting of the restrictees.

d. Special Permission to Miss Restriction Muster. Midshipmen MUST ensure that they personally sign the restriction log to miss a muster for an authorized reason. Upon completion of the activity the restricted midshipman will personally sign in with a return time and return to company area. Midshipmen are prohibited from signing the restriction log for anyone but themselves. The OOW or someone higher in the chain of command may, in special cases, grant permission for a midshipman to miss a restriction muster for a reason other than listed in MIDREGS.

e. At the conclusion of muster, the MOOW will return to Main Office and initial the cards of those members who were present at the muster. Once this is completed, the MOOW will check the cards of those members who were not present against the restriction sign-out log. All those who were not signed out and were not present at the muster will be marked UA on their cards and the MOOW will generate a Form-2 for the UA midshipmen.

f. Sign-Out Log. The MOOW 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.

4.4 Other Disciplinary Measures

a. Tours

(1) All midshipmen in a restricted status will muster daily at 0530 and march a tour. Tours shall be marched on red beach between 4th and 6th wings of Bancroft Hall. A First Class Midshipman appointed by the MOOW, typically the RMOOW, will supervise the tour to ensure no talking, music, or inappropriate behavior exists. Tours will be marched at a quick time in single file. The OOW will determine if the weather prohibits tours from being marched on that day. Varsity athletes on game day and midshipmen who are on "No drill" chits will not march, but will supervise tours.

(2) Any midshipmen assigned tours who are not in a restricted status will muster with the restrictees at 0530 daily until all assigned tours are completed. Tours shall be marched every day, without exception, unless the midshipman has a valid excuse approved by the OOW.

b. Extra Duty/Extra Military Instruction.

(1) **As Part of the Award for a Offense.** EMI may be assigned as part of a punishment by an awarding authority. A description of the award of extra duty should be entered in the "Award Comment" section of the Form 2. Specified extra duty may include, but is not limited to:

- | | |
|--------------------------------|-----------------|
| -Extra Watch | -Mess Hall Duty |
| -1 st LT Duties | -Laundry Duty |
| -Planning/Organizing Functions | -Room Inspector |
| -Uniform monitor | |

(2) **All Restrictees 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.

(3) Because the routine for midshipmen is complex during summer and leave periods, the Performance Officer or OIC Naval Academy Summer Programs

Officer will delineate the normal workday for restrictees and assign extra duty accordingly.

(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.

(b) Extra duty shall not:

(1) Extend to more than two hours per day.

(2) Be performed during study hours.

(3) **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 Performance 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 Performance Probation, or

(2) been found unsatisfactory in Performance 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 in Rank

(1) Officer awarding authorities may award one rank reduction for major level offenses. The midshipman shall revert to the class as annotated. The midshipman will become a member of that class, wear the uniform and insignia and room with a member of that class for the period of time assigned at the discretion of the Company Officer. The midshipman will observe all rates and privileges of the assigned class and will meet all requirements and functions of the lower class. The midshipman will not be allowed to attend class functions of their 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, change alpha number, pay, or other such administrative matters.

(2) Provided the midshipman adheres to all provisions of this punishment, reinstatement to the original rank will be considered upon a written request to the awarding authority. The request shall be submitted no earlier than seven days prior to the date of reinstatement.

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

(4) Adjudicating authorities requesting reduction in rank shall forward Figure 4-D to the Performance Office upon completion of the adjudication. Reduction in Rank shall not commence until the Commandant of Midshipmen has signed and approved Figure 4-D.

(5) Any midshipman striper who has demonstrated an inappropriate sense of duty may be recommended for striper rank 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 through the Deputy Commandant to the Commandant for review/action. The Superintendent will be advised of all proposed reductions of senior (five stripers and above) members of the Brigade Staff.

d. **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 upper class liberty may be administered only by the Company Officer or officer's superior in the chain of command.

e. **Car privileges.** Car privileges may be suspended for offenses specifically involving an automobile (i.e. usurping, DUI, or parking) for up to six months (1 year by the Deputy Commandant for 6K).

4.5 Commandant Measures

a. Performance Probation

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

(a) as a result of a finding of guilt for a major (6K) series offense, in lieu of a recommendation to the Superintendent for separation;

(b) any time a midshipman's Performance has been determined to be unsatisfactory, as defined in Chapter 3, 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/she has been placed on probation; what the terms of the probation are 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 Performance Officer or the Commandant's Legal Advisor by direction of the Commandant.

The Commandant has numerous sanctions which he/she may impose as a part of Performance probation. These include, but are not limited to, the following:

- Reduction in rank.
- Successful completion of IMPACT training.
- Successful completion of Performance remediation (USNA 180).
- Assignment to a different company.
- Assignment to the Brigade ADEO for screening and active participation in the Right Spirit campaign for the term of their probation.
- Loss of consumption of alcohol or patronage at any establishment that serves alcohol.
- Loss of privilege to represent the United States Naval Academy in any capacity including participation in athletic events, BSAs, and Club Sports.

b. Performance Remediation (USNA 180 program)

(1) Performance Remediation (USNA 180) is an alternative to separation and may be imposed by the Commandant, with the recommendation of an awarding authority, but is not considered punishment.

a. The program provides post-adjudication peer mentoring for those with major conduct offenses to provide a positive growth and rehabilitation opportunity.

b. The focus is to remediate attitude, not necessarily tangible performance.

(2) The USNA 180 Program is run by midshipmen with oversight by the Performance Officer and the Chaplain Center.

a. Midshipmen assigned to the program will be assigned a midshipman mentor and attend a series of 4 courses taught by other midshipmen in accordance with the USNA 180 program instruction. If a midshipman misses a course due to an authorized excuse, the midshipman will continue to be assigned to the program and the remediation will not be considered complete until all courses are complete.

(3) At the completion of the program, the midshipman's mentor will forward to the Commandant, via the Performance 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.

4.6 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, 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 Performance" hearing or may immediately place the midshipman on Performance 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 CARD

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

_____ DAYS OF RESTRICTION AWARDED ON _____

	MON	TUE	WED	THUR	FRI	SAT	SUN	MON	TUE	WED	THURS	FRI	SAT	SUN
DATE														
0530														
1300	█	█	█	█				█	█	█	█			
1630	█	█	█	█				█	█	█	█			
2000	█	█	█	█				█	█	█	█			
2230	█	█	█	█				█	█	█	█			
CREDIT														

	MON	TUE	WED	THUR	FRI	SAT	SUN	MON	TUE	WED	THURS	FRI	SAT	SUN
DATE														
0530														
1300	█	█	█	█				█	█	█	█			
1630	█	█	█	█				█	█	█	█			
2000	█	█	█	█				█	█	█	█			
2230	█	█	█	█				█	█	█	█			
CREDIT														

Figure 4-B

MIDSHIPMAN'S ACKNOWLEDGEMENT AND AWARD OF RESTRICTION FORM

Date: _____

From: _____
(Midshipman, Alpha, Company)

To: _____
(Performance Officer)

Subj: AWARD OF RESTRICTION

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

I acknowledge the following:

2. I will read the Administrative PERFORMANCE AND CONDUCT SYSTEM MANUAL, Chapter 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 report to Main Office immediately to receive my restriction card and attend the very next muster.

(Signature of Midshipman)

Company Performance Officer; take this to Main Office immediately after restriction is awarded.

Main Office, make this Midshipman a restriction card and place them on the 0800 Report.

From: _____ Date: _____

To: Performance Officer

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 PERFORMANCE OFFICE IMMEDIATELY
Figure 4-C

Reduction in Rank Recommendation

Date: _____

From: _____, Officer Awarding Authority
To: Commandant of Midshipmen, U.S. Naval Academy
Via: (1) Performance 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 Performance and Conduct System: _____

2. I have considered the information provided to me in this Midshipman's case package, the Midshipman's Performance 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).

Figure 4-D

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**CHAPTER 5
DUTIES AND RESPONSIBILITIES**

SECTION	SUBJECT
5.0	Introduction
5.1	Awarding Authority
5.2	Accused Midshipman
5.3	Preliminary Investigative Officer
5.4	Company/Battalion Performance Officer
5.5	Brigade Performance Officer
5.6	Performance Officer
5.7	Commandant's Legal Advisor

5.0 Introduction. In order for the Performance and 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.

5.1 Awarding Authority shall:

- 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 accuser'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 awarding 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 awarding authority shall provide the related documents to the Company Performance 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 Performance Officer shall forward the case file to the Performance Office.

5.2 Accused Midshipman shall:

- a. Obtain 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. Meet submission deadlines established by the Performance Officer or PIO. If an accused midshipman cannot meet a submission deadline, it is the midshipman'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 awarding authority for

approval/disapproval.

c. The accused midshipman has the responsibility of contacting and notifying witnesses that they request.

d. Notify 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 Awarding Authority as a matter within his or her discretion may disregard evidence of alibi offered by the accused midshipman at the adjudicative hearing.

5.3 Preliminary Inquiry Officer (PIO) shall: (*Further directions are included in section 3.1*)

a. Will be responsible for performing a fair and impartial inquiry into the facts and circumstances surrounding alleged misconduct. PIO should seek assistance from the Performance 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. 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.

5.4 Company/Battalion Performance Officer shall:

a. Act as a Preliminary Investigative Officer for minor offenses that require the collection of materials or evidence.

b. Schedule, setup and attend adjudications.

c. After adjudication by the assigned awarding authority, the Company/Battalion Performance Officer will:

(1) Complete all forms associated with punishment assigned at adjudication: Midshipman Acknowledgement of Restriction form (*Figure 4-B*) and Reduction in Rank (*Figure 4-C*).

(2) For minor level cases: Ensure that the Form 2 is immediately updated in MIDS and the Performance package is filed in the company files.

(3) For major level cases: Ensure that the Form 2 is immediately updated in MIDS and the Performance package is forwarded to the Performance Office for filing or further processing. "Not guilty" and dismissed Forms 2 must also be given to the Performance Office in order that the record may be closed.

5.5 Brigade Performance Officer shall:

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

b. Act as a liaison between the Performance Office and Company

Performance Officers to enhance consistency in the administration of the Performance System within the Brigade, thereby enhancing good order and discipline at the Naval Academy.

c. Prepare XYZ Case studies. The Brigade Performance 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 Performance Officer shall:

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

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

5.6 Performance Officer.

a. Prior to forwarding a major offense case to the awarding authority, 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 major level offense has been charged against the midshipman.

b. If a hearing to adjudicate a major level offense is contemplated, the Performance Officer shall:

(1) Provide the accused midshipman an opportunity to review the materials provided to the awarding 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 Awarding 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.

c. Maintain necessary records, ensuring that a copy of the PIO report is placed in the midshipman's Performance file.

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

e. Provide awarding authorities with precedence data from similar cases.

5.7 Commandant's Legal Advisor

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

b. May appoint PIOs in major offense cases and assign assistant PIOs and legal counsel as appropriate.

c. Assist the Deputy Commandant in reviewing reports of major offenses to determine whether the offenses ought to be delegated to subordinate awarding authorities.

d. Review PIO reports regarding major offenses that are not delegated by the Deputy Commandant and all referred PIO reports. Advise awarding authorities on whether sufficient evidence exists to support forwarding the case to an adjudicative hearing.

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

f. Provide awarding authorities such other opinions and advice as is deemed appropriate.

g. Advise the Commandant of Midshipmen on the legality of awarding midshipmen corrective measures and/or recommending such midshipmen for discharge.

CHAPTER 6
PERFORMANCE STANDING, GRADING SYSTEM, AND UNSATISFACTORY PERFORMANCE
ALTERNATIVES

6.0 Grading System.....6-1
6.1 Performance Standing (explanation of terms).....6-1
6.2 Counseling, Warning, and Notification of
Deficiency.....6-1
6.3 Commandant's Discretion Regarding
Unsatisfactory Performance6-1
6.4 Unsatisfactory Performance Procedures.....6-3

6.0 Grading System. A Performance average is calculated by averaging the point values for all of the midshipman's semester Performance grades. The semester Performance 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 6-A below shows demerit levels and point values for each letter grade.

a. Performance grades:

DEMERIT RANGES PER LETTER GRADE

LETTER GRADE	POINT VALUE	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 6-A

a. Offenses pending adjudication at semester's end. Midshipmen that have been accused of a conduct offense that has not been adjudicated by the end of the Performance semester will receive a grade of "Incomplete" in Performance until the case is adjudicated. After adjudication, the appropriate grade will be entered by the Performance Office.

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

a. Proficient. A semester letter grade to A, B, or 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 is earned; or
- (2) Demerits exceed two-thirds of 6-B (below).

c. Unsatisfactory. An unsatisfactory status remains until a letter grade of "C" or better is earned at the end of the semester following the semester in which the midshipman became unsatisfactory. This status exists if:

- (1) Guilt is determined in a Major 6K offense; or
- (2) Guilt is determined for two separate major offenses committed within two consecutive Performance semesters, or three separate major offenses in a career at the Naval Academy; or
- (3) Terms of a previous probation are violated; or
- (4) A letter grade of F is earned; or
- (5) Demerits exceed the yearly demerit allowance (see Table 6-B below); or
- (6) Demerits exceed the cumulative demerit allowance (see Table 6-B below); or

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

Table 6-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 Performance 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.

6.2 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 Performance Office receive a notification of DEFICIENT PERFORMANCE STANDING from the Midshipman Information Data System (MIDS). Midshipmen who are in a deficient Performance 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 Performance status does not preclude further processing for unsatisfactory Performance.

6.3 Commandant's Discretion Regarding Unsatisfactory Performance . In determining the Performance 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. The Commandant may unilaterally elect to review a midshipman's Performance record for Unsatisfactory Performance processing if, in his/her discretion, he/she 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 Performance record. If the Commandant elects to review a particular case, all of the options discussed in *section 6.4* will be available to him/her up to and including recommending the midshipman for separation.

6.4 Unsatisfactory Performance Process. If a midshipman becomes unsatisfactory in Performance, as detailed in section 6.1, that midshipman's overall record will be reviewed by the chain of command and the Performance 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 Performance are detailed in section 3.4.

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CHAPTER 7
MIDSHIPMEN INFORMATION DATA SYSTEM (MIDS)

SECTION	SUBJECT
7.1	General Information
7.2	Entering a Form-2
7.3	Updating a Form 2
7.4	Validating a Form 2

7.1 General Information. Midshipmen Information System (MIDS) is developed according to the Administrative PERFORMANCE AND CONDUCT SYSTEM MANUAL. It allows for online entry and tracking of Form-1s, Form-2s, and Form-3s for midshipmen in the Brigade.

7.2 Entering a Form 2

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

(1) Performance Office: **Conduct-Validate/Maintain Mid Offenses**

(2) Battalion Officers, Company Officers, Senior Enlisted Leaders, Brigade Commander, Brigade XO, Brigade Performance Officer, Regimental Commander, Battalion Commander, Battalion Performance Officers, Company Commander, Company Performance Officers: **Conduct-Record Offenses**

(3) All Midshipmen, 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 Performance Semester during the Summer months.

(3) [Commit Date] - Actual commission date of offense.

(4) [Level of the Offense] - Highest series level of offenses being reported.

(5) [Primary Offense] - Offense code and description of highest level offense from incident being reported.

(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.

7.3 Updating a Form 2

a. Entering a plea. Midshipmen shall read and acknowledge their rights and potential for reimbursement (1st and 2nd Class), 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 must use the **Conduct-Enter Plea** module located on the Midshipmen menu in the MIDS system. Midshipmen are allowed to update the plea until the Performance 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 Performance Office, Battalion Officers, and Company Officers via the **Conduct-Assign PIO** module or directly on 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, Performance Office personnel, Battalion Officer, Company Officer, Company Senior Enlisted, Company Commander, and Company Performance 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. Awarding Punishment/sanctions for 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) Performance Office: **Conduct-Validate/Maintain Mid Offenses**

(b) Battalion Officers, Company Officers, Senior Enlisted Leaders, Brigade Performance Officer, Battalion Performance Officers, Company Cdrs, Company Performance Officers: **Conduct-Record 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 Awarding 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 Performance /Honor Probation and Remediation.

(1) Awarded Punishment.

(a) [Demerits Award] - Enter only the net amount of demerits

(b) [Restriction] - Enter the days of Restriction awarded

(c) [Extra Duty] - Enter the hours of specific EMI awarded with explanation in the award comment.

(d) [Performance /Honor Probation] - Enter the months of Performance or Honor Probation awarded, as appropriate.

(e) [Remediation Award] - Enter the months of Performance or Honor Remediation awarded, as appropriate.

(f) [Reduction in Rank] - Enter the months of reduction and start date, as appropriate.

(g) [Tours] - Enter number of tours awarded ONLY if no restriction has been awarded.

(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 suspended or deferred using the drop-down menu and insert the date that the punishment will begin using the calendar icon.

(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...)

(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 Performance Probation/Remediation for __ months.

7.4 Validating the Form 2

a. Verification. Prior to validating a Form 2 the Performance 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 Performance Office using the **Conduct -Validate/Maintain Mid Offenses** module. NOTE: When the Performance 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 Performance/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 Performance Officer, Company Commander, Company Officer, and the Senior Enlisted Leader.