



DEPARTMENT OF THE NAVY

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

COMDTMIDNINST 1610.2E CH-2
CONDUCT
20 Aug 12

COMMANDANT OF MIDSHIPMEN INSTRUCTION 1610.2E CHANGE TRANSMITTAL 2

Subj: ADMINISTRATIVE PERFORMANCE AND CONDUCT SYSTEM

Encl: (1) Revised Pages 2-4, 2-8, and 4-3

1. Purpose. To publish change 2 to the basic instruction.
2. Action. Remove pages 2-4, 2-8, and 4-3 of the basic instruction and replace with enclosure (1) of this change transmittal.

A handwritten signature in blue ink, appearing to read "RE", followed by a horizontal line.

R. E. CLARK II

Distribution:
Non-Mids (Electronically)



DEPARTMENT OF THE NAVY

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

COMDTMIDNINST 1610.2E CH-1
CONDUCT
31 Mar 11

COMMANDANT OF MIDSHIPMEN INSTRUCTION 1610.2E CHANGE TRANSMITTAL 1

Subj: ADMINISTRATIVE PERFORMANCE AND CONDUCT SYSTEM

Encl: (1) Revised Pages 2-5 through 2-8

1. Purpose. To publish change 1 to the basic instruction.
2. Action. Remove pages 2-5 through 2-8 of the basic instruction and replace with enclosure (1) of this change transmittal.


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COMDTMIDNINST 1610.2E
CONDUCT
17 Aug 10

COMMANDANT FOR MIDSHIPMEN INSTRUCTION 1610.2E

Subj: ADMINISTRATIVE PERFORMANCE AND CONDUCT SYSTEM

Encl: (1) Administrative Performance and Conduct System Manual

1. Purpose. To update and clarify Administrative Performance and Conduct System requirements and procedures.
2. Cancellation. COMDTMIDNINST 1610.2D
3. Information. Enclosure (1) is published for the information and compliance of members of the Brigade of Midshipmen and all personnel subordinate to the Commandant of Midshipmen.

A handwritten signature in blue ink, appearing to read "R. E. Clark II", is positioned above the printed name.

R. E. CLARK II

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**ADMINISTRATIVE
PERFORMANCE AND CONDUCT
SYSTEM MANUAL**

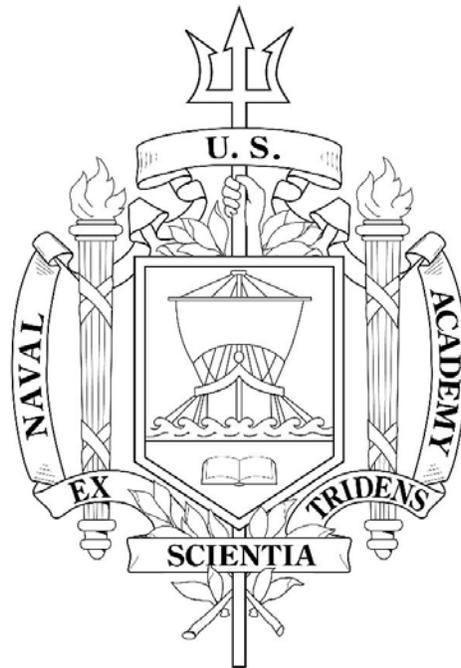


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CHAPTER 1

INTRODUCTION TO THE ADMINISTRATIVE PERFORMANCE AND CONDUCT SYSTEM

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1.1 General

a. Authority. Part V, MCM, 2009, 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, UCMJ.

b. Terminology. For the purpose of brevity within this manual, the Administrative Performance and Conduct System will hereafter be referred to as the Conduct System.

c. Purpose

(1) This manual is intended to provide Midshipmen the opportunity to use counseling, remediation and, ultimately, discipline as tools of effective leadership. The Conduct System is not designed to be a substitute for leadership. It is intended to be a leadership resource which should supplement a Midshipman’s ability to exercise professional leadership, accountability, authority and responsibility. Midshipmen take ownership of the Conduct System through their involvement in investigations, performance of counseling, attendance at hearings, assessment of guilt under limited circumstances, and assignment of discipline with delegated authority. The 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 Conduct System should serve to hold Midshipmen accountable to the standards set forth in the Uniform Code of Military Justice (UCMJ), COMDTMIDNINST 5400.6M, other USNA instructions and regulations, U.S. Navy instructions and regulations, and federal, state, and local laws during their time at the Naval Academy. Conduct, both positive and negative, is heavily weighted along with other criteria in evaluating a Midshipman’s advancement to the next class.

(2) The 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 behavioral 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 their actions.

(3) The Conduct System serves as a foundational and practical guide for expected Midshipman behavior. The Conduct System should be a source of pride for each and every Midshipman at the Naval Academy. While there is not an official merit system structured to specifically reward good conduct, each Midshipman must have a strong moral conviction to uphold the highest

standards in order to guard the reputation of the Naval Academy and live up to the examples of those who have gone before.

d. Nature. The Conduct System provides disciplinary measures more serious than non-punitive measures such as EMI, counseling, reprimands, or administrative withholding of privileges, but less serious than trial by court-martial. The system provides counseling, reprimand, and award of demerits, restriction, disciplinary tours, conduct probation/remediation programs, 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 afforded each Midshipman.

1.2 Standards of Performance. Midshipmen's dedication, commitment to excellence, and exemplary standards of conduct apply both on and off duty, in personal behavior, and in relations with others in the civilian and military communities. Midshipmen must comply with the substance, spirit, and intent of all directives. Any conduct which reflects discredit upon the Brigade of Midshipmen, the Naval Academy or the Navy, is in violation of any federal, state, or local law, or indicates questionable personal morals is considered unbecoming of a U.S. Navy or Marine Corps officer candidate. Midshipmen found to be unsatisfactory in conduct may be recommended for separation if it is decided that their retention is not in the best interests of the naval service.

1.3 Basic Principles of the Conduct System

a. Types of documentation

(1) Form-1 (Basic Counseling Form). A Form-1 may be written and entered to record both positive and negative behavior. While leaders are encouraged to use the Form-1 as a positive counseling tool, the document stands as the lowest level means for reporting misconduct. Negative Form-1s 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 in adapting to military life. The purpose of the Form-1 is to record behavior trends that will encourage improved behavior without punitive consequences. The Form-1 concept should encourage chains of command to document positive and negative behavior, allowing leaders to become more directly involved in Midshipman development.

(2) Form-2 (Misconduct Report Form). In the event that appropriate corrective action warrants more than counseling or EMI, punitive action may be sought by initiating a Form-2. The Form-2 identifies who is suspected of committing an offense and delineates whether the alleged action is considered a Minor-, Major- or 6K-level offense. Chapter 2 of this manual describes the different levels of offenses. Chapter 4 of this manual identifies the potential types of punishments.

b. Unit Commander Responsibilities. Commanders are responsible for good order and discipline within their units. Generally, discipline can be

maintained through strong positive leadership including, when necessary, administrative corrective measures. Further action within the Conduct System may be required when non-punitive administrative corrective measures (Form-1) are inadequate. The chain of command and Awarding Authorities contemplating action within the 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 Conduct System is intended to be correctional and educational rather than legalistic and punitive. Its purpose is to teach Midshipmen to accept full responsibility for their actions and conduct 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 in part to assist the Superintendent in assembling all pertinent information prior to submitting a report of unsatisfactory conduct and a recommendation for separation to the Secretary of the Navy under Title 10 USC 6962. (The Superintendent may however, submit such a report without implementing any of the procedures contained in 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 and all provisions of federal, state, and local law made applicable to members of the armed services pursuant to Article 134 of the 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 Conduct System

(1) Multiple Charges for the Same Incident. When several related offenses result from a singular event or incident, only one report and case file will be generated for each accused Midshipman. The most serious accusation will be documented as the primary charge while all other alleged offenses will be listed as secondary charges. Ultimately, a single comprehensive punishment will be determined by the Awarding Authority upon finding the accused guilty of any or all charges which resulted from the event.

(2) Conduct and Honor Charges. A Midshipman will not be charged under both the Conduct System and Honor System for the same offense. This does not preclude the possibility that separate charges for additional offenses may arise from the same incident as the investigation and adjudication processes unfold. The Commandant invariably reserves the authority to assign Honor Remediation for a singular conduct offense that contains an honor element (e.g., theft or using/possessing a false ID).

(3) Civilian Charges and the Conduct System. It is not considered double jeopardy for a Midshipman who is subject to prosecution by civil authorities also to be charged under the Conduct System. The Conduct System and civilian litigation are not mutually exclusive. It is not incumbent that any civil action be completed, nor that the concerned Midshipman be ruled upon by civil authorities prior to administrative action taking place under the Conduct System.

(4) Double Punishment Prohibited. Once punishment has been awarded for a case within the Conduct System, no additional punishment may be imposed for the same case under the Conduct System any time thereafter. Action pursuant to the Conduct System does not necessarily preclude later trial by court-martial, in accordance with the UCMJ.

(5) Increase in Punishment Prohibited. Once punishment under the Conduct System has been imposed, it may not be increased upon appeal.

(6) Statute of Limitations. Punishment under the Conduct System may not be imposed for offenses which were committed more than two years before the date of imposition.

1.4 Design of the Conduct System. Alleged violations of the Conduct System are generally categorized as either Minor-level or Major-level offenses. Particularly discreditable Major-level offenses are further defined as 6K-level violations and may be expedited directly to the Deputy Commandant for action.

1.5 Conduct Semesters Defined. Any offense for which a Midshipman is found guilty contributes to the Conduct grade for the Conduct semester in which the offense took place, regardless of adjudication date or computer entry date. Conduct semesters are defined as:

a. Fall - 0001 of the day after graduation until 0000 of the overall last day of fall final exams.

b. Spring - 0001 of the day following the last overall fall final exams until 0000 graduation day.

1.6 Conduct System and Honor System Relationship

a. Improper Use of Midshipmen Responses to Questions.

(1) In accordance with the Honor Concept, Midshipmen, like officers in the Fleet, are expected to answer honorably and truthfully all questions posed to them. In order to address situations in which a Midshipman responds in a self-incriminating manner to questions which are later determined to have had no basis upon which to be asked, the following will apply:

(a) If disciplinary action was initiated and the sole source of information prompting that action was 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.

(b) If sufficient independent evidence exists to establish guilt by a preponderance of the evidence, disciplinary action may be taken, but any evidence improperly derived from the Midshipman's responses, either directly or indirectly, will not be considered. It is solely the responsibility of the accused Midshipman to raise objection to evidence which he/she believes to have been derived improperly. During an investigation, the accused Midshipman should inform the Preliminary Investigative Officer (PIO) of his or her objection to 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, Conduct Officer and Awarding Authority.

During adjudicative hearing, the Awarding Authority will note a Midshipman's objection that responses have been used improperly and will assess all pertinent information in the report. The Awarding Authority will then determine whether the Midshipman's responses were in fact used improperly against the accused and whether 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 conduct violation pursuant to which the questions were being asked, and

2. The Midshipman's answers to the questions resulted in disciplinary action being taken, and

3. The answers provided were the sole basis for a determination of guilt regarding the alleged violation.

1.7 Conditions for Graduation

a. 1/C Midshipmen who have at least a 2.0 Conduct average (see Chapter 6 for calculations) are eligible to graduate with their class, assuming they meet all other graduation requirements.

b. 1/C Midshipmen may not be allowed to graduate with their class if:

(1) They are suspected of an offense under the Conduct System, UCMJ, or federal, state, or local law, or

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

(3) They have unserved restriction as of graduation day.

c. Only the Superintendent may authorize late graduation.

CHAPTER 2

SPECIFIC CONDUCT OFFENSES

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2.1 Introduction

a. This chapter lists typical conduct offenses and their corresponding levels of categorization. Though this list is thorough, it is not exhaustive. Any alleged conduct infraction not specifically addressed within this manual may be entered into the Conduct System as a general offense. Individuals involved in the administration of the Conduct System will rely on these typical delinquencies for guidance and seek the advice of the Conduct Office in cases not covered. Details and evidence provided by the accuser are paramount in aiding the smooth and fair execution of the system.

b. Offense Codes. A four-digit offense code is assigned to each delinquency defined within this manual. The first two digits of the offense code indicate the section of this chapter under which the delinquency falls (reflecting the general nature of the offense), while the second two digits identify the specific offense.

c. Attempts to Commit an Offense

(1) An attempt is an act done with the intent to commit a conduct offense. An attempt amounts to more than mere preparation, and intends, though fails, to effect the commission of the offense.

(2) Attempts should be charged as the intended offense. The maximum punishment is the same as that which would be warranted by the intended offense were it successful.

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

2.2 Regulations, Orders, Instructions, Duty

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

b. Orders may be addressed to an individual or to a group. Orders may be issued verbally (e.g., "Midshipman X, do this now.") or in writing (e.g., "The following Midshipmen must turn in lacrosse equipment: MIDN 2/C X, MIDN 3/C Y..." or "All 3/C Midshipmen will empty their basement lockers by...").

c. Punishment awarded for delinquencies involving duty should include consideration of the nature of the duty, the position of the Midshipman, and whether the delinquencies were the result of ignorance, laziness, 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, or 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>
02.01	Violation of a regulation due to gross ignorance of instructions, regulations, or directives (including MIDREGS).	Minor
02.02	Direct and intentional violation of oral or written orders addressed to an individual or group.	Variable
02.03	Violation of MIDREGS with minor effect. (Specify the MIDREGS article which was violated. If the offense is specifically described by another offense code, that offense code should be used.)	Minor
02.04	Violation of MIDREGS with major effect. (Specify the MIDREGS article which was violated. If the offense is specifically described by another offense code, that offense code should be used.)	Major
02.05	Intentional failure to perform a duty.	Major
02.06	Interfering with an individual who is performing a duty.	Variable
02.07	Aiding, abetting, counseling, commanding, or procuring the commission of an offense punishable by this instruction. The level of this offense should generally be equal in magnitude to the offense committed by the principal offender.	Variable
	NOTE: Offense code 05.04 will be used for aiding/abetting an alcohol offense.	
02.08	Failure to properly perform a duty due to negligence, laziness or ignorance, or failure to report/correct a delinquency.	Variable
02.09	Failure to use good judgment. (If the offense is specifically described by another offense code, that offense code should be used.)	Variable

2.3 Fourth Class Indoctrination System

a. Upper class Midshipmen have a duty to lead and be responsible for 4/C Midshipmen. In the execution of that duty, upperclassmen are to behave in a professional manner at all times. 4/C Midshipmen have a duty to abide by the terms of the Fourth Class Indoctrination System.

b. The act of hazing is a breach of federal law set forth by Congress in Title 10 USC 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." 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>
03.01	Failure to support or participate in the Fourth Class Indoctrination System when required.	Minor
03.02	Violation of the published Fourth Class Indoctrination System Standard Operating Procedures or temporary directives put in place by Brigade or Regimental leadership.	Variable
03.03	Hazing. *Report all suspected hazing cases to the Conduct Office <u>BEFORE</u> adjudication.	Major
03.04	Unprofessional electronic communications between 4/C and upperclassmen in violation of MIDREGS. <u>NOTE</u> : This includes, but is not limited to, instant messaging, chat rooms, Facebook, or any comparable mode of communication.	Minor

2.4 Standards of Behavior

a. The standards of decorum and conduct expected of a commissioned officer and a gentleman/lady are also expected of Midshipmen.

<u>Offense Code</u>	<u>Delinquency</u>	<u>Level</u>
04.01	Fraternization that undermines good order and discipline within the Brigade of Midshipmen. This offense code applies to unduly familiar relationships not of a romantic or sexual nature.	Major

<u>Offense Code</u>	<u>Delinquency</u>	<u>Level</u>
04.02	Fraternization that undermines good order and discipline within the Brigade of Midshipmen. This offense code applies to unduly familiar relationships of a romantic or sexual nature.	6K
04.03	Sexual misconduct (sexual acts on the Naval Academy or other military grounds, ships, or crafts, or under other circumstances which are service-discrediting or prejudicial to good order and discipline within the Brigade of Midshipmen). <u>NOTE:</u> Examples of sexual misconduct include fondling, displays of affection or sexual activity on a Midshipman rack (clothed or unclothed), oral sex, sexual intercourse, sexually motivated nudity, indecent sexual acts, indecent exposure, lying in the rack together, and having the door locked with a member of the opposite sex in the room. This charge also includes sexual assault.	6K
04.04	Sexual harassment as defined in current SECNAV, OPNAV, and USNA Instructions. <u>NOTE:</u> An example of sexual harassment is a request for sexual favors in order to gain some privilege, right, or other benefit.	Major
04.05	Disrespect or insubordination to a superior or an individual in a position of authority (including company Senior Enlisted Leaders).	Variable
04.06	Challenge to personal combat or threat of physical violence. <u>NOTE:</u> When the challenge or threat culminates in physical action, conduct code 04.21 (UCMJ Article 128) will be charged.	Major
04.07	Inappropriate use of computer or government network.	Major
04.08	Possession, generation, viewing, or display of pornographic materials in Bancroft Hall or on the Naval Academy complex.	Major
04.09	Displays of affection (anytime in Bancroft Hall or when in uniform in public). <u>NOTE:</u> Displays of affection include, but are not limited to, massages, sitting on a lap, kissing, and touching.	Major

<u>Offense Code</u>	<u>Delinquency</u>	<u>Level</u>
04.10	Harassment of another Midshipman (non-sexual). This includes, but is not limited to, offensive or unsolicited comments, e-mails, instant messages, or letters, comments or actions designed to ostracize an individual or group, or stalking.	Variable
04.11	Destruction or damage of government or private property, whether intentional or due to gross negligence. <u>EXCEPTION:</u> This does not refer to destruction or damage of one's own property. However, such an action may be covered by another offense code, depending on the circumstances. <u>NOTE:</u> Restitution for the destruction or damage may be made a part of the awarded punishment.	Major
04.12	Introduction of, or failure to remove, unauthorized persons from Bancroft or King Hall.	Major
04.13	Entering a restricted area, including roof areas or any areas marked as such.	Major
04.14	Unauthorized means of ingressing or egressing either Bancroft Hall (not including "class doors") or the Naval Academy grounds (i.e. "jumping the wall").	Major
04.15	Possession or use of a false, altered, or unauthorized identification card, pass, or similar document (includes driver's licenses, military ID cards, or other forms of identification). <u>NOTE:</u> 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.	6K
04.16	Usurping any special or basic class authorizations or privileges. (Includes unauthorized wearing of civilian clothes and the use of "class doors.")	Minor
04.17	Carelessness in operating a vehicle which results in an accident or endangers lives or property.	Major
04.18	Parking in violation of MIDREGS and/or military base regulations. <u>NOTE:</u> First Offense: 30 demerits and three Brigade tours. Second Offense: 30 additional demerits, five days restriction, and loss of decals for 30 days.	Minor

<u>Offense Code</u>	<u>Delinquency</u>	<u>Level</u>
	Third Offense: Loss of driving on the yard privileges for the remainder of the semester.	
04.19	Driving, maintaining, or operating a motor vehicle in violation of MIDREGS.	Minor
04.20	Failure to have the door fully open when members of the opposite sex are present.	Minor
04.21	Violation of UCMJ, Navy Regulations, SECNAV and OPNAV Instructions, General Orders, federal, state, or local laws.	6K/ Major

2.5 Alcohol and Drugs

a. Definitions:

(1) Alcohol - beverage with any percentage of alcohol content.

(2) Under the influence - any impairment of one's ability to function normally.

(3) Trafficking - making alcohol available in any way to someone under the legal drinking age.

(4) Narcotics and other controlled substances - amphetamines, cocaine, heroin, lysergic acid diethylamide, marijuana, methamphetamine, opium, phencyclidine, and barbituric acid, including phenobarbital and secobarbital. "Controlled substance" also applies to any substance included in Schedules I through V established by the Controlled Substances Act of 1970.

b. 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>
05.01	Risky Drinking (.08 up to .15 BAC). *First offense should be documented with a Form-1.	Minor
05.02	Abusive Drinking (BAC between .16 and .2).	Major
05.03	Extreme Drinking (BAC > .2).	Major
05.04	Aiding/abetting an alcohol offense.	Major
05.05	Consumption, possession, or introduction of alcohol within/into Bancroft Hall or aboard ship.	6K
05.06	Providing alcohol to underage persons.	Major

<u>Offense Code</u>	<u>Delinquency</u>	<u>Level</u>
05.07	Being under the influence of alcohol in a nature that brings discredit upon the naval service, outrages public decency, or results in a breach of the peace.	6K
05.08	Consuming alcohol or being under the influence of alcohol while on duty.	6K
05.09	Cancelled.	
05.10	Consumption or possession of alcohol in violation of applicable federal, state, or local law (this includes underage drinking).	Major
05.11	Consumption or possession of alcohol in circumstances prohibited by MIDREGS, other than in Bancroft Hall or aboard ship (e.g., drinking as a 4/C Midshipman).	Major
05.12	Drunk driving or driving under the influence of alcohol.	6K
05.13	Use, possession, sale, or transfer of illegal drugs.	6K

2.6 Military Appearance

<u>Offense Code</u>	<u>Delinquency</u>	<u>Level</u>
06.01	Unsatisfactory appearance in uniform (pattern of behavior). NOTE: Discrepancies must be specified and should have been documented as Form-1s prior to entry as a Form-2.	Minor
06.02	Unprepared for room or uniform inspection due to laziness or negligence.	Minor
06.03	Unsatisfactory room standards (e.g. tampering with window stops or thermostat, possessing minor contraband, placing items on the outside window sill, etc.).	Minor

2.7 Absences or Tardiness

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

b. The magnitude 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 a 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>
07.01	Intentional absence without authority from a military obligation or formation.	Major
07.02	Absent without authority for greater than 24 hours.	Major
07.03	Absent without authority, due to negligence, from a military obligation.	Minor
07.04	Absent without authority from an academic class for fewer than 15 minutes.	Minor
07.05	Absent without authority, either intentionally or for greater than 15 minutes, from academic class.	Major
07.06	UA after reporting for taps (i.e., "touch and go").	Major
07.07	UA from tours or restriction.	Minor

CHAPTER 3

PROCEDURES FOR REPORTING, INVESTIGATING AND ADJUDICATING OFFENSES

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3.1 Reporting a Conduct Offense

a. Methods of reporting and documenting conduct offenses include:

(1) Form-1 (Figure 3-A). The Form-1 is a counseling form which can be used to document both positive and negative behavior. The Form-1 is designed to mirror processes in the Fleet and to document patterns of behavior. When punitive action is not appropriate, minor conduct offenses may be documented with a Form-1. All officers, faculty, and Midshipmen within the chain of command are encouraged to utilize this document and should route Form-1 reports via e-mail or paper copy to the Company Officer or Company Senior Enlisted Leader who will maintain all reports in Midshipmen's performance jackets.

(2) Form-2 (Figure 3-B). The Form-2 is an electronic report form for a conduct offense, which is maintained in the Midshipman Information Data System (MIDS). Any officer, Senior Enlisted Leader, faculty member or 1/C Midshipman wishing to report a conduct offense will do so using a Form-2 in MIDS. Offenses may also be reported directly to Company Officers, Senior Enlisted Leaders or the Conduct Officer for entry into MIDS. The accused Midshipman and company leadership will receive a notification e-mail that an offense has been reported.

(a) Officers, Senior Enlisted Leaders, and civilian faculty should inform the accused Midshipman of the charges and their intention to file a report prior to entering the electronic Form-2. Midshipmen with the intention to submit a Form-2 against another Midshipman must, within 24 hours of entry, inform the accused Midshipman of their action.

(b) The offense description included in the Form-2 should be a short and concise statement, but with sufficient detail to describe the alleged event. The name and company of any other Midshipmen involved in the same offense must be included in the offense description.

(c) 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. Under such circumstances, only one Form-2 will be generated and one punishment ultimately awarded. The most serious charge will be used as the primary charge; all others will be listed as secondary charges.

b. Midshipmen who receive a notification of a reported offense have 24 hours to enter a plea into MIDS, or to contact company leadership to confirm receipt if they are unable to log on to MIDS.

(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. Midshipmen shall never be pressured 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 he/she relinquishes the right to seek reconsideration, or 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.

3.2 Investigating Reported Offenses

a. All Major-level and 6K-level reported conduct offenses should be reviewed by the Conduct officer and Battalion XO in order to determine if investigation is warranted. Minor-level conduct offenses do not require an investigation unless specifically ordered by the Company Officer.

(1) If the alleged offense is suspected to be a major criminal offense, the Commandant, 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 determine the appropriate forum for disposition. If NCIS commences an investigation, the Legal Advisor shall coordinate with NCIS for all necessary assistance and dissemination of information to command authorities.

(2) The investigation may be waived with the concurrence of the Midshipman. In this case, either the Conduct Officer, Company Officer, or Battalion XO should have the Midshipman sign an Acknowledgment of Rights Form (Figure 3-E), a Notification of Potential Reimbursement (Figure 3-F), if applicable, and submit a written statement.

b. If a full investigation is warranted, a Preliminary Investigative Officer (PIO) will be assigned. Assignment of a PIO will be made by the accused Midshipman's Battalion XO. The Conduct Officer will assign the PIO

in the absence of the Battalion XO. The PIO will be an officer or Senior Enlisted Leader, but not the Company Officer or Senior Enlisted Leader from the accused Midshipman's company.

(1) Multiple Midshipmen Involved 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 initiating the investigation. Only one investigation should be completed for all Midshipmen involved in the incident.

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

c. The PIO will interview the accused Midshipman and witnesses, collect all applicable documents regarding the incident (e.g., police reports) and complete the Preliminary Inquiry Report (PIR) (Figure 3-C) for submission to the Conduct Officer and/or the Awarding Authority.

(1) The PIO interviews and takes statements from all pertinent witnesses and conducts the investigation. The PIO begins the inquiry by interviewing the accused Midshipman and all pertinent witnesses and collecting all available evidence. The PIO will collect statements and document interviews with a memo. Once an adequate summary of events is established, the PIO will adjust the charges as necessary to properly characterize the incident. PIOs should remain cognizant of the accused Midshipman's rights throughout the investigative process.

(2) If any further potential conduct offenses become apparent during the course of the investigation, the PIO will charge the Midshipman with the offenses via the original Form-2 and include the charges in the PIR.

(3) Investigations should normally be completed within three working days of assignment.

d. Contents of Preliminary Inquiry Report (Figure 3-C). The PIR shall contain a summary of events and a synopsis of the facts surrounding an alleged offense, as supported by the enclosures in the report. Enclosures in the report may include, but are not limited to, the following: Results of Interview memorandums, documentary evidence, statements from all witnesses, statements from the accused, the Acknowledgment of Military Suspect's Rights Form (Figure 3-E), the Notification of Potential Reimbursement for Advanced Education Form, log entries, leave papers, chits, etc. All of the facts listed should be derived from the enclosures in the report. The report will also contain a summary of offenses which breaks down each offense by element and provides detailed facts that do or do not support each element. Finally, the PIO should state whether there appears to be sufficient evidence that an offense has been committed.

(1) The Form-2 in MIDS allows the PIR to be attached as a digital document. This additional information permits the chain of command access to the PIR for review prior to contributing their comments regarding the case.

(2) Upon completion, the PIR will be forwarded to the Awarding Authority as follows:

(a) The Form-2 and PIR with enclosures shall be submitted to the Commandant's Conduct Officer and Legal Advisor. Members 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 Conduct Officer and Legal Advisor will make recommendations to the Deputy Commandant for final level of Awarding Authority and distribute the final case package as appropriate.

(b) Upon receipt of a Form-2 and accompanying PIR, the Awarding Authority (or Conduct Officer and/or Legal Advisor, as necessary) may alter the charges on a Form-2 to more appropriately reflect the alleged offense(s). If the basic nature of an alleged offense changes as information is revealed during the investigation, the Midshipman will be afforded an additional 24 hours to enter a plea and submit a statement, if desired, regarding the new charges. Individuals through whom Form-2s are routed may recommend changes to the Form-2 in their respective comments.

3.3 Adjudicative Hearings

a. Determining Awarding Authority. Normal Awarding Authority for conduct offenses is as follows:

- (1) Minor: Company Officer
- (2) Major: Battalion Officer
- (3) 6K: Deputy Commandant

(4) Variable: Will be determined by the Battalion Officer or the Commandant's Conduct Officer after review of the investigation.

b. Delegation of Awarding Authority. Company Officers may delegate awarding authority for Minor-level conduct offenses to Midshipmen in leadership positions for training purposes. Major- and 6K-level offenses may be adjudicated by officers acting in the position of the Awarding Authority (e.g., the acting Deputy Commandant) or delegated down the chain of command.

(1) 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.

(2) Commandant's Discretion. The Commandant retains the right to adjudicate or assign an Awarding Authority to any case alleging a violation of this instruction.

c. Time Requirements for Adjudications. During the academic year, all cases for minor offenses should be adjudicated within three working days of the Form-2 generation date. If exceptional circumstances prevent adjudication within three working days, the Company Officer should communicate with the Commandant's Conduct Officer.

d. Following review of the Form-2 and PIR, the Awarding Authority may take one of the following actions:

(1) Delete the alleged offense(s) without a hearing. A Form-2 for Major-level conduct offenses may be deleted by the Conduct Officer only with authorization from the Commandant or Deputy Commandant. Deleting an offense should be reserved for accusations made in error (e.g., the wrong Midshipman was identified or an alpha code was entered in error).

(2) Dismiss the alleged offenses without a hearing. Dismissal without prejudice should be reserved for cases wherein the Midshipman committed the offense, but the Awarding Authority assesses that the Midshipman was not at fault. Dismissal should be reserved for cases wherein the Awarding Authority acknowledges that the offense was committed by the Midshipman, but non-punitive corrective measures more appropriately address the situation (e.g., EMI or a Form-1).

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

e. Waiver of Adjudication. Accused Midshipmen who waive their right to a hearing also waive their right to confront and cross-examine witnesses and to call character witnesses. They retain the right to submit written matters to the Awarding Authority, including character reference letters and statements regarding extenuating or mitigating circumstances. The Awarding Authority retains the discretion to hold a hearing and require the presence of the accused Midshipman in all cases, if ultimately desired.

f. Pre-Hearing Notification. A notice of 24 hours is normally considered reasonable for Major-level offense hearings. Requests for delay of a conduct hearing must be submitted to the Awarding Authority, via the Company Officer, sufficiently in advance of a hearing in order that proper consideration may be given to the request prior to the hearing's commencement. Untimely requests will be denied.

g. Rights of an Accused Midshipman Immediately Prior to and During a Conduct Adjudication Hearing

(1) Right to Counsel. Accused Midshipmen have the right to consult with legal counsel prior to a hearing; however, accused Midshipmen do not normally have a right to have counsel present during the hearing. Counsel will only be permitted in a hearing in extremely unusual circumstances. A request to have counsel present in a hearing should be submitted to the Awarding Authority, via the Legal Advisor, with sufficient enough time to permit substantive review of such a request prior to commencement of the hearing. The accused Midshipman may seek civilian counsel at his or her own

expense or military counsel provided at no cost through the USNA Office of Legal Counsel.

(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, at his/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. It is the responsibility of the Conduct Officer or Battalion XO to ensure that the accused Midshipman has a reasonable opportunity to review the evidence that will be considered by the Awarding Authority.

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

h. 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 Midshipman, have relevant testimony to provide, and are reasonably available. Regardless of witness inputs, 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) Non-USNA faculty/staff 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 telephone interviews and written statements. The Awarding Authority should inform the witness of the nature of the inquiry before his/her testimony is taken and protect him/her from improper questions, harsh or insulting treatment, and unnecessary inquiry into his/her private affairs.

(2) The Awarding Authority will direct that military and civilian witnesses who are subject to Navy authority and request that other witnesses not discuss their statement or testimony with other witnesses or with persons who have no official interest in the proceedings until the case is closed.

i. Adjudicative Hearing Process. The following format should be followed during all adjudicative hearings:

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

(2) The accused Midshipman will be provided the opportunity to review any new evidence that was forwarded to the Awarding Authority.

(3) The accused Midshipman will be informed of his/her right to present witnesses and evidence on his/her own behalf. The accused Midshipman or the Awarding Authority may call relevant witnesses to testify on the merits of the accusation if documentary evidence alone does not adequately establish the facts necessary to make a finding.

(4) The accused Midshipman will be given an opportunity to present up to three character witnesses to speak on their behalf. These witnesses should be members of the Brigade or the USNA faculty/staff. Any other character witnesses should be approved by the Conduct Officer or Legal Advisor before appearing at a hearing.

(5) During the hearing, if the Awarding Authority suspects or identifies that a higher-level offense or an honor offense may have been committed, the hearing will be recessed and the matter promptly referred to the Commandant's Conduct Officer, Legal Advisor, or Honor Staff. The accused Midshipman will not be asked to answer any further questions or make a statement of any kind.

(6) If it is determined that the accused Midshipman 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 which could affect the finding for the accused Midshipman, 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, the adjudication will continue and an investigation will be opened following the adjudication to determine the involvement of the other Midshipmen.

(7) If a determination of guilt is reached, extenuating and mitigating circumstances will be considered prior to awarding punishment. Following the awarding of punishment, the Awarding Authority will ensure the guilty Midshipman fully understands the punishment that has been awarded.

j. Post-Adjudication Procedures

(1) Minor-level Offenses. The entire Form-2 package, including all collected paperwork, is immediately given to the Company Conduct Officer, who will fill out the required forms and, if applicable, ensure that restriction begins on the day of award. The Company Conduct Officer will also update the Form-2 in MIDS. The entire package will remain with the Midshipman's performance jacket in company area.

(2) Major-level Offenses. Immediately following the adjudication, the Company Conduct Officer will fill out the required forms and, if applicable, ensure that restriction begins on the day of award. The Company or Battalion Conduct Officer will also update the Form-2 in MIDS. The entire adjudication package is immediately forwarded to the Commandant's Conduct Officer for further processing or filing in the Midshipman's conduct record.

3.4 Request for Reconsideration (Appeal)

a. A Request for Reconsideration is an appeal to a Reviewing Authority.

(1) Reviewing Authorities are as follows:

(a) Commandant - for Major- or 6K-level offenses adjudicated by the Deputy Commandant.

(b) Deputy Commandant - for Major-level offenses adjudicated by subordinates.

(c) Battalion Officer - for Minor-level offenses adjudicated by subordinates.

(2) A Midshipman may appeal the disposition of his/her case only on the following bases:

(a) A finding of guilt is unjust.

(b) The punishment awarded is disproportionate to the offense(s) committed.

(c) Substantial errors existed in the adjudicative proceedings such that the Midshipman's rights were violated.

b. Appeal of a Guilty Finding. 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.

c. Appeal of the Awarded Punishment. Regardless of plea, any Midshipman who considers the awarded punishment disproportionate to the offense(s), 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.

d. Appeal Based on Errors or Irregularities in an Adjudicative Hearing. Procedural errors or irregularities in adjudicative hearings will be grounds to invalidate such proceedings only in those cases where the errors or irregularities substantially prejudiced the accused Midshipman and cannot subsequently be cured. If substantial errors in the proceedings are detected, the Reviewing Authority may direct that the investigation be reopened and additional matters be considered or errors corrected or remedied. The accused Midshipman is responsible for alleging substantial errors within the time period described below.

(1) Irregularities not amounting to the above will be considered harmless errors and will not be the basis to reevaluate. If a harmless error in the proceedings is detected, the Awarding Authority shall take steps as required to remedy such error, so long as the rights of the accused Midshipman are not substantially prejudiced.

e. 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 the guilty finding unjust.

(3) All requests for reconsideration must be routed through the Awarding Authority via the chain of command, Conduct Officer, and Legal Advisor before being forwarded to the Reviewing Authority. The Conduct 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 advice to the Reviewing Authority.

(4) Time Limits

(a) Requests for reconsideration must be submitted to the Awarding Authority within five working days of the initial adjudication, unless the Midshipman receives an extension from the Awarding Authority, which must be requested in writing. Failure to submit a request for reconsideration within the prescribed time limit will result in denial of the appeal. If such 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.

e. Notice of Reviewing Authority Action. After review of an appeal/request for reconsideration, the Reviewing Authority will inform, in writing, the Midshipman and the appropriate Awarding Authority, and immediately forward the request and all accompanying paperwork to the Conduct Officer and Legal Advisor.

f. Effect of Failing to Request Reconsideration. Absent good cause, failure of the accused 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 injustice that may otherwise have been raised.

3.5 Unsatisfactory Conduct Procedures. If a Midshipman becomes unsatisfactory in conduct as a result of being found guilty at adjudication (or under any circumstance outlined in Chapter 6), that Midshipman's overall record will be reviewed by the chain of command, the Conduct Officer, and the Commandant's Legal Advisor.

a. Record Review. The Commandant may review the Midshipman's entire record (academic, aptitude, conduct, and physical education) 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 conduct and the appropriate documentation is included in the Midshipman's conduct record and performance jacket.

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

(4) Commandant's Hearing for Unsatisfactory Conduct. The Commandant shall consider the information provided during the hearing, the Midshipman's prior conduct record, and the Midshipman's overall suitability for commissioning. The Commandant may, at his/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 conduct probation and/or remediation.

(c) Recommendation for separation.

(5) Forward for Review Under the 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 Conduct System as detailed above.

3.6 Separation Procedures

a. Commandant Action. If the Commandant recommends a Midshipman for separation from the Naval Academy, the following will occur:

(1) A summary of the Commandant's hearing will be prepared by the Legal Advisor.

(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

(1) Separation by Superintendent. If the Superintendent concurs with the Commandant's recommendation for separation, whether as a result of a hearing or record review, the Midshipman will be advised of the decision in writing, and further advised of his/her right to submit a statement to the Secretary of the Navy showing cause why he/she should be retained at the Naval Academy. The Legal Advisor shall ensure that the Midshipman is advised of all rights regarding his/her potential separation from the Naval Academy.

(a) Check-Out. Unless otherwise authorized to do so, Midshipmen recommended for separation 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.

(2) Retained within Brigade 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, the Commandant may subsequently take the following actions:

(a) No further action.

(b) Placement of Midshipman on conduct probation and/or remediation.

3.7 Miscellaneous Considerations

a. Involuntary Admissions. A Midshipman's confession or admission, if 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/her rights under Article 31(b), UCMJ, the Fifth Amendment of the United States Constitution, or the rights granted under these procedures before a confession or admission was made does not, in 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/she determines the admission or confession was not coerced or otherwise secured under circumstances that would undermine its truthfulness or accuracy.

b. Bad Faith and Unlawful Searches. If a member of the Armed Forces, acting in an official capacity, conducts or directs a search which he/she knows is patently unlawful 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.

c. Self-Incrimination. Neither the accused Midshipman nor any witness, civilian or military, will be compelled to:

(1) Incriminate himself/herself under the UCMJ.

(2) Answer any questions which might tend to incriminate him/her.

(3) Make a statement or produce evidence if the statement or evidence is not material to the issue and may tend to incriminate him/her.

d. A person declining to answer a question on the basis of UCMJ 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.

SAMPLE FORM-1

Type of counseling:	Positive	Negative
Reporter:		
Alpha:		
Name:		
Company:		
Academic year:		
Semester:		
Commit date:		
Creation date:		
Reason:	[APPEARANCE, BEHAVIOR, MOTIVATION, COMPETENCE, BEARING, PROFESSIONALISM, PHYSICAL ABILITY, MORAL DECISION, COMMITMENT]	
Description:		
Counseling comments:		
Counseled by:	Name :	Rank :
EMI awarded:		
Validated: (by Company Officer or Senior Enlisted)		

SAMPLE FORM-2

Case Number: NNNNNNN
Alpha: NNNNNNN
Formatted Name: First Middle Last
Company: NN
Ac Yr Ending: YYYY
Semester: FALL or SPRING
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 conduct cases [NNNNNNN]
Reporter Type: Accuser [OFFICER, MIDSHIPMAN, CIVILIAN, OTHER]
Status: Indicates current status of the case in the conduct process
PIO Assigned: Rank/Name of assigned PIO
Other PIO: 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
Incident Summary: Text block for short summary of conduct 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]	
Conduct/Honor 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: 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)

PRELIMINARY INQUIRY REPORT*****Date: DD-MMM-YY

%

From:*Rank, First and Last Name (*Example: Maj John Joe*), Preliminary Investigative Officer

%

In the case of MIDN (*Example: Joe Smith, 123456, case #123456*)

%

Offenses reported:

%

Offense Code****Offense Description

(*Example: 04.21****Violation of the UCMJ, federal, state, or local law.*)

%

NOTE: If multiple counts of the same offense occurred, detail each count here

%

1.**I have interviewed the following witnesses:

%

****a.**(*Example: LT Jane Doe*)

%

****b.**(*Example: MIDN Joe Smith*)

%

2.**The following items of real evidence and/or documents are available:

%

****a.**(*Example: Statement from MIDN Smith*)

%

****b.**(*Example: NEX CCTV video footage*)

%

3.**Summary of Facts:

(*Give a basic summary of the events surrounding the Conduct offenses. Do not speculate. Ensure it is detailed enough to give the Awarding Authority a clear picture of the events and the individuals involved.*)

%

4.**Summary of Offenses:

%

(*04.21****Violation of the UCMJ, federal, state, or local law [Article 121]*)

%

******(1)(Example: With intent to permanently to deprive or defraud another person of the use and benefit of property or to appropriate it to his own use or the use of any person other than the owner, steals that property and is guilty of larceny;)*

%

******(2)(Example: YES; MIDN SMITH DID NOT PURCHASE A PACK OF BUBBLE GUM AT THE NEX AND TRIED TO CONCEAL THE ITEM BY PLACING IT HIS POCKET AND WALKED PAST THE POINTS OF PURCHASE DEPRIVING THE NEX OF ITS GOODS.)*

%

5.**Comments of the Investigating Officer:

(*State your recommendation on finding based on the evidence. 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 if desired.*)

%

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

%

Investigating Officers Signature: _____

Rank, First & Last Name and Billet: (*Maj John Joe, Performance Officer*)

* - Space % - Hard Return

COMDTMIDNINST 1610.2E
17 Aug 10

**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)

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

I, (Accused Mishshipmen's Name), (Alpha Number), XX company have been advised by (Preliminary Investigative Officer's Name) that I am suspected of:

Offense Code Offense Description

under the USNA Administrative Performance and Conduct System.

I have also been advised that:

- _____ (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.

I have been further advised that:

- _____ (1) I have the right to a full, impartial preliminary investigation.
- _____ (2) That I may have access to this investigation once completed.
- _____ (3) That I may provide information and evidence to the Preliminary Inquiry Officer.

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

<u>Offense Code</u>	Guilty / Not Guilty
----------------------------	---------------------

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 Adjudicating Authority. If I request a hearing, one shall be held by the Adjudicating Authority. If I elect to waive my hearing I understand that I will be asked to provide a detailed statement regarding my involvement in the alleged offense. The Adjudicating Authority may still require a hearing

Signature: _____	Witnessed by: _____
Printed Name: _____	Printed Rank, _____
	Name and Billet: _____
Date and Time: _____	Date and Time: _____

If I decline to provide a statement or if he/she feels a hearing is necessary. My presence would be required at the hearing. At the hearing I would have the following rights:

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

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

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

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

Signature: _____	Witnessed by: _____
Printed Name: _____	Printed Rank, _____
	Name and Billet: _____
Date and Time: _____	Date and Time: _____

**NOTIFICATION OF POTENTIAL REIMBURSEMENT
FOR ADVANCED EDUCATION**

Date: DD-MMM-YY

From: Commandant's Legal Advisor
To: Midshipman (Full Name), (Alpha), XX company

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 prior to or on Induction Day and, when applicable, reaffirmed prior to commencement of their second class year.

2. This notice informs you that, per reference (a), if you fail to complete those education requirements, you may either be directed to serve on active duty for the period specified or be required to remit monetary reimbursement for the educational benefits you received at the Academy, an indebtedness that could amount to between \$90,000 and \$175,000. Further, should you fail to complete any directed period of active duty, either voluntarily or due to misconduct, you may also be required to remit monetary reimbursement to the Government.

3. This notification is given for your benefit before you make any decisions regarding any proposed disciplinary action that could result in your disenrollment. This advise supplements the prior notices concerning your obligation to the government (active duty service or financial recoupment of the costs of education) that were provided to you prior to your induction to the Naval Academy and upon commencement of your second-class academic year.

Acknowledged: _____ Date: _____

Printed Rank, Name and Billet: _____

CHAPTER 4

DISCIPLINARY MEASURES: RULES AND EXPLANATIONS

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 4.2 Suspension of Awarded Punishment.....4-2
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4.1 Levels of Disciplinary Measures

a. The Table of Authorized Punishment provides guidance to Awarding Authorities for the administration of equitable discipline within the Brigade of Midshipmen while permitting them to exercise discretion in individual cases.

TABLE OF AUTHORIZED PUNISHMENT RANGES

	Minor	Major	6K
Demerits	0-50	0-90	0-100
Restriction (days)	0-21	0-45	0-60
Tours ¹	0-10	0-20	0-30
Reduction in Rank ² (months)	N/A	0-3	0-6

NOTES:

1. Tours may be assigned only if restriction is not assigned. Tours will be marched daily at 0530 with restrictees following restriction muster and tracked by both the Company Conduct Officer and Main Office. An Awarding Authority may not assign both tours and restriction for an offense.
2. Midshipman may be reduced in rank by one grade.

Table 4-A

b. Not every offense should necessarily result in the award of the maximum possible punishment. The philosophy of the system maintains that delinquencies and resultant awards should be handled at the lowest appropriate level consistent with good order and discipline. In some cases, justice may be better served if the Awarding Authority, using appropriate discretion, reduces a Minor-level offense to Form-1 counseling rather than assigning punishment based upon a Form-2.

c. A Midshipman who violates the same delinquency code during the same academic year should be awarded a higher punishment with each subsequent violation.

4.2 Suspension of Awarded Punishment. An awarded punishment may be suspended either entirely or in part by the Awarding Authority. Suspension implies that the punishment will be served only if the Midshipman is found guilty of another conduct offense during the specified suspension period. The amount of punishment suspended and the exact length of the suspension must be clearly documented in the Form-2.

4.3 Deferral of Restriction or Tours. Midshipmen with extraordinary circumstances may request to defer restriction (i.e., serve awarded restriction at a later date). The Awarding Authority may defer restriction immediately within the hearing or at a later date as the result of an approved special request chit. The Form-2 must be annotated and Main Office must be notified if restriction is deferred for any reason. Restriction will be automatically deferred or postponed for approved movement orders or summer training assignments. These automatic deferments will be tracked in Main Office on the 0800 report.

4.4 Types of Punishment

a. Demerits. Demerits are numerical points awarded when a Midshipman is found guilty of a conduct offense. A Midshipman's semester conduct grade results solely from the total number of demerits accumulated during that semester. Demerit ranges for each category of offense are listed in Table 4-A. A full explanation of demerits and their function within the Conduct System is presented in Chapter 6.

b. Restriction. Restriction is the physical confinement within specified conditions as delineated below. Restriction ranges for each category of offense are listed in Table 4-A. Restriction is tracked by Main Office via a Restriction Card (Figure 4-B) and on the 0800 report.

(1) Midshipmen on restriction are prohibited from:

(a) Town or weekend liberty.

(b) Exiting the confines of the Naval Academy for anything other than a legitimate sports team practice. For those on restriction, travel to Naval Support Activity Annapolis is prohibited for anything but legitimate sports team practice.

(c) Signing out of a restriction muster for any activity lower in priority than restriction.

(2) Midshipmen on restriction shall:

(a) Attend all restriction musters and perform all assigned duties unless they are required to attend an event listed higher on the Table of Priorities in MIDREGS.

(b) Be restricted to company area, except when attending musters, standing duty, and during authorized excusals. Authorized excusals include academic classes, use of academic facilities when required to complete academic projects, religious events within the Yard, physical training, and varsity, club, and intramural activities. Other possible excusals must be cleared via the OOW prior to absence.

(c) Sign out in Main Office immediately prior to authorized excusals and sign in immediately upon completion. Midshipmen do not need to sign out for class, military drill, or mandatory meals.

(d) Wear an inspection-quality working uniform (Service Dress Blues or Summer Whites for restriction musters) at all times, except during PT or while sleeping.

(e) Be in a restricted status immediately following the adjudication in which restriction is awarded unless specifically deferred by the Awarding Authority.

(3) Miscellaneous Guidelines for Restriction

(a) Midshipmen in a restricted status will muster daily (seven days per week) at 0530 to march a tour. Other restriction musters will be held throughout the day at the discretion of the OOW. Friday-Sunday and during any other designated holiday or leave period when classes are not in session, restricted Midshipmen will muster five times per day, according to the schedule below.

(b) Midshipmen who are sick in quarters (SIQ) are excused from restriction musters only with a legitimate SIQ chit from Brigade Medical. Midshipmen shall not be penalized for missing musters when SIQ.

(c) A Midshipman may not be placed on restriction before a finding of guilt by anyone except the Commandant or the Deputy Commandant. The Commandant may consider giving day-for-day credit if restriction is subsequently awarded for the offense.

(d) Restriction periods which end on a non-leave day terminate at 2359. Restriction periods which end on a leave day terminate at 1300. The terminal day continues to count as a full day of restriction. This is to mitigate travel risk.

(e) All musters must be accounted for by each Midshipman, whether via attendance or properly authorized excusal; however, a restricted Midshipman must attend at least one muster each day, three on days with five scheduled musters, in order for that day to count, regardless of excusals as noted above. Special circumstances will be considered for credit by the OOW and the Conduct Officer.

(4) 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-level Form-2 will be initiated charging offense 07.07.

2. The offense shall be annotated on the 0800 report and on the Midshipman's restriction card.

3. That day of restriction will not count as a day served.

(5) Restriction During Leave Periods. All restricted Midshipmen, regardless of class, will serve restriction during leave periods. Extra credit will not be given for restriction served during a leave period.

Midshipmen on restriction during a leave period are not allowed a break in restriction unless specifically authorized by the Awarding Authority or in a Commandant's Notice and approved by the Company Officer.

(a) Holiday Restriction. Promulgated per Commandant's Notice.

(6) Restriction Leading to Late Graduation. Only the Superintendent may authorize late graduation. The Superintendent will consider all cases of 1/C Midshipmen with outstanding restriction during the spring academic boards.

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

(8) Restriction Schedule (Monday-Thursday)

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

(9) Restriction Schedule (Friday-Sunday and All Other Designated Non-class Days)

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.

(a) The OOW may authorize additional surprise musters and duty requirements as necessary on any day of the week. Notification for an unscheduled event should be announced via the 1MC at least 10 minutes prior to the event.

(10) Restriction Musters

(a) When the restriction muster formation is called to attention, any restricted 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.

(b) 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.

(c) Midshipmen will be inspected in ranks at every muster by the OOW, SDO or MOOW. Only after the inspection will their attendance at the muster be noted on the restriction card. Midshipmen who are judged to be unsatisfactory in personal appearance at any restriction muster may not

receive credit for standing restriction that day at the OOW's discretion. 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.

(d) The Senior Restrictree shall act as Restriction Commander for the purpose of accountability at restriction musters. He or she will be held accountable for proper reporting of the restrictees.

(e) Special Permission to Miss Restriction Muster. A restricted Midshipman must ensure that he/she personally signs the restriction sign-out log if he/she will miss a muster for any 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 those listed in MIDREGS.

(f) 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 compare the cards of those restrictees who were not present against the restriction sign-out log. All restrictees who not signed out and not present at the muster will be marked UA on their cards and the MOOW will generate a Form-2 for the UA Midshipman.

4.5 Other Disciplinary Measures

a. Tours

(1) All restrictees 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 1/C Midshipman, appointed by the MOOW, 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 muster and supervise tours.

(2) Any Midshipmen assigned tours who are not in a restricted status will muster with the restrictees at 0530 daily and march a corresponding tour 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) EMI may be awarded as the result of either a Form-1 or Form-2. A description of the award should be entered into 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 Restricttees Subject to Extra Duties as Needed. During the academic year, restricttees are subject to extra duties as directed by the OOW. Extra duty shall be performed on a not-to-interfere basis with other military obligations such as academic classes, drill, intramurals, study hour and mandatory lectures.

(3) Reduction of Restriction for Extra Duty. Days of restriction should not be reduced in exchange for the performance of extra duty except under extraordinary circumstances. Only the Commandant or Deputy Commandant may reduce days of restriction. Requests for reduction of restriction for performance of extra duty in extraordinary circumstances will be submitted to the Conduct Officer.

c. Removal from Sports/Extracurricular Activities. The Commandant may remove members and managers from varsity teams, club teams, or other extracurricular activities for misconduct. The Commandant may suspend Midshipmen from any or all team or group activities including meetings, practices, training, competition, social functions, or any other involvement. If a Midshipman is placed in a "non-representation" status by the Commandant, he or she is prohibited from traveling with a team or activity or representing the Naval Academy as part of that team or activity, but may still attend practices and meetings, for the time period set forth by the Commandant.

d. Reduction in Rank

(1) Awarding Authorities may award a reduction of one rank for Major-level conduct offenses. The affected Midshipman will revert one class. He or she shall wear the uniform and insignia of that class. The reduced Midshipman will observe all rates and privileges, and will meet all requirements and functions of the assigned class. The reduced Midshipman will not be allowed to attend class functions of their original rank while serving in a reduced rank status. These functions may include 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) In the event that a Midshipman fails to adhere to the provisions of this punishment, his/her case shall be forwarded to the Commandant by the original Awarding Authority for further consideration.

(3) Any Midshipman striper who has demonstrated an inappropriate sense of duty may be recommended for striper rank reduction. Recommendations for reduction on the Battalion, Regimental, or Brigade level will be made by letter through the Midshipman's Battalion Officer and the Deputy Commandant to the Commandant for review/action. The Superintendent will be advised of all proposed reductions of senior (four-stripers and above) members of the Brigade staff.

e. Deprivation of Normal Liberty. Deprivation of normal 4/C liberty as a punishment is not authorized unless it is the result of restriction.

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

f. Automobile Privileges. The Commandant or Deputy Commandant may suspend or revoke Midshipman automobile privileges, (e.g., a Midshipman may have his or her 2/C and 1/C driving and parking privileges revoked during 3/C year). 1/C base parking and driving privileges may be revoked at the Company Officer level for repeated parking violations.

4.6 Conduct Probation

a. Conduct Probation

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

(a) as a result of a finding of guilt for a 6K-level conduct offense, in lieu of a recommendation to the Superintendent for separation, or

(b) any time a Midshipman's conduct is determined to be unsatisfactory, as defined in Chapter 6, and the Midshipman has not been recommended for separation, or

(c) as a result of retention 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) Specific terms and time periods of probation will be established by the Commandant.

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

(4) A Midshipman will be notified in writing that he/she has been placed on probation. The probation letter will specifically outline the length of the probationary period and the terms of the probation. Probation

letters will be issued by the Conduct Officer or the Commandant's Legal Advisor.

(5) The Commandant may impose any number of sanctions as part of conduct probation. These include, but are not limited to, the following:

- (a) Reduction in rank.
- (b) Referral to alcohol IMPACT training.
- (c) Referral to a conduct remediation program.
- (d) Assignment to a different company.
- (e) Referral to the Brigade ADEO for screening and/or active participation in the Right Spirit campaign for the term of their probation.
- (f) Loss of alcohol privileges or patronage of any establishment that serves alcohol.
- (g) Loss of privilege to represent the Naval Academy in any capacity (i.e., non-representation).
- (h) Loss of any or all class-specific vehicle privileges.

4.7 Separation

a. The separation authority for the Naval Academy is the Secretary of the Navy. On a case-by-case basis, the Commandant may recommend to the Superintendent that a Midshipman found unsatisfactory in conduct be separated from the Naval Academy.

b. If either the Superintendent or the Secretary of the Navy disagrees with the recommendation for separation and returns the case to the Commandant, the Commandant may hold an additional hearing regarding unsatisfactory conduct or may immediately place the Midshipman on conduct probation and/or remediation, unless otherwise directed.

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 separation 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														

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 4, 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: _____
To: Conduct Officer

Date: _____

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

(OOW, AOOW, MOOW, AMOOW)

(Printed Name and Rank)

SEND THIS ACKNOWLEDGMENT OF RESTRICTION TO THE CONDUCT OFFICE IMMEDIATELY

CHAPTER 5

DUTIES AND RESPONSIBILITIES

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

5.2 Awarding Authority

a. The Awarding Authority shall:

(1) Conduct a fair and impartial hearing.

(2) Determine whether the accused is guilty based upon a preponderance of the evidence. Consider all known and relevant circumstances associated with the case.

(3) Determine appropriate punishment for committed offenses considering the accused Midshipman's prior conduct record, overall performance, rank and experience, billet, chain of command input, the need to maintain good order and discipline, and any extenuating or mitigating evidence presented by the accused Midshipman.

(4) Advise the accused Midshipman, in person, of guilty and/or not guilty findings. If found guilty, advise the accused Midshipman of the extent and nature of the punishment awarded. Even if the adjudication is conducted without a hearing, the accused Midshipman shall be advised of the Awarding Authority's findings and the punishment awarded.

(5) Following adjudication of a case, provide all related documents to the Company Conduct Officer in order to allow entry of the findings and punishment (if awarded) into the Form-2.

5.3 Accused Midshipman

a. The accused Midshipman shall:

(1) Obtain legal counsel, if desired. Although military legal counsel will be made available at no expense to the accused Midshipman through the Office of Legal Counsel, the accused Midshipman is responsible to make contact with counsel in order to exercise this right, if desired.

(2) Meet submission deadlines established by the Conduct Officer or PIO. If an accused Midshipman cannot meet a submission deadline, it is the

Midshipman's responsibility to contact the appropriate officer in order to obtain an extension.

(3) Be responsible for contacting and notifying witnesses whom they request.

(4) 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 may, at his/her discretion, disregard evidence of alibi offered by the accused Midshipman at the adjudicative hearing.

5.4 Preliminary Investigative Officer (PIO)

a. The PIO shall:

(1) Conduct a fair and impartial inquiry into the facts and circumstances surrounding the alleged misconduct. The PIO should seek assistance from the Conduct Officer and Legal Advisor as required, and request the assignment of an assistant PIO or legal counsel, in more complex cases, if deemed necessary.

(2) 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.

b. Further instructions for the PIO can be found in Chapter 4.

5.5 Company/Battalion Conduct Officer

a. The Company/Battalion Conduct Officer shall:

(1) Act as a PIO for Minor-level conduct offenses that require the collection of materials or evidence.

(2) Schedule, set up, and attend Minor-level adjudications.

b. After adjudication by the assigned Awarding Authority the Company/Battalion Officer shall:

(1) Complete the following forms associated with punishment awarded at adjudication: Midshipman Acknowledgement of Restriction Form (Form 4-C) and Reduction in Rank Form, if applicable (Form 4-D).

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

(3) For Major-level cases: Ensure that the Form-2 is immediately updated in MIDS and the conduct package is forwarded to the Commandant's Conduct Office for filing or further processing.

5.6 Brigade Conduct Officer

a. The Brigade Conduct Officer shall:

(1) Assist Conduct Officer in training all Company Conduct Officers to properly execute their respective duties under this instruction. Additionally, the Brigade Conduct Officer will train the Battalion and Company Conduct Officers regarding the operation of MIDS as it pertains to conduct offenses.

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

(3) Prepare XYZ case studies. The Brigade Conduct Officer is instrumental in providing feedback to the Brigade of Midshipmen in the form of XYZ case studies which outline cases by describing the summary of events, offenses that were charged, summary of adjudication and punishment, and the final disposition of the case. The Brigade Conduct Officer shall:

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

(b) Upon approval, distribute XYZ cases to Company Conduct Officers for distribution.

5.7 Commandant's Conduct Officer

a. Prior to forwarding a Major-level conduct offense case to the Awarding Authority, the Commandant's Conduct Officer shall:

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

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

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

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

(5) Ensure the accused Midshipman's Company and Battalion Officers are kept informed of investigative and adjudicative proceedings.

b. If a hearing to adjudicate a Major-level conduct offense is contemplated, the Conduct Officer shall:

(1) Provide the accused Midshipman an opportunity to review the materials provided to the Awarding Authority, to include the PIR 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 accused 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, PIR 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 (as required), and any statements or evidence submitted by the accused Midshipman.

c. Maintain necessary records, ensuring that a copy of the PIR is placed in the Midshipman's conduct file.

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

e. Provide Awarding Authorities with precedence from similar cases.

5.8 Commandant's Legal Advisor

a. The Commandant's Legal Advisor shall:

(1) Provide advice to the Commandant concerning consistency in the administration of the Conduct System and offer recommendations to enhance consistency when required.

(2) Appoint PIOs in Major-level conduct offense cases and assign assistant PIOs and legal counsel as appropriate.

(3) Assist the Deputy Commandant in reviewing reports of Major-level conduct offenses to determine whether the offenses should be delegated to subordinate Awarding Authorities.

b. Review PIRs regarding Major-level conduct offenses which are not delegated by the Deputy Commandant and all referred PIRs. Advise Awarding Authorities whether sufficient evidence exists to support forwarding the case to an adjudicative hearing.

c. Be present during all unsatisfactory conduct hearings to ensure the rights of accused Midshipmen and witnesses are maintained and protected.

d. Provide Awarding Authorities such other opinions and advice as is deemed appropriate.

e. Advise the Commandant of the legality of awarding Midshipmen punishment and/or recommending Midshipmen for separation.

CHAPTER 6

CONDUCT GRADING SYSTEM, STANDING, AND UNSATISFACTORY CONDUCT ALTERNATIVES

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6.1 Grading System. A Midshipman's semester conduct grade is based solely upon accumulated demerits received for offenses which took place within that particular conduct semester. Table 6-A shows accumulated demerit ranges which correspond to each conduct semester letter grade.

DEMERIT RANGES PER CONDUCT SEMESTER 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	71+	71+	81+	91+

Table 6-A

a. Offenses Pending Adjudication at Semester's End. Midshipmen accused of a conduct offense which has not been adjudicated by the end of the conduct semester will receive a grade of "Incomplete" in Conduct until the case is adjudicated. Following adjudication, the appropriate grade will be entered by the Conduct Officer.

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

a. Proficient. A semester conduct letter grade of A, B, or C.

b. Deficient. Deficient status remains until a conduct semester letter grade of "C" or better is earned at the end of a semester following a deficient semester. This status exists if:

(1) A semester conduct letter grade of D is earned, or

(2) Accumulated demerits exceed two-thirds of the yearly allowance (see Table 6-B).

c. Unsatisfactory. Unsatisfactory status remains until a conduct semester letter grade of "C" or better is earned at the end of a semester following an unsatisfactory semester. This status exists if:

- (1) Guilt is determined in a 6K-level offense, or
- (2) guilt is determined in two separate Major-level offenses committed within two consecutive conduct semesters, or three separate Major-level offenses within a career at the Naval Academy, or
- (3) terms of probation are violated, or
- (4) a semester conduct letter grade of F is earned, or
- (5) accumulated demerits exceed the yearly demerit allowance (see Table 6-B), or
- (6) accumulated demerits exceed the career demerit allowance (see Table 6-B).

DEMERIT ALLOWANCES

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

Table 6-B

d. Delayed Graduation. Subject to approval by the Superintendent, the Commandant may recommend delayed graduation for first class Midshipmen who become unsatisfactory in conduct during the second semester of their 1/C year. If approved, such delayed graduation will occur between the scheduled graduation date and the end of the following fall semester.

6.3 Counseling and Notification of Deficient Status

a. Counseling. The Company Officer, Company Senior Enlisted Leader and/or the Company Commander should counsel any Midshipman they believe to be at risk of becoming deficient or unsatisfactory in conduct. The motivation for counseling, as well as specific guidance given, will be documented and placed in the Midshipman's performance jacket.

b. Notification of Deficient Status. When a Midshipman becomes deficient in conduct, the Company Officer, Company Senior Enlisted Leader, Company Commander and the Conduct Office receive notifications via e-mail of DEFICIENT CONDUCT STANDING from the Midshipman Information Data System. Midshipmen who are in a deficient standing should be notified of their status by their chain of command, at which time the Company Officer, Company Senior Enlisted Leader and/or Company Commander should counsel the Midshipman, document the counseling session, and file the documentation in the Midshipman's performance jacket. Failure of the chain of command to provide notification and/or conduct counseling does not preclude further processing if the concerned Midshipman subsequently becomes unsatisfactory in conduct.

6.4 Unsatisfactory Conduct Procedures. If a Midshipman becomes unsatisfactory in conduct, that Midshipman's overall record will be reviewed by the chain of command for referral to the Conduct Office. Recommendations by the chain of command are forwarded to aid the Commandant in deciding upon a course of action and final disposition.

6.5 Commandant Discretion Regarding Unsatisfactory Conduct. The Commandant may elect to review a Midshipman's record for unsatisfactory conduct processing if he/she determines such action is warranted based on the egregiousness of an individual offense, series of offenses, or totality of a Midshipman's record. If the Commandant elects to review a particular case, all probation options in Chapter 4 will be available to him/her, including recommending the Midshipman for separation.

CHAPTER 7

MIDSHIPMEN INFORMATION DATA SYSTEM (MIDS)

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7.2 Entering a Form-2.....7-1
7.3 Updating a Form-2.....7-2
7.4 Validating a Form-2.....7-3

7.1 General. The Midshipmen Information Data System (MIDS) allows online entry and tracking of Form-2s. It automatically calculates conduct standings and conduct grades based on demerits entered into Form-2s.

7.2 Entering a Form-2

a. MIDS allows electronic access to Form-2s by the following people using the annotated MIDS modules:

(1) Conduct Office: [Conduct-Validate/Maintain Mid Offenses]

(2) Battalion Officers, Company Officers, Company Senior Enlisted Leaders, Brigade Commander, Brigade XO, Brigade Conduct Officer, Regimental Commanders, Battalion Commanders, Battalion Conduct Officers, Company Commanders, Company Conduct 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 number of the accused Midshipman.

(2) [Semester] - Semester during which alleged offense occurred (fall or spring).

(3) [Commit Date] - Actual date upon which the alleged offense occurred.

(4) [Level of Offense] - Minor or Major (select Major for 6K-level offenses)

(5) [Primary Offense] - Offense code and description of highest level offense being alleged (only one may be selected).

(6) [Secondary Offense] - Offense code and description of other offenses being alleged, if necessary. It is possible to select multiple items from the secondary offense list.

(7) [Reporter Type] - Category of reporting individual (Midshipman, Officer, Civilian, CDO, or Other). Company Senior Enlisted Leaders must select "Other."

(8) [Incident Summary] - Brief description of events surrounding the alleged offense. The incident summary should be a short and concise

statement including sufficient detail to put the accused Midshipman on notice for the alleged offense. Reference OOW SITREP # if applicable.

7.3 Updating a Form-2

a. Entering a Plea. All accused Midshipmen shall read and acknowledge their rights, enter a statement, and enter a plea for each charge on the 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 MIDS. Midshipmen may update the plea until the Conduct Office has validated the Form-2.

b. Investigation of Conduct Cases. MIDS allows for the investigation of all offenses to be tracked online.

(1) Assigning a PIO. PIOs can be assigned to conduct cases by the Conduct Officer and Battalion XO's via the [Conduct-Assign PIO] module in MIDS or directly on the Form-2.

(a) PIOs selected from the drop-down menu of authorized personnel within MIDS are notified by e-mail of their assignment.

(b) PIOs assigned via the [Other PIO] field must be notified by the assigning officer.

(c) Others who receive a carbon copy of the PIO assignment e-mail include the accused Midshipman, Conduct Office personnel, Battalion XO's, Company Officers, Company Senior Enlisted Leaders, Company Commanders, and Company Conduct Officers.

(2) Uploading a PIR into MIDS. PIOs should use the [Conduct-Record Offenses] module to enter their completed PIRs. Reports can be entered by clicking the [Insert New Record] button 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. To update a previously stored PIR, 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 Statements and 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 may be entered by clicking the [Insert New Record] button 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) The following individuals may use the indicated MIDS modules to enter results of an adjudication into the Form-2:

(a) Conduct Officer: [Conduct Validate/Maintain Mid Offenses]

(b) Battalion XO's, Company Officers, Company Senior Enlisted Leaders, Brigade Conduct Officer, Battalion Conduct Officers, Company Commanders, Company Conduct Officers: [Conduct-Record Offenses]

(2) MIDS prevents users from entering punishments in excess of the adjudicator's authority or punishment limits defined within this manual.

e. Entering Awarded Punishments. MIDS allows entry of punishment details into the Form-2 and automatically calculates the end dates for all punishments except probation and remediation.

(1) Awarded Punishment

(a) [Demerits Award] - Enter the net number of demerits (do not include any demerits that were suspended).

(b) [Restriction] - Enter days of restriction awarded.

(c) [Extra Duty] - No Longer Applicable, leave blank.

(d) [Conduct/Honor Probation] - enter number of months if specified by adjudicator.

(e) [Remediation Award] - enter number of months if applicable.

(f) [Reduction in Rank] - Enter the number of months of reduction in rank and the start date, if applicable.

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

(2) Deferred Punishment. Restriction and tours may be suspended within the limits and guidelines established in Chapter 4. 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.

(3) [Award Comment] - A short narrative shall be entered that includes the following:

(a) Statement of Findings. Award comment should include the adjudicator's findings regarding guilt or innocence of specific offenses. (e.g., "Accused Midshipman was found guilty/not guilty of the following offenses..."). Additionally, it should include specific details on punishments and sanctions awarded and detail any suspensions or deferments and the reasons.

(b) Notes regarding any further disposition (e.g. Retained by Deputy Commandant, Forwarded to Commandant, Forwarded to Superintendent, Separated by Superintendent, Retained by Commandant, Retained by Superintendent, etc).

7.4 Validating a Form-2

a. Verification. Prior to validating a Form-2 the Conduct Office will ensure 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 entered into the punishment matrix on the Form-2 and the Award Comment is complete.

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

c. Calculations Performed upon Validation. Once the record has been validated, the conduct standing of the accused Midshipman is calculated and updated. If the Midshipman is determined to be deficient or unsatisfactory according to the guidelines in Chapter 6, an e-mail will be sent to the Conduct Officer, Company Officer, Company Commander, and the Company Senior Enlisted Leader.