



**DEPARTMENT OF THE NAVY**  
OFFICE OF THE COMMANDANT OF MIDSHIPMEN  
UNITED STATES NAVAL ACADEMY  
101 CALVERT ROAD  
ANNAPOLIS MARYLAND 21402-5100

COMDTMIDNINST 1610.2P  
CONDUCT  
7 Oct 2025

COMMANDANT OF MIDSHIPMEN INSTRUCTION 1610.2P

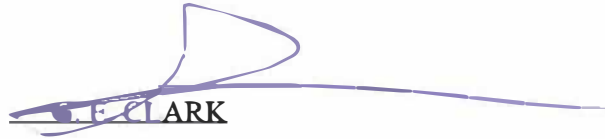
From: Commandant of Midshipmen, U.S. Naval Academy

Subj: ADMINISTRATIVE PERFORMANCE AND CONDUCT SYSTEM

1. Purpose. To update and clarify Administrative Performance and Conduct System requirements and procedures.
2. Cancellation. COMDTMIDNINST 1610.2N.
3. Scope and Applicability. This instruction applies to all U.S. Naval Academy (USNA) midshipmen comprising the Brigade of Midshipmen.
4. Information. This instruction is published for the information and compliance of members of the Brigade of Midshipmen and all personnel subordinate to the Commandant of Midshipmen. This is a complete revision and should be read in its entirety.
5. Record Management
  - a. Records created as a result of this instruction, regardless of format or media, must be maintained and dispositioned for the standard subject identification codes (SSIC) 1000 through 13000 series per the records disposition schedules located on the Department of the Navy/Assistant for Administration (DON/AA), Directives and Records Management Division (DRMD) portal page at <https://portal.secnav.navy.mil/orgs/DUSNM/DONAA/DRM/Records-and-Information-Management/Approved%20Record%20Schedules/Forms/AllItems.aspx>.
  - b. For questions concerning the management of records related to this instruction or the records disposition schedules, please contact your local records manager or the DON/AA DRMD program office.
6. Review and Effective Date. Per OPNAVINST 5215.17A, the Commandant's Conduct Officer will review this instruction annually around the anniversary of its issuance date to ensure applicability, currency, and consistency with Federal, Department of Defense, Secretary of the Navy, and Navy policy and statutory authority using OPNAV 5215/40 Review of Instruction. This instruction will be in effect for 10 years, unless revised or canceled in the interim, and will be reissued by the 10-year anniversary date if it is still required, unless it meets one of the exceptions in OPNAVINST 5215.17A, paragraph 9. Otherwise, if the instruction is no longer

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required, it will be processed for cancellation as soon as the need for cancellation is known following the guidance in OPNAV Manual 5215.1 of May 2016.



F. CLARK

**Releasability and distribution:** This instruction is cleared for public release and is available electronically via the USNA Commandant Web Page, <https://www.usna.edu/Commandant/comdinst.php>

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CHAPTER 1  
INTRODUCTION AND DUTIES AND RESPONSIBILITIES OF  
MIDSHIPMEN AND STAFF

1. General

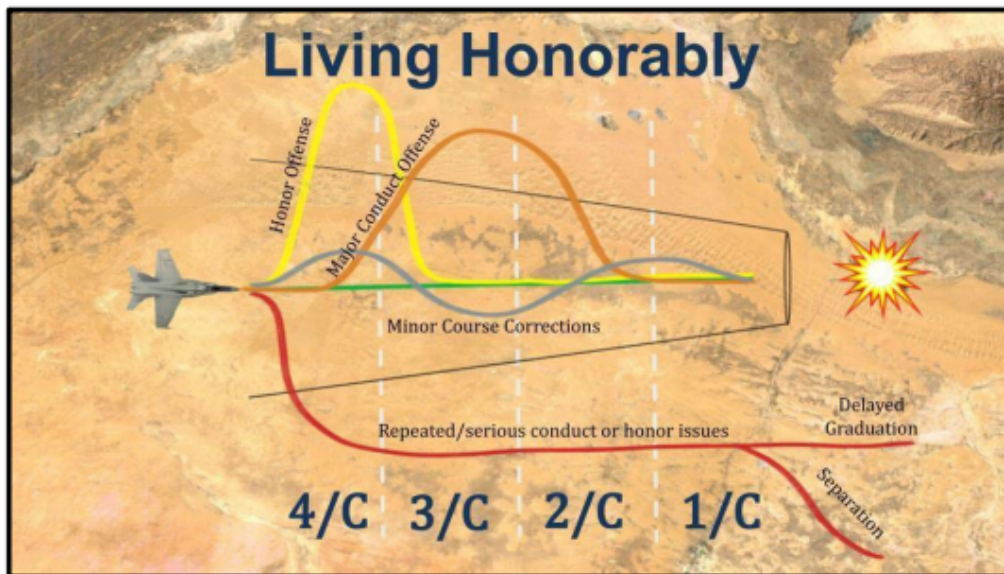
a. Authority. 10 U.S.C. § 8462; Article 2, UCMJ; Rule for Courts-Martial 306; JAGMAN §§ 102-104, 0118; USNAINST 1610.6A.

b. Terminology. The Administrative Performance and Conduct System will hereafter be referred to as the “Conduct System” in this instruction.

c. Purpose

(1) As the future leaders of our Navy and Marine Corps, midshipmen must uphold the high standards of the U.S. Naval Academy (USNA), and the Conduct System is primarily designed to promote good order and discipline. However, it is also designed to encourage midshipmen to take personal responsibility for their actions and the actions of those they observe, just as they will be expected to do upon commissioning.

(2) The Honor Concept, and its implementation, is governed by a separate instruction and process than the Conduct System; however, when it comes to a single midshipman, **honor** and **conduct** each feed into an individual’s overall aptitude to lead in a profession of arms; they are each essential elements of the character required to Live Honorably. The Conduct Manual provides tools for midshipmen to have significant ownership of the conduct system, on par with their existing ownership of the Honor Concept.



**Figure 1-1: Living Honorably**

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(3) As Figure 1-1 depicts, there are varied paths through the Naval Academy curriculum and leadership development process. Some midshipmen follow the green path through the “attack profile” to hit the target of successful on-time graduation and commission in nearly a straight line. Others depart the profile with significant offenses that require formal remediation (yellow and orange paths). Some depart the profile and do not return (red path). This conduct manual empowers midshipmen to help develop their classmates along the gray path with minor course corrections along the way, ideally before significant offenses occur.

(4) Midshipmen are expected to take ownership of their path to commissioning through personal commitment to proper conduct and also take ownership of the proper development of their peers and subordinates. To achieve this, midshipmen are expected to take appropriately tiered action in response to observed misconduct, support investigations, perform and receive counseling, attend conduct hearings, assess guilt under limited circumstances, and assign consequences with delegated and supervised authority. The Conduct System will serve to hold midshipmen accountable to the standards set forth in the Uniform Code of Military Justice (UCMJ), Midshipmen Regulations (MIDREGS), other USNA instructions and regulations, U.S. Navy instructions and regulations, and federal, state, and local laws during their time at USNA. Conduct is also an element of evaluating a midshipman’s aptitude for commissioning.

d. Nature. The Conduct System is purely administrative in nature and is not governed by the Military Rules of Evidence or Rules of Court Martial in the Manual for Courts-Martial. The procedures established in this instruction are designed to assist the Superintendent in assembling pertinent information prior to submitting a report of unsatisfactory conduct and a recommendation for disenrollment to the Secretary of the Navy under 10 U.S.C. § 8462. The Superintendent may, however, submit such a report without implementing any of the procedures contained in this instruction. Procedural errors in an investigation or adjudication, or other irregularities in investigations and hearings will not invalidate the proceedings or any action by the Deputy Commandant of Midshipmen, Commandant of Midshipmen, and/or Superintendent based thereon. However, those constitutional rights, inherent in administrative due process will be afforded to each midshipman, as specified under Section 4.2(g) of this Manual.

2. Standards of Performance. All midshipmen are expected to conduct themselves in a professional manner at all times, both on and off duty, in their personal behavior, and in relations with all others. Midshipmen must comply with federal, state and local law, as well as the Department of Defense, Department of the Navy, and USNA regulations, policies, and directives. Conduct which reflects discredit upon the Brigade of Midshipmen, USNA, or the U.S. Navy, or which indicates questionable personal morality is considered unbecoming of a U.S. Navy or Marine Corps officer candidate. Midshipmen found to be unsatisfactory in conduct may be recommended for disenrollment if it is determined that their retention is not in the best interests of the Naval Service.

### 3. Levels of Accountability for Midshipmen

a. Midshipmen “should not be blind to a single fault in any subordinate.” Midshipmen who observe misconduct are expected to *act*. Observing misconduct and taking no action whatsoever begins to erode character and develops bad habits in future officers. Specific Conduct Offenses

are listed in TAB A and Chapter 2. Further, midshipmen have five levels of approved actions when they observe misconduct, to include: (1) Verbal correction; (2) Aptitude and Conduct Tracker (ACT); (3) Written Correction (Negative Form-1); (4) Midshipman Independent Review Board; and (5) Conduct Offense (Minor, Major, and Separation Potential (SEPP) level). See Figure 1-2 below. Each level is a tiered level of accountability, and while some of the accountability stays between just two midshipmen, everything should be documented and be *available* for future consideration if the selected level of accountability is not effective in changing the offending midshipman’s conduct.

<b>Action</b>	<b>Description</b>
Verbal Corrections	These are entry-level corrections that do not require any formal documentation, but the midshipmen offering the verbal correction should make a personal Note, ideally electronically, that the verbal correction was made. All classes may use this action on all other classes.
Aptitude and Conduct Tracker (ACT)	One step above verbal, this is an externally documented verbal correction, but the details of the correction stay between the two midshipmen. The midshipman making the correction will inform the offending midshipman's Company Commander (CC) that a correction for an offense was made. CCs may delegate responsibility for the ACT Log to their XO and/or Company Conduct Officer, but the CC will retain overall responsibility for its execution. The CC (or delegate) will not ask for any amplifying information when a report is received. The CC will only document the date and the name of the midshipmen who made the correction and record each report in the ACT Log. If more than one ACT report comes in for the same midshipman, the CC will inform both (or all) reporting midshipmen that they each made an ACT report on the same midshipman. The reporting midshipmen may then proceed how they see fit: 1) take no further action, 2) give a Negative Form-1, 3) recommend a Midshipman Independent Review Board (MIRB) (see below), or 4) refer to the conduct system. It is their choice based on the nature of the offense and their assessment of the offending midshipman. Battalion and Regimental Commanders will each audit their CCs once per semester (for a total of two audits) to ensure they are maintaining their ACT Log. All classes may use this action on all other classes.

<p>Written Correction (Negative Form-1)</p>	<p>The purpose of the Form-1 is to record behavior trends that will encourage improved behavior without immediate punitive consequences. Written counseling must be acknowledged by the offender, given to the Company Officer/Senior Enlisted Leader (CO/SEL), and retained in the midshipman's service jacket. The midshipmen conducting the counseling should consider retaining a copy of the counseling sheet. For companies that maintain electronic service jackets, maintaining electronic Form-1s is acceptable. Form-1s given by squad leaders or higher may assign up to two hours of Extra Military Instruction (EMI). All upper-class may use this action on any peer or lower class. Midshipmen cannot "counsel up the chain" with a Negative Form-1.</p>
<p>Midshipman Independent Review Board</p>	<p>Prior to using the formal conduct system, the midshipman chain of command may refer an offending midshipman to a MIRB. A MIRB should be utilized when a midshipman has a trend of small offenses. A MIRB will review what factors could be causing the misconduct and how the midshipman can correct their actions and move forward with their chain of command support. MIRBs will consist of three midshipmen:</p> <ol style="list-style-type: none"> <li>1) The assigned Battalion Commander or XO,</li> <li>2) The assigned CC or XO, and</li> <li>3) The assigned Squad Leader.</li> </ol> <p>Battalion Commanders will receive referred cases from CCs and coordinate scheduling and conducting MIRBs. The Battalion Commanders will maintain a joint log of infractions to sanctions to help maintain consistency between regiments and over time. MIRBs can assign up to 8 hours of EMI (no more than one hour of activity per day) and up to 10 "in company" tours. MIRBs can result in a speeding ticket or a minor conduct offense. MIRBs may be observed by the CO or SEL of the offending midshipman. The script for a MIRB is in TAB K. All classes may be sent to a MIRB, including 1/C Midshipmen.</p>
<p>Minor Conduct Offense</p>	<p>For first-time Minor-level offenses, CCs may adjudicate underclass with the oversight of their CO. Multiple Minor-level offenses will be adjudicated by Battalion Officers (the second offense in the same academic year and the third within a career at the Naval Academy). Maximum sanctions for a Minor-level offense, listed in Chapter 5, can reduce a midshipmen's conduct grade to a B. CCs may only adjudicate underclass (2/C and lower). Only COs will adjudicate minor offenses for 1/C Midshipmen.</p>

Major Conduct Offense	Major-level offenses involve investigations to determine the appropriate Adjudicating Authority and will usually be the Battalion Officer. Maximum sanctions for a Major-level offense, listed in Chapter 5, can reduce a midshipmen’s conduct grade to a D or F based on class year. All classes are subject to major offense processing.
Separation Potential (SEPP) Offense	The Deputy Commandant is the adjudicating authority for SEPP offenses. The Deputy Commandant may assign maximum sanctions, listed in Chapter 5, and forward the case to the Commandant recommending separation. All classes are subject to SEPP offense processing.

**Table 1-1. Description of Approved Responses to Misconduct**

4. Options for Faculty/Staff to Process Misconduct

a. Form-1. All officers and faculty are encouraged to utilize Form-1s as a counseling tool, both positive and negative, and send via email or paper copy to the CO or Company SEL who will maintain all reports in midshipmen performance jackets.

b. Form-2. The Form-2 is an electronic report form for a conduct offense, which is maintained in Midshipmen Information System (MIDS). The Form-2 identifies who is suspected of committing an offense and delineates whether the alleged action is considered a Minor, Major, or SEPP offense. Any officer, SEL, or faculty member, who has a reasonable belief that a conduct offense has been committed, should report the suspected offense using a Form-2 in MIDS. Suspected offenses may also be reported directly to COs, SELs, or the Commandant of Midshipmen’s Conduct Officer for entry into MIDS. The Conduct Officer and company leadership will receive a notification email that a suspected offense has been reported.

(1) Upon submission of a Form-2, an investigator will be assigned in accordance with Section 3.1, unless an investigation is not required. The Commandant of Midshipmen’s Conduct Officer and Legal Advisor may determine that an investigation is not required for some minor conduct offenses when a midshipman voluntarily and readily admits guilt.

(2) The offense description included in the Form-2 should be a short and concise statement, but with sufficient detail to describe the alleged event and put the accused on notice of potential witnesses and evidence needed to properly defend themselves. In the event an offense is a violation of the UCMJ, the elements of the particular punitive Article will also be included in the Form-2 offense description. The name(s) of any other midshipmen involved in the same offense should be included in the offense description.

c. “Speeding Tickets.” Not all midshipmen infractions require the administrative process of full adjudications. To help sustain a culture of accountability, Naval Academy staff, COs and SELs, and 1/C Midshipmen are empowered to issue midshipmen 5 demerits for routine infractions of a specified nature. Commonly referred to as “speeding tickets,” this process will

give accountable feedback to midshipmen on their professionalism and execution of duties. Per Chapter 6 of this manual, a midshipman could receive between five and seven “speeding tickets” before their conduct grade would be affected. Examples of deficiencies are listed in TAB J, and they may also be issued by the Commandant or Deputy Commandant based on reports from “Shore Patrol for MIDREGS” watch standers. Speeding Tickets will be entered into MIDS with offense code 02.00, closed out by their CO or SEL, and do not require adjudications. If a “speeding ticket” is awarded in error to the wrong midshipman or for a deficiency that did not actually occur, the midshipman will provide evidence or documentation to their CO or SEL. If the claim of an error is substantiated, the CO or SEL will inform the Conduct Officer who will then remove the speeding ticket from their record.

## 5. Rights of Accused Midshipman

a. Obtain legal counsel, if desired, in a timely manner, normally considered 3 working days. Conduct System procedures, however, will not be delayed on account of a midshipman retaining civilian counsel, regardless of when the midshipman retains counsel. Likewise, a Freedom of Information (FOIA) and/or Privacy Act (PA) request will not delay any procedures under this instruction.

b. An accused midshipman is responsible to contact legal counsel in order to exercise this right, if desired, and will notify the Conduct Officer as soon as legal counsel is retained. Once notified, requests for interview by a Preliminary Investigative Officer (PIO) will be made via Commandant Legal to retained legal counsel. However, USNA personnel may continue to communicate with the accused midshipman regarding scheduling, logistics, and deadlines pertaining to the conduct matter. It remains the responsibility of the accused midshipman to communicate scheduling and deadlines to his or her counsel.

c. Make timely submission of matters relevant to their case. Midshipman, or their legal counsel, will meet submission deadlines established by the Commandant of Midshipmen’s Conduct Officer. If an accused midshipman, or retained legal counsel, cannot meet a submission deadline, it is the midshipman’s responsibility, whether represented by counsel or not, to contact the Conduct officer in order to request an extension. An adjudication hearing, or appeal deadline date, will not be delayed in the event a midshipman, or legal counsel, submits untimely matters for consideration, without the express approval of the adjudicating authority.

d. Call Character Witnesses. The accused and/or retained legal counsel, will be responsible for contacting and notifying character witnesses as desired, in accordance with this instruction, to include ensuring their presence at the hearing. The accused and/or retained legal counsel, will communicate intended character witnesses to the Conduct officer in accordance with deadlines set forth in this instruction or by the Conduct officer.

e. Exculpatory Evidence. While an accused has the absolute right to silence, an accused will be provided the opportunity to disclose any matters to the PIO pertaining to potential exculpatory evidence and/or defenses to charges prior to completion of the preliminary inquiry. This includes the right to call witnesses that may proffer exculpatory evidence. “Fact” witnesses will be submitted to the adjudication authority in accordance with this instruction.

f. Review Evidence. The accused has an absolute right to review any evidence that will be considered by the adjudicating authority. The accused, however, is not entitled to release of that evidence under this instruction.

#### 6. Duties of the Preliminary Investigative Officer

a. Conduct a fair, impartial, and thorough inquiry into the facts and circumstances surrounding the alleged misconduct. The PIO will seek assistance from the Commandant of Midshipmen's Conduct Officer, at a minimum, and may seek assistance from the Legal Advisor throughout their investigation to ensure complete understanding of the case. The PIO should request the assignment of an assistant PIO and/or assistance of legal counsel in more complex cases, if deemed necessary.

b. When questioning an accused, utilize the Midshipman Suspect's Acknowledgment and Waiver of Rights Form and Defense Service Office contact information (TAB C), Notification of Potential Reimbursement for Advanced Education (this pertains to 1/C and 2/C Midshipmen only) (TAB D), and the retaliation warning (TAB L). The retaliation warning can be amended to ensure that the accused has proper notice as to what witnesses would be covered under the retaliation warning. The PIO will provide copies to the accused upon acknowledgment and signature.

#### 7. Duties of the Company/Battalion Midshipmen Conduct Officers

a. Maintain the company's ACT Log if directed by the CC.

b. If requested, collect materials or evidence for Minor offenses.

c. Schedule, set up, and attend your Company/Battalion adjudications.

d. Organize midshipmen observers for adjudications at the Adjudicating Authority's discretion.

e. Battalion Conduct Officers will track the status of ongoing investigations in their Battalion and keep the reviewing Battalion Officer and Commandant of Midshipmen's Conduct Officer informed of their status.

f. After adjudication by the assigned Adjudicating Authority, the Company/Battalion Conduct Officer will:

(1) Ensure completion of the following forms associated with sanctions awarded at adjudication: Midshipman Acknowledgement of Restriction Form (TAB G) and the Restriction Card (TAB H).

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

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

g. In addition to their duties in their Company, Company Conduct Officers will be responsible for assisting the Officer of the Watch and Messenger of the Watch during restriction musters. This will be accomplished utilizing a watch bill. Guidance will come from the Bancroft Hall Watch Instruction, COMDTMIDNINST 1601.10U.

#### 8. Duties of the Brigade Conduct Officer and Conduct Sergeants

a. Assist the Commandant of Midshipmen's Conduct Officer in training all Battalion and 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.

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

c. Coordinate an investigation report review with the accused at least 24 hours prior to their adjudication.

d. For Commandant of Midshipmen and Deputy Commandant of Midshipmen adjudications, the Brigade Conduct Sergeant(s) will assist the Brigade Conduct Officer in the following:

(1) Schedule, set up the venue (Conference Room or Chief Petty Officer Mess), and attend all Deputy adjudications.

(2) Ensure the accused midshipman and the accused midshipman's midshipman chain of command (i.e., Squad Leader, Platoon Commander, CC, Battalion Commander, and varsity/club sport team captain, or Extracurricular Activity (ECA) President, as applicable) are prepared for the adjudication. If they cannot attend the adjudication, they may submit a written statement on their behalf.

(3) For "non-sensitive" cases (not sexual or intensely personal issues), ensure that six (6) observers are present for Commandant of Midshipmen and Deputy Commandant of Midshipmen adjudications/hearings (i.e., one (1) midshipman present from each Battalion, one (1) midshipman present from each class, and one (1) midshipman from the varsity/club sport team or ECA of the accused, if applicable).

e. 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 sanctions, and the final disposition of the case. The Brigade Conduct Officer will:

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(1) Assign a due date to the adjudicated midshipman for their XYZ case, ensure the adjudicated midshipman knows to follow the XYZ Case example format posted on the Conduct Website, collect the XYZ case at the time it is due, and edit it prior to submitting it to the Commandant of Midshipmen's Conduct Officer for approval.

(2) Ensure Battalion and Company Conduct Officers are alerted when new XYZ cases are posted on the Conduct Website to guarantee widest dissemination of new XYZ cases.

#### 9. Duties of the Commandant's Conduct Officer

a. Appoint PIOs to investigate Major and SEPP conduct offense cases.

b. Prior to forwarding a Major or SEPP conduct offense case to the Adjudicating Authority, the Commandant of Midshipmen's Conduct Officer will:

(1) Ensure that the PIO utilizes the Military Suspect's Acknowledgement and Waiver of Rights Form, Defense Service Office Contact information, and the Notice of Potential Reimbursement, and Retaliation Warning, as applicable.

(2) Provide assistance to the PIO as necessary, to include obtaining reports from outside agencies. The Conduct Officer is encouraged to work with the Legal Advisor for assistance in obtaining evidence from outside agencies.

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

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

(5) Forward the PIR to the Commandant of Midshipmen's Legal Advisor for review in accordance with Chapter 3, section 3.(f) and (g) of this instruction.

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

c. If a hearing to adjudicate a Major or SEPP conduct offense is warranted, the Conduct Officer will:

(1) Ensure the accused midshipman is notified of the charges contained in the Form-2 and given the opportunity to enter a plea to the charges. In cases where charges have been modified and/or added subsequent to the PIR's investigation by way of legal review and/or Deputy Commandant review, and those charges are a Major and/or Separation level offense, the Conduct Officer will direct the PIO to inform the midshipman and utilize TAB C. The PIO will also evaluate the new and/or modified charges and submit their opinions and recommendations concerning those charges.

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(2) Provide the accused midshipman an opportunity to inspect the materials considered by the Adjudicating Authority, to include, but not limited to, the PIR with enclosures, any physical evidence, chain of command comments, character or material witness statements.

(3) Schedule the adjudicative hearing, informing the accused midshipman and accused midshipman's chain of command, including their varsity/club sport team captain or ECA President, if applicable.

(4) Provide to the Adjudicating Authority a complete hearing package to include: Midshipman Suspect's Acknowledgement and Waiver of Rights Form, the Notice of Potential Reimbursement (when applicable), PIR with enclosures, any physical evidence, 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.

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

e. 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 USNA.

f. Provide Adjudicating Authorities with precedence from similar cases.

g. For Major and SEPP offenses that could affect security clearances (drug cases, fraudulent appointment, financial misconduct, etc.), inform the USNA Special Security Office after final adjudication by sending an email to SSO-group@usna.edu with the midshipman's name and nature of the conduct offense under investigation, and they will determine further action.

#### 10. Duties of the Commandant's Legal Office

a. Provide advice to the Commandant and/or Deputy Commandant of Midshipmen concerning consistency in the administration of the Conduct System and offer recommendations to enhance consistency when required.

b. Review PIRs regarding Major and SEPP conduct offenses. Advise Adjudicating Authorities whether probable cause exists to support forwarding the case to an adjudicative hearing.

c. Be present during all Commandant and Deputy Commandant adjudications to ensure the rights of accused midshipmen and witnesses are maintained and protected.

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

e. Advise the Commandant and/or Deputy Commandant of Midshipmen of the legality of awarding midshipmen sanctions and/or recommending midshipmen for disenrollment.

## 11. Adjudicating Authority's Guidance on Case Processing

### a. Disposition Factors and Charging Decisions

(1) Determine which charge(s) to bring—most appropriate based on the allegation and the elements of offenses in TAB A.

(2) Levels of charges: General considerations (non-binding) regarding what level to charge an offense—Minor, Major, SEPP—are as follows: (1) the effect of the offense on the morale, health, safety, welfare, and good order and discipline of the Naval Academy; (2) the nature, seriousness, and circumstances of the offense and the accused's culpability in connection with the offense; (3) the extent of the harm caused to any alleged victim of the offense; (4) whether admissible evidence will likely be sufficient, per the preponderance of evidence standard, to obtain and sustain a finding of guilty in an adjudication conducted by the adjudication authority; (5) input, if any, from law enforcement agencies, including but not limited to the Naval Criminal Investigative Service (NCIS) and civilian law enforcement agencies, involved in or having an interest in a specific case; (6) the accused's prior adjudication and/or misconduct history at the Naval Academy, if any; and (7) the impact and appropriateness of alternative disposition options—including, but not limited to Midshipman Disenrollment Board proceedings—with respect to the accused's potential for continued service and the responsibilities of the Naval Academy with respect to justice and good order and discipline.

(3) In addition to the general considerations above, TAB A has additional explanations/considerations that pertain to specific charges.

b. Applicability to Non-USNA Midshipmen. All persons enrolled as midshipmen at the USNA and all cadets of other service academies, Naval Reserve Officers Training Corps units, and foreign military academies that are 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 10 U.S.C. § 802, the UCMJ. All midshipmen are further subject to the provisions of U.S. Navy Regulations and applicable instructions and notices.

c. Multiple Processing of the Same Charge, Double Jeopardy, Limitations on Sanctions Awarded Under the Conduct System.

(1) Multiple Charges for the Same Incident. Multiple alleged offenses that are closely related in time, place, or nature so as to form one course of action will normally be considered as one event. Under such circumstances, only one Form-2 will be generated. The most serious charge will be used as the primary charge, with all others listed as secondary charges. Ultimately, a single comprehensive award of sanctions will be determined by the Adjudicating Authority upon finding the accused guilty of any or all charges which resulted from the event.

Although strongly encouraged, there is no requirement that all charges stemming from a single incident be adjudicated at the same time;

(2) Double Sanctions Prohibited. The total award of sanctions for all offenses arising from a single incident or course of conduct cannot exceed the maximum sanctions allowed for the most serious offense of which the midshipman was found guilty. For example, if a midshipman is charged with a SEPP and Major level offense for conduct arising from the same incident, and is found guilty of both, the maximum sanctions allowed will be for the SEPP offense. Action pursuant to the Conduct System does not preclude later trial by courts-martial, in accordance with the UCMJ.

(3) Conduct and Honor Charges. A midshipman will not be adjudicated under both the Conduct System and Honor System for the same offense (e.g., Tap and Go, theft). All charges stemming from a single course of conduct, without an intervening event, will normally be adjudicated through only one of the systems. While a reporter may choose to report a case through any appropriate system, the Conduct Officer and Honor Officer should coordinate, in consultation with the Commandant of Midshipmen's Legal Advisors, to determine the most appropriate system for disposing of any case which was or could have been referred into both systems. However, the Commandant of Midshipmen has final authority as to which system will be used in any particular case. This does not preclude the possibility that a midshipman will be charged in both systems for a particular case based on subsequent acts (e.g., lying at any time to cover up prior or ongoing misconduct). The Commandant of Midshipmen invariably reserves the authority to assign Honor Remediation for any conduct offense that contains an honor element (e.g., theft or using/possessing a false ID).

(4) Civilian Charges and the Conduct System. It is not considered double jeopardy for a midshipman who is subject to prosecution by civilian authorities also to be charged under the Conduct System. The Conduct System and the civilian criminal justice system are not mutually exclusive. It is not necessary that any civilian legal action be completed prior to administrative action taking place under the Conduct System.

(5) Increase in Sanctions Prohibited. Once particular sanctions under the Conduct System have been awarded, they may not be increased upon appeal or otherwise. This does not prohibit the Commandant of Midshipmen from placing a midshipman on conduct probation and setting appropriate conditions, to include loss of privileges or loss of leave, in accordance with Chapter 5, sections 5 and 6 of this instruction. Such conditions do not constitute an increase in sanctions.

(6) Multiple Awards of Sanctions Allowed. There is no requirement that all open misconduct cases for a particular midshipman be adjudicated by the same Adjudicating Authority. An Adjudicating Authority adjudicating multiple cases regarding unrelated incidents of alleged misconduct in a single hearing may award the maximum sanctions allowed for the most serious offense of which the midshipman was found guilty for each case. The Adjudicating Authority must clearly identify the sanctions awarded for each case. However, multiple cases involving misconduct with a significant nexus (e.g., multiple instances of unauthorized absence, fraternization, or harassment), must be treated as one case, triggering the prohibition on double

sanctions. Adjudicating Authorities should consult with the Commandant of Midshipmen's Legal Advisor prior to adjudicating multiple cases for the same midshipman.

(7) Statute of Limitations. There is no statute of limitations for misconduct committed as a midshipman.

(8) Administrative Separation Processing Procedures. The Administrative Performance and Conduct systems are administrative in nature. Therefore, in cases in which the Commandant determines that a midshipman should be processed for administrative separation; sanctions may not be necessarily desired or proper (e.g. fraudulent or erroneous induction, self-reported misconduct, condition not amounting to a disability, Family Advocacy Program failure, alcohol treatment failure, etc.), and the Commandant may utilize the Administrative Separation Processing system to process the case. For cases in which the Commandant deems an Other Than Honorable (OTH) discharge may be appropriate, the Commandant will consider recommending that the Superintendent refer the matter to a Midshipman Discharge Board (MDB).

d. A PIR review with the accused should be scheduled at least 24 hours prior to their adjudication.

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

a. Fall: 0000 on the day of graduation until 2359 on the last day of fall final exams for the Brigade (not the individual).

b. Spring: 2359 on the last day of fall final exams for the Brigade (not the individual) until 0000 graduation day.

### 13. Associated Rights with the Honor System

a. In accordance with the Honor Concept, midshipmen, like officers in the Fleet, are expected to answer honorably and truthfully all questions posed to them as a midshipman.

b. However, no person (midshipman or faculty/staff) may interrogate, or request any statement from, a midshipman he or she suspects of having committed an offense without first informing the midshipman of their rights under UCMJ, Article 31(b).

### 14. Conditions for Graduation

a. 1/C Midshipmen must have at least a C grade in Conduct (see Chapter 6) to be eligible to graduate with their class.

b. Only the Superintendent may direct a late graduation.

c. 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.

d. 1/C Midshipmen who commit Major or SEPP conduct offenses during the second semester of 1/C year should be prepared to not graduate on time (assuming graduation occurs) in order to properly investigate, adjudicate, and (if found guilty), re-evaluate graduation eligibility.

CHAPTER 2  
SPECIFIC CONDUCT OFFENSES

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.

b. Offense Codes. A four-digit offense code is assigned to each delinquency defined within this instruction. 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. When midshipmen commit multiple offenses, or repeat offenses, either the reporting midshipman or officer or the Conduct Officer may elevate the level of the offense either one or two levels. For example, the second offense of 05.01 (irresponsible drinking) may be entered as a Major (even though the first offense is a Minor). On the third offense, it may be entered as a SEPP.

d. The specifics of a case may, in the Commandant's or Deputy Commandant's judgment, warrant elevation to a higher level of offense. For example, taking a sip of beer is not the same as buying and consuming a bottle of vodka, so drinking underage could differ from case to case. Offenses listed as minor have the potential to be adjudicated as minor if they are actually minor in nature, and therefore may be adjudicated at the CC level, but if they are serious in nature, the Commandant and Deputy Commandant have the authority to elevate the level of any offense.

e. The adjudicating authority will need approval from the Deputy Commandant to elevate or downgrade the level of an offense after that case has been delegated to them. The Commandant and/or Deputy Commandant may, upon review, elect to downgrade a SEPP level offense to a Major level offense, or a Major level offense to a Minor, if conditions warrant.

f. The elements for each offense are in TAB A.

2. Regulations, Orders, Instructions, Duty

a. 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 their rifles: MIDN 2/C X, MIDN 3/C Y.." or "All 3/C Midshipmen will empty their basement lockers by...").

c. Sanctions 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 malicious intent or ignorance/negligence. The effects of the delinquency should also be considered.

<b><u>Offense Code</u></b>	<b><u>Delinquency</u></b>	<b><u>Level</u></b>
<b>02.02</b>	Violation of oral or written orders addressed to an individual or a group.	<b>Minor</b>
<b>02.04</b>	Violation of a USNA instruction, regulation, or notice.	<b>Minor</b>

**Note:** Specify the instruction, regulation, or notice which was violated. If the offense is specifically described by another offense code, that offense code should be used. USNA instructions, regulations, and notices are those applicable specifically to the Brigade of Midshipmen, including but not limited to USNA Instructions, Commandant of Midshipmen Instructions (COMDTMIDNINST), Academic Dean Instructions (ACDEANINST), and Athletic Director Instructions (DIRATHINST).

<b>02.05</b>	Failure to perform a duty properly/dereliction of duty.	<b>Minor</b>
<b>02.06</b>	Interfering with an individual who is performing a duty.	<b>Minor</b>
<b>02.07</b>	Aiding, abetting, counseling, commanding, or procuring the commission of an offense actionable under this instruction.	<b>Minor</b>

**Note:** Offense code 05.04 will be used for aiding/abetting an alcohol offense.

<b>02.08</b>	Failure to report or address a conduct violation.	<b>Minor</b>
<b>02.08</b>	Failure to report or address a violation of the UCMJ.	<b>SEPP</b>
<b>02.09</b>	Failure to use good judgment (if the offense is specifically described by another offense code, that offense code should be used).	<b>Minor</b>

3. Fourth Class Training Program. Upper-class midshipmen have the 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 the duty to abide by the terms of the plebe year training program.

<u>Offense Code</u>	<u>Delinquency</u>	<u>Level</u>
<b>03.01</b>	Failure of 4/C Midshipman to follow requirements of plebe year training program as outlined in MIDREGs, Reef Points, and other relevant instructions, directives, and orders.	<b>Minor</b>

**Note:** This offense code does not apply to requirements of the plebe year training program where other specific sanctions are provided (e.g., failure of ProKnow).

<b>03.02</b>	Failure of upper-class midshipman to support the plebe year training program (break in approved training protocol).	<b>Minor</b>
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4. Standards of Behavior. The standards of decorum and conduct expected of a commissioned officer are also expected of midshipmen.

<u>Offense Code</u>	<u>Delinquency</u>	<u>Level</u>
<b>04.01</b>	Fraternization, not of a romantic or sexual nature.	<b>Minor</b>
<b>04.02</b>	Fraternization, of a romantic or sexual nature.	<b>Major</b>
<b>04.03</b>	Sexual misconduct.	<b>SEPP</b>

**Note:** Examples of sexual misconduct are, but not limited to generating pornography, sexually motivated nudity, and indecent exposure at the USNA or other locations under military control, and sexual acts or contact committed under circumstances which are service discrediting or prejudicial to good order and discipline. Areas under military control include the USNA and all naval vessels.

<b>04.04</b>	Sexual harassment as defined in current SECNAV, OPNAV, and USNA Instructions.	<b>SEPP<sup>1</sup></b>
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**Note:** Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and passive or indirect actions that create a hostile work environment such as sexually explicit posters, pictures or screen savers, and other verbal or physical conduct of a sexual nature.

<b>04.05</b>	Disrespect or insubordination to a higher ranked midshipman or a midshipman in a position of authority.	<b>Minor</b>
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<sup>1</sup>The Office of Special Trial Counsel (OSTC) will hold original jurisdiction over suspected sexual harassment offenses taking place after 31 December 2024. These cases will be investigated by the Naval Criminal Investigative Service.

**04.05** Disrespect or insubordination to a superior officer or a individual in a position of authority (SEL, instructor ...etc.). **Major**

**Note:** It is not required that the disrespectful behavior be in the presence of the superior, but ordinarily one should not be held accountable under this offense code for what was said or done in a purely private conversation.

**04.06** Challenge to personal combat or threat of physical violence. **Major**

**Note:** When the challenge or threat culminates in physical action, conduct code 04.21 (SEPP) (UCMJ Article 128) will be charged.

**04.07** Negligent use of computer or government network. **Minor**

**04.07** Wrongful use of computer or government network. **SEPP**

**04.08** Possession, viewing, or display of pornographic materials in Bancroft Hall, on the USNA complex, or at other locations under military control. **Major**

**04.09** Displays of affection (anytime in Bancroft Hall or when in uniform in public). **Minor**

**Note:** Displays of affection are defined as physical acts which could reasonably be interpreted by an observer as evidence that those participating are involved in a romantic relationship. Displays of affection include, but are not limited to, hand holding, touching, massaging/back rubs, sitting on a lap, touching, and kissing.

**04.10** Harassment of a non-sexual nature as defined in current SECNAV, OPNAV, and USNA Instructions. **Major**

**Note:** Harassment includes, but is not limited to, abusive or pejorative language and actions that denigrates another person. Harassment typically involves, but is not required to involve, language and actions concerning age, ethnicity, race, religion, sex, sexual orientation, or gender identity. Examples include, but are not limited to, racial or ethnic slurs, humor, jokes or teasing about sex, race, age, religion, disability, or gender-specific traits; abusive language, insults, or threats; vulgar sounds or gestures; offensive or hateful pictures, posters, calendars, cartoons, or obscene e-mail; offensive or derogatory written materials; exclusionary or demeaning actions or activities based on age, ethnicity, sex or race.

**04.11** Negligent destruction or damage of government or private property. **Minor**

**04.11** Intentional destruction or damage of government or private Property. Negligent Waste of Government Resources. **Major**

**EXCEPTION:** 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.

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| <b>04.12</b> | Introduction of, or failure to remove, unauthorized persons from Bancroft or King Hall.   | <b>Minor</b> |
| <b>04.13</b> | Entering a restricted area, including roof areas or any areas marked as restricted.   | <b>Minor</b> |
| <b>04.14</b> | Unauthorized means of ingressing or egressing either Bancroft Hall or the USNA grounds (e.g., “jumping the wall”).  | <b>Major</b> |
| <b>04.15</b> | Possession or use of a false, altered, or unauthorized identification card, pass, or similar document (including but not limited to driver’s licenses, military ID cards, and other forms of identification). | <b>Major</b> |
| <b>04.16</b> | Usurping any special or basic class authorizations or privileges (civilian clothes and “class doors,” etc.).  | <b>Minor</b> |
| <b>04.17</b> | Carelessness in operating a vehicle   | <b>Major</b> |

**Note:** A careless manner is any manner which may reasonably pose a risk to other vehicles, pedestrians, or bystanders. This includes, but is not limited to, excessive speeding and using a cell phone while driving. If the carelessness results in a collision, it may be entered as a SEPP.

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| <b>04.18</b> | Parking in violation of MIDREGS and/or military base regulations. | <b>Major</b> |
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**Note:** All parking violations are processed separately by the Commandant’s Operations Office to the Conduct Office and to the Deputy Commandant. There are no warnings, no second chances, and the offense for all confirmed violations is 30 days of restriction and permanent loss of Yard parking privileges for the remainder of their time in the Brigade.

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| <b>04.19</b> | Driving, maintaining, or operating a motor vehicle in violation of MIDREGS.                                  | <b>Minor</b> |
| <b>04.20</b> | Violating the open-door policy per MIDREGS.  | <b>Minor</b> |
| <b>04.21</b> | Violation of Navy Regulations, SECNAV and OPNAV Instructions, General Orders, federal, state, or local laws. | <b>Major</b> |

**Note:** Specify the law or regulation which was violated. If the offense is specifically described by another offense code, that offense code should be used.

**04.21** Violation of UCMJ. **SEPP**

**Note:** A violation of the UCMJ may, in the discretion of the Deputy Commandant of Midshipmen, be downgraded to a Major or Minor violation, on a case-by-case basis. The specific violation of the UCMJ shall also be specified on the FORM-2.

**04.22** Hazing. **SEPP**

**Note:** Hazing violates 10 U.S.C. § 8464, which defines hazing 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.” While 10 U.S.C. § 8464 states that “no midshipman may be dismissed for a single act of hazing except by sentence of a courts-martial,” related offenses may result in disenrollment through the Conduct System and 10 U.S.C. § 8462.

**04.23** Conduct unbecoming a midshipman with no external (no non-USNA) awareness. **Major**

**04.23** Conduct unbecoming a midshipman with public attention. **SEPP**

**Note:** Conduct unbecoming a midshipman means action or behavior in an official capacity which, in dishonoring or disgracing the person as a midshipman, seriously compromises the midshipman’s character, or action or behavior in an unofficial or private capacity which, in dishonoring or disgracing the midshipman personally, seriously compromises the person’s standing as a midshipman. There are certain moral attributes common to the ideal midshipman, a lack of which is indicated by acts of dishonesty, unfair dealing, indecency, indecorum, lawlessness, injustice, and cruelty.

**04.24** Sexual activity in an unauthorized location. **Major**

**Note:** Examples of sexual activity in unauthorized locations include, but are not limited to, fondling, displays of affection on a rack, lying in a rack together, oral sex, and sexual intercourse on the Yard and aboard naval vessels.

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) Illegal drugs – non-prescribed narcotics and other controlled substances, including but not limited to, amphetamines, cocaine, heroin, lysergic acid diethylamide, marijuana, methamphetamine, opium, phenacyclidine, 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. This also includes all compounds banned by current Department of the Navy regulations which have not been prescribed by authorized medical personnel. Illegal drugs also include commercially available hemp products, such as CBD or any concentration of THC.

b. Midshipmen and Staff should use the following guidance when determining what level an alcohol offense should be entered as:

(1) Actions affecting only the offending individual may be entered as a Minor.

(2) Actions creating or causing external disorder (private establishment involvement, but no harm to others or property damage, may be entered as a Major.

(3) Actions causing harm to others, property damage, and/or other service discrediting consequences may be entered as a SEPP.

<b><u>Offense Code</u></b>	<b><u>Delinquency</u></b>	<b><u>Level</u></b>
<b>05.01</b>	Irresponsible drinking.	<b>Major</b>
<b>Note:</b> Evidence of Irresponsible Drinking includes, but is not limited to, use of excessive profanity, aggressive and/or disrespectful behavior, excessive stumbling or falling down, vomiting.		
<b>05.04</b>	Aiding/abetting an alcohol offense or failure to prevent or act upon an alcohol offense.	<b>Major</b>
<b>05.05</b>	Consumption, possession, or introduction of alcohol within/into Bancroft Hall or aboard ship.	<b>Major</b>
<b>05.06</b>	Providing alcohol to underage persons.	<b>Major</b>
<b>05.07</b>	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.	<b>Major</b>
<b>05.08</b>	Consuming alcohol or being under the influence of alcohol while on duty.	<b>Major</b>

**Note:** Midshipmen are considered on duty for all military obligations (e.g. class, duty section, etc.), mandatory Brigade events (e.g. lectures, sporting events, etc.), and any other time designated as such by competent authority. End of liberty is not considered on duty for purposes of this offense code unless associated with another mandatory event (e.g. uniform inspection).

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| <b>05.10</b> | Consumption or possession of alcohol in violation of applicable federal, state, or local law (this includes underage drinking).                           | <b>Major</b> |
| <b>05.11</b> | Consumption or possession of alcohol in circumstances prohibited by local instruction, regulation, or notice, other than in Bancroft Hall or aboard ship. | <b>Minor</b> |

**Note:** This includes drinking as a 4/C Midshipman, drinking while on Movement Order (MO), and possession of alcohol in any vehicle associated with a MO, including private vehicles.

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| <b>05.12</b> | Drunk driving or driving under the influence of alcohol.                       | <b>SEPP</b> |
| <b>05.13</b> | Use, possession, sale, or distribution of illegal drugs or drug paraphernalia. | <b>SEPP</b> |

6. Military Appearance

<u>Offense Code</u>	<u>Delinquency</u>	<u>Level</u>
<b>06.01</b>	Unsatisfactory appearance in uniform (pattern of behavior, three or more instances).	<b>Minor</b>
<b>06.03</b>	Unsatisfactory room standards.	<b>Minor</b>
<b>06.04</b>	Wearing of uniform in a manner which is prejudicial to good order and discipline or which brings discredit upon the Naval Service.	<b>Minor</b>

7. Absences or Tardiness. The magnitude (length of time) of tardiness and judgment exercised by the midshipman in attempts to report for duty should be considered. A midshipman may be only slightly late, but if actions indicate a lackadaisical attitude or lack of planning, then they should be dealt with more severely than someone who was substantially late due to extenuating circumstances.

<u>Offense Code</u>	<u>Delinquency</u>	<u>Level</u>
<b>07.01</b>	Absence without authority from an academic class or military obligation, or formation.	<b>Minor</b>
<b>07.02</b>	Absence without authority for greater than 24 hours.	<b>SEPP</b>
<b>07.06</b>	UA after reporting for TAPS (“TAP and go”).	<b>Major</b>

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|--------------|---|--------------|
| <b>07.07</b> | 1st/2nd breaking restriction rules and/or UA from tours or restriction.     | <b>Minor</b> |
| <b>07.07</b> | 3rd or more breaking restriction rules and/or UA from tours or restriction. | <b>Major</b> |

**Note:** Minimum sanctions for breaking restriction/Unauthorized Absence (UA) from restriction are 5 days of restriction for the first occurrence and 15 days of restriction for the second occurrence. These are processed by the Commandant's Conduct Officer and do not require adjudication. They should serve any additional restriction days immediately following their initial restriction.

CHAPTER 3  
PROCEDURES FOR INVESTIGATING OFFENSES

1. Investigating Reported Offenses

a. All reports of a suspected Major or SEPP offense must be investigated unless the Conduct Officer, in consultation with the Commandant of Midshipmen's Legal Advisor, recommends an exception. Minor conduct offenses do not require an investigation unless specifically ordered by the CO or higher authority.

(1) If the alleged offense appears to be criminal in nature, the Commandant of Midshipmen's Legal Advisor must be notified immediately. No investigation or adjudication under this instruction will proceed in such cases until authorized by the Commandant of Midshipmen, the Deputy Commandant of Midshipmen, or the Legal Advisor.

2. Investigating Command Managed Equal Opportunity (CMEO)-Related Misconduct and CMEO Complaints

a. CMEO Related Misconduct/Investigations. Any alleged misconduct that involves potential sexual harassment,<sup>2</sup> non-sexual harassment, discrimination, and/or an equal opportunity violation as defined by current SECNAV, OPNAV, and USNA Instructions will be processed in accordance with this instruction.

b. Formal, Informal, Confidential, and Anonymous CMEO Complaints. All formal, informal, confidential, and/or anonymous CMEO complaints will be reviewed by a CMEO Representative and Commandant's Legal Advisor prior to an investigation. The CMEO will then brief the Deputy Commandant of Midshipmen on their initial assessment of the case and recommended actions.

(1) Commandant and/or Superintendent Legal will review each CMEO complaint for potential conflicts of interest and impartiality and determine the appropriate forum for processing.

(2) Under Commandant of Midshipmen oversight, the Deputy Commandant has jurisdiction over CMEO complaints in cases with midshipman complainants and midshipman alleged offenders.

(3) Cases involving faculty/staff alleged offenders will be routed to the Superintendent or Chief of Staff, as appropriate.

c. Upon review of the complaint, the Deputy Commandant of Midshipmen may direct an investigation to the allegations made by the Complainant. When directed, a PIO will be assigned

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<sup>2</sup> The Office of Special Trial Counsel (OSTC) will hold original jurisdiction over suspected sexual harassment offenses taking place after 31 December 2024. These cases will be investigated by the Naval Criminal Investigative Service (NCIS).

by the Commandant's Conduct Officer. The PIO will be an officer or SEL from a Battalion other than the Battalion of the accused midshipman.

d. Prior to commencing the investigation into allegations of CMEO-related misconduct, the PIO will meet with the CMEO regarding their assigned case and verify whether a formal or informal complaint was filed. See section 3 of this chapter for more information on PIRs (TAB E).

(1) The PIO will not question an accused without first reading UCMJ Article 31(b) warnings.

e. After collecting and reviewing the available evidence, the PIO will make a recommendation to the Deputy Commandant of Midshipmen as to whether the complaint should be substantiated or unsubstantiated and what conduct charges, if any, should be pursued.

f. The investigation will be reviewed by the CMEO, Battalion Officer, Conduct Officer, and the Legal Advisor, prior to its review by the Deputy Commandant of Midshipmen.

g. The Deputy Commandant will determine if the CMEO report is substantiated or unsubstantiated. The Complainant will be notified of the results of the investigation, and provided with appellate rights, pursuant to the Navy Harassment Prevention and Military Equal Opportunity Program, OPNAVINST 5354.1J. The complaint will further be processed in accordance with OPNAVINST 5354.1J.

h. After the CMEO report and allegations are fully processed (Complainant either accepts the substantiated or unsubstantiated findings, or appeals the findings the appeals process is completed in due process), the Deputy Commandant will determine if probable cause to pursue conduct charges exists, and if so, the Conduct Officer will schedule the conduct adjudication.

### 3. General Investigation Procedures

a. If an investigation is not required, i.e., the alleged misconduct is considered a "Minor" level Conduct offense, the CO will notify the accused midshipman of the formal charge(s) via MIDS and schedule an adjudication per Chapter 4, section 2 of this instruction.

b. If an investigation is authorized, a PIO will be assigned by the Commandant's Conduct Officer. The PIO will be an officer or SEL from a Battalion other than the Battalion of the accused midshipman.

c. PIOs may seek assistance from the Conduct Officer and/or Legal Advisor to ensure a clear understanding of the case. The PIO will interview all relevant witnesses, including the accused midshipman (the accused should normally be interviewed last), collect all applicable documents regarding the incident (e.g., emails, photographs, police reports), and complete the PIR (TAB E) for submission to their Battalion Officer.

(1) The PIO should collect typed and signed voluntary statements, when possible, and document interviews in a Results of Interview memorandum. While recommended, obtaining both voluntary statements and interviews is not necessary in all cases.

(2) PIOs must safeguard the rights of all midshipmen, including the accused, throughout the investigative process, including the issuance of UCMJ Article 31(b) warnings to all midshipmen suspected of an offense. If a PIO learns that an accused was previously questioned by watch personnel or the chain of command, he or she will read the accused an UCMJ Article 31(b) cleansing warning. PIOs will provide a copy of the signed and acknowledged UCMJ Article 31(b) warnings to the accused.

(a) Witnesses who are not suspected of misconduct, but may have information concerning the alleged misconduct, will, in accordance with Navy regulation, disclose the information to the PIO.

(3) PIOs should direct that witnesses who are subject to Navy authority not discuss their statement or testimony with other witnesses, the accused or with persons who have no official duty with respect to the case until the case is closed. Midshipmen who do may be subject to further disciplinary action.

(4) Investigations should normally be completed within 5 working days of assignment; however, some cases may take more time depending on complexity. A PIO's primary duty, once assigned an investigation, is to complete that investigation within 5 working days. If an investigation needs an extension beyond 5 working days, starting on the fifth day, the PIO must notify the Commandant's Conduct Officer and provide justification for the extension. The Commandant's Conduct Officer will then route the extension request to the Deputy Commandant, the Deputy Commandant, the Commandant's Conduct Officer, their respective Battalion Officer, and the Battalion Officer of the accused via email and request an extension. Extensions will be granted on a case-by-case basis, based on the complexity of the investigation.

d. The PIR will contain a summary of events and a synopsis of the facts surrounding an alleged offense as supported by the enclosures in the report. The PIR will also contain an analysis of the gathered facts to the elements of the alleged misconduct. The summary, synopsis, and statements of a PIO in a PIR *are not evidence, per se*. Enclosures, i.e., evidence used to support the findings of fact, however, are evidence, and may be considered by the adjudicating authority as such. 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 Midshipman Suspect's Rights Form (TAB C), the Notification of Potential Reimbursement for Advanced Education Form (TAB D), log entries, leave papers, and chits. All of the facts listed must be derived from the enclosures in the report. The report will also contain a summary of offenses which breaks down each offense by element (TAB A) 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 by applying the elements of the offense to a particular piece/s of evidence and if so, at what level the case should be adjudicated.

e. Upon completion, the PIO will forward the PIR to their respective Battalion Officer. The Battalion Officer will review the PIR and make recommendations prior to forwarding to the Commandant's Conduct Officer. The Battalion Officer will make recommendations regarding which offense(s) the accused should be formally charged with based on probable cause, and the appropriate level of adjudication, or recommend that the offense(s) be dismissed. As a matter of good practice, if a Battalion Officer in coordination with the Conduct Officer recommends a charge that was not included on the 31(b) notice that is a Major or SEPP level offense, the Battalion Officer should direct the PIO to read an additional 31(b) warning to the accused with that included charge.

f. Once the Commandant's Conduct Officer receives the PIR, he/she will review the PIR and route to the Legal Advisor for review. Upon review, if the Conduct Officer or Legal Advisor believes there is probable cause for misconduct that was not addressed in the PIR, the Conduct Officer or Legal Advisor will return the PIR to the PIO to investigate those potential additional charges. The PIO will conduct the same procedures as their initial review, including giving 31(b) warnings stating the new suspected misconduct. In cases where the Battalion Officer, Commandant's Conduct Officer, CMEO (if appropriate), and Legal Advisor concur the offense should be adjudicated at a level no higher than the accused's Battalion Officer, the PIR will be returned to the Conduct Officer, who will make any necessary edits to the offense entry in MIDS and notify the proper chain of command for adjudication. The accused midshipman will then be notified via MIDS of the formal charges and given an opportunity to enter a plea into MIDS.

g. If the reviewing Battalion Officer, Conduct Officer, and/or Legal Advisor recommend the accused be adjudicated by the Deputy Commandant of Midshipmen, the Deputy Commandant of Midshipmen will review the PIR prior to its return to the Conduct Officer. The Deputy Commandant of Midshipmen will determine the offense(s), if any, with which the midshipman will be formally charged based on probable cause. If the Deputy Commandant of Midshipmen determines that probable cause potentially exists for an offense in which the accused was not notified of via the 31(b) warnings, the PIR will be returned to the Conduct Officer for further investigation pertaining to those charge/s.

h. The Conduct Officer will make the appropriate inputs to the Form-2 and validate the Form-2 in MIDS. The accused midshipman will then be notified, via MIDS, of the formal charges that are scheduled for adjudication and given an opportunity to enter a plea into MIDS. The validated Form-2 serves as official notification of charges to the accused.

i. Midshipmen who have been formally charged with a conduct offense may enter a plea and a statement into MIDS prior to their scheduled adjudication. If a midshipman does not enter a plea prior to their scheduled adjudication, they will be offered an opportunity to do so at the adjudication hearing. An accused midshipman may change their plea at any time prior to the findings of guilt at an adjudication per Chapter 2, Section 2 of this instruction.

(1) Every midshipman has the 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 will never be pressured to plead "guilty." If a midshipman fails to enter a plea, it will be treated automatically as a "not guilty" plea.

(2) By pleading “guilty,” a midshipman knowingly, intelligently, and voluntarily acknowledges that the offense was culpably committed as alleged and that the midshipman is liable for sanctions. A guilty plea further waives the right to appeal a finding of guilt on the grounds that the findings are unjust.

(3) Any statement made in MIDS can be considered by the Adjudicating Authority and subsequent reviewers regardless of plea.

#### 4. Miscellaneous Considerations

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

(1) Incriminate themselves under the UCMJ.

(2) Answer any questions or make a statement which might tend to incriminate themselves.

(3) Pursuant to U.S. Navy Regulations and the Navy Standard Organization and Regulations Manual (Obligation to Report), however, midshipmen will report, as soon as possible, to superior authority all offenses under the UCMJ, or this instruction, which come under observation. The only exception is when a midshipman or midshipmen are already criminally, or further in violation of this manual, involved in such offenses at the time such offenses first come under their observation. UCMJ or conduct manual offenses will be reported to the proper authority, unless reporting the offense would incriminate yourself. Failure to do so may result in being charged under the UCMJ and/or this manual for obstruction of justice.

b. 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 their 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 Adjudicating Authority may accept and consider such an admission or confession, so long as they determine the admission or confession was not coerced, solicited by an investigator ignoring the requirements of Article 31(b) whether by intent or gross negligence, or otherwise secured under circumstances that would undermine its truthfulness or accuracy.

c. A person declining to answer a question during an adjudication on the basis of Article 31(b) or Constitutional grounds must specifically state so. Whenever it appears appropriate and advisable to do so, the rights of a witness or the accused midshipman should be explained by the Adjudicating Authority.

d. Unlawful Searches. If a member of the Armed Forces, acting in an official capacity, conducts or directs a search which is unlawful pursuant to the provisions of the Fourth Amendment of the United States Constitution as applied to the military community or which is

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not permitted under applicable regulations, 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.

CHAPTER 4  
ADJUDICATIONS

1. Adjudicating Authority. The Adjudicating Authority will:

a. Conduct a fair and impartial hearing. The Adjudicating Authority will maintain a presumption of an accused's innocence, unless the preponderance of the evidence supports a finding of guilty. An accused is entitled to a presumption of innocence during the investigative process and adjudicative process until the Adjudicating Authority determines a preponderance of the evidence supports guilt.

b. Determine whether the accused is guilty based upon a preponderance of the evidence, by considering all known and relevant evidence associated with the case. Irrelevant evidence will not be considered.

c. Determine appropriate sanctions 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.

d. 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 sanctions awarded. Even if the adjudication is conducted without a hearing, the accused midshipman will be advised of the Adjudicating Authority's findings and the sanctions awarded.

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

2. Adjudicative Hearings

a. Determining Adjudicating Authority. Normal Adjudicating Authority for conduct offenses should be:

(1) Minor: Company Officer for 1/C adjudications. Company Commander, supervised by their Company Officer, for 2/C, 3/C, and 4/C adjudications.

(2) Major: Battalion Officer.

(3) SEPP: Deputy Commandant of Midshipmen.

b. Delegation of Adjudicating Authority. Adjudicating Authority may not be delegated further than as directed by the Deputy Commandant of Midshipmen for a particular case. Adjudicating Authorities may allow 1/C Midshipmen in leadership positions (including Brigade, Regiment, Battalion, and Company Commander positions) to assist with an adjudication in an under-instruction status; however, all findings with respect to guilt and all awards of sanctions

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ultimately must be made by the Adjudicating Authority. Adjudicating Authorities must be physically present for every adjudication. A Battalion Officer may also allow a CO to adjudicate a case assigned to the Battalion Officer, but only under direct supervision. 1/C Midshipmen may not assist with the adjudication of other 1/C Midshipmen; 1/C Midshipmen must be adjudicated solely by the commissioned officer Adjudicating Authority. SELs are not authorized to be an Adjudicating Authority.

(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 Adjudicating Authority for all involved, regardless of class, company, or offense level. It is the collective responsibility of all applicable Adjudicating Authorities to determine if the group of offenders from a related incident should be heard at one time by a single authority. If it is decided there should be only one Adjudicating Authority, in the case of minor offenses, the senior CO of the accused midshipmen will be the Adjudicating Authority. If the cases of two or more midshipmen involved in the same incident are heard by different Adjudicating Authorities, the Adjudicating Authorities will coordinate to maintain consistency of awarded sanctions that is in keeping with good order and discipline among the members of the Brigade, and with the particular facts of the case as they pertain for the individual midshipman being adjudicated.

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

(3) Deputy Commandant of Midshipmen's Discretion. For all other cases not applicable to section (2) of this paragraph, the Deputy Commandant of Midshipmen retains the right to adjudicate or assign an Adjudicating Authority to any case alleging a violation of this instruction, including Minor and Major offenses as defined by this manual based on the circumstances of the offenses.

c. Time Requirements for Adjudications of Minor-Level Offenses. 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 CO should communicate with the Commandant of Midshipmen's Conduct Officer.

d. Following review of the Form-2 and PIR, including supplemental evidence not included in the PIR, the Adjudicating Authority may take one of the following actions:

(1) Dismiss the alleged offenses without a hearing. A charge may be dismissed when the Adjudicating Authority determines that the evidence is insufficient to support a charge (e.g., the wrong midshipman was charged or an element of an offense is missing). A dismissed charge may not be brought back against a midshipman unless new evidence is discovered which could not have been known by the Adjudicating Authority or Investigating Officer at the time the charge was dismissed. Charges should not be deleted from MIDS unless the charge clearly resulted from a clerical error (e.g., the wrong alpha number was entered) and the deletion is authorized by the Deputy Commandant of Midshipmen.

(2) Dispose of the case through alternative disposition. Alternative disposition should be reserved for cases wherein the evidence suggests that the midshipman committed the offense, but the Adjudicating Authority assesses that corrective measures less severe than sanctions more appropriately address the situation (e.g., EMI or a Form-1).

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

(4) For cases of misconduct that are entered into the conduct system as a Major or SEPP offense, the initial Adjudicating Authority may, after reviewing the case, make a recommendation to the Commandant, via the Legal Advisor and Deputy Commandant of Midshipman that the case is most appropriately handled via a MDB per the USNA Midshipmen Disenrollment Procedures for Cases Involving Unsatisfactory Conduct, USNAINST 1610.6A. The initial Adjudicating Authority may then forward this recommendation to the Commandant of Midshipmen without holding a hearing. The Commandant of Midshipmen will either send the case back to the standard conduct adjudication or send a positive endorsement to the Superintendent without holding a hearing. Even if the initial Adjudicating Authority did not recommend an MDB, the Commandant may still recommend a case to the Superintendent for an MDB.

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 Adjudicating Authority, including character reference letters and statements regarding extenuating or mitigating circumstances. The Adjudicating Authority retains the discretion to hold a hearing and require the presence of the accused midshipman in all cases.

f. Pre-Hearing Notification. A notice of 24 hours is normally considered reasonable for Major and SEPP offense hearings, and a notice of six hours is normally considered reasonable for Minor offense hearings. Requests for delay of a conduct hearing must be submitted to the Adjudicating Authority, via the CO, sufficiently in advance of a hearing in order that proper consideration may be given to the request prior to the hearing's commencement. The Adjudicating Authority has discretion to grant or deny any request for delay. Absent extenuating circumstances, all untimely requests will be denied.

g. PIR Review. A PIR review with the accused should be at least 24 hours prior to their adjudication.

h. 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, the hearing will not be delayed without the approval of the Adjudicating Authority. Accused midshipmen do not have a right to have counsel present during the hearing. An accused midshipman, however, may ask for a brief recess to confer with counsel outside of the adjudication venue. To be clear, Legal Counsel will not be permitted to be present

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in the adjudication room. The accused midshipman may consult with military counsel from Defense Service Office North (DSO), at no cost, or seek civilian counsel at their own expense.

(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 a midshipman chooses to make a statement during the hearing concerning a particular offense, the midshipman is expected to answer all questions the Adjudicating Authority may have concerning that offense. If the midshipman fails to do so by later invoking their right to remain silent, the Adjudicating Authority, at their discretion, may disregard any or all prior statements made by the midshipman at the adjudication relative to the offense(s).

(3) Right to Inspect Evidence. The Commandant's Conduct Officer or the Battalion XO of the accused will ensure that the accused midshipman and/or legal counsel has a reasonable opportunity to review all evidence that may be considered by the Adjudicating Authority prior to the hearing.

(a) The accused, and/or legal counsel, will be permitted to take notes during their inspection of the evidence, but will not be provided a copy of the PIR, nor be permitted to record any portion of the PIR, including evidence, electronically, i.e., take photographs or make electronic copies. If an accused is represented by counsel, the Conduct officer will make the PIR and any accompanying evidence available for inspection, under the same guidelines applied to midshipmen.

(b) Midshipmen will not discuss the nature of the PIR with any third party, with the exception of their legal counsel, if one is retained. Disclosure of a PIR's contents will be considered a violation of the PA and may result in administrative, civil, or criminal action.

(c) If an Adjudication Authority determines that an accused and/or counsel has not been provided with such an opportunity to review the PIR and evidence, the adjudication will be immediately suspended until such time as deemed appropriate by the Adjudicating Authority.

(4) Right to Object. Prior to or during the hearing, the accused midshipman, individually or via legal counsel, may object to evidence to be considered by the Adjudicating Authority. Upon objection, the accused will provide a basis for the objection/s. A midshipman may object to evidence only on the grounds of (1) relevancy and (2) authenticity. The Adjudicating Authority is encouraged to consult with the Legal Advisor prior to ruling on any objection, but there is no prohibition on the use of their own judgment.

(5) Right to call reasonably available fact witnesses and be notified of witnesses scheduled to be called by the Adjudicating Authority. An accused may call fact witnesses that intend to testify as to exculpatory matters on behalf of the accused at no cost to the government. An accused midshipman will provide the Conduct Officer a list of any fact witnesses, and what those witnesses intend to testify to, normally no later than 12 hours prior to the hearing to allow the Conduct Officer to determine if each potential witness is reasonably available. It is the responsibility of the accused midshipman to arrange for any fact witnesses to be present either

physically or by other means (i.e. telephonically). Requests for fact witnesses that are submitted within 12 hours of the adjudication will be considered if good cause is shown for the late submission. The Adjudicating Authority may also call additional fact witnesses not previously scheduled if new information is discovered at the adjudication which makes the testimony of such additional witnesses necessary.

(6) Right to Call Character Witnesses. The accused midshipman will be given an opportunity to present up to three character witnesses to speak on their behalf at an Adjudication and/or Commandant interview at no cost to the government. Character witnesses who also testify to factual matters will be considered character witnesses for purposes of this paragraph. The accused midshipman may also submit up to three witness statements on their behalf; however, the total number of combined in-person character witnesses and witness statements will total no more than three. Requests for additional character witnesses will be made to the Adjudicating Authority, no less than 48 hours prior to the adjudication.

(7) Right to present evidence in defense, mitigation, and extenuation.

(8) Right to present an oral and/or written argument in support of their defense.

(a) Midshipmen have the right to submit matters via their retained legal counsel. Legal counsel will be held to the same timelines for submission as midshipmen.

i. Witness Questioning. Adjudicative hearings are intended to be non-adversarial. As such, and while an accused midshipman is allowed to ask, or ask the Adjudication Authority to ask the witness questions, an accused will not be allowed to question a witness in a leading, i.e., cross examining style of questioning. The Adjudicating 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 Adjudicating Authority, at their discretion, may rely solely upon documentary evidence to find a midshipman guilty of the offense(s) charged. In the event witnesses are called by the Adjudicating Authority, the following will apply:

(1) Non-USNA faculty/staff civilians who agree to appear will do so at their own expense. The Adjudicating Authority may use any reasonable method to obtain statements of witnesses including telephonic interviews and written statements. The Adjudicating Authority should inform the witness of the nature of the inquiry before their testimony is taken and protect them from improper questions, harsh or insulting treatment, and unnecessary inquiry into their private affairs.

(2) The Adjudicating Authority will direct that military and civilian witnesses who are subject to Navy authority 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. The Adjudicating Authority will request the same from other witnesses not subject to Navy authority.

(3) Non-USNA and USNA medical personnel who are called as witnesses, fact or character, and intend to testify as to medical matters pertaining to an accused, shall first provide

verification that any privilege that is shared by the medical personnel and accused has been waived by the accused with informed consent. Proof of waiver will be submitted to the Conduct Officer, in writing, no later than 48 hours prior to the adjudication. If the waiver is not timely submitted, the Adjudication authority reserves the right to deny the witness from discussing matters pertaining to the accused medical history. The Adjudication authority may consider a late waiver submission, provided good cause is demonstrated by either the accused or medical personnel.

j. Observers. In order to promote transparency and trust in the Conduct System, at the Adjudicating Authority's discretion, midshipmen may observe conduct adjudications for educational purposes. In general, midshipmen who have a familiar relationship with any midshipman associated with the case will not be observers. The Midshipmen Conduct Officer is responsible for:

(1) Seeking permission from the Adjudicating Authority for observers to be present prior to each adjudication.

(2) Seeking guidance on the number and kind of observers (e.g., out of company midshipmen only) allowed at the adjudication.

(3) Organizing the observers for the adjudications.

k. Adjudicative Hearing Process. The following format will be followed during all adjudicative hearings:

(1) The accused midshipman will report to the Adjudicating Authority by requesting permission to come aboard, stating name and rank.

(2) The accused midshipman will be provided the opportunity to review any new evidence, if any, that was forwarded to the Adjudicating Authority.

(3) The accused midshipman will be informed of the charged offense(s) and instructed to enter a plea to each charge. Failure to enter a plea will be deemed to be a plea of "not guilty."

(4) The accused midshipman will be informed of their right to remain silent and to present witnesses and evidence on their own behalf. The accused midshipman or the Adjudicating 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.

(5) During the hearing, if the Adjudicating Authority suspects or identifies that additional uncharged misconduct was committed:

(a) The Adjudicating Authority will notify the accused midshipman of the uncharged misconduct prior to asking any further questions once the uncharged misconduct is suspected and read the accused Article 31(b) rights as to the suspected uncharged misconduct. The

Adjudicating Authority will also remind the accused midshipman about the right to remain silent at the adjudication.

(b) If the uncharged offense is one for which the Adjudicating Authority would be a normal adjudicating authority per this section and the Adjudicating Authority believes the evidence presented at the hearing proves by a preponderance of the evidence that the misconduct occurred, then the Adjudicating Authority will notify the accused of the additional charge, give the accused an opportunity to offer additional evidence, and make a determination as to whether the accused is guilty of the additional charge. The Adjudication Authority may also find the accused midshipman guilty of any lesser included charge that was not initially charged, providing that the evidence shows by a preponderance of the evidence that the accused midshipman is guilty of that lesser included charge.

(c) If the uncharged offense is a higher-level offense than one which the Adjudicating Authority would be a normal adjudicating authority per this section or the Adjudicating Authority believes that further investigation is necessary into the suspected misconduct, then the Adjudicating Authority will recess the hearing without issuing any findings in the case and promptly refer the matter to the Commandant of Midshipmen's Conduct Officer.

(d) If the uncharged offense is an honor offense arising out of the same course of conduct as the charged misconduct, then the Adjudicating Authority will recess the hearing without issuing any findings in the case and promptly refer the matter to the Commandant of Midshipmen's Conduct Officer and the Honor Officer.

(e) If the uncharged offense is an honor offense arising out of statements made to the investigating officer or to the Adjudicating Authority during the adjudication, then the Adjudicating Authority will warn the accused of the suspected honor offense and remind them of their right to remain silent at the adjudication; however, the Adjudicating Authority may complete the adjudication and award sanctions. After the adjudication, the Adjudicating Authority may refer the matter to the Honor Officer.

(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 Adjudicating Authority may choose from the following two options:

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

(b) Continue the adjudication. If the Adjudicating Authority does not suspect that further investigation will significantly affect the finding for the accused midshipman, the adjudication may continue and an investigation should 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 sanctions. Following the awarding of sanctions, the

Adjudicating Authority will ensure the guilty midshipman fully understands the sanctions that have been awarded.

l. Records. The Adjudicating Authority for all Major and SEPP offenses will record the awarded sanctions on the Sanctions Worksheet (TAB F). This worksheet will be included in the adjudication package.

m. Post-Adjudication Procedures

(1) Minor Offenses. Immediately following the adjudication, the entire adjudication package will be given to the Company Conduct Officer who will update the Form-2 in MIDS to reflect the completion of the adjudication and awarded sanctions. If applicable, the CC/CO will also ensure the adjudicated midshipman reports to the Main Office to fill out the Midshipman's Acknowledgement and Award of Restriction Form (TAB G) on the day of award. The original form is to be maintained by the adjudicated midshipman, and a copy of it will be provided to the Commandant of Midshipmen's Conduct Officer. The Restriction Card (TAB H) will also be filled out in the Main Office at the same time. The Company Conduct Officer will ensure restriction begins immediately following the adjudication, or if deferred, on the day to which restriction was deferred. The entire adjudication package will remain with the midshipman's performance jacket in the Company area.

(2) Major Offenses. Immediately following the adjudication, the entire adjudication package will be given to the Battalion Conduct Officer who will update the Form-2 in MIDS to reflect the completion of the adjudication and awarded sanctions. The adjudication package will be immediately forwarded to the Commandant of Midshipmen's Conduct Officer. If applicable, the Battalion Conduct Officer will also ensure the adjudicated midshipman reports to the Main Office to fill out the Midshipman's Acknowledgement and Award of Restriction Form (TAB G) on the day of award. The original form is to be maintained by the adjudicated midshipman, and a copy of it will be provided to the Commandant's Conduct Officer in the adjudication package. The Restriction Card (TAB H) will also be filled out in the Main Office at the same time. The Battalion Conduct Officer will ensure restriction begins immediately following the adjudication, or if deferred, on the day to which restriction was deferred. In the event that a Battalion Officer decides during the adjudication to forward the midshipman for disenrollment, the Battalion Officer will deliver the adjudication package to the Commandant's Conduct Officer. No sanctions or findings of guilt will be documented until heard by the Deputy Commandant of Midshipmen.

**Note:** If the Battalion Officer delegates a Major offense to a CO to adjudicate, the Company Conduct Officer will be responsible for complying with this paragraph.

(3) SEPP Offenses (and any offense(s) adjudicated by the Deputy Commandant of Midshipmen or Commandant of Midshipmen). Immediately following the adjudication, the Commandant's Conduct Officer will update the Form-2 in MIDS and complete a Conduct Remediation Worksheet (TAB I). If applicable, the Brigade Conduct Officer will ensure the adjudicated midshipman reports to the Main Office to fill out the Midshipman's Acknowledgement and Award of Restriction Form (TAB G) on the day of award. The original is

to be maintained by the adjudicated midshipman and a copy of it will be provided to the Commandant's Conduct Officer. The Restriction Card (TAB H) will also be filled out at the same time. The Brigade Conduct Officer will ensure restriction begins immediately following the adjudication, or if deferred, on the day to which restriction was deferred. If necessary, the entire adjudication package will be forwarded to the Commandant's Legal Advisor for filing or further processing. The Brigade Conduct Officer will ensure the adjudicated midshipman writes their corresponding XYZ case. The Brigade Conduct Officer will not require XYZ cases to be written for conduct cases in which the CMEO Officer or Sexual Assault Prevention and Response (SAPR) Program Manager are involved.

### 3. 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 offenses adjudicated by the Deputy Commandant of Midshipmen.

(b) Deputy Commandant of Midshipmen - for Major offenses adjudicated by subordinates and any offenses adjudicated by a Battalion Officer.

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

(2) A midshipman may appeal the disposition of their case only on the following bases:

(a) A finding of guilt is unjust.

(b) The sanctions awarded are disproportionate to the offense(s) committed.

(c) Substantial errors existed in the adjudicative proceedings which substantially prejudiced the accused midshipman and cannot be subsequently cured.

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 Sanctions. Regardless of plea, any midshipman who considers the awarded sanctions disproportionate to the offense(s), may request reconsideration of the award itself. Such an appeal should address whether the level of the original sanctions awarded was an abuse of discretion under the circumstances of a given case. Awarded sanctions should not be changed simply because the Reviewing Authority would have awarded different sanctions.

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 that errors be corrected or remedied. The accused midshipman is responsible for alleging substantial errors within the time period described in the time limits section below. Irregularities not amounting to the above will be considered harmless errors and will not be a basis to reevaluate. If a harmless error in the proceedings is detected, the Adjudicating 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 sanctions while making a request for reconsideration unless the sanctions, or any relevant portion(s) thereof, are suspended by the Reviewing Authority.

(2) Requests for reconsideration will be in writing and must include the appellant's reasons for regarding the sanctions as disproportionate or the guilty finding unjust.

(3) All requests for reconsideration must be routed via the accused's chain of command, CMEO, if necessary, Commandant of Midshipmen's Conduct Officer, Legal Advisor, and Adjudicating Authority before being forwarded to the Reviewing Authority. The Commandant of Midshipmen's 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.

(a) Nothing in this manual will prevent the original adjudication authority from acting on their own decision, prior to an appeal being ruled upon by the reviewing authority. In cases where such an action is desired, the adjudication authority will brief the reviewing authority and propose a remedy. If the Reviewing Authority concurs with the Adjudication Authority's course of action, the accused will be informed of this decision, via the Commandant's Conduct Officer and/or Legal Advisor. See paragraph (h) below for an Adjudication Authorities available course of action upon appeal.

(4) Time Limits

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

(b) If the request for reconsideration is not acted upon within five working days of its receipt by the Adjudicating Authority, the midshipman may request, in writing, that any unserved

sanctions that have been designated for review be temporarily suspended until the request is acted upon. The request may be included within the original reconsideration letter or made by special request chit.

f. Notice of Reviewing Authority Action. After review of a request for reconsideration, the Reviewing Authority will inform, in writing, the midshipman and the appropriate Adjudicating Authority of the decision. The Reviewing Authority will then immediately forward the request and all accompanying paperwork to the Commandant of Midshipmen's Conduct Officer and Legal Advisor.

g. Effect of Failing to Request Reconsideration. Absent good cause, failure of the accused midshipman to allege error or to otherwise request reconsideration of findings and/or awarded sanctions 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.

h. Suspension, Mitigation, Remission, and Setting Aside of Findings and/or Sanctions

(1) Suspension. The reviewing authority, adjudication authority who imposed sanctions, or a successor adjudication authority, may, at any time, including in response to an accused's appeal, suspend any part or amount of the unexecuted punishment imposed, subject to the following rules:

(a) An executed sanction/s may be suspended only within a period of 4 months after the date of execution.

(b) Suspension of a punishment may not be for a period longer than 6 months from the date of the suspension.

(c) Unless the suspension is sooner vacated, suspended portions of the sanctions are remitted, without further action, upon the termination of the period of suspension.

(d) Unless otherwise stated, an action suspending a sanction/s includes a condition that the midshipman not violate any further conduct code. The adjudication authority may specify in writing additional conditions of the suspension.

(e) A suspension may be vacated by the adjudication authority or reviewing authority competent to impose upon the midshipman concerned sanctions of the kind and amount involved in the vacation of suspension.

f. Vacation of Suspension. An adjudication authority may only vacate a suspension of punishment if a violation of the conditions of suspension occurs during the period of suspension. Vacation of suspension may be based only on a violation of the conditions of suspension which occurs within the period of suspension. Before a suspension may be vacated, the midshipman ordinarily will be notified and given an opportunity to respond. Although an adjudication hearing is not required to vacate a suspension, the midshipman should, unless

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impracticable, be given an opportunity to appear before the adjudicating or reviewing authority authorized to vacate suspension of the punishment to present any matters in defense, extenuation, or mitigation of the violation on which the vacation action is to be based.

(1) Remission. Remission is an action whereby any portion of the unexecuted punishment is canceled. Remission is appropriate under the same circumstances as mitigation. The adjudication authority who imposes sanctions, or the adjudication authority's successor may, at any time, remit any part or amount of the unexecuted portion of the sanction imposed.

(2) Setting Aside. Setting aside is an action whereby the sanction/s, or any part or amount thereof, whether executed or unexecuted, is set aside and any privileges or rights affected by the portion of the sanctions set aside are restored. The adjudication authority who imposed punishment, or the adjudication authority's successor may set aside sanction/s. The power to set aside a sanction/s and restore rights and privileges affected by the executed portion of a sanction should ordinarily be exercised only when the adjudication authority considering the case believes that, under all circumstances of the case, the sanction/s has resulted in clear injustice. Also, the power to set aside an executed sanction should ordinarily be exercised only within a reasonable time after the sanction has been executed. In this connection, 4 months is a reasonable time in the absence of unusual circumstances.

CHAPTER 5  
SANCTIONS: RULES AND EXPLANATIONS

1. Levels of Sanctions

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

	<b>Minor</b>	<b>Major</b>	<b>SEPP</b>
Demerits	0-45	0-65	0-100
Restriction (days)	0-21	0-45	0-60
Tours <sup>1</sup>	0-10	0-20	0-30
Extra Duties (days)	0-30	0-60	0-90
Loss of Privileges (months)	0-3	0-5	0-6

**TABLE 5-1: Authorized Sanctions**

**Notes:**

1. Tours may be assigned only if restriction is not assigned. Tours will be marched daily per Table 5-2 with restrictees following restriction muster and tracked by both the Company Conduct Officer and Main Office. An Adjudicating Authority may not assign both tours and restriction for an offense.

2. The Commandant of Midshipmen may suspend privileges in excess of this range in appropriate cases.

b. Not every offense should necessarily result in the award of the maximum possible sanctions. 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 Adjudicating Authority, using appropriate discretion, reduces a Minor-level offense to Form-1 counseling rather than assigning sanctions based upon a Form-2.

c. A midshipman who violates the same delinquency code during the same academic year normally should be awarded higher sanctions with each subsequent violation.

2. Suspension of Awarded Sanctions. Awarded sanctions may be suspended either entirely or in part by the Adjudicating Authority for a period not to exceed 6 months. The amount of sanctions suspended and the exact length of the suspension must be clearly documented in the Form-2. Suspended sanctions will be served only if the midshipman violates a condition of the suspension announced at the adjudication. An automatic condition of suspension, which does not require announcement, is that the midshipman may not commit any subsequent conduct or honor offenses. The awarding authority or a superior awarding authority may vacate a suspension of sanctions based on a probable cause finding that a condition has been violated. A hearing is not required to vacate a suspension; however, the vacating authority should provide the midshipman a reasonable opportunity to present matters in defense, mitigation, or extenuation prior to vacating a suspension of sanctions. If not previously vacated, suspended sanctions will automatically become effective upon a guilty finding at a subsequent adjudication during the suspension period. If a minimum sanction is prescribed by this instruction, no portion of the minimum sanction may be suspended unless approved by the Deputy Commandant of Midshipmen.

3. Deferment of Restriction or Tours. Midshipmen with extraordinary circumstances may request to defer restriction (i.e., serve awarded restriction at a later date); however, this does not include matters of desire or convenience unless denying said request would produce a physical or financial hardship. The Adjudicating 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 the 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 the Main Office on the 0800 report.

#### 4. Types of Sanctions

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 5-1. A full explanation of demerits and their function within the Conduct System is in Chapter 6.

b. Restriction. Restriction is an order directing a midshipman to remain within specified physical limits under specified conditions as delineated below. Restriction ranges for each category of offense are listed in Table 5-1. Restriction is tracked by the Main Office via a Restriction Card (TAB H) and on the 0800 report.

(1) Midshipmen on restriction are prohibited from:

(a) Town or weekend liberty.

(b) Exiting the confines of the USNA for anything other than a legitimate sports team practice. This includes travel to Naval Support Activity Annapolis for any reason except legitimate sports team practice. Departing the Yard to pickup food delivery is specifically not

authorized. Access logs are checked to ensure accountability, and there is no way to tell if a restrictee left the Yard for unauthorized liberty or to pickup food. Seeing a restrictee CAC swipe on access logs is a conduct offense.

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

(d) Consuming alcohol.

(2) Midshipmen on restriction will:

(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, or intramural activities. Other possible excusals must be cleared via the Officer of the Watch (OOW) prior to absence.

(c) Sign out in the 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 Brigade meals.

(d) Wear an inspection-quality uniform at all times, except during Physical Training or while sleeping. Restricttees are not authorized to miss outdoor formations with their Company, so uniform changes will be required. The only instances where blue over khaki is an appropriate uniform for a restrictee is if they are performing flight-line duties associated with the Powered Flight Program or Sailing activities (to include Offshore Sail Training Squadron and Varsity Offshore Sailing Team).

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

(f) Be considered in a duty status throughout their time on restriction.

(3) Miscellaneous Guidelines for Restriction

(a) Midshipmen in a restricted status will muster per table 5-2.

(b) Midshipmen who are sick in quarters (SIQ) are excused from restriction musters only with a legitimate SIQ chit from Brigade Medical which has been countersigned by their CO or SEL. Midshipmen will not be penalized for missing musters when SIQ, however restriction days will not count during SIQ.

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(c) A midshipman may not be placed on restriction before a finding of guilt and awarding of sanctions unless so placed by the Commandant of Midshipmen or the Deputy Commandant of Midshipmen. The midshipman will receive day-for-day credit if restriction is subsequently awarded for the offense. Midshipmen will not receive any credit for restriction served voluntarily prior to the awarding of restriction at an adjudication.

(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) If a restricted midshipman is participating in summer school, they will sign out of restriction in the restriction log when they leave for class and sign in when they return from class.

(f) A midshipman on restriction is required to attend all musters regardless of whether the day will count or not. Restriction begins immediately following the awarding of restriction, whether via attendance or properly authorized excusal. With authorized excusals per the Table of Priorities, a restricted midshipman must attend at least one muster on days with three scheduled musters, two on days with four scheduled musters, or 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, in consultation with the Deputy Commandant of Midshipmen. In all cases, each midshipman is required to meet all restriction requirements, independent of any excusals, for a day to count; this means, for example, if a midshipman is excused from one muster during the day, they must attend all other musters for the day to count, not just the minimum number as noted above.

(g) On which restriction is awarded, that day counts as a full day of restriction if the midshipman attended the minimum number of musters. However, if a midshipman is adjudicated on a day with five scheduled musters and the adjudication was completed after three of the musters have been held, that day of restriction will still count as a full day of restriction if the midshipman attends the remaining two musters. (If the midshipman is excused from any of the remaining musters for that day, then that day shall not count.)

(h) During Academic Reserve, Reading Days, and Final Examinations, midshipmen in a restricted status will muster daily at 1900 and march a tour. For those midshipmen who have a Final Exam at 1930, they will be excused from marching a tour but are still required to muster at 1900 in order for the day of restriction to count.

(4) Violation of Restricted Status. Violation of restricted status in any manner (e.g. late, UA, consumption of alcohol, out of uniform, sleeping, signing out improperly, etc.) will be processed as follows:

(a) A Form-2 will be initiated charging offense 07.07. If alcohol was consumed, offense 05.11 and 05.08 will also be charged.

(b) The offense WILL be annotated on the 0800 report and on the midshipman's restriction card.

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

(d) The minimum sanction for violating restriction is five (5) days of restriction for the first occurrence and fifteen (15) days of restriction for a second occurrence. If the first two occurrences are completed prior to an adjudication for the first occurrence, the case will be heard as a single case with a minimum sanction of twenty (20) days. Any occurrence after the second occurrence during a period of restriction shall be charged at least as a Major-level offense.

(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 Adjudicating Authority or in a Commandant of Midshipmen's Notice and approved by the CO. Holiday restriction guidelines will be promulgated via a Commandant of Midshipmen'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 as soon as practicable starting during the spring academic boards.

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

(8) Restriction Schedule is per Table 5-2.

M=Muster in Service Dress Uniform (SDBs or Summer Whites)

MR,T=Muster with Rifle, in working uniform, and Tour for time specified

	Ac Year Class Days, except Fridays	Ac Year Fridays and Summer	EOL days during Ac Year (non-holiday Sundays)	Non-EOL and non-working day (Saturdays, holiday Sundays, weekday holiday)
0630	M	M	M	M
1300	M	M	MR, T 1315-1400	MR, T 1315-1400
1630		M	M	M

1900	MR, T 1915-2000	MR, T 1915-2000	M	M
2230	-	M	-	M
Minimum number of musters for the day to count	1	3	2	3

**Table 5-2 Restriction and Tour Schedule**

(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 or a Brigade-wide email at least 15 minutes prior to the event.

(9) 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, regardless of the reason. Restriction muster formation will not be called to attention prior to the scheduled time.

(b) Approximately five minutes prior to restriction muster, the Midshipman Officer of The Watch (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 or Staff Duty Officer. 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 will not receive credit for standing restriction that day and will be handled as stated in section “Violation of Restricted Status” listed above; however, the midshipmen are expected to attend all further musters that day, regardless of credit.

(d) The Senior Restrictree will act as Restriction Commander for the purpose of accountability at restriction musters. They will be held accountable for proper reporting of the restrictees. No midshipman forwarded for disenrollment to the Superintendent will stand as the Restriction Commander.

(e) Special Permission to miss Restriction Muster. A restricted midshipman must ensure that they personally sign the restriction sign-out log if they 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 their Company area. Midshipmen are prohibited from signing the restriction log for anyone but themselves. The OOW may, in consultation with the Deputy Commandant of Midshipmen when practicable, grant permission for a midshipman to miss a restriction muster for a reason other than those listed in MIDREGS. Such excusals should

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be made in special circumstances when necessitated by critical academic, military, or personal requirements - unique opportunities which other midshipmen performing duties (i.e. watch standing) will miss, such as a guest speaker, do not normally meet this criterion.

(f) At the conclusion of muster, the MOOW will return to the 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 are 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. Activities for a sign-out entry will also be scrutinized to ensure compliance with Restriction requirements, to include duration.

(g) Restriction Alternatives

1. Restrictee Community Service Program (RCSP)

a. The RCSP provides an alternative form of remediation for a midshipman that will stand more than 30 days of restriction.

b. Midshipmen awarded 30 days or less are not eligible to convert days to service hours. Midshipmen who have greater than 30 days of restriction to stand may convert any amount in excess of 30 days (5 days if awarded 35, etc.) to service hours in the ratio of one day = two hours of service.

c. Midshipmen will be on restriction in order to count community service hours toward days of restriction.

d. Participation in this program does not count toward the Military Outstanding Volunteer Service Medal.

2. Cleaning Duty in Lieu of Marching Tours. The Senior Restrictree will select four midshipmen who are on restriction to serve on cleaning duty each day. The SDO shall approve the selections to ensure accountability and consistency of the selection process. In place of marching tours, these four midshipmen shall report to the "marching muster" in regulation Blue and Gold attire, with cleaning supplies in hand (brooms, wipes, and cleaning spray). After they muster with the SDO via visual ID, they may begin cleaning. These midshipmen will cover all of Memorial Hall, all of the Rotunda to include the Main Office and Sample Room area, all of Smoke Hall all the way down to the main doors of King Hall, and the passageways on both sides of Steerage to the CAC doors to 3-0 and 4-0. In these areas, midshipmen will pick up all trash, all "dust bunnies," and wipe up all spills. They will walk the entirety of these spaces, much like "mowing the lawn," with their eyes looking at the deck for spills and food to pick up. They will coordinate with the Brigade First LT to sustain and replenish cleaning supplies. Once complete, they will check out with the SDO who will spot check one area of their work.

3. Friday Professional Development in Lieu of Marching Tours. The SDO, on a Friday duty day, will schedule a professional development event for the restrictees during the

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1900 tours muster. This event should be similar in length to the normal duration of tours, but will not exceed the normal 45 minutes allotted from 1915-2000. The SDO may conduct the professional development training themselves or have it performed by another designated party. SDOs will do their best to maintain this weekly routine unless higher priority items arise for restricted personnel.

## 5. Other Disciplinary Measures

### a. Tours

(1) All restrictees will muster in Smoke Hall daily per Table 5-2. Tours will be marched on interior facing red beach between 4<sup>th</sup> and 6<sup>th</sup> wings of Bancroft Hall or in a comparable area as designated by the OOW. A 1/C Midshipman, appointed by the MOOW, will supervise the tour to ensure no talking, music, or inappropriate behavior exists. 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 1900 or 1300, daily, as appropriate, and march a corresponding tour until all assigned tours are completed. Tours will be marched every day, without exception, unless the midshipman has a valid excuse approved by the OOW.

### b. Extra Duty and EMI

(1) Extra duty may be awarded as the result of a Form-2 or a MIRB. A description of the award should be entered into the [Counseling Comment] section of the Form-1 or into the [Award Comment] section of the Form-2. Specified extra duty may include, but is not limited to:

- Extra Watch
- 1<sup>st</sup> LT Duties
- Planning / Organizing Functions
- Uniform monitor
- Room Inspector

(2) All Restrictes Subject to Extra Duties as Needed. Restrictes are subject to extra duties as directed by the OOW. Extra duty will be performed on a not-to-interfere basis with other military obligations such as academic classes, drill, intramurals, study hour, and mandatory lectures. Extra Duties must be directly related to command benefit vice a smaller portion of the command. These duties will be limited to no more than two hours per day, and each 30 minutes will grant credit for one muster.

(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 of Midshipmen or Deputy Commandant of Midshipmen may reduce days of restriction. Requests for reduction of restriction for performance of extra duty in extraordinary circumstances will be submitted to the Commandant of Midshipmen’s Conduct Officer.

(4) EMI is a training tool that attempts to improve an individual’s performance by focusing additional effort on some deficiency. EMI may be assigned with either a Form-1, MIRB, or Form-2. EMI must be logically related to the deficiency in performance documented in the Form-1 or Form-2 (e.g., if a midshipman is late for watch then EMI may include extra watch; if a midshipman is not wearing their uniform properly then EMI may include being a uniform monitor; however, if a midshipman is late for watch then field day (cleaning) is not appropriate EMI). EMI normally should not be conducted for more than two hours per day. EMI must cease once the deficiency is corrected. EMI cannot be the sole basis to delay or deprive normal liberty authorized under MIDREGs. EMI may be awarded by 1/C Midshipmen in leadership positions after consultation with the appropriate CO or SEL. The awarding of EMI does not preclude subsequent sanctions using a Form-2 for misconduct revealing a deficiency which was the basis for the EMI.

c. Loss of Privileges

(1) Adjudicating Authorities may revoke class privileges, but will specify which class privileges are being revoked. A midshipman who loses privileges will continue to wear the uniform and insignia of their class. Any class privilege that is revoked will not impact the midshipman’s academic progress, pay, or other such administrative matters. The following privileges may be revoked by appropriate awarding authorities:

<b>LOSS OF PRIVILEGES:</b>	<b>APPLICABLE TO:</b>
Overnight liberty	1/C, 2/C, 3/C, 4/C
Weekday town liberty	1/C, 2/C
Civilian attire during liberty	1/C, 2/C, 3/C
Wearing “spirit gear”	1/C, 2/C, 3/C
Operating a vehicle on board the USNA	1/C, 2/C
Parking on the Yard	1/C
Move out of Bancroft after Spring Finals	1/C
Weekend media utilization for entertainment	4/C

**Table 5-3: Loss of Privileges**

(2) In the event that a midshipman fails to adhere to the provisions of this sanction, their case will be forwarded to the Commandant of Midshipmen by the original Adjudicating Authority for further consideration.

(3) Any midshipman who is forwarded with a recommendation for disenrollment will automatically lose all class privileges until the next hearing in the case. However, the adjudicating authority may waive the loss of any or all privileges when making the

recommendation for disenrollment. If the midshipman is retained at a subsequent hearing, any further loss of privileges must be specifically awarded. Any period of automatic loss of privileges will count towards the total amount of loss of privileges that is ultimately awarded.

(4) If loss of privileges extends into the next class year (e.g., 3/C to 2/C), the midshipman will also lose any new privilege based on the new class as identified in Table 5-3, unless waived by the Awarding Authority, successor, or higher authority.

d. Removal/Suspension/Non-Representation -Sports/Extracurricular Activities

(1) Removal. The Commandant of Midshipmen may remove members and managers from varsity teams, club teams, or other ECAs for misconduct.

(2) Suspension. The Commandant of Midshipmen may suspend midshipmen from any or all team or group activities including meetings, practices, training, competition, social functions, or any other involvement.

(3) Non-Representation. The Commandant of Midshipmen may place a midshipman in a “non-representation” status, meaning the midshipman is prohibited from traveling with a team or activity and from representing the USNA as part of that team or activity for the time period set forth by the Commandant of Midshipmen; however, the midshipman may still attend practices and meetings during that time.

(4) Pending Investigation/Proceedings. When a midshipman is suspected of serious misconduct (SEPP-level or criminal offenses), the Commandant may immediately remove, suspend, or non-rep that accused midshipman pending the outcome of the investigation/proceedings. Such action will normally be taken following the notification of the accused midshipman that he or she is under investigation.

e. Removal from Leadership Position. The Commandant of Midshipmen may remove a midshipman from a leadership position within the Brigade.

(1) 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 of Midshipmen to the Commandant of Midshipmen for review/action. The Superintendent will be informed of all proposed reductions of senior (five stripers and above) members of the Brigade staff. Leadership within a Company may be relieved with Battalion Officer approval, and the Commandant will be informed.

(2) Pending Investigation/Proceedings. When a midshipman is suspected of serious misconduct (SEPP-level or criminal offenses), the Commandant may immediately remove that accused midshipman pending the outcome of the investigation/proceedings. Such action will normally be taken following the notification of the accused midshipman that he or she is under investigation.

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f. Deprivation of Normal Liberty. Deprivation of normal 4/C liberty as a sanction is not authorized unless it is the result of restriction. Deprivation of normal upper-class liberty may be administered only by the CO or the CO's superior in the chain of command for a period of time within the ranges applicable to "Loss of Privileges" in Table 5-3. If necessary to prevent continued misconduct, normal upper-class liberty may be secured prior to adjudication of a conduct offense. The CO or CO's superior in the chain of command will consult with the Legal Advisor prior to making this determination. The midshipman will receive day-for-day credit if loss of liberty is subsequently awarded for the offense.

g. Loss of Leave. The Commandant of Midshipmen may suspend a midshipman's ability to take leave for a period not to exceed 6 months. The midshipman will not be eligible for regular or special leave during that period, unless an exception is granted by the Commandant of Midshipmen. The midshipman will continue to be eligible for emergency leave, convalescent leave, and leaves of absence.

h. Automobile Privileges. The Commandant of Midshipmen or Deputy Commandant of Midshipmen may suspend or revoke midshipman automobile privileges at any time (e.g., a midshipman may have their 2/C and 1/C driving and parking privileges revoked during 3/C year). COs may suspend parking privileges for offenses as provided by the notes for offense codes 04.18 and 04.19; however, any suspension awarded exceeding the minimum sanctions prescribed must be approved by the respective Battalion Officer. Any suspension exceeding 180 calendar days must be approved by the Deputy Commandant of Midshipmen.

i. Company Change. The Deputy Commandant of Midshipmen may order a midshipman to a new Company.

j. XYZ Cases. Midshipmen adjudicated for SEPP offenses and certain Major offenses will be required by the Brigade Conduct Officer (per Chapter 1, section 8 of this instruction) to write an XYZ case. XYZ cases that involve CMEO or SAPR issues will only be published when submitted to the Conduct Officer by the CMEO Officer or SAPR Program Manager. XYZ cases are meant to educate the Brigade.

## 6. Conduct Probation

a. Conduct probation is a period of heightened scrutiny of a midshipman due to significant conduct issues. Violation of probation may result in a recommendation for disenrollment by the Commandant of Midshipmen to the Superintendent.

b. Conduct probation may be awarded by the Commandant of Midshipmen:

(1) As a result of a finding of guilt for a SEPP or Major conduct offense at the recommendation of the Adjudicating Authority or in lieu of a recommendation by the Commandant to the Superintendent for disenrollment,

(2) Any time a midshipman's conduct is determined to be unsatisfactory, as defined in Chapter 6,

(3) As a result of retention by the Superintendent following a recommendation for disenrollment, or

(4) At the Commandant's discretion upon a review of the facts of a case.

c. Specific terms and time periods of probation will be established by the Commandant of Midshipmen. A midshipman will be notified in writing that they have 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 Commandant of Midshipmen's Conduct Officer or the Commandant of Midshipmen's Legal Advisor.

(1) The Commandant of Midshipmen may impose any number of conditions as part of conduct probation. These include, but are not limited to:

(a) Loss of any or all privileges.

(b) Referral to a conduct remediation program.

(c) Assignment to a different company.

(d) Referral to the Brigade Drug and Alcohol Program Advisor for screening and/or to the Brigade Alcohol and Drug Education Officer (ADEO) for active participation in the Keep What You've Earned campaign.

(e) Removal or suspension from sports/ECAs or loss of privilege to represent the USNA in any capacity (i.e., non-representation).

(f) Removal from or assignment to a leadership position.

## 7. Unsatisfactory Conduct Procedures

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

b. Record Review. The Commandant of Midshipmen 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 of Midshipmen will take no action beyond the sanctions already assigned by the Adjudicating Authority.

(2) Formal Verbal or Written Counseling. The midshipman is counseled by the chain of command regarding the unsatisfactory conduct and the appropriate documentation is included in the midshipman's conduct record and performance jacket.

(3) Placement of Midshipman on Conduct Probation and/or Remediation. The Commandant of Midshipmen may assign conduct probation and/or remediation in a written letter delineating the terms of successful completion. The Commandant of Midshipmen 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 of Midshipmen will consider the information provided during the hearing, the midshipman's prior conduct record, and the midshipman's overall suitability for commissioning. The Commandant of Midshipmen may, at their sole discretion, take one of the following courses of action at the conclusion of such 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 disenrollment from the USNA. If the Commandant of Midshipmen recommends a midshipman for disenrollment from the USNA, they will forward the case and supporting materials to the Superintendent per section 8 below.

(5) Forward the case to the Superintendent with a recommendation the case be handled via an MDB.

(6) Forward for Review under the Aptitude System. The Commandant of Midshipmen may direct the chain of command to convene an appropriate Aptitude Board to review the midshipman's overall record. Forwarding the midshipman to an Aptitude Board does not in any way restrict other options in the Conduct System as detailed above.

8. Disenrollment Procedures. Commandant of Midshipmen Action. If the Commandant of Midshipmen recommends a midshipman for disenrollment from the USNA, the following will occur:

a. The Legal Advisor will prepare a summary of the Commandant of Midshipmen's hearing.

b. A memorandum recommending disenrollment will be prepared and forwarded to the Superintendent explaining 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.

c. The midshipman will be afforded an opportunity to review the Commandant of Midshipmen's memorandum and all enclosures prior to any hearing with the Superintendent. The midshipman will be provided a copy of the Commandant of Midshipmen's memorandum.

## 9. Disenrollment

a. The disenrollment authority for midshipmen is determined by USNA Midshipmen Disenrollment, SECNAVINST 1531.4B. On a case-by-case basis, the Commandant of Midshipmen may recommend to the Superintendent that a midshipman found unsatisfactory in conduct be disenrolled from the USNA.

b. If either the Superintendent or the disenrollment authority disagrees with the recommendation for disenrollment and returns the case to the Commandant of Midshipmen, the Commandant of Midshipmen may hold an additional hearing regarding unsatisfactory conduct or may immediately place the midshipman on conduct probation with or without loss of privileges and/or remediation, unless otherwise directed.

d. Assistant Secretary of the Navy (Manpower & Reserve Affairs) (ASN (M&RA)) makes the final decision on midshipman disenrollment for conduct or honor violations. If ASN (M&RA) determines that the Superintendent's recommendation to disenroll the midshipman is reasonable and well founded, they will send an order to separate the midshipman to the USNA, and the midshipman Personnel Office will issue the former midshipman a DD Form 214 Certificate of Release or Discharge from Active Duty. Discharge from the Naval Service may be an Honorable discharge or a General (Under Honorable Conditions) discharge. An Other than Honorable (OTH) discharge may only be given if MDB procedures were used.

CHAPTER 6  
CONDUCT GRADING, STANDING, AND REMEDIATION

1. Grading System

a. A midshipman's semester conduct grade is based solely upon accumulated demerits received for offenses which took place within that particular conduct semester and can be assigned in increments of 5. Table 6-1 shows accumulated demerit ranges which correspond to each conduct semester letter grade.

DEMERIT RANGES PER CONDUCT SEMESTER LETTER GRADE

LETTER GRADE	POINT VALUE	1/C	2/C	3/C	4/C
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 6-1: Demerit Ranges for Conduct Grades**

b. 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.

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 6-2).

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 SEPP-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 6-2), or
- (6) Accumulated demerits exceed the career demerit allowance (see Table 6-2).

DEMERIT ALLOWANCES

CLASS	YEARLY DEMERIT ALLOWANCE (YDA)	(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 6-2: Demerit Allowances**

d. Delayed Graduation. Subject to approval by the Superintendent, the Commandant of Midshipmen may recommend delayed graduation for 1/C 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.

3. Counseling and Notification of Deficient Status

a. Counseling. The CO, Company SEL, and/or the CC 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 CO, Company SEL, CC, and the Conduct Office receive notifications via e-mail of DEFICIENT CONDUCT STANDING from MIDS. Midshipmen who are in a deficient standing should be notified of their status by their chain of command, at which time the CCO, Company SEL, and/or CC 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.

4. Remediation Structure. The Conduct System utilizes the Command Managed Equal Opportunity (CMEO) Office, the ADEO, and/or a tailored Conduct Remediation Program to help remediate midshipmen whose misconduct is attributed to lack of compliance with governing regulations (e.g., UCMJ, Navy Regulations, USNA Regulations, SECNAV and OPNAV Instructions, General Orders, Federal, State or Local Laws) or to a lack of training.

a. CMEO. Midshipmen whose conduct offense is of a sexual nature, is sexually harassing in nature, demonstrates elements of gender bias, or exhibits adverse behavior as defined by Department of Defense, DoN, or USNA equal opportunity policies may be assigned to the Dignity and Respect Remediation Program. Dignity and Respect remediation will be conducted per Dignity and Respect Remediation Program, COMDTMIDNINST 5354.2 and will be assigned by the Commandant per the Conduct Remediation Worksheet (TAB I). A copy of any such letter, including a conduct probation letter where Dignity and Respect Remediation is an included condition, will be given to the Commandant of Midshipmen's CMEO Officer.

b. ADEO. A command referral for substance abuse screening shall be directed for midshipmen whenever the Adjudicating Authority believes alcohol to be a contributing factor to their misconduct (this does not preclude peer or self-referrals). Substance abuse screening will be assigned in writing by the Commandant of Midshipmen in an Letter of Intent (LOI). A copy of any LOI directing substance abuse screening will be given to ADEO. For further ADEO information see Midshipmen Alcohol and Drug Abuse Prevention and Control ,COMDTMIDNINST 5350.1E.

#### 5. Conduct Remediation

a. Conduct remediation is not a sanction; it is an opportunity for a midshipman to receive additional guidance and mentorship to correct their deficiencies. Remediation will be tailored to the accused midshipman and their conduct offense. The remediator will meet with the accused midshipman to develop, and subsequently implement, an appropriate remediation program for the accused midshipman.

b. Assignment of Conduct Remediation. Conduct Remediation can be recommended by any Adjudicating Authority. Remediation will be assigned to the midshipman via the Sanctions Worksheet (See TAB F). The Commandant's Conduct Officer will be responsible for remediator assignment. Any officer (O-3 and above) or enlisted (E-7 and above) on the Yard is eligible to serve as a remediator. The remediator will not be in the accused midshipman's chain of command or otherwise involved in the investigation or adjudication of the midshipman's conduct case.

c. Minimum Requirements of Conduct Remediation. At a minimum, conduct remediation must consist of:

(1) An initial counseling session to determine what issues and circumstances may have caused the problem. These factors should remain in focus throughout the entire remediation period.

(2) A Midshipman Development Plan - which may include a Plan of Action and Milestones (POA&M) - to establish both personal and professional goals for the remediation, must be created together by the midshipman and mediator. This plan should be created within one week following the initial counseling session.

(3) Weekly meetings - no less than one time per week. In addition to the meetings, the mediator may require the midshipman to complete weekly assignments. Assignments may include having the midshipman keep a weekly journal, write essays, or read books or articles for further discussion.

(4) A final essay to be turned in with the final evaluation, no less than four pages in length (double-spaced with 1-inch margins). The essay should document the progress the midshipman has made: where they started, everything they have learned, how they have changed, and their understanding post-remediation. It should relate to their duties as a midshipman and potential career as a future Naval or Marine Corps Officer. It should clearly show that the midshipman understands the concept of remediation and how it will relate to success in the future as an officer.

d. Timeline and Early Termination of Remediation

(1) Remediation will continue even when the Remediator and midshipman are not co-located. The remediation process will continue during all holiday and summer breaks to the maximum extent possible. Phone, text, email, and video communications are acceptable alternatives and may be used during these periods. The midshipman may participate in summer training; however, significant events (such as extended illnesses, emergency leave periods, etc.) or inability to make satisfactory progress within the allotted remediation period may be cause to consider an extension of the remediation period. Normal occurrences in the day-to-day life of midshipmen (such as movement orders and sick days) will not normally require an extension of the remediation period. The Deputy Commandant of Midshipmen is the approving authority for all extensions under this paragraph.

(2) Remediation may be successfully completed early if the midshipman has made significant positive progress during the remediation period. If the mediator has determined the midshipman has met all remediation goals and there would be no added benefit to continuing the remediation, the mediator may recommend the remediation period be shortened. The mediator must have the concurrence of the Deputy Commandant of Midshipmen prior to submitting the midshipman's final paper to the Commandant of Midshipmen. The justification for early completion of the program must be clearly stated in the mediator's endorsement.

(3) Remediation may be terminated early if the mediator determines the midshipman has failed to meet requirements of the remediation, violated assigned sanctions, or committed further conduct or honor offenses during the remediation period. The mediator will prepare a

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remediation failure report and clearly state the reason(s) for recommending termination of the program. Remediation normally may not be terminated without conducting at least four meetings (in addition to the initial meeting). Remediation will continue until a final termination decision is made by the Commandant of Midshipmen or the midshipman has been officially separated or discharged from the USNA.

e. Final Report and Routing Requirements. All reports will be routed through the midshipman's chain of command prior to the Conduct Office. The following items must be included in the routing folder:

(1) Remediation Worksheet. The remediator will submit an evaluation of the accused midshipman's aptitude for commission at the conclusion of the Conduct Remediation Program. The report will include a complete overview of the goals of the remediation, the steps taken to achieve the goals, and the midshipman's progress in achieving the goals. The remediator must recommend whether the midshipman successfully completed remediation. The remediator's recommendation should focus on the analysis of the midshipman's officer potential and should be based on the remediator's observations during the Conduct Remediation Program. The remediator is not limited to personal observations in arriving at their recommendations. The remediator's evaluation must include one of the following recommendations:

(a) Successful remediation contingent based on a comprehensive review of the midshipman's development during the remediation process. If the remediator feels the goals have been met prior to the full nominal remediation period duration, they may recommend early completion to the Deputy Commandant.

(b) Conduct Remediation Extension (>2 weeks needed, fairly certain remediation will have a successful result).

(c) Reassignment to New Remediator (Due to conflict of interest or can no longer effectively mentor assigned midshipmen)

(d) Referral to Remediation Review Board (panel of senior O-6's) for broader evaluation of a midshipman's performance and potential for successful remediation.

(e) Conduct Remediation failure and a recommendation to forward the midshipman to the Superintendent for disenrollment in accordance with the midshipman's LOI. Clear justification for the failure recommendation must be included.

(2) Chain of Command Comments. The midshipman's CO, SEL, and Battalion Officer will make comments based on the remediation completion package regarding their recommendation for remediation completion. This sheet will be prepared by the Brigade Conduct Officer.

(3) The midshipman's final essay will be included for routing and evaluation.

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f. Final Decision. Upon receipt of the completed final report, the Commandant of Midshipmen may approve the completion of remediation, extend the remediation period with or without a new remediator, or forward the midshipman to the Superintendent for disenrollment. The Commandant of Midshipmen may, but is not required to convene a hearing or Remediation Review Board prior to making their decision. The Deputy Commandant of Midshipmen will determine the members of a Remediation Review Board if one is to be convened. If the Commandant of Midshipmen extends the remediation period, the remediation worksheet will be updated with a new projected completion date and guidance as desired.

CHAPTER 7  
MIDSHIPMEN INFORMATION SYSTEM (MIDS)

1. General. The MIDS allows online entry and tracking of Form-2s. It automatically calculates conduct standings and conduct grades based on demerits entered into Form-2s.

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, COs, Company SELs, Brigade Commander, Brigade XO, Brigade Conduct Officer, Regimental Commanders, Battalion Commanders, Battalion Conduct Officers, CCs, 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, or best approximation if exact date is not determinable.

(4) [Level of Offense] - Minor or Major (select Major for SEPP-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 SELs 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 for the alleged offense. Reference OOW SITREP # if applicable.

### 3. Updating a Form-2

a. Investigation of Conduct Cases. MIDS allows for the investigation of all offenses to be tracked online. Assigning a PIO. PIOs can be assigned to conduct cases by the Conduct Officer via the [Conduct-Assign PIO] module in MIDS or directly on the Form-2.

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

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

(3) Others who receive a carbon copy of the PIO assignment e-mail include the accused midshipman, Conduct Office personnel, Battalion XOs, COs, Company SELs, CCs, and Company Conduct Officers.

b. Entering a Plea. Midshipmen who have been formally charged with a conduct offense may enter a plea and a statement into MIDS prior to their scheduled adjudication. Midshipmen are formally charged at the time in which the FORM-2 is validated by the Conduct Officer. To enter a plea, the midshipmen must use the [Conduct-Enter Plea] module located on the midshipmen menu in MIDS. An accused midshipman may update their plea at any time after notification of formal charges and prior to the findings at an adjudication per Section 4.2.

c. Awarding 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) Commandant of Midshipmen's Conduct Officer: [Conduct Validate/Maintain Mid Offenses]

(b) Battalion XOs, COs, Company SELs, Brigade Conduct Officer, Battalion Conduct Officers, CCs, Company Conduct Officers: [Conduct-Record Offenses]

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

d. Entering Awarded Sanctions. MIDS allows entry of sanction details into the Form-2 and automatically calculates the end dates for all sanctions except probation and remediation.

(1) Awarded Sanction

(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) [Tour Type] - Enter number of days. Tours may only be inserted if Restriction is NOT awarded.

(d) [Loss of Privs] - Enter number of days. Specify which privileges are being revoked in the Award Comment block.

(e) [Loss of Car Privs] - Enter number of days.

(f) [Lost Leave] - Enter number of months. If specific end date is desired, annotate in Award Comment block.

(g) [Extra Duty] - Enter number of days. Specify which duties are being assigned in the Award Comment block.

(h) [Conduct/Honor Probation] - Enter number of months and end date.

(i) [Remediation Award] - Enter number of months and end date.

(j) [Reduction in Rank] - No Longer Applicable, leave blank.

(2) Deferred Sanctions. Restriction and tours may be suspended within the limits and guidelines established in Chapter 5. Select whether sanctions will be suspended or deferred using the drop-down menu and insert the date that the sanctions will begin using the calendar icon.

(3) [Award Comment] - A short narrative will 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 sanctions awarded and detail any suspensions or deferments and the reasons.

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

(c) In cases in which specifics regarding the sanctions of an adjudication are deferred to an unknown date (e.g., deferred until midshipman's return from leave of absence) where it is not feasible to correctly enter information into the sanction blocks, the Award Comment narrative shall be used and shall take precedence over the sanction blocks.

#### 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 sanctions were properly entered into the matrix on the Form-2 and the Award Comment is complete.

b. Validation

(1) 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.

(2) A Form-2 must be validated in order for the demerits to count when the system processes a midshipmen’s Conduct Grade.

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, CO, Company SEL, and the CC.

5. Processing Conduct Grades and Standings. Processing midshipmen Conduct Grades. Use the [Conduct - Process Grades] module to update the Conduct Grades for the entire Brigade or to update the Conduct Grade for a midshipman.

a. To process the grades for the entire Brigade, enter the academic year and semester. Leave the alpha block empty and select “Create Conduct Grades.” After creating grades, input information except for alpha and select “Transfer Conduct Grades.”

b. To process the grades for a single midshipmen, enter the academic year, the semester, and alpha of the midshipman. Select “Create Conduct Grades.” After the grades are created, re-enter the required information and select “Transfer Conduct Grades.”

c. It may take up to 3 working days for the new grades to reflect in MIDS.

**TAB A - OFFENSE ELEMENTS**

**02.02 (Minor) Violation of oral or written orders addressed to an individual or group.**

a. Elements:

- (1) That the accused received a lawful order either orally or in writing;
- (2) That the accused had knowledge of the order;
- (3) That the accused had a duty to obey the order; and
- (4) That the accused failed to obey the order.

**02.04 (Minor) Violation of local instruction, regulation, or notice.**

a. Elements:

- (1) That there was in effect a certain local instruction, regulation, or notice;
- (2) That the accused had a duty to obey it; and
- (3) That the accused violated or failed to obey the instruction, regulation, or notice.

**Note:** Specify the specific instruction, regulation, or notice which was violated. If the offense is specifically described by another offense code, that offense code should be used.

**Note:** Local instructions, regulations, and notices are those applicable specifically to the Brigade of Midshipmen, including but not limited to USNA Instructions, COMDTMIDNINST, ACDEANINST and DIRATHINST.

**02.05 (Minor) Failure to perform a duty properly / dereliction of duty.**

a. Elements:

- (1) That the accused had certain duties;
- (2) That the accused knew or reasonably should have known of the duties; and
- (3) That the accused failed to perform the duties properly or was otherwise derelict in the performance of those duties.

**02.06 (Minor) Interfering with an individual who is performing a duty.**

a. Elements:

- (1) That an individual was performing an official duty;
- (2) That the accused knew or reasonably should have known the individual was performing an official duty;
- (3) That the accused did or omitted to do certain acts; and
- (4) That, under the circumstances, such acts or omissions interfered with the individual's performance of duty.

**02.07 (Minor) Aiding, abetting, counseling, commanding, or procuring the commission of an offense actionable under this instruction.**

a. Elements:

- (1) That an offense under the Conduct System was committed by a certain person other than the accused; and
- (2) That the accused aided, abetted, counseled, commanded, or procured the commission of the offense.

b. Elements (Aiding after the fact):

- (1) That an offense under the Conduct System was committed by a certain person other than the accused;
- (2) That the accused knew that this person had committed such offense;
- (3) That thereafter the accused received, comforted, or assisted the offender; and
- (4) That the accused did so for the purpose of hindering or preventing the apprehension, adjudication, or punishment of the offender.

**Note:** The level of this offense should generally be equal in magnitude to the offense committed by the principal offender.

**Note:** Offense code 05.04 will be used for aiding/abetting an alcohol offense.

**02.08 (Minor) Failure to report or address a conduct violation.**

a. Elements:

- (1) That a certain person, other than the accused, engaged in a conduct violation;
- (2) That the accused had first-hand knowledge of the violation (e.g., witness or informed personally by the person who committed a violation);

(3) That the accused knew or reasonably should have known the behavior was a violation; and

(4) That the accused failed either to report the violation to competent authority or to address the violation in a reasonable manner under the totality of the circumstances.

**Note:** Any action or omission which violates a lawful instruction, regulation, order, direction, or similar official guidance directed toward a midshipman is considered a violation, which may include a violation of the honor concept, academic instructions, and course policies.

**02.08 (SEPP) Failure to report or address a violation of the UCMJ.**

a. Elements:

(1) That a certain person, other than the accused, violated the UCMJ;

(2) That the accused had first-hand knowledge of the violation (e.g., witness or informed personally by the person who violated the UCMJ);

(3) That the accused knew or reasonably should have known the behavior was a violation;

(4) That the accused failed either to report the violation to competent authority or to address the violation in a reasonable manner under the totality of the circumstances; and

**02.09 (Minor) Failure to use good judgment.**

a. Elements:

(1) That the accused engaged in or omitted certain acts or made a certain decision; and

(2) That the accused failed to exercise good judgment under the circumstances.

**Note:** An accused is not guilty of this offense simply because the Adjudicating Authority would have made a different decision than the accused. The question whether the accused exercised good judgment must be answered based on the totality of the circumstances.

**03.01 (Minor) Failure of 4/C midshipman to follow requirements of plebe year training program as outlined in MIDREGs, Reef Points, and other relevant instructions, directives, and orders.**

a. Elements:

(1) That the accused was a 4/C Midshipman;

(2) That a certain requirement of the plebe year training program applicable to all 4/C Midshipmen was announced in MIDREGs, Reef Points, or other relevant instructions, directives, or orders; and

(3) That the accused failed to follow the requirement.

**Note:** This offense code does not apply to requirements of the plebe year training program where other specific sanctions are provided (e.g., failure of ProKnow).

**03.02 (Minor) Failure of upper-class midshipman to support the plebe year training program.**

a. Elements:

(1) That the accused was a 3/C, 2/C, or 1/C Midshipman;

(2) That the accused was required by MIDREGs or another instruction, directive, or order to take a certain action or refrain from taking a certain action in support of the plebe year training program; and

(3) That the accused failed to take or not take the appropriate action.

**04.01 (Minor) Fraternization, not of a romantic or sexual nature.**

a. Elements:

(1) That the accused engaged in an unduly familiar relationship with a midshipman in the same company, with a midshipman resulting in a relationship between a 4/C Midshipman and upperclassmen, with an enlisted member of any armed service, with an officer of any armed service, or with a civilian staff or faculty member at the USNA;

(2) That the accused then knew or reasonably should have known the other person belonged to such category;

(3) That the undue familiarity was not of a sexual or romantic nature; and

(4) That the relationship violated the customs of the Naval Service, USNA policies, or MIDREGS.

**04.02 (Major) Fraternization, of a romantic or sexual nature.**

a. Elements:

(1) That the accused engaged in an unduly familiar relationship with a midshipman in the same company, with a midshipman resulting in a relationship between a 4/C Midshipman and

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upperclassmen, with an enlisted member of any armed service, with an officer of any armed service, or with a civilian staff or faculty member at the USNA;

(2) That the accused then knew or reasonably should have known the other person belonged to such category;

(3) That the undue familiarity was of a sexual or romantic nature; and

(4) That the relationship violated the customs of the Naval Service, USNA policies, or MIDREGS.

#### **04.03 (SEPP) Sexual misconduct.**

a. Elements:

(1) That the accused committed a certain act, including, but not limited to, generating pornography, sexually motivated nudity, indecent exposure; and sexual acts or contact committed under circumstances which are service discrediting or prejudicial to good order and discipline;

(2) That the act was done with intent to arouse or gratify the sexual desire of any person or reasonably tend to give the appearance that an act with such intent was occurring; and

(3) That the act was committed in an area under military control.

**Note:** Examples of sexual misconduct are, but not limited to generating pornography, sexually motivated nudity, and indecent exposure. sexual act or contact at the USNA or other locations under military control, and sexual acts or contact committed under circumstances which are service discrediting or prejudicial to good order and discipline, including generation of pornographic materials. Areas under military control include the USNA and all naval vessels.

#### **04.04 (SEPP) Sexual harassment as defined in current SECNAV, OPNAV, and USNA Instructions.**

a. Elements:

(1) That there was an order or regulation as to sexual harassment in the SECNAV, OPNAV, and USNA Instructions;

(2) That the accused had a duty to obey it; and

(3) That the accused violated or failed to obey the order or regulation as to sexual harassment as defined by SECNAV, OPNAV, or USNA Instructions.

**Note:** The Office of Special Trial Counsel (OSTC) will hold original jurisdiction over suspected sexual harassment offenses taking place after 31 December 2024. These cases will be investigated by the Naval Criminal Investigative Service (NCIS).

**Note:** Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, and passive or indirect actions that create a hostile work environment such as sexually explicit posters, pictures or screen savers, and other verbal or physical conduct of a sexual nature.

**04.05 (Minor) Disrespect or insubordination to a higher ranked midshipman or a midshipman in a position of authority.**

a. Elements:

- (1) That the accused did or omitted certain acts or used certain language;
- (2) That such behavior or language was directed toward a certain midshipman superior in rank or in a position of authority;
- (3) That the accused then knew that the midshipman toward whom the acts, omissions, or words were directed was a superior or a person in a position of authority; and
- (4) That, under the circumstances, the accused, by such behavior or language, was with contempt or was disrespectful to said superior or midshipman in a position of authority.

**04.05 (Major) Disrespect or insubordination to a superior officer or an individual in a position of authority.**

a. Elements:

- (1) That the accused did or omitted certain acts or used certain language;
- (2) That such behavior or language was directed toward a certain individual superior in rank or in a position of authority;
- (3) That the accused then knew that the person toward whom the acts, omissions, or words were directed was a superior or a person in a position of authority; and
- (4) That, under the circumstances, the accused, by such behavior or language, was with contempt or was disrespectful to said superior or person in a position of authority.

**Note:** Individuals in a position of authority include company Senior Enlisted Leaders and Academic Instructors.

**Note:** It is not required that the disrespectful behavior be in the presence of the superior, but ordinarily one should not be held accountable under this offense code for what was said or done in a purely private conversation.

**04.06 (Major) Challenge to personal combat or threat of physical violence.**

a. Elements:

- (1) That the accused communicated certain language expressing a challenge or intent to wrongfully injure the person, property, or reputation of another person, presently or in the future;
  - (2) That the communication or challenge was made known to that person or a third party;
- and
- (3) That the communication or challenge was wrongful.

**Note:** When the challenge or threat culminates in physical action, conduct code 04.21 (SEPP) (UCMJ Article 128) will be charged

**04.07 (Minor) Negligent use of computer or government network.**

a. Elements:

- (1) That the accused used a government computer or network; and
- (2) That the unauthorized or inappropriate use was negligent.

**04.07 (SEPP) Wrongful use of computer or government network.**

a. Elements:

- (1) That the accused used a government computer or network; and
- (2) That the use was for unauthorized or inappropriate purposes.

Note: This charge should be used in cases such as, but not limited to, cyber bullying, cyber stalking, viewing pornography, and/or other criminal activity.

**04.08 (Major) Possession, viewing, or display of pornographic materials in Bancroft Hall or on the USNA complex.**

a. Elements:

- (1) That the accused knowingly possessed, viewed, or displayed pornography; and
- (2) That the accused committed such acts inside Bancroft Hall or onboard the USNA complex.

**04.09 (Minor) Displays of affection (anytime in Bancroft Hall or when in uniform in public.)**

a. Elements:

- (1) That the accused committed and directed certain acts toward another person;
- (2) That the acts under the circumstances were displays of affection; and
- (3) That the acts occurred within Bancroft Hall or while in uniform in public.

**Note:** Displays of affection are defined as physical acts which could reasonably be interpreted by an observer as evidence that those participating are involved in a romantic relationship. Displays of affection include, but are not limited to, hand holding, touching, massaging/back rubs, sitting on a lap, touching, and kissing.

**04.10 (Major) Harassment of a non-sexual nature as defined in current SECNAV, OPNAV, and USNA Instructions.**

a. Elements:

- (1) That the accused engaged in a course of conduct directed toward another person or group of people; and
- (2) That this course of conduct was of an unwanted or harassing nature to the other person or group of people.

**Note:** Harassment includes, but is not limited to, abusive or pejorative language and actions that denigrates another person. Harassment typically involves, but is not required to involve, language and actions concerning age, ethnicity, race, religion, sex, gender identity, or sexual orientation. Examples include, but are not limited to, racial or ethnic slurs; humor, jokes, or teasing about sex, race, age, religion, disability, or gender-specific traits; abusive language, insults, or threats; vulgar sounds or gestures; offensive or hateful pictures, posters, calendars, cartoons, or obscene e-mail; offensive or derogatory written materials; exclusionary or demeaning actions or activities based on age, ethnicity, sex or race.

**04.11 (Minor) Negligent destruction or damage of government or private property.**

a. Elements:

- (1) That the accused, without proper authority, inadvertently or negligently damaged or destroyed certain property in a certain way;
- (2) That the property was that of the government or another person;
- (3) That the damage or destruction was due to negligence of the individual; and
- (4) That the property was of a certain value or the damage was of a certain amount.

**04.11 (Major) Intentional destruction or damage of government or private property. Negligent Waste of Government Resources.**

a. Elements:

- (1) That the accused, without proper authority, intentionally damaged or destroyed certain property in a certain way;
- (2) That the property was that of the government or another person;
- (3) That the damage or destruction was intentional; and
- (4) That the property was of a certain value or the damage was of a certain amount.

**EXCEPTION:** 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.

**04.12 (Minor) Introduction of, or failure to remove, unauthorized persons from Bancroft or King Hall.**

a. Elements:

- (1) That the accused introduced a person into, or failed to take affirmative action to remove a person from, Bancroft or King Hall; and
- (2) That the accused knew or should have known that the other person was not authorized to be in Bancroft or King Hall.

**04.13 (Minor) Entering a restricted area, including roof areas or any areas marked as such.**

a. Elements:

- (1) That the accused entered a restricted area;
- (2) That at the time the accused entered the area, the accused knew or reasonably should have known the area was restricted; and
- (3) That the accused entered the area without property authority.

**04.14 (Major) Unauthorized means of ingressing or egressing either Bancroft Hall or the USNA grounds (e.g. "jumping the wall").**

a. Elements:

- (1) That the accused entered or exited Bancroft Hall or the USNA grounds; and
- (2) The means by which the accused entered or exited was in violation of applicable regulations or otherwise not authorized by proper authority.

**Note:** Offense code 04.16 will be used for instances of unauthorized ingress to or egress from Bancroft Hall relating to class privileges listed in MIDREGS (e.g., “class doors”).

**04.15 (Major) Possession or use of a false, altered, or unauthorized identification card, pass, or similar document (including but not limited to driver’s licenses, military ID cards, and other forms of identification.)**

a. Elements:

(1) That the accused used or possessed a certain identification card, pass, or similar document;

(2) That the identification card, pass or similar document was false, altered, or unauthorized; and

(3) That the accused then knew or should have reasonably known that the identification card, pass, or similar document was false, altered, or unauthorized.

**04.16 (Minor) Usurping any special or basic class authorizations or privileges.**

a. Elements:

(1) That the accused did or omitted to do a certain act;

(2) That the act or omission is a privilege as defined in MIDREGS or other instructions, notices, or directives; and

(3) That the accused is not authorized or entitled to the privilege.

**Note:** This offense code should be used for incidents including the unauthorized wearing of civilian clothes and the use of “class doors.” Offense code 04.19 should be used for instances of driving, maintaining, or operating a vehicle relating to class privileges.

**04.17 (Major) Carelessness in operating a vehicle.**

a. Elements:

(1) That the accused was operating or in physical control of a vehicle;

(2) That while operating or in physical control of a vehicle, the accused did so in a careless manner.

**Note:** A careless manner is any manner which may reasonably pose a risk to other vehicles, pedestrians, or bystanders. This includes, but is not limited to, speeding and using a cell phone while driving.

**Note:** This should be charged as a SEPP-level offense when the carelessness results in a collision.

**04.18 (Major) Parking in violation of MIDREGS and/or military base regulations.**

a. Elements:

(1) That there was in effect a certain MIDREG and/or military base regulation with respect to parking;

(2) That the accused had a duty to obey the regulation;

(3) That the accused knew or should have known the accused did not have authority to park a vehicle in a certain manner as set forth in the regulation; and

(4a) That the accused parked a vehicle in a manner which violated the regulation; or

(4b) That the vehicle was not registered with Brigade Ops and/or the proper vehicle stickers and/or placards were not properly displayed.

**04.19 (Minor) Driving, maintaining, or operating a motor vehicle in violation of MIDREGS.**

a. Elements:

(1) That there was in effect a certain MIDREG with respect to driving, maintaining, or operating motor vehicles;

(2) That the accused had a duty to obey the MIDREG;

(3) That the accused knew or should have known the accused did not have authority to drive, maintain, or operate a motor vehicle per the MIDREG; and

(4) That the accused drove, maintained, or operated a motor vehicle without proper authority.

**04.20 (Minor) Failure to have the door fully open when required by MIDREGS**

a. Elements:

(1) That the accused occupied a room that per MIDREGS policy required the door to be open.

(2) That while the accused occupied the room, the door was not fully open at 90 degrees.

**Note:** All midshipmen present in the room should be charged with this offense code, not just the midshipman assigned to the room.

**04.21 (Major) Violation of Navy Regulations, SECNAV and OPNAV Instructions, General Orders, federal, state, or local laws.**

a. Elements:

(1) That there was in effect a law or regulation contained in the UCMJ, Navy Regulations, SECNAV and OPNAV Instructions, General Orders, federal, state, or local laws;

(2) That the accused had a duty to obey the law or regulation; and

(3) That the accused violated or failed to obey the law or regulation.

**Note:** Specify the law or regulation which was violated. If the offense is specifically described by another offense code, that offense code should be used.

**04.21 (SEPP) Violation of UCMJ.**

a. Elements:

(1) That there was in effect a law or regulation contained in the UCMJ;

(2) That the accused had a duty to obey the law or regulation; and

(3) That the accused violated or failed to obey the law or regulation.

**Note:** In cases where 4.21 (SEPP) is appropriate to charge, the elements of the offense will be determined by the applicable UCMJ Article as written in the UCMJ. It may be appropriate in some cases to reduce the level of an UCMJ offense to a Major or Minor level offense for adjudication purposes.

**04.22 (SEPP) Hazing.**

a. Elements:

(1) That the accused caused another individual to suffer or be exposed to any activity which is cruel, abusive, humiliating, oppressive, demeaning, or harmful; and

(2) That the accused lacked proper authority to do so.

**Note:** Hazing violates 10 U.S.C. § 8464, which defines hazing 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.” While 10 U.S.C. § 8464 states that “no midshipman may be dismissed for a single act of hazing

except by sentence of a courts-martial,” related offenses may result in disenrollment through the Conduct System and 10 U.S.C. § 8462.

#### **04.23 (Major) Conduct unbecoming a midshipman.**

a. Elements:

(1) That the accused did or omitted to do a certain act or acts;

(2) That, under the circumstances, the accused’s conduct was unbecoming of a midshipman.

**Note:** Conduct unbecoming a midshipman means action or behavior in an official capacity which, in dishonoring or disgracing the person as a midshipman, seriously compromises the midshipman’s character, or action or behavior in an unofficial or private capacity which, in dishonoring or disgracing the midshipman personally, seriously compromises the person’s standing as a midshipman. There are certain moral attributes common to the ideal midshipman, a lack of which is indicated by acts of dishonesty, unfair dealing, indecency, indecorum, lawlessness, injustice, and cruelty. Not everyone is or can be expected to meet unrealistically high moral standards, but there is a limit of tolerance based on customs of the Service and military necessity below which the personal standards of a midshipman cannot fall without seriously compromising the person’s standing as a midshipman.

#### **04.23 (SEPP) Conduct unbecoming a midshipman.**

a. Elements:

(1) That the accused did or omitted to do a certain act or acts;

(2) That, under the circumstances, the accused’s conduct was unbecoming of a midshipman.

(3) That there was non-USNA awareness of the misconduct.

**Note:** Conduct unbecoming a midshipman means action or behavior in an official capacity which, in dishonoring or disgracing the person as a midshipman, seriously compromises the midshipman’s character, or action or behavior in an unofficial or private capacity which, in dishonoring or disgracing the midshipman personally, seriously compromises the person’s standing as a midshipman. There are certain moral attributes common to the ideal midshipman, a lack of which is indicated by acts of dishonesty, unfair dealing, indecency, indecorum, lawlessness, injustice, and cruelty. Not everyone is or can be expected to meet unrealistically high moral standards, but there is a limit of tolerance based on customs of the Service and military necessity below which the personal standards of a midshipman cannot fall without seriously compromising the person’s standing as a midshipman.

The charge will be upgraded to a SEPP level offense if there was public awareness of the alleged misconduct. In those cases, a third element will be added to state that public awareness was present.

**04.24 (Major) Sexual activity in an unauthorized location.**

a. Elements:

- (1) That the accused committed a certain act;
- (2) That the act was done with intent to arouse or gratify the sexual desire of any person or reasonably tend to give the appearance that an act with such intent was occurring; and
- (3) That the act was committed in an unauthorized area or.

**Note:** Examples of sexual activity in unauthorized locations include, but are not limited to, fondling, displays of affection on a rack, lying in a rack together, oral sex, and sexual intercourse at USNA or other locations under military control, including all naval vessels.

**05.01 (Major) Irresponsible drinking.**

a. Elements:

- (1) That the accused consumed alcohol;
- (2) That the accused became drunk or intoxicated; and
- (3) That the accused exhibited significant effects of the drunkenness or intoxication.

**Note:** Evidence of Irresponsible Drinking includes, but is not limited to, use of excessive profanity, aggressive and/or disrespectful behavior, excessive stumbling or falling down, vomiting.

**05.04 (Major) Aiding/abetting an alcohol offense or failure to prevent or act upon an alcohol offense.**

a. Elements (Aiding/abetting):

- (1) That an alcohol offense under the Conduct System was committed by a certain person other than the accused; and
- (2) That the accused aided, abetted, counseled, commanded, or procured the commission of the offense.

b. Elements (Aiding after the fact):

(1) That an alcohol offense under the Conduct System was committed by a certain person other than the accused;

(2) That the accused knew or should have known that this person had committed such offense;

(3) That thereafter the accused received, comforted, or assisted the offender; and

(4) That the accused did so for the purpose of hindering or preventing the apprehension, adjudication, or punishment of the offender.

c. Elements (Failure to act upon):

(1) That an alcohol offense under the Conduct System was committed by a certain person other than the accused;

(2) That the accused knew or should have known that this person would commit or was committing such offense; and

(3) That the accused failed to take substantive steps to prevent the offense from occurring or to take substantive steps to stop the offense if it was already in progress at the time the accused became aware of the offense.

**05.05 (Major) Consumption, possession, or introduction of alcohol within/into Bancroft Hall or aboard ship.**

a. Elements:

(1) That the accused consumed, possessed, or introduced alcoholic beverages within/into Bancroft Hall or onboard a Navy vessel; and

(2) That the accused did not have proper authority to consume, possess, or introduce the alcoholic beverage within/into Bancroft Hall or the Navy vessel.

**05.06 (Major) Providing alcohol to underage persons.**

a. Elements:

(1) That the accused provided alcohol to another person;

(2) That this person was not of age to possess or consume alcohol under the law of the local jurisdiction, including orders and regulations issued by a Commanding Officer or other competent authority while on training; and

(3) That the accused knew or should have known that the other person was not of age to possess or consume alcohol.

**05.07 (Major) 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.**

## a. Elements:

(1) That the accused consumed alcohol;

(2) That the accused became drunk or intoxicated; and

(3) That while drunk or intoxicated, the accused committed an act which brought discredit upon the Naval Service, outraged public decency, or resulted in a breach of the peace.

**05.08 (Major) Consuming alcohol or being under the influence of alcohol while on duty.**

## a. Elements:

(1) That the accused was in a duty status; and

(2) The accused consumed alcohol or was under the influence of alcohol as a result of prior consumption of alcohol.

**Note:** Midshipmen are considered on duty for all military obligations (e.g., class, duty section, etc.), mandatory Brigade events (e.g. lectures, sporting events, etc.), and any other time designated as such by competent authority. End of liberty is not considered on duty for purposes of this offense code unless associated with another mandatory event (e.g. uniform inspection).

**05.10 (Major) Consumption or possession of alcohol in violation of applicable federal, state, or local law (this includes underage drinking).**

## a. Elements:

(1) That the accused consumed or possessed alcoholic beverages; and

(2) That the consumption or possession of alcoholic beverages violated applicable federal, state, or local law.

**05.11 (Minor) Consumption or possession of alcohol in circumstances prohibited by local instruction, regulation, or notice, other than in Bancroft Hall or aboard ship.**

## a. Elements:

(1) That the accused consumed or possessed alcohol; and

(2) That the consumption or possession of alcohol was prohibited by a local instruction.

**Note:** This includes drinking as a 4/C Midshipman, drinking while on Movement Order, and possession of alcohol in any vehicle associated with a MO to include privately owned vehicles.

**05.12 (SEPP) Drunk driving or driving under the influence of alcohol.**

a. Elements:

(1) That the accused was operating or in physical control of a vehicle; and

(2) That while operating or in physical control of a vehicle, the accused:

(a) was drunk or impaired, or

(b) the alcohol concentration in the accused's blood or breath equaled or exceeded the limit under applicable federal, state, or local law.

**05.13 (SEPP) Use, possession, sale, or transfer of illegal drugs or drug paraphernalia.**

a. Elements:

(1) That the accused used, possessed, sold, or transferred a drug, controlled substance, or drug paraphernalia; and

(2) That the use, possession, sale, or transfer was wrongful per Article 112a, UCMJ, applicable regulations, or other applicable federal, state, or local law.

**06.01 (Minor) Unsatisfactory appearance in uniform (pattern of behavior).**

a. Elements:

(1) That the accused wore a certain uniform;

(2) That the uniform was in an unsatisfactory condition, the accused improperly wore the uniform, or the accused's appearance in uniform was unsatisfactory (e.g., improper grooming); and

(3) That a pattern of behavior of unsatisfactory appearance exists.

**Note:** Discrepancies must be specified and shall be documented as Form-1s prior to entry as a Form-2.

**Note:** A pattern of behavior is three or more documented instances.

**06.03 (Minor) Unsatisfactory room standards.**

a. Elements:

- (1) That the accused had a duty to maintain room standards; and
- (2) That the accused failed to maintain satisfactory room standards.

**Note:** For the first occurrence of unsatisfactory room standards, at a minimum, a negative Form-1 shall be issued. Minimum sanctions for a second occurrence within a single semester are five tours. Minimum sanctions for a third occurrence within a single semester are 10 days of restriction. A fourth occurrence (or more) within a single semester should be charged as offense code 02.05 at least at a Major-level.

**06.04 (Minor) Wearing of uniform in a manner which is prejudicial to good order and discipline or which brings discredit upon the Naval Service.**

a. Elements:

- (1) That the accused wore any official uniform or item from any official uniform;
- (2) That the manner in which the uniform or item was worn was prejudicial to good order and discipline or brought discredit upon the Naval Service.

**Note:** This offense code includes, but is not limited to, improper wear of the uniform in public.

**07.01 (Minor) Absence without authority from an academic class, military obligation, or formation.**

a. Elements:

- (1) That the accused was required to attend an academic class, formation, or other military obligation;
- (2) That the accused knew or reasonably should have known of the time and place of the obligation;
- (3) That the accused was absent from the obligation;
- (4) That the absence was without authority from anyone competent to give the accused leave.

**07.02 (SEPP) Absence without authority for greater than 24 hours.**

a. Elements:

- (1) That the accused absented them self from the USNA or their place of duty;
- (2) That the absence was without authority from anyone competent to give the accused leave; and

(3) That the absence was greater than 24 hours.

**07.06 (Major) UA after reporting for taps (i.e., “TAP and go”).**

a. Elements:

(1) That the accused signed or reported for taps;

(2) That the accused absented them self from the place the accused was required to be having signed or reported for taps;

(3) That the absence was without authority from anyone competent to give the accused leave;

**07.07 (Minor) 1st/2nd breaking restriction rules and/or UA from tours or restriction.**

a. Elements (Breaking Restriction):

(1) That the accused was awarded restriction at a conduct or honor adjudication;

(2) That the accused failed to fulfill a requirement or condition of restriction; and

(3) That the failure was without authority from anyone competent to give the accused leave from such requirement or condition.

b. Elements (UA from Tours / Restriction):

(1) That the accused was awarded restriction or tours at a conduct or honor adjudication;

(2) That the accused was required to report to a tour, muster, or other obligation as a condition of the awarded sanctions;

(3) That the accused absented them self from the required obligation;

(4) That the absence was without authority from anyone competent to give the accused leave.

**07.07 (Major) 3rd or more breaking restriction rules and/or UA from tours or restriction.**

a. Elements (Breaking Restriction):

(1) That the accused was awarded restriction at a conduct or honor adjudication;

(2) That the accused failed to fulfill a requirement or condition of restriction; and

(3) That the failure was without authority from anyone competent to give the accused leave from such requirement or condition.

b. Elements (UA from Tours/Restriction):

(1) That the accused was awarded restriction or tours at a conduct or honor adjudication;

(2) That the accused was required to report to a tour, muster, or other obligation as a condition of the awarded sanctions;

(3) That the accused absented themselves from the required obligation;

(4) That the absence was without authority from anyone competent to give the accused leave.

**Note:** Minimum sanctions for breaking restriction/Unauthorized Absence (UA) from restriction are 5 days of restriction for the first occurrence and 15 days of restriction for the second occurrence. These are processed by the Commandant's Conduct Officer and do not require adjudication. They should serve any additional restriction days immediately following their initial restriction.



**Midshipman Counselor  
Signature/Date:**

<b>SIGNATURE:</b>	<b>DATE:</b>
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**Reviewed by Chain of  
Command (initial/date):**

<b>Co Conduct Officer:</b>	
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<b>Squad Leader:</b>	
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<b>Platoon Commander:</b>	
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<b>Company Commander</b>	
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**Validated:  
(by Company Officer or  
Senior Enlisted Leader)**

<b>SIGNATURE/DATE:</b> _____
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**TAB C - SUSPECT'S RIGHTS ACKNOWLEDGEMENT/STATEMENT**

JAGINST 5800.7G, CH-2

**SUSPECT'S RIGHTS ACKNOWLEDGEMENT/STATEMENT**

(See JAGMAN 0176)

FULL NAME (ACCUSED/SUSPECT)	RATE/RANK	SERVICE
ACTIVITY/UNIT	DATE OF BIRTH	
NAME (INTERVIEWER)	RATE/RANK	SERVICE
ORGANIZATION	BILLET	
LOCATION OF INTERVIEW	TIME	DATE

**RIGHTS**

I certify and acknowledge by my signature and initials set forth below that, before the interviewer requested a statement from me, the interviewer warned me that:

(1) I am suspected of having committed the following offense(s):

\_\_\_\_\_

\_\_\_\_\_

(2) I have the right to remain silent; -----

(3) Any statement I do make may be considered by the convening authority and used as evidence against me in trial by court-martial; -----

(4) I have the right to consult with counsel before any questioning. This counsel may be a civilian lawyer retained by

A-1-o

C-1

JAGINST 5800.7G, CH-2

me at my own expense, a military lawyer appointed to act as my  
counsel without cost to me, or both; -----

(5) I have the right to have such retained civilian lawyer  
or appointed military lawyer present during this interview; and  
-----

(6) If I decide to answer questions now without a lawyer  
present, I will have the right to stop this interview at any  
time. -----

**WAIVER OF RIGHTS**

I further certify and acknowledge that I have read the above  
statement of my rights and fully understand them, and that, ---  
-----

(1) I expressly desire to waive my right to remain silent.  
-----

(2) I expressly desire to make a statement. -----

(3) I expressly do not desire to consult with either a  
civilian lawyer retained by me or a military lawyer appointed  
as my counsel without cost to me before any questioning. -----  
-----

(4) I expressly do not desire to have such a lawyer present  
with me during this interview. -----

(5) This acknowledgement and waiver of rights is made  
freely and voluntarily by me, and without any promises or  
threats having been made to me or pressure or coercion of any  
kind having been used against me.-----

(6) I understand that, even though I initially waive my  
rights to counsel and to remain silent, I may, during the  
interview, assert my right to counsel or to remain silent.-----  
-----

NOTE: IF THE SUSPECT INDICATES HE OR SHE IS WILLING TO MAKE A  
STATEMENT, HE OR SHE SHOULD FIRST BE ASKED WHETHER HE OR SHE

JAGINST 5800.7G, CH-2

HAS MADE A STATEMENT IN RESPONSE TO QUESTIONS ABOUT THE SUSPECTED OFFENSE TO ANYONE HE OR SHE BELIEVED WAS ACTING IN A LAW ENFORCEMENT CAPACITY BEFORE THE PRESENT INTERVIEW. IF THE SUSPECT INDICATES HE OR SHE HAS PREVIOUSLY MADE SUCH A STATEMENT, ADVISE THE SUSPECT AS FOLLOWS:

**PREVIOUS STATEMENTS**

I certify and acknowledge by my signature and initials set forth below that, before the interviewer requested a statement from me, the interviewer warned me that:

(1) My previous statement may not be admissible at court-martial and may not be usable against me. (It may not be possible to determine whether a previous statement made by the suspect will be admissible at some future court-martial; this suggests it may be wise to treat it as inadmissible and provide the cleansing warning).

(2) Regardless of the fact that I have talked about this offense before, I still have the right to remain silent now.

SIGNATURE (ACCUSED/SUSPECT)	TIME	DATE
SIGNATURE (INTERVIEWER)	TIME	DATE
SIGNATURE (WITNESS)	TIME	DATE

The statement which appears on this page (and the following \_\_\_ page(s), all of which are signed by me), is made freely and voluntarily by me, and without any promises or threats having been made to me or pressure or coercion of any kind having been used against me.

\_\_\_\_\_  
SIGNATURE (ACCUSED/SUSPECT)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



**TAB C - DEFENSE SERVICE OFFICE CONTACT INFORMATION**

**DEFENSE SERVICE OFFICE  
CONTACT INFORMATION**

The Defense Service Office provides legal advice to Midshipmen free of charge.

IF YOU WOULD LIKE TO CONTACT AN ATTORNEY:

The USNA defense counsel legal office is located in Luce Hall, room 307. Either call the office or stop in to schedule an appointment. The phone number is: 410-293-2268 or 202-695-9283 and email address is: [kdarby@usna.edu](mailto:kdarby@usna.edu).

If you are unable to make contact with an attorney in Luce Hall, you may call 202-685-5595 to make an appointment to talk with an attorney located at the Navy Yard in Washington, D.C. Identify yourself as a Midshipman and explain you would like to speak with an attorney about your pending conduct or honor case. If, after your initial phone call, you need to arrange transportation to the Navy Yard please coordinate with your Company Officer.

If you are unable to make contact with an attorney within 24 hours or have any questions, please come to the Commandant's legal office located in Bancroft Hall, Room 3102 for further assistance.

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I have received a copy of this information.

---

Midshipman Signature

---

Date

**TAB D - NOTIFICATION OF POTENTIAL REIMBURSEMENT FOR  
ADVANCED EDUCATION**

DD Mmm YY

From: Legal Advisor to the Commandant of Midshipmen  
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 2/C 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 USNA, an indebtedness that could amount to between \$0 and more than \$200,000. 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 advice 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 USNA and upon commencement of your 2/C academic year.

Acknowledged: \_\_\_\_\_ Date: \_\_\_\_\_

**TAB E – SAMPLE PRELIMINARY INQUIRY REPORT**

DD Mmm YY

From: LT Invest I. Gator, USN, Preliminary Inquiry Officer  
To: Deputy Commandant of Midshipmen

Subj: PRELIMINARY INQUIRY ICO MIDN 2/C DUWRONG USN (CASE #220014)

Ref: (a) COMDMIDNINST 1610.2M  
(b) JAGMAN, Chapter II  
(c) R.C.M. 303

Encl: (1) Statement of MIDN 1/C Prince, USN of 24 Aug 22  
(2) Email from Capt. Lawen Order, USMC of 24 Aug 22  
(3) Result of Interview with MIDN 2/C Dudley Duwong, USN of 25 Aug 22  
(4) MIDS Report of MIDN Dudley Duwong  
(5) Result of Interview with LT Caught-Ya, USN of 25 Aug 22  
(6) Photograph of Beer Can Found on 4 Jul 22  
(7) 31b - Suspect Acknowledgement of Rights dated 24 Aug 22  
(8) DSO Acknowledgement  
(9) Retaliation Warning  
(10) Notification of Potential Reimbursement

1. This report is the completion of a preliminary inquiry into the subject-referenced case in accordance with references (a) through (c). As a result of the investigation, the following offenses from reference (a) were considered for review:

Offense Code      Offense Description

05.11 Minor    *(Copy and Paste Offense from Ch 2 of the Conduct Manual)* Consumption or possession of alcohol in circumstances prohibited by local instruction, regulation, or notice, other than in Bancroft Hall or aboard ship.

05.04 Minor    Aiding/abetting an alcohol offense or failure to prevent or act upon an alcohol offense.

2. I have interviewed the following witnesses:

- a. MIDN 1/C Maddie Prince, USN;
- b. LT Caught-Ya, 29th Company Officer, USN

3. Summary of Facts:

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a. Timeline and summary of events (*please include where facts were found by citing Encl 1, 2...etc*)

b. At approximately 2000, on 4 Jul 2022, MIDN 2/C Duwong was drinking beer by the Dewey seawall (Encl 3).

c. Around 2030, MIDN 1/C Prince was on a motivated run and she sat near MIDN 2/C Duwong and started talking (Encl 1,3).

d. Around 2045, LT Caught-Ya noticed the two midshipmen and Budlight cans around them. MIDN 2/C Duwong was actively taking sips of the alcohol, while MIDN 1/C Prince was talking to him and didn't appear to be drinking (Encl 5).

#### 4. Summary of Offenses:

1. 05.11 Minor: (*Copy and paste from TAB A*) Consumption or possession of alcohol in circumstances prohibited by local instruction, regulation, or notice, other than in Bancroft Hall or aboard ship

a. Elements:

(1) That the accused consumed or possessed alcohol; and

(2) That the consumption or possession of alcohol was prohibited by a local instruction.

Note: This includes drinking as a 4/C Midshipman, drinking while on Movement Order, and possession of alcohol in any vehicle associated with a MO to include privately owned vehicles.

b. The evidence does support that MIDN Duwong committed this offense because (state why the evidence does or doesn't support) he was consuming alcohol on the yard and not in a liberty or leave status per MIDREGs (*cite the applicable enclosure*) (Encl 1). The evidence does not support MIDN Prince committing this offense as she was not seen consuming alcohol and denied drinking any (Encl 1,3,5). I recommend this offense be elevated to a Major due to MIDN 2/C Duwong's history of similar offenses.

2. 05.04 Minor: (*Copy and paste from TAB A of the Conduct Manual*)  
Aiding/abetting an alcohol offense or failure to prevent or act upon an alcohol offense.

a. Elements:

(1) That an alcohol offense under the Conduct System was committed by a certain person other than the accused;

(2) That the accused knew or should have known that this person would commit or was committing such offense; and

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(3) That the accused failed to take substantive steps to prevent the offense from occurring or to take substantive steps to stop the offense if it was already in progress at the time the accused became aware of the offense.

b. The evidence does not support that MIDN 1/C Prince committed this offense because (state why the evidence does or doesn't support) she did not know that MIDN 2/C Duwong was not in a liberty or leave status and therefore did not attempt to stop him from drinking on the yard (cite the applicable enclosure) (Encl 1,3,5).

5. Comments of the Investigation Officer

a. I recommend that MIDN 2/C Duwong be charged with 05.11 (MAJ) to be adjudicated by their Battalion Officer.

b. I recommend MIDN 1/C Prince not be charged with 05.04 (MIN) since she did not know that MIDN 2/C Duwong was not in a liberty/leave status.

6. My investigation is complete.

*(signature)*

I. I. GATOR

**TAB F - SANCTIONS WORKSHEET**

CUI - PRIVACY SENSITIVE

**USNA SANCTIONS WORKSHEET**

Name of Accused:	Alpha:	Rank:	Battalion / Company: /
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Offense Date / Location:	Preliminary Hearing Officer:
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**Offenses**

Offense (e.g. 7.03 - Absent Without Authority)	Minor / Major / SEPP	Description (e.g. UA from class on DD Mmm YY)

**Adjudicating Authority:**     Company Officer     Battalion Officer     Deputy Commandant     Commandant

**Action of Adjudicating Authority**

Dismiss W/O Hearing     Alternative Disposition     Recommend MDB     Adjudication Hearing [Date: \_\_\_\_\_]

**Awarded Sanctions**

Restriction [ \_\_\_ Days]     Demerits [# \_\_\_]     Tours [# \_\_\_]     Aptitude Grade (Honor) [ \_\_\_]

Loss of Privileges [ \_\_\_ Months]     Extra Duty / EMI: \_\_\_\_\_

<b><u>4/C</u></b>	<b><u>3/C</u></b>	<b><u>2/C</u></b>	<b><u>1/C</u></b>
<input type="checkbox"/> Overnight Liberty	<input type="checkbox"/> Overnight Liberty	<input type="checkbox"/> Overnight Liberty	<input type="checkbox"/> Overnight Liberty
<input type="checkbox"/> Weekend media utilization for entertainment	<input type="checkbox"/> Wearing "Spirit Gear"	<input type="checkbox"/> Wearing "Spirit Gear"	<input type="checkbox"/> Wearing "Spirit Gear"
	<input type="checkbox"/> Civilian attire on liberty (on weekend, > 35 mi)	<input type="checkbox"/> Weekday Town Liberty	<input type="checkbox"/> Weekday Town Liberty
		<input type="checkbox"/> Civilian attire on liberty	<input type="checkbox"/> Civilian attire on liberty
		<input type="checkbox"/> Automobile Privileges (driving)	<input type="checkbox"/> Automobile Privileges (driving, driving onboard USNA, parking onboard USNA)
<input type="checkbox"/> Retain	<input type="checkbox"/> Forward for Separation		<input type="checkbox"/> Move out of Bancroft after Spring Finals

**Recommendations to the Commandant:**     Recommend Probation     Recommend Remediation

Adjudicating Authority Signature \_\_\_\_\_ Date: \_\_\_\_\_

**Midshipman Acknowledgement / Reconsideration**

By signing below, I acknowledge the above sanctions and will comply. If awarded restriction, I acknowledge that my restriction begins immediately following this adjudication. I will immediately report to Main Office to fill out required restriction forms. I acknowledge that it is my responsibility to adhere to the rules regarding restriction as outlined in COMDTMIDNINST 1610.2 (series) and that violation of these rules may result in further disciplinary and/or administrative action. If in doubt regarding my sanctions, I will seek clarification in advance from my chain of command. I understand that I have the right to request reconsideration of this adjudication to a Reviewing Authority if I think the finding of guilt is unjust, the sanctions are disproportionate, or substantial procedural errors exist. Appeals must be made in writing, via my CoC, within five **(5) working days** of this adjudication. Additional information regarding appeals is available in COMDTMIDNINST 1610.2.

Midshipman Signature \_\_\_\_\_ Date: \_\_\_\_\_

Appeal Submitted / Not Submitted     Appeal Granted     Appeal Denied     N/A

Reviewing Authority Signature \_\_\_\_\_ **E-1** \_\_\_\_\_ Date: \_\_\_\_\_



**TAB G - MIDSHIPMAN'S ACKNOWLEDGEMENT AND AWARD OF RESTRICTION  
FORM**

Date: \_\_\_\_\_

From: \_\_\_\_\_  
(Midshipman, Alpha, Company)

To: \_\_\_\_\_  
(Commandant's Conduct Officer)

Subj: AWARD OF RESTRICTION

**I acknowledge the following:**

1. I will read the ADMINISTRATIVE PERFORMANCE AND CONDUCT SYSTEM MANUAL, Chapter 5, which explains restriction requirements more fully within 24 hours of signing this form. \_\_\_\_\_ (initial)

2. I will report to Main Office immediately to receive my restriction card and attend the very next muster. \_\_\_\_\_ (initial)

3. Please review the below restrictions. There are more listed and clarified in COMDTMIDNINST 1610.2 (series) Chapter 5 to ensure that I understand all of the restriction requirements and not just those listed below. \_\_\_\_\_ (initial)

\_\_\_\_\_ (initial) Midshipmen on restriction are PROHIBITED from:

- i. Town or weekend liberty.
- ii. Exiting the confines of the USNA.
- iii. Signing out of a restriction muster for any activity lower in priority than restriction.
- iv. Consuming alcohol

\_\_\_\_\_ (initial) Midshipmen on restriction SHALL:

- i. Attend all musters unless required to attend an event listed higher on the Table of Priorities in MIDREGS.
- ii. Restricted to Company Area, except when attending musters, standing duty, and during authorized excusals.
- iii. Sign out in Main Office immediately prior to authorized excusals and sign in immediately upon completion.
- iv. Wear an inspection-quality uniform at all times, except during PT or while sleeping.

3. I will reach out to the OOW, SDO and Brigade Conduct Staff if I have any questions or if there is any confusion. \_\_\_\_\_ (initial)

4. 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 the USNA as soon as possible, even though my orders or movement orders may not have expired. \_\_\_\_\_ (initial)

5. I understand that I must attend restriction musters in accordance with the Administrative Performance and Conduct System Instruction, COMDTMIDNINST 1610.2 (series), specifically all requirements listed under section 5.4 subsection b. I understand that if I miss a muster without a proper excusal, or violate any restriction requirement, I will be placed in the conduct system and charged with offense code 07.07. \_\_\_\_\_ (initial)

\_\_\_\_\_  
(Signature of Midshipman)

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

From: \_\_\_\_\_  
(OOW, AOOW, MOOW, AMOOW)

Date: \_\_\_\_\_

To: Conduct Officer

Midshipman \_\_\_\_\_ has received a properly annotated restriction card and is aware that their 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**



	MON	TUE	WED	THU	FRI	SAT	SUN	MON	TUE	WED	THU	FRI	SAT	SUN
DATE														
0630														
1300														
1630														
1900														
2230														
CREDIT														

	MON	TUE	WED	THU	FRI	SAT	SUN	MON	TUE	WED	THU	FRI	SAT	SUN
DATE														
0630														
1300														
1630														
1900														
2230														
CREDIT														

**TAB I - CONDUCT REMEDIATION WORKSHEET**

**Midshipmen Remediation Worksheet**

<b>Midshipman Name/Rank:</b>	<b>Battalion / Company:</b>
<b>Remediator(s) Name(s)/Rank(s):</b>	<b>Department:</b>
<b>Type of Remediation:</b> <input type="checkbox"/> Honor (Senior Officer) <input type="checkbox"/> Aptitude (Aptitude Board) <input checked="" type="checkbox"/> Conduct <input type="checkbox"/> Honor (FCHB) <input type="checkbox"/> Aptitude (Vector Check) <input type="checkbox"/> Dignity & Respect (circle all that apply): Equal Opportunity/Sexual Harassment/Harassment/Bullying/Other	

Remediation Length: \_\_\_\_\_ Remediation Start Date: \_\_\_\_\_ Projected Completion Date: \_\_\_\_\_

<b>Remediation Components</b>			
	Assigned	Completed	
<input type="checkbox"/>	<input type="checkbox"/>		Remediation Journal (Daily)
<input type="checkbox"/>	<input type="checkbox"/>		Develop / Provide Training:
<input type="checkbox"/>	<input type="checkbox"/>		_____
<input type="checkbox"/>	<input type="checkbox"/>		Community Service Assignment / Other:
<input type="checkbox"/>	<input type="checkbox"/>		_____
<input type="checkbox"/>	<input type="checkbox"/>		Written Paper
		<input type="checkbox"/>	<input type="checkbox"/>
			Selected Readings:
			1. _____
			2. _____
			3. _____
		<input type="checkbox"/>	<input type="checkbox"/>
			Officer/Enlisted Interviews:
			1. _____
			2. _____
			3. _____

**Midshipman Development Plan (MDP)**

The MDP shall establish goals for the remediation period that are specific/measurable, and may include a plan of actions and milestones (POAM).

Professional Goals: \_\_\_\_\_

Academic Goals: \_\_\_\_\_

Physical Goals: \_\_\_\_\_

Personal Goals: \_\_\_\_\_

**Midshipman Acknowledgement**

By signing below, I acknowledge the above remediation plan and will comply. I understand that it is my responsibility to communicate with my remediator and chain of command; to complete any sanctions and tasks that were assigned at my adjudication; and to complete the specified remediation requirements as outlined above and as communicated to me by my remediator. I understand that failure to complete any or all of the remediation requirements, or failure to meaningfully participate in remediation and/or committing additional misconduct may result in remediation failure, at which point I may be forwarded to the Superintendent for separation from the U.S. Naval Academy.

Midshipman Signature \_\_\_\_\_ Date: \_\_\_\_\_

**Recommendation of the Remediator**

**Early Completion** (Midshipman has made significant progress, has met all remediation goals and there would be no added benefit to continued remediation)

**Recommended Completion Date:** \_\_\_\_\_

**Remediation Extension** (> two weeks needed, fairly certain remediation will have a successful result)

Extended Completion Date : \_\_\_\_\_

**Deputy Commandant:**

Approve / Deny **Initial:** \_\_\_\_\_

**Completion:**

Midshipman has successfully completed remediation and has admitted guilt.

I am confident that the remediated midshipman will not commit further offenses.

I would be willing to share a wardroom with the midshipman (Officer Remediators)

I would be willing to work for this midshipman (Senior Enlisted Remediator).

**Reassignment to New Remediator** (Due to conflict of interest or can no longer effectively mentor assigned midshipman)

**Deputy Commandant:**

Approve / Deny **Initial:** \_\_\_\_\_

**New Remediator:** \_\_\_\_\_

**Remediation Review Board**

**Commandant:**

Approve / Deny **Initial:** \_\_\_\_\_

**Remediation Failure** (Attach Remediation Failure Report)

Board Date: \_\_\_\_\_

**Remediator Comments:**

**Remediator Signature/Date:** \_\_\_\_\_

**Remediation Review Board**

**Board Recommendation (see attached report):**

Extend Remediation    Assign New Remediator    Remediation Failure    Other: \_\_\_\_\_

**Senior Board Member Signature/Date:** \_\_\_\_\_

**Review/Approval**

**SEL:**                      CONCUR / NONCONCUR              Comments:

**CO:**                        CONCUR / NONCONCUR

**Batt-O:**                    CONCUR / NONCONCUR

**DepDant (Brigade):**    CONCUR / NONCONCUR

**Commandant Action**

Completion    Extension    Remediation Failure    Other: \_\_\_\_\_

**Commandant Signature/Date:** \_\_\_\_\_

**TAB J - EXAMPLES FOR 5 DEMERIT “SPEEDING TICKETS”**

These infractions are minor in nature yet still accountable, and the administrative process of the formal conduct system is not required. The intent is to streamline “micro-accountability” while still having the conduct system available for the more significant infractions.

1. Not completing mandatory training on time, and without any extenuating circumstances (“I just forgot”).
2. Wearing the incorrect uniform per location and time of day (Blue and Golds in T-Court before 1730, wearing Blue and Golds without an approved medical chit).
3. Texting while walking in a military uniform.
4. Having unauthorized appliances in a room in violation of MIDREGS.
5. Failing a routine Bravo room inspection.
6. Missing required pre-commissioning medical appointments or follow-up exams (often related to eye surgery) without a valid excuse.

**TAB K - MIRB SCRIPT, NOTIFICATION LETTER, AND SANCTIONS SHEET**

**MIRB SCRIPT**

**BATTALION CDR:**

- Good morning/afternoon/evening MIDN \_\_\_\_\_. We are here today to discuss the deficiencies and/or behavior that has led to today's Midshipmen Independent Review Board. As a reminder, this is not a formal adjudication, but will be documented as a formal counseling. Continuation of such deficiencies or behavior may lead to a formal adjudication. Do you understand?

**MIDN ANSWER: YES/NO**

- Here is an overview of the issues we will be discussing today: *Outlines reasons why MIDN is at MIRB. Address the references/counseling/path that brought them there (include negative form-1s, informal counselings, minor offenses, etc.)*
- Have you had a reasonable opportunity to review this material?

**MIDN ANSWER: YES/NO**

- You are advised that you may remain silent regarding your offense(s) during this proceeding if you wish, and we will not draw any adverse inference from your silence. Do you understand?

**MIDN ANSWER: YES/NO**

*MIDN MAY OPT TO REMAIN SILENT. IF MIDN REMAINS SILENT, NOTE THE DECISION IN THE COUNSELING DOCUMENTATION.*

- Would you like to discuss what might be causing these deficiencies and/or behavior and work with us on finding a way forward?

**MIDN ANSWER: YES/NO**

*IF YES, ASK FOLLOW-UP QUESTIONS AS NECESSARY.*

- Thank you for engaging with us. Is there anything else you would like to add?

**MIDN ANSWER: YES/NO**

- You are excused while we discuss a way forward in this case. We will retrieve you when we are ready.

**DISCUSS AS NECESSARY, NOMINALLY NO MORE THAN 5-15 MIN.**

*MIRBS CAN ASSIGN UP TO EIGHT HOURS OF EMI AND UP TO TEN "IN COMPANY" TOURS. FORMAL DOCUMENTATION REQUIRED.*

**BATTALION CDR:**

- MIDN \_\_\_\_\_, the Board has considered all that you have said today and have decided to \_\_\_\_\_

*STATE WHETHER SANCTIONS WILL BE GIVEN, OR OTHER PROPOSED ACTIONS TO SUPPORT MIDN.*

- Do you understand the sanctions and/or proposed action in your case?

**MIDN ANSWER: YES/NO**

- Do you have any questions?

**MIDN ANSWER: YES/NO**

*ANSWER APPLICABLE QUESTIONS, CHECK WITH CO/SEL OBSERVER FOR COMMENTS. EXCUSE MIDN IF FURTHER DISCUSSION IS NECESSARY. IF NO OBJECTION, BOARD HAS ENDED.*

- Thank you for your time. This Midshipmen Independent Review Board has concluded. You are dismissed.

**MIRB NOTIFICATION**

**Accused MIDN:**

Good morning/afternoon/evening MIDN \_\_\_\_\_,  
After speaking with your Company Commander, we have decided to schedule a Midshipmen Independent Review Board (MIRB) to discuss current trends in performance, deficiencies, or other misconduct. The MIRB will take place on \_\_\_\_\_ in room \_\_\_\_\_. The uniform is (choice of the BATT CDR) \_\_\_\_\_. This is not an adjudication, rather a formal counseling that will be documented for future reference, if necessary.

The MIRB will consist of 1 Battalion Commander/XO, 1 Company Commander/XO and your Squad Leader. Your CO/SEL may be present as an observer. I will coordinate with your CO/SEL to make them aware of your MIRB.

Please let me know if you have any questions.

Very Respectfully,

Battalion Commander

CC: BattO, CO/SEL, MIDN CoC

**MIRB SANCTIONS DOCUMENTATION**

**CO/SEL:**

Good morning/afternoon/evening (CO/SEL) \_\_\_\_\_,  
MIDN \_\_\_\_\_'s MIRB sanctions are as follows: \_\_\_\_\_.  
General items discussed were: \_\_\_\_\_.

[Insert any other pertinent information or continuation plans to monitor MIDN in question]

Thank you for your time.

Very Respectfully,

Battalion Commander

CC: BattO, CO/SEL, MIDN CoC

**TAB L - RETALIATION WARNING ORDER**

MEMORANDUM

From: Deputy Commandant of Midshipmen

Subj: RETALIATION WARNING

Ref: (a) COMDTMIDNINST 1610.2 (series)  
(b) OPNAVINST 5354.1H  
(c) Uniform Code of Military Justice

1. An investigation has been initiated pursuant to reference (a) regarding your alleged misconduct.
2. Per reference (b), no person may restrict another Service Member from using the informal or formal complaint process nor restrict a Service Member through interference, coercion, discrimination or retaliation during the submission and processing of a grievance or any time thereafter. These rules also apply to witnesses - no person may restrict a Service Member from participating in an investigation involving a protected communication. Retaliation and interference with an investigation are serious offenses that are punishable under Articles 92, 132 and 131(g) of reference (c).
3. You must refrain from any actions or communications that could be perceived as interference or coercion toward potential complainants or witnesses. Acts of retaliation, intimidation, or discrimination will not be tolerated.
4. Should you wish to discuss this matter, you are encouraged to contact the Defense Service Office (DSO). The USNA Defense point of contact is: LCDR Kevin Darby, JAGC, USN, Luce Hall Room 307; (410) 293-2268 or (202) 695-9283.

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Acknowledgment:

I acknowledge service of this document, have read the above notification and will comply with my obligations under references (b) and (c).

Signature

Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Witness