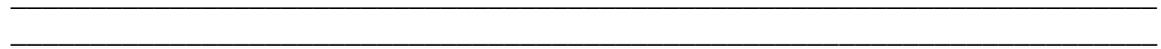


Naval Academy Preparatory School Midshipman Candidate Conduct Manual

Newport, R. I., NAPSINST 1610.1F

20 Jul 20



Department of the Navy

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NAPSINST 1610.1F
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NAVAL ACADEMY PREPARATORY SCHOOL (NAPS) INSTRUCTION 1610.1F

From: Commanding Officer, Naval Academy Preparatory School

Subj: NAPS CONDUCT MANUAL

Ref: (a) COMDTMIDINST 1610.2(series)

Encl: (1) NAPS CONDUCT MANUAL

1. Purpose. To publish the NAPS CONDUCT MANUAL.
2. Cancellation. NAPSINST 1610.1E
3. Action. The NAPS Conduct Manual, published as enclosure (1), is published for the information and compliance by members of the NAPS Battalion. The NAPS Conduct Manual is derived from the United States Naval Academy's Administrative Performance and Conduct System (ref (a)).
4. Information. All instances that state Midshipman Candidates (M/Cs) will also apply to Coast Guard Cadet Candidates.
5. Review. Per OPNAVINST 5215.17A, the NAPS Battalion Operations 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 cancelled 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 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.

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CHAPTER 1

INTRODUCTION TO THE ADMINISTRATIVE CONDUCT SYSTEM

1.1 General

a. Authority. Part V, MCM, 2019, Manual of the Judge Advocate General, RCM 306, Title 10, USC section 6961, Title 10 USC section 6962(a)(1), Article 2, Article 3, and Article 15, of the UCMJ.

b. Purpose.

(1) The Naval Academy Preparatory School (NAPS) administrative conduct system is intended to be a leadership resource for use in an accessions training environment. Staff and faculty will use non-punitive measures of counseling, extra-instruction, and remediation as tools of effective leadership to instill discipline and raise Midshipman Candidate performance. The NAPS administrative conduct system will supplement those leadership measures under the auspices of professionalism, accountability, authority, and responsibility. The NAPS administrative conduct system should serve to hold Midshipman Candidates accountable to the standards set forth in the NAPS regulations, other NAPS/USNA instructions, the Uniform Code of Military Justice (UCMJ), and federal, state, and local laws during their time in accessions training at NAPS. The NAPS administrative conduct system is also a means of preparing Midshipman Candidates to continue along the officer accessions pipeline at the United States Naval Academy (USNA) by educating them on the investigative process, legal considerations, and the importance of appropriate corrective measures. Finally, a Midshipman Candidate's conduct is an important consideration when determining suitable character and aptitude for admission to USNA.

(2) As part of an accessions training program, the NAPS administrative conduct system is intended to be remedial and educational, rather than overly legalistic and severe. This system is designed to be deliberate and promote positive behavioral changes through discipline. It allows Midshipman Candidates to show a renewed willingness to adhere to the rules and regulations of the Navy and NAPS and accept personal responsibility for their actions.

(3) The NAPS administrative conduct system serves as a foundational and practical guide for expected behavior while at NAPS. It reinforces the moral development aspect of the NAPS mission. Every Midshipman Candidate must have a strong moral conviction to uphold the highest standards in order to guard the reputation of USNA and live up to the examples of those who have gone before.

c. Nature. Letters written by John Paul Jones produced the *Qualifications of a Naval Officer*, which state that an officer "should be quick and unflinching to distinguish error from malice, thoughtlessness from incompetency, and well-meant shortcomings from heedless or stupid blunder." Following in John Paul Jones' wake, every NAPS staff member and Midshipman Candidate must be quick and unflinching to distinguish a deficiency in performance from a violation of the standards of conduct. **It is essential to understand that performance**

deficiencies are not addressed by the conduct system. Performance deficiencies are corrected through non-punitive leadership measures such as verbal correction/reprimand, counseling, extra military instruction (EMI), and administrative withholding of privileges. Conversely, the administrative conduct system involves punitive measures that are undertaken deliberately to assure accountability for violations of NAPS regulations and the UCMJ. The due process of the administrative conduct system can result in measures such as restriction, disciplinary tours, performance probation/remediation programs, and other appropriate sanctions specifically described herein. Furthermore, this system is administrative in nature and is not governed by the rules and procedures provided for in judicial proceedings. Procedural errors or irregularities in the hearing normally do not invalidate the proceedings or any action of a NAPS Company Officer, Executive Officer (XO) or Commanding Officer (CO) based thereon; however, those constitutional rights inherent in administrative due process will be afforded to each Midshipman Candidate.

1.2 Standards of Conduct. The Midshipman Candidate's exemplary standard of conduct applies both on and off duty, in personal behavior, and in relations with others in the civilian and military communities. Midshipman Candidates must comply with the substance, spirit, and intent of all directives. Any behavior that reflects discredit upon the NAPS Battalion, USNA, USCGA, the U.S. Navy or U.S. Coast Guard, violates any local, state or federal law, or indicates questionable personal morals, will be considered conduct unbecoming of a Midshipman Candidate. Midshipman Candidates found to be unsatisfactory in their conduct may be recommended for separation, if retention is not in the best interests of the U.S. Navy or Coast Guard.

1.3 Basic Principles of the Conduct System.

a. Rights of the Accused. In the event of misconduct, punitive action may be sought by initiating an Acknowledgment and Waiver of Rights Form. The form notifies the accused of the alleged offense, delineates whether the alleged offense is considered a Minor, Major or 6K-level offense and their rights under the UCMJ. Chapter two of this manual describes the different levels of offenses. Chapter four of this manual identifies the potential types of punishments.

b. Commanding Officer's (CO) Responsibility. The CO is responsible for good order and discipline at NAPS. With that responsibility comes broad authority to address misconduct. Through the administrative conduct system, the CO delegates his authority to other commissioned officers in the chain of command. However, the responsibility for all command actions, and therefore the ultimate authority to execute the administrative conduct system, remains with the CO.

c. Midshipman Candidates Loyalty to Service. The NAPS administrative conduct system is intended to be developmental and educational. It is intended to teach Midshipman Candidates to accept full accountability for their actions and to place loyalty to the service above self-interest. The procedures established in this instruction are discretionary to some extent and are designed partly to assist the CO in assembling all pertinent information prior to submitting a report of unsatisfactory conduct and a recommendation for separation to the Superintendent. (Note, the CO may, however submit such a report without implementing any of the procedures under this

instruction).

d. Application to Midshipman Candidates. All persons enrolled as Midshipman Candidates at NAPS and all Cadets of other service academies attached to NAPS are subject to this instruction as well as to the provisions of all local, state, and federal laws made applicable to members of the armed services pursuant to Article 134 of the UCMJ. All Midshipman Candidates are further subject to the provisions of U.S. Navy Regulations and applicable instructions and notices.

e. Double Jeopardy. Multiple processing of the same charge and limitations on punishment awarded under the administrative conduct system are discussed below.

(1) Multiple Charges for the Same Incident. When several related offenses take place under the same course of action or incident, they will generally be considered as one event, only one report and case file will be generated, and only one punishment will be awarded for the known offenses. The most serious charge will be used as the primary charge; all others will be listed as secondary charges.

(2) Conduct and Honor Charges. Midshipman Candidates will not be charged under both the conduct system and the honor system for the same offense. This does not preclude separate charges for different offenses arising from the same incident. The CO may however, assign honor remediation for a singular conduct offense that contains an honor element (i.e. stealing or using/possessing a false ID).

(3) Civilian Charges and the Conduct System. It is not considered double jeopardy if a Midshipman Candidate who is subject to prosecution by civil authorities is also charged under the administrative conduct system. In taking administrative action pursuant to this instruction, it is not required that the civil action be complete, nor the Midshipman Candidate found guilty by civil authorities.

(4) Double Punishment Prohibited. When punishment has been imposed for an offense under the administrative conduct system, punishment may not again be imposed for the same offense in the honor system. Action pursuant to the conduct system is not necessarily prohibitive to later trial by courts-martial, in accordance with the UCMJ.

(5) Increase In Punishment Prohibited. Once punishment under the administrative conduct system has been imposed, it may not be increased upon appeal.

1.4 Design of the Conduct System.

a. Midshipman Candidates may be charged under the administrative conduct system for offenses categorized as either Minor, Major, or 6K-level offenses. The severity of each offense is labeled next to each offense in chapter two. The CO delegates his adjudicative authority to commissioned officers in the chain of command for lesser offenses. They may award punitive measures commensurate to their paygrade.

(1) Minor offenses are those not considered serious enough to warrant consideration for separation. Company Officers will typically adjudicate minor offenses and award punitive measures up to the limits of a company-grade officer's adjudication authority under the UCMJ. Repeated failures to uphold standards by a Midshipman Candidate who has exhausted counseling and EMI measures may be regarded as deliberate and thus in violation of the conduct expected of a Midshipman Candidate. The XO may determine that a minor offense, or series of minor offenses, committed by a Midshipman Candidate with significant malice or blatant disregard of regulations constitutes a major offense.

(2) A major offense is defined as any violation of the UCMJ and/or civil laws which would typically warrant punitive actions outside the NAPS administrative conduct system, or violations of regulations that could result in separation from NAPS. A major offense is forwarded to the XO for adjudication.

(3) A 6K-level violation has the potential to discredit the institution and will be expedited directly to the CO. Items that warrant a 6K-level offense are:

- (a) Hazing
- (b) Sexual Misconduct
- (c) Fraternalization
- (d) Sexual harassment
- (e) Use or possession of false identification
- (f) Endangering others while driving
- (g) Alcohol or Drug Offenses

b. A finding of guilty for a 6K-level offense may result in a recommendation by the CO to the Superintendent of the Naval Academy for involuntary separation from NAPS.

1.5 Status for Graduation. The CO may suspend or withhold the privilege of graduating from NAPS for any Midshipman Candidate who:

- a. Is suspected of an offense under the administrative conduct system, UCMJ, or federal, state or local law and is the subject of a pending case.
- b. Does not complete punishment awarded as a result of an adjudication under the administrative conduct system.
- c. Does not successfully complete conduct probation and assigned remediation.

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CHAPTER 2

CHAPTER 2 – SPECIFIC CONDUCT OFFENSES

2.1 Introduction. This chapter lists examples of conduct offenses and their corresponding levels of categorization. All contingencies and possibilities are not contained in this instruction, but can be entered using a general offense. Those individuals involved in the administration of the conduct system will use these delinquencies as guidance and seek the advice of the Legal Officer and Executive Officer in cases not covered. Details and evidence on the part of the accuser are paramount and can aid in the smooth and fair execution of the system.

a. Offense Codes. The offense code for any conduct offense is a four-digit number consisting of the section number plus the specific offense number. The first two digits identify the category of offense; the second two identify specific offenses.

b. Attempts to Commit an Offense.

(1) An attempt is any action taken with the intent of committing a conduct offense.

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

(3) A person who makes preparatory actions to commit an offense but voluntarily abandons the undertaking prior to execution, shall not be found guilty of an offense. A person whose undertaking is terminated by unforeseen circumstances, and not by a voluntary decision by the member, can be found guilty of an attempt to commit an offense.

2.2 Regulations, Orders, Instructions, and Duty.

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

b. Orders may be addressed to an individual or to a group in general. Examples of orders addressed to an individual are, verbal orders, such as "M/C X, do this now," or written orders such as, "The following M/C's must turn in athletic equipment: M/C X, M/C Y...". An example of an order addressed to a group is, "All M/C's will empty their wall lockers by...".

c. Considerations in determining correct awards for delinquencies involving duty should include the nature of the duty, the position of the Midshipman Candidate, and whether the delinquencies resulted from ignorance, laziness, carelessness, or negligence. The effects of the delinquency should also be considered.

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

e. Cellular Phones are prohibited within Perry Hall at all times. If a Midshipman Candidate has an extenuating circumstance requiring them to keep their personal cellular phone with them during the duty day, they must route a special request via their chain of command and, if approved by their Company Officer, must be with them while carrying their cellular phone in Perry Hall. Regardless of the approval of their request, cell phones are NEVER to be used within class without express approval of the professor. Although a violation of this order is a minor conduct offense, repeat violations may be elevated to the XO or CO for adjudication as a more serious offense.

Offense	Delinquency	Level
0101	Violation of a regulation due to gross ignorance of instructions, regulations, or directives.	Minor
0102	Direct and intentional violation of oral or written order addressed to an individual or group.	Variable
0103	Intentional failure to perform a duty.	Major
0104	Interfering with an individual who is performing a duty.	Variable
0105	Aiding, abetting, counseling, commanding, or procuring the commission of an offense punishable by this instruction. The level of adjudication for the aider/abettor shall generally be the same as that for the offense committed by the principal. *Code 0504 will be used for aiding/abetting an alcohol offense.	Variable
0106	Failing to properly perform a duty through negligence, laxness or ignorance or report/correct a delinquency.	Variable
0107	Failure to use good judgment. (If the offense is specifically described by another delinquency code, that delinquency code should be used.)	Variable
0108	Failure to adhere to TAPS or reveille.	Minor
0109	Possession of cellular phone within Perry Hall without prior authorization.	Variable

2.3 Hazing. The act of hazing is a breach of federal law set forth by Congress in 10 United States Code 6964, wherein hazing is defined in section (a) as, "any unauthorized assumption of authority by a Midshipman Candidate whereby another Midshipman Candidate suffers or is exposed to any cruelty, indignity, humiliation, hardship, or oppression, or the deprivation or abridgement of any right."

Additionally, U.S. Code 6964 stipulates in section (c) that no "...Midshipman may be dismissed for a single act of hazing except by sentence of a court-martial." The same is upheld at NAPS for Midshipman Candidates; however related offenses may result in separation.

Offense	Delinquency	Level
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0201	Hazing (see above definition for hazing). Note: This includes unprofessional electronic communications in violation of NAPS Regulations. NOTE: This includes, but is not limited to, instant messenger, chat rooms, Facebook, text messaging, tweeting, or any comparable mode of communication.	6K
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2.4 Sexual Assault, Harassment, and Misconduct. These acts are defined and summarized in 10 United States Code § 920, and the UCMJ. They are punishable under the United States Penal Code and should be addressed with immediate attention.

Offense	Delinquency	Level
0301	Rape, sexual assault, aggravated sexual contact, and abusive sexual contact as defined by Article 120 of the UCMJ.	6K
0302	Sexual harassment is defined in OPNAVINST 5300.13. It includes, but is not limited to unwelcome sexual advances and quid pro quo requests for sexual favors. It is also deliberate or repeated offensive comments or gestures of a sexual nature that create an intimidating, hostile, or offensive work environment. Other examples include unwanted physical contact such as touching, hugging, or brushing against a person's body. It also may be sexually explicit posters, pictures, or screen savers.	6K
0303	Other sexual misconduct as defined by Article 120 of the UCMJ. This includes indecent viewing, visual recording, or broadcasting of the private area of another person without that person's consent. It also includes forcible pandering and indecent exposure.	6K
0304	Sexually explicit behavior that is service discrediting or prejudicial to good order and discipline within the NAPS Battalion. This includes consensual sexual acts on the grounds of NAPS, Naval Station Newport, or in other such places under military control. NOTE: Examples of sexually explicit behavior include consensual public displays of affection, fondling, oral sexual activity, and sexual intercourse.	6K/Major
0305	Possessing, generating, viewing, or displaying of pornographic material on the grounds of NAPS or Naval Station Newport.	Major

2.5 Standards of Behavior. Standards of decorum, and performance expected of a commissioned officer are also expected of Midshipman Candidates. This includes actions or words which would bring discredit upon the NAPS Battalion when the individual is identifiable as a member of the NAPS Battalion or the United States Naval Service.

Offense	Delinquency	Level
0401	Fraternization that undermines good order and discipline within the NAPS Battalion. Includes improper relationships and social interactions that are unduly familiar between officers, civilian employees, Midshipman, Midshipman candidates, and enlisted personnel.	6K/Major

0402	Disrespect or insubordination to a superior or an individual in position of authority (including any of the NAPS Staff).	Major
0403	Challenge to personal combat; threat of physical violence. NOTE: When the challenge or threat culminates in physical action, code 0421 (UCMJ series), assault, will be charged.	Variable
0404	Inappropriate use of computer or government network.	Minor
0405	Displays of affection (anytime on NAPS training area or when in uniform in public). NOTE: Displays of affection include, but are not limited to: massages, sitting on a lap, kissing, and touching.	Major
0406	Harassment of another M/C (non-sexual). This includes, but not limited to offensive or unsolicited comments, e-mails, text/instant message, or letters; comments or actions designed to ostracize an individual or group; or stalking.	Major
0407	Destruction or damage to government or private property, intentional or due to gross negligence (such as horseplay). EXCEPTION: This does not refer to destruction or damage to one's own property, however, depending on the circumstances; such an action may be covered by another offense code. NOTE: Restitution for the damage or destruction may be made a part of the award only by the CO	Variable
0408	Introduction of, or failure to remove, unauthorized person from NAPS training area.	Variable
0409	Entering a restricted area, including roof areas or any area marked as such.	Major
0410	Unauthorized means of ingress or egress to and from either Ripley Hall or the Naval Station Newport grounds.	Minor
0411	Possession or use of a false, altered, or unauthorized identification card, pass, or similar document (includes driver's license, military ID card, or other forms of identification). NOTE: The use or attempted use or possession of false, altered, or unauthorized identification with the intent to deceive is also an honor violation. Possession without an attempt to use is a conduct offense.	6K
0412	Carelessness in operating a vehicle which results in an accident or endangers lives or property.	6K
0413	Parking in violation of M/C or military base regulations.	Minor
0414	Driving, maintaining, or operating a motor vehicle in violation of M/C Regulations. NOTE: Automobile privileges may be suspended for up to 6 months for any M/C found guilty of a 6K-level offense. Automobile privileges can be denied for any candidate found guilty of a second offense.	Variable

0415	Violation of UCMJ, Naval Regulations, SECNAV and OPNAV Instructions, General Orders, and federal or state laws.	6K/Major
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2.6 Alcohol and Drugs. Midshipman Candidates of legal drinking age may consume alcohol during liberty. Recreational drug use is prohibited. Definitions: Controlled substances include those listed in Schedules I through V established by the Controlled Substances Act of 1970). See NAPSINST 5450.4(series) for detailed guidance on wrongful use, possession, etc. of controlled substances.

Offense	Delinquency	Level
0501	Abuse and/or violation of NAPS alcohol policy.	6K/Major
0502	Aiding/abetting an alcohol offense or failure to prevent or act upon an alcohol offense.	6K/Major
0503	Drinking, possessing, or introduction of alcohol on NAPS grounds or aboard ship.	6K
0504	Providing alcohol to minors.	6K
0505	Under the influence of any substance which brings discredit upon the naval service, outrages public decency, or results in a breach of the peace.	6K
0506	Drinking or under the influence while on duty.	6K
0507	Drinking or possessing alcohol in violation of applicable federal, state, or local law. (This includes underage drinking.)	6K
0508	Drinking or possessing alcohol in circumstances prohibited by M/C Regulations, other than on NAPS training area or aboard ship (i.e. underage drinking, drinking on Movement order when not approved, etc.).	Major
0509	Drunk driving or driving under the influence of alcohol.	6K
0510	Use, possession, sale, or transfer of controlled and/ or banned substances.	6K

2.7 Military Appearance.

Offense	Delinquency	Level
0601	Unsatisfactory appearance in uniform.	Minor
0602	Unprepared for inspection, room or uniform, due to laziness or negligence.	Minor
0603	Unsatisfactory room standards. To include tampering with window stops, thermostat, minor contraband, placing items on the outside windowsill, etc.	Minor

2.8 Unauthorized Absences (UA).

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

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

Offense	Delinquency	Level
0701	Absent without authority, intentional, from a military obligation or formation.	Major
0702	Absent without authority, due to negligence, from military obligation.	Minor
0703	UA after reporting for TAPS (touch and go).	Major
0704	UA from EMI or restriction. *Adjudicated by the Company Officer unless otherwise directed by higher authority.	Minor
0705	Being outside of assigned room after TAPS while not on watch or approved chit or movement order.	Minor

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CHAPTER 3

EXECUTION OF THE ADMINISTRATIVE CONDUCT SYSTEM

3.1 Forms Used in Conjunction with Maintaining Good Order and Discipline.

a. Acknowledgment and Waiver of Rights Form. Figure 3-A, is a form used to notify the accused of the alleged offense or offenses in question and all rights that are warranted to them as the accused.

b. Conduct Probation Letter. Figure 3-B, is the form used to document terms of conduct probation if awarded at adjudication. The form is designed to aid in developing a Midshipman Candidate when punishment has been awarded and to promote change.

3.2 Reporting. Any person that suspects that a Midshipman Candidate has committed an offense may report to any NAPS military staff member or directly to their Company Officer/Senior Enlisted Leader (SEL). Multiple alleged offenses that are closely related in time, place or nature, so as to form one course of action/misconduct will normally be considered as one event; and only one adjudication will take place and one punishment awarded. The most serious charge will be used as the primary charge; all others will be listed as secondary charges.

3.3 Pre-adjudication Phase. Prior to action under the administrative conduct system, an inquiry will establish the facts and circumstances surrounding the alleged offense.

a. Minor Level Offenses. A formal investigation is not required for minor level offenses. Should the company leadership desire an investigation, another member of the military staff outside of the direct chain of command will investigate.

b. Major and 6K-level Offenses. All Major and 6K level offenses will be reviewed by the CO and XO in order to determine if investigation is warranted. A Preliminary Inquiry Officer (PIO) may be assigned by the CO for a major or 6K level offense. The PIO will be any military member of appropriate experience and rank. Appointment of a PIO will be made in writing to avoid any confusion or conflict of interest. The Legal Officer will assist the PIO in the execution of the investigation. In special situations, the CO has authority to assign a civilian PIO.

c. If the alleged offense is suspected to be a felony level criminal offense, the XO, after conferring with the CO, shall ensure that the Naval Criminal Investigative Service (NCIS) is informed as soon as practicable. After NCIS investigates the allegation, the case will be referred to the CO. As the Special Courts-Martial Convening Authority, the CO will decide the appropriate forum for disposition, (including but not limited to courts martial, NJP, adjudication under the conduct system, or no further action). If NCIS commences an investigation, the Legal Officer shall coordinate with NCIS for all necessary assistance and dissemination of information to command authorities.

3.4 Investigation. The PIO will thoroughly inquire into the circumstances associated with alleged offenses, complete a detailed report, and submit for review via the Legal Officer to the

CO and XO in order to determine if adjudication is warranted and if so, at what level. The PIO begins the investigation by interviewing all pertinent witnesses. The PIO will collect all available evidence and written or recorded statements before interviewing the accused Midshipman Candidate. The PIO constructs a summary and timeline of events to determine the proper charges and to characterize the incident. Figure 3-D, is the report that lists the PIO summary of events, timeline, and synopsis of the facts surrounding the alleged offense. All of the facts listed will be derived from the enclosures to the investigation. They will list opinions and make a recommendation as to whether there is sufficient evidence that an offense has been committed. The PIO findings will be documented in a Command Investigation Report. The PIO will remain cognizant throughout the investigation of the accused Midshipman Candidate's rights.

3.5 Disciplinary Review Board (DRB).

a. In certain cases, the CO or XO may direct the convening of a DRB. The DRB is an administrative hearing that is part of the pre-adjudication phase. The DRB shall normally be chaired by the Command Senior Enlisted Advisor and comprised of other Senior Enlisted Leaders. The DRB will further inquire into the facts and circumstances of the case by interviewing the accused Midshipman Candidate and other witnesses as necessary. The DRB will make a recommendation to the Commanding Officer whether to proceed to adjudication, dismiss, or dispose of the case through non-punitive measures. A counseling chit will be placed in the file of the offending Midshipman Candidate by the Company Chief as a means to document the event.

b. If the CO accepts a DRB recommendation to dispose of the case using non-punitive measures, the Command Senior Enlisted Advisor will oversee the execution of the measures, e.g. EMI.

3.6 Adjudication Hearing.

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

(1) Minor: Company Officer

(2) Major: XO

(3) 6K: CO

(4) Variable: Will be determined by the XO or the CO after review of the investigation.

b. Delegation of Awarding Authority. When an awarding authority is unavailable due to incapacity, departure on leave, detachment without relief, or absence due to orders, the commissioned officer who assumes that position shall also assume the delegation of awarding authority. If there is no relief, the awarding authority will revert to the next higher officer in the chain of command. Under no circumstances will awarding authority be delegated below a

company-grade officer.

c. CO's Discretion. The CO retains the right to adjudicate or assign an awarding authority to any case alleging misconduct.

d. Awarding Authority's Options For Disposition. Following review of the command investigation, the awarding authority may take one or more of the following actions:

- (1) Dismiss the alleged offense(s) without a hearing.
- (2) Schedule a hearing to adjudicate the alleged offenses.

e. Accused Midshipman Candidate may take one of the following actions in the event of a scheduled hearing:

(1) Plead "Not guilty"

(a) Every Midshipman Candidate has the legal right to plead "not guilty," whether guilty in fact or not. Pleading "not guilty" when one did in fact commit the offense is NOT an honor violation. No pressure will be brought on any Midshipman Candidate to plead "guilty."

(b) All Midshipman Candidates who plead "not guilty" will be seen in a face-to-face adjudication with the awarding authority.

(2) Plead "Guilty"

(a) By pleading "guilty," a Midshipman Candidate acknowledges that the offense was culpably committed as alleged, that the Midshipman Candidate is liable for punishment, and that the following rights of the accused are relinquished:

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

(b) A Midshipman Candidate pleading "guilty" does however, retain the following rights:

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

(3) Waiver of hearing

(a) Midshipman Candidates who waive their right to a hearing also waive their right to

confront and cross-examine witnesses against them as well as the right to call character witnesses. They retain the right to submit written matters to the awarding authority, including character reference letters as matters in extenuation and mitigation.

(b) The awarding authority retains the discretion to hold a hearing and require the presence of the accused Midshipman Candidate in all cases.

f. Pre-Hearing Notification. One day notice is normally considered reasonable for all offenses. Requests for a delay of the conduct hearing must be submitted to the awarding authority, via the Company Officer, prior to the hearing's commencement in order to permit proper consideration of the request.

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

(1) Right to counsel. Accused Midshipman Candidates have the right to consult with legal counsel prior to a hearing. However, accused Midshipman Candidates do not normally have a right to have counsel present during the hearing. Counsel will only be permitted in a hearing in unusual circumstances, usually involving extremely complex cases. A request to have counsel present in a hearing should be submitted to the awarding authority, with appropriate legal consent to the United States Navy JAG Corps, within a sufficient amount of time prior to a hearing's commencement in order to permit an opportunity for substantive review of such request. The accused Midshipman Candidate may seek civilian counsel at their own expense, or military counsel provided at no cost through the Defense Service Office.

(2) Right to testify or remain silent. No adverse inference will be drawn from a Midshipman Candidate's decision to remain silent. Remaining silent will not prevent the accused Midshipman Candidate from questioning or cross-examining witnesses. If however, a Midshipman Candidate chooses to make a statement during the hearing concerning a particular offense, the Midshipman Candidate is expected to answer any questions the awarding authority may have concerning that offense. If the Midshipman Candidate fails to do so, the awarding authority, using their discretion, may disregard any or all statements made by the Midshipman Candidate relative to the offense.

(3) Right to inspect all evidence to be considered by the awarding authority during the hearing.

(4) Right to object, before the hearing, to evidence scheduled to be considered by the awarding authority during the hearing.

(5) Right to call reasonably available witnesses and be notified of witnesses scheduled to be called by the awarding authority.

(6) Right to present evidence in defense.

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

h. **Witnesses.** Adjudicative hearings are non-adversarial. As such, the awarding authority does not need to call witnesses to establish the facts and circumstances regarding cases, unless witnesses are requested by the accused, have relevant testimony to provide, and are reasonably available. With the exception of privileges, the Military Rules of Evidence do not apply to conduct system adjudicative hearings. The awarding authority may rely solely upon documentary evidence to find a Midshipman Candidate guilty of the offense(s) charged. In the event witnesses are called by the awarding authority, the following shall apply:

(1) Other civilians who agree to appear will do so at their own expense. The awarding authority may use any reasonable method to obtain statements of witnesses, including, but not limited to, telephone interviews, depositions, etc. Witnesses should be informed of the nature of the inquiry, before his statement or testimony is taken. The awarding authority should protect witnesses from improper questions, harsh or insulting treatment, and unnecessary inquiry into their private affairs.

(2) Witnesses testifying on the merits at an adjudicative hearing should be sworn. The awarding authority and the legal officer are authorized to administer oaths.

(3) The awarding authority will direct all witnesses both military and civilian to not discuss their statement or testimony with other witnesses, or with persons who have no official interest in the proceedings, until the hearing is completed.

i. Self-Incrimination. Neither the accused Midshipman Candidate nor any witnesses, civilian or military, will be compelled to self-incriminate under the UCMJ or answer any question, the answer to which might tend to incriminate them, or to make a statement or produce evidence if the statement or evidence is not material to the issue and may tend to incriminate them. However, a person declining to answer a question on the basis of UCMJ Article 31(b), or Constitutional grounds must specifically state as such. Whenever it appears appropriate and advisable to do so, the rights of a witness or the accused Midshipman Candidate should be explained by the awarding authority.

j. Involuntary admissions. A Midshipman Candidate's confession or admission, obtained by unlawful coercion or inducement likely to affect its truthfulness, will not be considered as evidence. The fact that an accused Midshipman Candidate was not advised of their rights under Article 31(b), U.C.M.J., the Fifth Amendment of the United States Constitution, or the rights granted under these procedures, before a confession or admission was made, does not of itself, prevent acceptance of the confession or admission as evidence. The awarding authority may accept and consider such an admission or confession, so long as they determine the admission or confession was not coerced or otherwise secured under circumstances that would undermine its truthfulness or accuracy.

k. Bad faith/unlawful searches. If a member of the armed forces, acting in an official capacity, conducted or directed a search which he knew was patently unlawful on its face pursuant to the provisions of the Fourth Amendment of the United States Constitution as applied to the military community, the evidence so obtained will not be considered against the Midshipman Candidate whose rights were violated. In all other cases, evidence obtained as a

result of any search or inspection may be accepted.

l. Adjudication hearing process. The following format will be followed during all adjudicative hearings.

(1) The Midshipman Candidate concerned will report to the awarding authority as ordered.

(2) If not already done, the Midshipman Candidate will be provided the opportunity to review any evidence that was forwarded with the command investigation or other evidence that the awarding authority intends to consider.

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

(4) In keeping with the guidelines for command investigations, if, during a hearing involving a minor offense, the awarding authority suspects or identifies an additional conduct offense or an honor offense may have been committed, the hearing will be recessed and the matter promptly referred to the Executive Officer and Legal Officer. The Midshipman Candidate will not be asked to answer any further questions or make a statement of any kind.

(5) If it is determined that the accused is not the only Midshipman Candidate involved in the incident and it appears that other Midshipman Candidates should be charged for their actions, the awarding authority may choose from the following two options:

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

(b) Continue the adjudication. If the awarding authority does not suspect that further investigation will significantly affect the finding for the accused Midshipman Candidate, then the adjudication will continue and an investigation will be opened following the adjudication to determine the involvement of the other Midshipman Candidates.

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

m. Punishment considerations for offenses

(1) Not every offense should result in the award of the maximum possible punishment. The intent of the administrative conduct system is to ensure that misconduct and resultant adjudication should be handled at the lowest appropriate level consistent with good order and discipline. However, when a Midshipman Candidate commits an offense similar to a previously committed offense during the same academic year, the punishment should be equal to or higher than the previous punishment.

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

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

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

n. After adjudication

(1) Company level. All collected paperwork is immediately given to the Company Officer, who will fill out the required forms and, if applicable, ensures that punishment begins the day of award. The entire package will remain with the Midshipman Candidate's service jacket in the company area.

(2) CO/XO Level Offenses. Immediately following adjudication, the Legal Officer will fill out the required forms and, if applicable, ensure that punishment begins the day of award. The entire package will remain with the Midshipman Candidate's service jacket in the company area.

(3) A finding of guilty for a 6K-level offense will result in the Midshipman Candidate receiving a special (out-of-cycle) Midshipman Development Report (MDR) with a grade of "Not Qualified (F)." Only the CO can assign this grade. The Midshipman Candidate can improve their grade on subsequent MDRs by successfully completing any punitive and/or remedial actions assigned at the adjudication and by upholding the conduct system.

(4) For all offenses, Company Officers will update the Honor / Conduct tracker and submit an XYZ note to Admin that describes the circumstances of the case and its outcome for inclusion in the plan of the day (POD).

3.7 Request for Reconsideration (appeal).

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

(1) Appeal of a finding of guilty. Only Midshipman Candidates who plead “not guilty” may appeal a finding of “guilty.” An appeal will need to indicate that there was not sufficient evidence to substantiate the charge by a preponderance of the evidence.

(2) Appeal of the punishment awarded. Regardless of plea, any Midshipman Candidate who considers the punishment awarded disproportionate to the offense, may appeal the award itself. Such an appeal should address whether the level of the original punishment awarded was an abuse of discretion under the circumstances of a given case. An assigned punishment should not be changed simply because the reviewing authority would have awarded a different punishment.

b. Rules for submitting requests for appeal:

(1) Midshipman Candidates must serve awarded punishment while appealing unless the reviewing authority suspends punishment pending review.

(2) The appeal shall be in writing and must include the accused’s reasons for regarding the punishment disproportionate or for regarding the finding unjust.

(3) All appeals must be routed through the awarding authority. In providing his endorsement, the awarding authority 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 Officer will review the request and endorsement in order to provide appropriate advice to the reviewing authority.

(4) Time Limits on Appeal

(a) An appeal must be submitted to the awarding authority within five working days of the Midshipman Candidate receiving notice of the punishment awarded, unless the Midshipman Candidate receives an extension of time from the awarding authority, which must be requested in writing (five days will be given when disenrollment is recommended). NOTE: The day of notice does not count. Appeals failing to be submitted within the prescribed time limit will result in the appeal being denied. If such a denial is made, both the findings and punishment awarded will become final and a permanent part of the Midshipman Candidate’s record, not subject to later appeal or complaint.

(b) If the appeal is not acted upon within five working days of its receipt by the awarding authority, the Midshipman Candidate may request, in writing, that any unserved punishment that has been designated for review be temporarily suspended until the request is acted upon. The request may be included within the reconsideration letter or made by special

request chit. Days in which the awarding or reviewing authority is not available due to travel, TAD, leave, etc., are excludable.

c. Notice of Reviewing Authority Action. After review of an appeal/request for reconsideration, the reviewing authority will inform, in writing, the Midshipman Candidate and the awarding authority concerned of the determination, and immediately forward the request and all accompanying paperwork to the XO.

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

(1) Superintendent USNA – for offenses adjudicated by the CO.

(2) CO – for offenses adjudicated by the XO.

(3) XO – for offenses adjudicated by Company Officers.

3.8 Recommendation for Separation.

a. Recommendation for Separation. In the event the CO recommends the Midshipman Candidate for separation from NAPS, the following will occur:

(1) A summary of the CO's hearing will be prepared.

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

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

(4) The Midshipman Candidate may elect to appeal the CO's recommendation to separate from NAPS. The Midshipman Candidate then has five working days to submit their appeal, as outlined in paragraph 3-3, b. via their COC.

b. Superintendent action. If the Superintendent concurs with the CO's recommendation for discharge, the Midshipman Candidate will be so advised in writing. The Company Officer shall be responsible to ensure the Midshipman Candidate is advised of all rights regarding their discharge from the NAPS Battalion.

c. Retained within NAPS Battalion by Superintendent. If a Midshipman Candidate is forwarded to the Superintendent with a recommendation for separation by the CO, and the Superintendent decides to retain the Midshipman Candidate within the NAPS Battalion, then the CO may take the following actions:

(1) No further action.

(2) Placement of Midshipman Candidate on conduct probation and/or assignment to a remediation program.

d. Out-processing. Unless otherwise authorized, Midshipman Candidates recommended for separation will not begin out-processing until the Superintendent's decision is rendered.

NAPS CONDUCT SYSTEM
ACKNOWLEDGMENT AND WAIVER OF MILITARY SUSPECT'S RIGHTS,
INVESTIGATION AND HEARING RIGHTS

I, M/C West T. Door, 170000, of 1st Company have been advised by LT John P. Jones that I am suspected of:

Offense Code Offense Description

0502 - AIDING/ABETTING AN ALCOHOL OFFENSE.

0504 - PROVIDING ALCOHOL TO MINORS.

under the NAPS Performance and Conduct System.

I have also been advised that:

- _____ (1) I have the right to remain silent and make no statement at all;
- _____ (2) Any statement I do make can be used against me in a trial by court-martial, or other judicial or administrative hearing;
- _____ (3) I have the right to consult with a lawyer prior to any questioning. This lawyer may be a civilian lawyer retained by me at no cost to the United States, a military lawyer appointed to act as my counsel at no cost to me, or both;
- _____ (4) I have the right to have my retained civilian lawyer and/or my appointed military lawyer present during this interview; and
- _____ (5) I may terminate this interview at any time, for any reason.

_____ I understand my rights as related to me and as set forth above. With that understanding, I have decided that I

do / do not desire to remain silent, **do / do not** desire to consult with a retained or appointed lawyer and **do / do not** have a lawyer present at this time. I make this decision freely and voluntarily. No threats or promises have been made to me.

I have been further advised that:

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

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

Offense Code

0502	Guilty / Not Guilty
0504	Guilty / Not Guilty

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

Signature: _____ Witnessed by: _____

Printed Name: _____ Printed Rank: _____

Name and Billet: _____

Date and Time: _____ Date and Time: _____

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

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

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

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

I understand that if the Adjudicating Authority finds that I committed one or more of the suspected offense(s) and awards punishment, I may request reconsideration of the finding(s)/punishment. I understand that such request must be made in writing within 3 working days of imposition of punishment and must allege either that the punishment was unjust or was disproportionate to the offense(s). I understand that if I request reconsideration, the case will be forwarded to the appropriate superior authority for review and action as provided under the Administrative Performance System. I understand that if I request reconsideration, my punishment may not be increased by the Reviewing Authority.

Signature: _____

Witnessed by: _____

Printed Name: _____

Printed Rank: _____

Name and Billet: _____

Date and Time: _____

Date and Time: _____

Figure 3-A

Sample Probation Letter

1-0. 1616
1-1. N00
1-2. XX Apr XX

From: Commanding Officer, Naval Academy Preparatory School
To: M/C John P. Jones

Subj: CONDUCT PROBATION

Encl: (1) Details of Required Extra Duty

Ref: (a) Command Investigation dtd XX MAR XX
(b) NAPSINST 1610.1A NAPS Conduct Manual
(c) NAPSINST 1610.2J NAPS Honor Concept
(d) NAPSINST 5400.1A NAPS Regulations

1. Reference (a) is the record of investigation by LT Iwanna B. Yeoman, USN, into the facts and circumstances surrounding your misconduct on or about XX March XXXX.
2. This investigation was adjudicated by the NAPS Commanding Officer on XX April XXXX and as a result of your actions you are being placed on conduct probation until XX May XXXX.
3. Your performance and judgment as a Midshipman candidate during these incidents was substandard. I am truly disappointed in your decision making and choices. The example you have set has hindered the accomplishment of the NAPS mission. Accordingly, you are hereby administratively cautioned pursuant to references (b) through (d). For the period of your probation if you violate any of the conduct rules and or regulations outlined in chapter 6 of reference (d) may result in a recommendation for separation to the Superintendent of the United States Naval Academy.
4. Enclosure (1) details extra duty assignments to assist you in not repeating your poor judgement in the future.
5. This letter, being nonpunitive, is addressed to you as a corrective measure. You are advised that in the future you will be held accountable for all instances of personal conduct and in the performance of your duties in order to measure up to the high standards required of a Midshipman candidate. I trust that the instructional benefit you received from this experience will heighten your awareness of the extent of your responsibilities and help you become a more proficient leader.

I. M. INCHARGE

Acknowledgment:

I acknowledge service of this document, have read the above notification and understand its contents.

JOHN PAUL JONES

Signature

Date
Figure 3-B

SAMPLE Command Investigation

Ser Info
Date

From: LT John C. Stennis, USN, Command Investigation Officer
To: Commanding Officer, Naval Academy Preparatory School

Subj: COMMAND INVESTIGATION ON M/C W. T. DOOR

- Encl: (1) Appointing order and modifications thereto (if any were issued)
(2) Summary/verbatim of sworn/unsworn) testimony of Name, Title/Rank
(3) Statement of M/C, W. T. Door, signed by witness
(4) Description of (evidence)
(5) List of photographic and/or other material evidence

NOTE: Testimony of each witness, observations of the investigator, photographs, diagrams, and suitable reproductions of tangible evidence should be listed and attached as enclosures to the investigative report. The location of all original evidence, such as logs, charts, tangible items, and so forth, and the name and phone number of the official responsible for its safekeeping must be stated in the report, either on each enclosure or in the preliminary statement.

Preliminary Statement

1. Paragraph 1 of an investigative report must contain information in the form of a "preliminary statement." Contents may require continuation in one or more additional paragraphs. In general, see section 0217(c) of JAGINST 5800.7D, for required contents.
2. Where applicable, the IO should indicate the name and organization of any legal office consulted.
3. Extensions of time to complete the report should be noted here.
4. Finally, when applicable, report if the matter was first referred to NCIS and NCIS expressed no objection to proceeding with the investigation.

Findings of Fact

1. [enclosures (), ()]
2. [enclosures (), ()]
3. [enclosure ()]

Subj: COMMAND INVESTIGATION ON M/C W. T. DOOR

Note: Findings of fact constitute an IO's description of details of events based on evidence. Findings must be as specific as possible about time, places, and persons involved. Each fact may be made a separate finding. An investigating officer may determine the most effective presentation for a particular case. Each fact must be supported by testimony of a witness, statement of the investigating officer, documentary evidence, or tangible (real) evidence attached to the investigative report as an enclosure. Each finding of fact should reference each enclosure that supports it.

Opinions

1. [Findings of fact ()]
2. [Findings of fact ()]
3. [Findings of fact ()]

Note: An opinion is a reasonable evaluation, reference, or conclusion based on facts found. Each opinion must be supported by findings of fact. Determination of line of duty and misconduct is properly stated as an opinion.

Recommendations

- 1.
- 2.
- 3.

*Note: If an IO recommends trial by court-martial, a charge sheet drafted by the IO may be prepared and submitted to the convening authority with the investigative report. See R.C.M. 307, MCM, 1984. **The charge sheet should not be signed; i.e., charges should not be preferred since it would start the "speedy trial clock" running. Before preferring charges, the local legal service office should be consulted.** Unless specifically directed by proper authority, an IO must not notify an accused of charges. Notification is the responsibility of the Commanding Officer of an accused. If a punitive letter of reprimand or admonition is recommended, a draft of the recommended letter must be prepared and forwarded with the investigative report. Proposed non-punitive letters of caution must not be forwarded with the report.*

J. C. STENNIS

Figure 3-D

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CHAPTER 4

DISCIPLINARY MEASURES: RULES AND EXPLANATIONS

4.1 Factors in Assigning Disciplinary Awards.

a. The table of authorized punishments (Figure 4-A) provides guidance for the administration of equitable discipline within the NAPS battalion while permitting exercise of discretion in individual cases.

b. Offenses are categorized as 6K level, Major level, and Minor level. Not every offense will result in the award of the maximum possible punishment. The overall philosophy of the system is that delinquencies and resultant awards should be handled at the lowest effective level consistent with good order and discipline. A Midshipman Candidate who violates the same delinquency code during the same academic year may be awarded a higher punishment with each subsequent violation.

c. Offenses under this instruction, including those defined in the UCMJ, are designed to reinforce the behavior that is expected of Midshipman and officers. Midshipman Candidates should learn to conduct themselves in a manner appropriate for a Naval officer.

4.2 Suspension of Awarded Punishment. Suspension of awarded punishment is at discretion of the awarding authority, appeal authority, or the CO. The length of suspension should be clearly understood and documented.

4.3 Deferring Restriction. Midshipman Candidates with extraordinary circumstances may request to defer restriction. The awarding authority, appeal authority, or the CO may defer restriction either during the adjudication hearing or post-adjudication via special request chit. Restriction will be automatically deferred or postponed for approved movement order, training assignments, or assignment to SIQ (Sick in Quarters) or hospitalization.

4.4 Types of Punishment.

a. Loss of Cell Phone Privileges. Loss of personal electronic devices is standard during periods of restriction. However, certain cases warrant restriction of cell phone privileges past the period of restriction or in some instances where no restriction is awarded. The Midshipman Candidate will not have access to their cellular phone as if they were on restriction.

b. Loss of Civilian Clothes Privileges. Loss of civilian clothes privileges is standard during periods of restriction. However, certain cases warrant restriction of civilian clothes privileges past the period of restriction or in some instances where no restriction is awarded. If a Midshipman Candidate is awarded loss of civilian clothes privileges as a punishment, they must remain in uniform at all times. When spending their liberty on-base, the Midshipman Candidate will remain in the Uniform of the Day (UOD) except if leaving base. When spending their liberty off-base, the Midshipman Candidate will depart and remain in the Service Dress Blue (SDB) uniform. In addition, NAPS issued PT gear will be worn during any physical training.

c. Loss of Car Privileges. Loss of car privileges includes the driving of any vehicle by the Midshipman Candidate on Naval Station Newport or its vicinity.

d. Tours. Tours are defined marching under arms. All personnel in a restricted status will conduct tours in LT Looney Plaza.

e. Restriction. Restriction is the physical restraint to specified limits as delineated below. The award of any restriction at all is optional, but, when awarded, must not exceed the maximum set forth in Figure 4-A. Restriction is tracked by the Battalion Operations Officer.

f. Midshipman Candidates on restriction are prohibited from:

(1) Liberty

(2) Exiting the confines of NAPS (for these purposes: Ripley Hall, Perry Hall, Gym 302, Gym 1801, Chafee Gym, and Ney Hall) for anything other than a legitimate movement order.

(3) Signing out of a restriction muster for an activity not approved by the Command Duty Officer (CDO) or Company Officer/SEL.

(4) Midshipman Candidates on restriction will turn over all Personal Electronic Devices (PED) to their Company Officer. The use of PEDs is prohibited in restricted status. This includes the use of other Midshipman Candidate's devices, playing of video games, and watching television. Midshipman Candidates may request to use a phone through their Company Officer/SEL.

(5) Wearing athletic gear other than NAPS issued PEP Gear. Exception shall be made for items issued by NAPS athletics and shall only be worn for the duration of the sanctioned practice.

g. Midshipman Candidates on restriction shall:

(1) Attend all muster and duties administered unless they are required to attend another obligation covered by a movement order. NOTE: Movement orders are concluded upon return to NAPS regardless of the end time listed on the order, all restricted personnel must return to restriction duties.

(2) Be restricted to the company area except for attending musters, duty, and authorized absences; including academic classes, use of academic facilities when required to complete academic projects, religious events within the base, physical training, organized team and club activities. Other possible authorized absences must be cleared via the Company Officer/SEL or the CDO.

(3) Sign out in the quarterdeck log immediately prior to authorized absences and immediately upon return. Midshipman Candidates do not need to sign out for class, military

drill, and meals.

(4) At all times, wear an inspection quality uniform of the day for any restriction muster, except during PT or while sleeping. All Midshipman Candidate will be in the UOD during evening study. No civilian attire is allowed to be worn during restriction.

(5) Restricted status applies immediately following the awarding of restriction, unless specifically deferred by the Awarding Authority.

(6) Not be in the rooms of other Midshipman Candidates.

(7) Have NEX/Commissary time on Sundays from 1230-1400.

(8) Restricted personnel shall receive their phone from 1215-1530 on Sundays and Holidays.

4.5 Miscellaneous Guidelines on Restriction.

a. Restriction starts the day it is awarded. Midshipman Candidates in a restricted status will muster daily, as specified in the POD.

b. A Midshipman Candidate may not be confined or restricted before a finding of guilty by anyone except the CO.

c. Restriction that ends on a non-leave day terminates after the last muster. Restriction that ends on a leave day terminates at 1200, to count as a full day and to promote safe traveling. Days on which Midshipman Candidates have regular liberty restriction will terminate the morning after the last muster.

d. Midshipman Candidates on restriction MUST attend at least two musters in order for the day to count, regardless of exemptions. Special circumstances will be considered for credit by the XO.

(1) Violation of restricted status. Violation of restricted status in any manner (late, UA, out of uniform, sleeping, etc) will be processed as indicated below:

(a) The violated day of restriction will not be counted towards the amount of restriction awarded.

(2) Restriction over leave periods. All Midshipman Candidates will serve restriction over leave periods with the noted exceptions below. Specific leave policies shall be published in separate notices. Extra credit will not be given for restriction served during a leave period or on a holiday. Only day-for-day credit will be given, each leave day will count as a day of restriction. Midshipman Candidates on restriction during a leave period are not authorized a break in restriction unless stipulated by the Awarding Authority or requested via the chain of command by a special request chit and approved by the CO.

(3) Holiday restriction. The CO's Holiday Restriction Notice will detail specific guidance.

(4) Restriction leading to late graduation or departure from NAPS. Only the CO may waive unserved restriction, EMI, or tours.

(5) Battalion restriction. Only the CO may curtail the liberty of the entire battalion of Midshipman Candidates, or any subset thereof.

(6) Restriction schedule will be in accordance with Figure 4-B. The CDO may authorize additional random musters and duty requirements as necessary.

(7) Restriction musters. When the restriction muster formation is called to attention, any Midshipman Candidates not in formation at that time will be marked absent. Midshipman Candidates will not be marked present by the CDO if they arrive late for muster. Musters. Monday – Friday: 0615, 1545, 1845, and 2145. Saturday and Sunday musters will be: 0715, 1215, 1530, 1845, and 2145. Restricted personnel will go to mandatory meals with their respective platoons. At 0615 and 2145 Monday – Friday, 0715 and 2145 on Saturdays, and 2145 on Sundays, restricted personnel will muster in Service Dress Blues (SDBs). At 1545 on Monday – Friday, restricted personnel will muster in issued Physical Education Program (PEP) Gear. At 1545 on Saturdays and Sundays, restricted personnel will muster in the Uniform of the Day (UOD).

(a) Midshipman Candidates will be inspected at every muster, and only after the inspection will their attendance at the muster be noted on the restriction card. Midshipman Candidates who are judged by the CDO to be unsatisfactory in personal appearance will not receive credit for standing restriction that day. However, the Midshipman Candidates are expected to attend all further musters that day, regardless of credit. Any additional finding of unsatisfactory appearance that day will result in a conduct action by the Company Officer/SEL.

(b) The Senior Midshipman Candidate on restriction will act as the restriction element commander for the purpose of restriction musters and to ensure accountability. They will be held accountable for proper reporting of the restrictees.

(c) Special permission to miss restriction musters. Midshipman Candidates MUST ensure that they personally sign the restriction log to miss a muster for an authorized reason. Upon completion of the activity, the restrictees will personally sign, noting the return time and then report to the CDO. Midshipman Candidates are prohibited from signing the restriction log for anyone but themselves. In special cases, the CDO or military staff may grant permission for a Midshipman Candidate to miss a restriction muster for a reason other than those identified in the NAPSINST 5400.1(series).

(d) At the conclusion of muster, the CDO will initial the cards of those members who were present at the muster. Once this is completed, the CDO will check the cards of those members who were not present against the restriction sign-out log. All those who were not

signed out and were not present at the muster will be marked UA on their cards.

(f) Sign-Out Log. The CDO will monitor the use of the sign-out log. The restricted Midshipman Candidate must come to the Ripley Hall quarterdeck to personally enter all the pertinent data into the log book in order to sign out for an authorized activity.

(8) Tours. All Midshipman Candidates in a restricted status will be issued rifles for tours during the Saturday 1530 muster. They will then report to LT Looney Plaza at the conclusion of the muster. Tours may be assigned as a stand-alone punishment IAW Figure 4-A.

(a) The CDO will determine if the weather prohibits tours from being marched outside on that day. Tours will not be done outside in rain, sleet, snow, any other severe weather conditions, or when the condition flag is black. If that is the case, tours will be completed indoors.

(b) Varsity athletes prior to a game the same day and Midshipman Candidates who are on a “no drill” chit will not march, but will muster to observe the tours.

4.6 Other Disciplinary Measures.

a. Extra Duty. Extra Duty will be automatically incorporated with restriction; it is inclusive to being in a restricted status. Extra duty will be performed Monday – Saturday at the discretion of the Command Duty Officer (CDO). Restricted personnel will not conduct Extra Duty on Sundays. Specified extra duty may include, but is not limited to:

- (1) 1st LT Duties
- (2) Laundry Duty
- (3) Planning/Organizing Functions
- (4) Extra Cleaning Duty
- (5) Trash Removal

(a) Extra duty shall:

- (1) Consist of upkeep, maintenance and administrative tasks on NAPS grounds.
- (2) Take place during the lunch period for 30 minutes and will run until five minutes before the start of the next academic period. Refer to POD.
- (3) Be performed on a not-to-interfere basis with other military obligations such as academic classes, drill, intramurals, mandatory study, and mandatory lectures.

(b) Extra duty shall not:

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

(3) Be performed during study hours.

(3) Reduce the days of restriction. The amount of restriction days awarded should not be reduced in exchange for the performance of extra duty except under extraordinary circumstances and then, it may be reduced only by the Awarding Authority or CO.

(4) Count if performed during duty platoon cleaning and volunteer work.

b. Removal from extracurricular activities. Only the CO may suspend members of sports teams (including managers), competitive club teams, and intramural or other extracurricular activities. Team activities include meetings, practices, training, competition, social functions, and any other team related activity. Extracurricular activities include all organized Midshipman Candidate activities. A Midshipman Candidate may be removed if that Midshipman Candidate has:

(1) Been placed on conduct probation, or

(2) Been recommended for separation, or

(3) Accumulated, in the CO's judgment, excessive deferred restriction, or

(4) Is charged with an offense under the UCMJ that could result in greater than one year of confinement or,

(5) Is charged with a felony or equivalent offense in a federal, state or foreign jurisdiction.

4.7 CO's Measures.

a. Conduct probation and remediation.

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

(a) As a result of a finding of guilt for a major offense, in lieu of a recommendation to the Superintendent for separation;

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

(c) At the CO's discretion upon a review of the facts of the case.

(2) A Midshipman Candidate assigned conduct probation and remediation is considered

not in good standing for graduation from NAPS unless and until the probation and remediation is successfully completed.

(3) Terms of probation and remediation will be established by the CO and the periods of probation and remediation will be in effect for a stated period of time. Remediation provides post-adjudication senior mentoring for those with major conduct offenses to provide a positive growth and rehabilitation opportunity.

(4) Violation of the terms of probation or a failed remediation may result in a recommendation for separation.

(5) Each Midshipman Candidate placed on probation and assigned remediation will be notified in writing the terms of the probation and criteria for successful remediation. Successful completion will return the Midshipman Candidate to good standing in the Battalion.

b. The CO can pursue numerous administrative actions as a part of conduct probation and remediation. These include, but are not limited to, the following:

(1) IMPACT training - an intensive goal-oriented early intervention designed for individuals who incur an alcohol-related incident.

(2) Assignment to a different company.

(3) Loss of privilege to represent NAPS in any athletic event or extracurricular activity.

4.8 Separation.

a. The separation authority for the NAPS Battalion is the USNA Superintendent. When a Midshipman Candidate is found guilty of committing any 6K-level offense, the CO may recommend to the Superintendent that the Midshipman Candidate be separated.

b. If the Superintendent disapproves the recommendation for separation and returns the case to the CO, unless otherwise directed, the CO may take additional measures including conduct probation and remediation.

c. Once the Superintendent has determined that a Midshipman Candidate is to be separated from NAPS, the Midshipman Candidate shall immediately begin out-processing procedures and will normally be temporarily assigned to the NAPS Command Headquarters Section.

TABLE OF AUTHORIZED PUNISHMENT RANGES

	Minor	Major	6K
Loss of Cell Phone Privileges (days) ₁	0-14	0-30	0-45
Loss of Civilian Clothes Privileges (days) ₁	0-14	0-30	0-45
Loss of Car Privileges (months)	0-1	0-3	0-6
Tours ₂ (hours)	0-3	0-5 ₂	0-10 ₂
Extra Duty (hours)	0-14	0-30	0-45
Restriction (days)	0-14	0-30	0-45

NOTES:

(1) The loss of cell phone and civilian clothes privileges are standard during periods of restriction, therefore, the loss of these privileges may extend beyond the period of restriction, or may be given without a period of restriction for a number of days as indicated in the chart.

(2) All personnel in a restricted status on Saturdays will march tours during the prescribed times. Tours may be assigned as a stand-alone punishment.

Figure 4-A

DATE AWARDED :

RESTRICTION MUSTER
CARD FOR:

NAME _____

ALPHA _____

CO _____

_____ DAYS OF RESTRICTION

	MON	TUE	WED	THU	FRI
DATE					
**0615					
1545					
1845					
**2145					
CREDIT					

	SAT
DATE	
**0715	
1215	
*1530	
1845	
**2145	
CREDIT	

	SUN
DATE	
0715	
1215	
*1530	
1845	
**2145	
CREDIT	

	MON	TUE	WED	THU	FRI
DATE					
**0615					
1545					
1845					
**2145					
CREDIT					

	SAT
DATE	
**0715	
1215	
*1530	
1845	
**2145	
CREDIT	

	SUN
DATE	
0715	
1215	
*1530	
1845	
**2145	
CREDIT	

	MON	TUE	WED	THU	FRI
DATE					
**0615					
1545					
1845					
**2145					
CREDIT					

	SAT
DATE	
**0715	
1215	
*1530	
1845	
**2145	
CREDIT	

	SUN
DATE	
0715	
1215	
*1530	
1845	
**2145	
CREDIT	

* Denotes Tour Timings.
** Denotes SDB Uniform Inspection

Figure 4-B

MIDSHIPMAN CANDIDATE'S
ACKNOWLEDGEMENT AND AWARD OF RESTRICTION FORM

From: _____
(M/C, Alpha, Company)

To: _____
(Company Officer)

Subj: AWARD OF RESTRICTION

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

a. I will read the CONDUCT MANUAL, which explains restriction requirements more fully within 24 hours of signing this form. _____ (initial)

b. I understand that 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 NAPS as soon as possible, even though my orders or movement orders may not have expired. _____ (initial)

c. I will report to my Company Officer immediately to receive my restriction card and attend the very next muster.

(Signature of M/C)

Company Officer make this M/C a restriction card and place them on the 0800 Report, file this immediately after restriction is awarded.

From: _____
To: Battalion Operations Officer

Date: _____

1. M/C _____ has received a properly annotated restriction card and is aware that their restriction begins at the very next muster at _____.

(Printed Name and Rank)

SEND THIS ACKNOWLEDGMENT OF RESTRICTION TO THE BATTALION
OPERATIONS OFFICER IMMEDIATELY

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CHAPTER 5

DUTIES AND RESPONSIBILITIES

5.1 Introduction. In order for the administrative conduct system to function efficiently and fairly, specific duties and responsibilities are assigned to members of the CO's Staff and the NAPS Battalion. The following are the explanations of those responsibilities by position.

5.2 Awarding Authority. The Awarding Authority shall:

- a. Conduct a fair and impartial hearing.
- b. Determine whether the accused is guilty by a preponderance of the evidence by considering all known, relevant circumstances associated with the case.
- c. Ensure at least 24 hours notice is provided to the accused in order to review all documents and to gather any additional, pertinent, information.
- d. Determine an appropriate punishment in light of the alleged offense(s), the accused's prior overall performance, COC inputs, the accuser's rank and billet within the battalion, the need to maintain good order and discipline, as well as any extenuating/mitigating evidence that the accused presents.
- e. Advise the accused, in person, of "Guilty" and "Not Guilty" findings. If the accused is found "Guilty," advise the accused of the extent and nature of the punishment awarded. (Note: even if the adjudication is conducted without a hearing, the accused shall be advised of the awarding authority's findings and the punishment awarded, if any, in person, by an appropriate member in the COC).
- f. Following adjudication of a case, the awarding authority shall provide the related documents to the Company Officer for entry of the findings and punishment (if awarded) into the Midshipman Candidate's service jacket. Upon entering the finding/punishment, the Company Officer shall file the relevant documents.

5.3 Accused Midshipman Candidate. The accused Midshipman Candidate shall:

- a. Obtain legal counsel, if desired. Although military legal counsel will be made available at no expense to the accused through Naval Station Newport or Groton Defense Service Office, the accused Midshipman Candidate is responsible to make contact with counsel and exercise this right.
- b. Meet submission deadlines established by the Company Officer or PIO. If an accused Midshipman Candidate cannot meet a submission deadline, it is the Midshipman Candidate's responsibility to contact the officer concerned to obtain an extension. In all cases where the requested extension will result in a delay of the command investigation or adjudicative hearing, the request will be made in writing and delivered to the PIO or awarding authority for

approval/disapproval.

- c. Accused M/Cs has the responsibility of contacting and notifying witnesses they request.

5.4 Preliminary Investigating Officer (PIO). (Additional directions in section 3.1). The PIO shall:

- a. Conduct a fair and impartial inquiry into the facts and circumstances surrounding alleged misconduct. PIO should seek assistance from the Legal Officer and Base Legal as required and request the assignment of an assistant PIO if deemed necessary for more complex cases.

- b. Complete and serve the accused Midshipman Candidate the Acknowledgment and Waiver of Rights Form (Figure 3-B) and inform them of the requirement to submit a plea within 24 hours of service.

5.5 Company Officer.

- a. Act as the PIO for Minor offenses that require the collection of materials or evidence.

- b. Schedule, setup and act as awarding authority for all Minor level adjudications.

- c. Complete all forms associated with punishment assigned at adjudication: Midshipman Candidate Acknowledgement of Restriction form (Figure 4-C).

- d. Ensure that the performance package is filed in the company files.

- e. Prepare XYZ note and send to Admin. XYZ note will outline an adjudication by describing the summary of events, offenses that were charged, punishment, and the final disposition of the case.

- f. Update Battalion Operations Officer conduct tracker for all Minor level adjudications.

- g. After adjudication for a Major/6K-level offense, the Company Officer will:

- (1) Complete all forms associated with punishment assigned at adjudication: Midshipman Candidate Acknowledgement of Restriction form (Figure 4-C). Company level cases:

5.6 Battalion Operations Officer.

- a. Ensure that the PIO completes the Acknowledgment and Waiver of Rights Form (Figure 3-B).

- b. Provide assistance to the PIO as necessary, to include obtaining reports from outside agencies.

- c. Coordinate with the PIO to ensure timely completion of the Command Investigation.
- d. Review all available documentation for completeness and accuracy.
- e. Verify the Battalion Conduct tracker is up-to-date.
- f. Maintain necessary records, ensuring that a copy of the Command Investigation is placed in the Midshipman Candidates file.
- g. Train Investigating Officers to properly execute their respective duties under this instruction to enhance consistency in the administration of the performance system within the Battalion, thereby enhancing good order and discipline at NAPS.
- h. Provide awarding authorities with precedence data from similar cases.

5.7 Legal Officer

- a. For all Major/6K-level adjudications:
 - (1) Provide advice to the CO/XO concerning consistency in the conduct system and offer recommendations to enhance consistency when required.
 - (2) Ensure the accused Midshipman Candidate's COC knows that a Major/6K-level offense has been charged against the Midshipman Candidate.
 - (3) Serve the accused Midshipman Candidate the Acknowledgment and Waiver of Rights Form (Figure 3-B) and inform them of the requirement to submit a plea within 24 hours of service.
 - (4) Provide the accused Midshipman Candidate an opportunity to review the materials provided to the awarding authority, to include the Command Investigation with enclosures, COC Comments and any statements collected.
 - (5) Provide to the Awarding Authority a complete adjudication package to include: Acknowledgment and Waiver of Rights Form (Figure 3-B), Command Investigation with enclosures, as applicable; all written comments from the accused Midshipman Candidate; written comments from Midshipman Candidate's COC; a complete printout of the Midshipman Candidate's service jacket; and any statements or evidence submitted by the accused Midshipman Candidate.
 - (6) Ensure the accused Midshipman Candidate's paperwork is properly filled out.
 - (7) Setup the CO's Conference room and ensure that all required personnel are present.
 - (8) Be present during adjudication.

(9) Prepare XYZ note and send to Admin. XYZ note will outline an adjudication by describing the summary of events, offenses that were charged, punishment, and the final disposition of the case.

(10) Ensure the proper update of the Battalion Operations Officer conduct tracker.

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