

CHAPTER 752

CORRECTIVE, DISCIPLINARY AND ADVERSE ACTIONS

1. **PURPOSE.** This Chapter provides advice and guidance in effecting disciplinary actions.
2. **LEGAL BASIS.** The procedures for taking discipline and adverse actions are authorized by 5 USC 7503, 7504, 7513, 7514, 7121, 7701, 7702 and 7703.
3. **ASSISTANCE.** Please refer to Chapter 001 of this Manual for the telephone number to call for additional information or further assistance relative to this Chapter.
4. **COVERAGE.** This Chapter applies to all Department of the Navy (DON) employees with certain exceptions, which include:
 - a. Employees of non-appropriated fund instrumentalities.
 - b. Civilian mariners covered under Civilian Marine Personnel Instructions.
5. **EXCLUSIONS.** There are certain personnel actions that are excluded from coverage under Chapter 752. For a complete list, contact your Human Resources Office (HRO), Norfolk specialist for assistance. Some of the more commonly excluded actions are:
 - a. A reduction-in-force action.
 - b. The separation of an employee serving a probationary period following initial appointment to a competitive position (See Chapter 300 of this manual).
 - c. A voluntary action initiated by the employee.
 - d. Termination of appointment on the expiration date specified as a condition of employment at the time the appointment was made.
 - e. Reassignment from a position with known promotion potential to a position with no known promotion potential.

6. RESPONSIBILITIES

a. Activity Heads:

(1) Are delegated authority by the Secretary of the Navy to take the actions described in this Chapter. This authority should be redelegated to the extent deemed appropriate by the Activity Head. Each Activity Head should specify, in writing, the redelegation of authority to subordinate managers and supervisors within the activity. A copy of the delegation should be furnished to those to whom authority is delegated and to the Human Resources Office (HRO), Norfolk.

(2) Should apprise employees of activities' disciplinary action policy through appropriate means.

(3) Should apprise all civilian employees, at least annually, of applicable Standards of Conduct information.

b. *The Director, HRO Norfolk* is responsible for providing professional guidance to managers exercising the options outlined in this Chapter and to employees on their rights to contest them. HRO Norfolk shall maintain all records required by the Secretary of the Navy on matters in this Chapter.

7. DISALLOWANCE OF EMPLOYEE'S CHOICE OF REPRESENTATIVE.

There may be occasions when the activities of an individual acting as an employee's representative could cause a conflict of interest or position, conflict with priority needs of the activity/command, or would give rise to unreasonable cost to the Government or create an undue hardship on the employing activity. In such cases, the activity head or the designated official may disallow the person to act as an employee's representative. If the employee wishes to contest the decision to disallow the representative of choice, the employee shall address the request in writing to the next higher level in the chain of command, over the person who made the decision to disallow the representative.

8. DEPARTMENT OF THE NAVY (DON) PHILOSOPHY OF DISCIPLINE.

Discipline is a managerial tool intended to correct deficiencies in employee behavior and attitude, correct situations which interfere with efficient operations, maintain high standards of government service and maintain public confidence in the DON. It is not the philosophy of DON to utilize disciplinary measures for the sole purpose of punishing employees. An employee whose behavior is not acceptable to management, but whose behavior is not corrected is quite likely to persist in that unacceptable behavior in the erroneous belief that it is correct, or at least condoned. Supervisors and managers have an obligation to such employees to correct behavioral deficiencies while they are still minor and before the behavior becomes a habit and a bad example to others. It is easier to correct a first instance of deficient behavior than to ignore the situation and later try to correct the third, fourth, or fifth instance. It is easier and better management to correct a minor case of deficient behavior than to ignore the situation and allow the problem to become a major one.

9. ALTERNATIVE DISPUTE RESOLUTION. The use of Alternative Dispute Resolution (ADR) is encouraged for resolution of any workplace dispute or concern. ADR services, such as mediation, are available to management whenever employee conduct or performance raise concerns and the employee agrees to participate in the process. ADR may also be available under the provisions of a labor management agreement. For assistance, refer to Chapter 001 of this manual.

10. PRIMARY COURSES OF ACTION

a. Noncontestable Actions. Oral admonishments and letters of caution are not grievable under the administrative grievance procedure. In some cases, such actions may be grievable under the provisions of a negotiated grievance procedure.

(1) *Oral Admonishment*. An oral (non-written) correction by a superior official of an employee's improper conduct.

(2) *Letter of Caution*. A supervisor may want to warn an employee that continued instances of misbehavior or unacceptable performance may lead to disciplinary action. These letters are not disciplinary or adverse actions. The warning is prospective only and is generally not grievable. However, it may be grievable if the employee is covered by a negotiated agreement which does not exclude letters of caution from the negotiated grievance procedure.

b. Grievable Actions. Grievable actions include letters of reprimand and suspensions of 14 days or less. A letter of requirement, even though grievable, is not considered discipline.

(1) *Letter of Reprimand*. A written remedy by a supervisor for an employee's improper conduct. In certain situations, this type of letter may be appropriate for performance deficiencies.

(2) *Suspension*. The placing of an employee in a temporary status without duties or pay for disciplinary reasons. Suspensions are counted in calendar days.

c. Appealable Actions. Appealable actions include removal, suspension for more than 14 days or indefinite suspension, reduction in grade or pay, or furlough for 30 days or less. These actions are appealable to the Merit Systems Protection Board.

(1) *Removal*. The involuntary separation of an employee from the activity except when taken as a reduction-in-force action.

(2) *Suspension of More than 14 days*. The placing of an employee in a temporary status without duties or pay for a specified number of days for disciplinary reasons.

(3) *Indefinite Suspension*. The placing of an employee in a non-duty, non-pay status for an unspecified number of days pending the resolution or outcome of a matter involving the employee.

(4) *Reduction in Grade*. A reduction to a lower grade level of classification under a position classification system.

(5) *Furlough*. Temporary status without duties and pay because of lack of work or funds or for other nondisciplinary reasons.

11. ALTERNATIVE COURSES OF ACTION. Instances of employee misconduct should never go unattended. All misconduct, however, does not necessarily warrant formal disciplinary action. Other forms of correction available are:

a. *Explanation or Training.* If the employee is unaware of the proper performance or conduct, it may be that training, or perhaps a sound explanation, will be sufficient to correct the problem. This alternative is particularly likely to be appropriate when the employee is new or working in an unfamiliar environment.

b. *Civilian Employee Assistance Program.* As a general rule it is in the best interests of both DON and the employee to rehabilitate rather than remove. Misconduct is not always willful. Sometimes it stems from alcoholism, misuse of drugs, or other personal problems which may be helped through the Civilian Employee Assistance Program (CEAP). A supervisor should seek to learn enough to make a determination whether to refer an employee to a CEAP counselor, take disciplinary action, or do both concurrently.

c. *Letter of Requirement.* In cases where the leave privilege is abused or other conduct or performance deficiencies exist, a supervisor may wish to impose requirements over an individual which do not apply to the rest of the work force. This can be done by a letter of requirement which establishes the precise circumstances under which leave will be approved or precisely what performance is required.

12. SPECIAL DISCIPLINARY SITUATIONS

a. *Leave Abuse.* If an employee is absent without permission, he/she should be charged with Absence Without Leave (AWOL). A charge of AWOL will support a disciplinary action. However, an instance of AWOL does not automatically require disciplinary action. An employee who is AWOL is not paid for the period of unapproved absence. Therefore, a supervisor may determine that the loss of pay is sufficient to prevent such absences in the future. Leave Without Pay (LWOP) is unpaid absence that has been requested by the employee and approved by the supervisor. Except in unusual cases, disciplinary action would not be taken in connection with LWOP.

b. *Non-Duty Status with Pay.* Sometimes the actions or conduct of an employee will represent a threat to life, health or government property and it will be necessary to get the employee out of the worksite while a disciplinary action is being processed. In such instances it is permissible to place the employee in a non-duty status with pay for the minimum period necessary.

c. *Drug and Alcohol Abuse Offenses.* An employee who engages in misconduct involving drugs and/or alcohol shall be disciplined in accordance with the provisions outlined in Appendix C of this Chapter unless the employee voluntarily refers himself/herself as a user of illegal drugs under the "safe harbor" provision of DON's Drug-Free Workplace Program provided that activity management was otherwise unaware of such activity. (See Chapter 792 of this Manual)

d. *Voluntary Action by Employee.* An employee who is confronted by management with a potential disciplinary situation will sometimes volunteer to accept a lower grade, a reassignment, or resign in lieu of disciplinary action. There is nothing wrong with this provided management has not coerced the employee into taking such an action. Great care should be taken to avoid the appearance of coercion. If the employee asks if he/she can resign or what the effect of resignation on the action being taken would be, refer the employee to HRO Norfolk. Employees who believe they were coerced into resigning or involuntarily taking a change to lower grade may file an appeal with MSPB.

e. *Performance Related Adverse Actions.* Where an employee's deficiencies are performance related rather than due to misconduct, that employee may be demoted or removed either through the procedures described in Chapter 432 of this manual, or through the adverse action procedures.