



CNIC NAF EMPLOYEE RELATIONS GUIDE

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CHAPTER 1
INTRODUCTION TO EMPLOYEE RELATIONS

SECTION 101. INTRODUCTION: Commander Navy Installations Command (CNIC) non-appropriated fund (NAF) employees are expected to maintain the highest standards of personal conduct and integrity. It is the responsibility of all supervisors to ensure that all their subordinates understand and live up to these high standards. This Guide provides guidance on how to assure that high standards are maintained. Maintenance of high standards will promote the efficiency and effectiveness of work operations and assure compliance with laws and regulations.

a. Positive discipline is achieved when individuals hold themselves to high standards of conduct and responsibility because they accept and value those standards. Maintaining discipline in organizations where all employees have this high degree of commitment is easy. However, supervisors need to take positive actions to establish such a positive environment. Setting the example and effective communications can help the supervisor to establish a work environment where employees internalize these high standards.

b. Disciplinary actions are designed to correct an employee's misconduct and to deter similar misconduct by other employees. In attempting to correct individual instances of misconduct, it is important that the action be the minimum necessary to bring about the desired change. All actions must be consistent with the facts and circumstances surrounding the misconduct. Fortunately, misconduct and unsatisfactory performance are not everyday occurrences among employees, but they are the most challenging and difficult aspects of supervision. Dealing effectively with employee problems requires a good understanding of the disciplinary action process and skill in handling a variety of human relations problems.

c. This Guide is a "how-to" guide. It focuses on the kinds of problems which supervisors will be expected to resolve with the assistance of their Human Resources Office (HRO). While it provides information concerning formal disciplinary actions, the focus should be on informal actions that correct inappropriate behavior before it becomes a big problem.

SECTION 102. INFORMING THE EMPLOYEE OF REQUIREMENTS AND EXPECTATIONS: While employees must have the skills and tools to do

the job, it is equally important that they know the rules and requirements and do not violate them.

a. Informing the employee of rules and expectations starts during employee orientation. A supervisor should orient employees the day they are first assigned to them. They shall also inform all of their employees anytime a new rule or expectation is issued or an existing rule or expectation is changed.

b. New hires need to be given a copy of the Standards of Conduct during new employee orientation in the NAF HR office and sign a statement that they received a copy of the Standards and that they have read and understand them. The signed statement should be kept in the employee's OPF.

c. Supervisors need to fully cover all of the topics and expectations listed on the new employee orientation form.

d. Employees should be required to sign documents acknowledging receipt of any equipment or clothing that they are issued, that they understand how to use and maintain it, and that they know it must be returned to the government upon leaving employment.

e. Employees should be given copies of instructions regarding handling of cash, credit cards, alcohol or any others that apply to them and their duties. The employee will acknowledge in writing that they received them. These signed acknowledgments should be maintained in the supervisor's file of information on the employee.

Supervisor's Employee Work Folder. Supervisors should have access to certain types of information regarding the employees they supervise. This information should be maintained in an Employee Work Folder. If properly maintained, this file can be a valuable management tool. The following records can be maintained in this folder.

- The most current SAP Employee Record Brief
- Training records, including Formal Training Plans and Individual Development Plan (IDP)
- Work Schedule
- Leave schedules
- Position descriptions (PDs)
- Performance plans
- Performance ratings and supporting information
- Pending personnel actions, awards recommendations, etc.
- Letter of Appreciation

- Oral Admonishment Records
- Written Warnings
- Disciplinary action backup materials
- Safety Checklist
- Documentation on Details of 30 days or less
- Documentation related to Grievances

The following records **MUST NOT BE MAINTAINED** in the Employee Work Folder.

- Medical documentation, including worker compensation forms. These are maintained in a medical folder in the personnel office.
- Suitability and/or security information. These are maintained in the security office.

The employee work folder can be used to record personal emergency contact information and to document significant events and discussions supervisors have with their employees regarding performance, recognition, training and conduct. Documenting is a supervisor's responsibility and should not be assigned to clerical personnel.

Employee Work Folders must be maintained in a secure area that guards against unauthorized access; yet is readily accessible for supervisors to enter notes and other documentation.

Disposition of Employee Work Folder:

- When an employee is selected for reassignment, change-to-lower grade, or promotion within the same NAFI, the losing supervisor forwards the complete work folder to the gaining supervisor within ten (10) days.
- When an employee is transferred to another NAFI or separates for reasons other than military service or adverse action, the work folder is destroyed after sixty (60) days.
- When an employee enters military service, the work folder is sent to the NAF HR Office.
- When an employee is separated by adverse action, the work folder is maintained with the supervisor until no longer needed. NAF HR office advice should be obtained before destruction.
- Supervisors and the local HR office should review any local Collective Bargaining Agreement (CBA) to determine if there are additional restrictions placed on the type of records that may be maintained in the Employee Work Folder for Bargaining Unit Employees (BUEs).

SECTION 103. SETTING THE CLIMATE: The first-line supervisor plays a key role in establishing a workplace climate in which each and every employee takes responsibility for maintaining the highest standards of conduct and integrity. Supervisors set the example for the conduct of their subordinates. If employees see supervisors as role models with conduct beyond reproach, they will respect and follow that lead. Supervisors are held to higher standards of performance and conduct than their subordinates. Supervisors can be the subject of more severe disciplinary action for exhibiting the same misbehavior as their subordinates. Supervisors must make sure that their use of leave is appropriate; that they do not misuse government equipment or government time; that they do not engage in disruptive behavior such as yelling and swearing; that they follow applicable regulations and management directions; and that they do nothing that could be interpreted as a conflict of interest. The behavior a supervisor exhibits is the behavior that they can expect from their employees.

SECTION 104. COMMUNICATING CONDUCT STANDARDS: Supervisors must make sure that their employees know the rules. Before they can hold employees accountable for their conduct, it is essential that they know and understand the standards and rules that they are expected to follow. Whenever a new employee begins working for a supervisor (even if they have prior CNIC NAF experience), the supervisor needs to discuss with the employee their expectations for conduct and performance. They should make clear that they expect an employee to be at work every day on time except when leave has been approved. Explain the procedures that are to be followed for leave approval for sick leave or emergency annual leave. Of special importance is clear instruction on what to do if the supervisor is not available when the employee calls. Review key provisions of the Standards of Conduct. Do not assume that employees understand these requirements because they were covered by another supervisor or in employee orientations. If an employee has a question concerning those standards on which you are not sure of the answer, check with your installation legal office.

Make sure that employees understand the rules for performing their jobs. Include conduct reminders in staff meetings. Well-placed reminders of expectations concerning conduct can be included in individual performance discussions. Keep notes concerning discussions that you have with employees on conduct or performance. Be sure to include what was said, who was there, and

when the discussion was held. In addition, ask the employee to sum up the discussion in their own words so you are certain that the employee understands fully. Include this summary in your notes. Provide a copy to the employee and have the employee initial or sign the supervisor's copy acknowledging receipt of a copy.

SECTION 105. EMPLOYEE RECOGNITION AND DISCIPLINARY ACTIONS: A good coach congratulates each team member when they make a good play. One of the best ways to build positive discipline in your employees is to encourage and praise them when they do things right. A supervisor who only points out mistakes and errors is less likely to be heard by employees. They screen out the negatives and rationalize that the supervisor is too picky, impossible to please and out to get them. The use of deserved praise enhances morale and also makes employees more receptive to criticism when it is given. It is important to catch your employees in the act of doing things right. A person who is having work-related problems can be especially receptive to positive feedback. For example, if an employee who has been having problems with attendance makes it in to work on a snowy day tell them, "I am sure glad you made it in today. I know it was hard today. "I am short-staffed and I really need your help." Similarly, praise for an employee with a history of a short temper is in order when they calmly deal with a cranky patron. Just say: "I notice that the man in the blue jogging suit seemed to be really agitated. I liked the way that you talked to them calmly and did not let them get under your skin. Good Job!" Praise for performance accomplishments throughout the year can also help an employee take constructive criticism better.

SECTION 106. CORRECTING LAPSES IN CONDUCT OR PERFORMANCE: Generally most employees want to do a good job. Most employees do the job they believe supervisors and managers expect them to do and do it to the best of their ability. Occasionally there will be instances where employee behavior is unacceptable. If this type behavior is a matter of personal conduct that conflicts with workplace rules it may require disciplinary action to correct the offending behavior. Everybody makes mistakes. The important thing is to identify the mistakes, how they occurred and take actions so they do not happen again. The good coach knows how to correct players so that they are motivated rather than demoralized. Supervisors need to develop this very difficult skill.

a. It is often difficult to determine whether a situation is a conduct problem or a performance problem. Conduct and

performance may be inter-related. To distinguish between them, remember that misconduct is failure to follow a workplace rule, as in tardiness, absenteeism, insubordination, or falsification. Poor performance is failure to do a job at an acceptable level, as in lack of quality, quantity, or timeliness. Refer to the CNICINST 5300.2, Chapter 5, section 508 regarding how to handle performance issues. When a problem is conduct-related, some form of corrective action should be taken. Supervisors have an obligation to provide an orderly and efficient workplace. Incidents of misconduct call for the supervisor to take immediate action commensurate with the behavior.

b. The best method of correction is to identify when an employee may be about to make a mistake and correct them before the mistake is made. The sooner a mistake is corrected, or better yet avoided, the better. Speed is essential to effective correction. It prevents repetition of the mistake and gives the employee current feedback. The results of disciplinary actions diminish in proportion to the time allowed to elapse between the offense and the issuance of the disciplinary action.

c. Each problem should be dealt with as it occurs and offenses should not be allowed to accumulate over a period of time. If nothing is said, the employee will think that the behavior is OK. Worse yet, other employees will see that their co-worker is getting by with this behavior, and try it themselves. Letting it ride is very dangerous. At some point a supervisor may have a big problem with that same employee. A supervisor may want to impose a severe disciplinary action; however, it may not be justified because it will officially be only a first offense.

d. Disciplinary action is not meant to be punitive but should be taken in a form and at a level necessary to correct the offending behavior. Used in this manner a disciplinary action can be a positive action achieving positive results. Managers should avoid procrastination in taking disciplinary actions. This results in the release of stored-up frustration when the employee commits another act of misconduct. Most people want to avoid unpleasant confrontations, but this only fails to convey the seriousness of the employee's misconduct. Meanwhile the employee is receiving reinforcement from management's inaction.

e. In most cases a step before disciplinary action could be an oral admonishment. However, in serious conduct offenses such as taking government property, insubordination, etc. disciplinary action may be initiated without being preceded by an oral admonishment. In either case this is a matter of explaining management's expectations and the perceived shortcomings of the employee. Consider a problem with an employee being tardy to work. The employee should be treated as an adult. Make it clear why the employee must change their behavior and get the employee to agree:

- (1) There is a problem.
- (2) The problem is the employee's responsibility to correct.
- (3) On the specific action(s) the employee will take to correct the behavior.

f. When an oral admonishment does not solve the problem or when the misconduct is so serious an oral admonishment is obviously not the answer, disciplinary actions should be considered.

CHAPTER 2

PRE-ACTION INQUIRY/INVESTIGATIONS

SECTION 201. CONDUCTING AN INVESTIGATION: A supervisor will need to obtain and analyze information before making any decision. As a supervisor, they learn of problems through observation, by keeping communications open with their employees, through feedback provided by customers, and through investigations. When it is learned that inappropriate conduct by one of their subordinates may have occurred, they need to be prepared before they can effectively correct that employee. They need to obtain the employee's side of the story, gather information from witnesses, and obtain and review relevant documents, regulations and law. This should be done as soon as possible in order to assure the accuracy of witnesses' recollections and to correct the problem immediately. In determining what happened, they need to gather all available facts and information. The use of the sample Investigation Form and the Investigation Evidence Worksheet are required for any investigation which might result in a disciplinary action being issued (**See Figures 13 and 14**).

a. They need to make sure that they know the following:

- (1) How the incident occurred?
- (2) When (date and time) the incident occurred?
- (3) Where the incident occurred?
- (4) Who else was involved?
- (5) Who witnessed the incident?
- (6) What exactly was done or said?

- (7) What may have led up to the incident?
- (8) What did the witnesses observe?

b. The supervisor will normally conduct the investigation. Under certain circumstances the supervisor may request that another management official be designated as an investigating official. In some situations security may have been called. If so, then the supervisor should obtain a copy of the security investigation. If more information is needed than the security investigation provides, the supervisor may ask security to obtain the information. The supervisor may obtain it himself/herself if given the approval to do so by security.

c. During investigation, written statements of what witnesses may have seen must be obtained from all that may have information on the incident/event. The following statement should be added onto the statement before the employee signs it. **"I certify to the best of my knowledge and belief that all of the information in this statement is true, correct, complete, and made in good faith."** If the witness will not be subject to disciplinary or criminal action, they are required to answer questions. If they then refuse to answer, the supervisor should notify them that their refusal may result in disciplinary action being taken against them. If the employee still does not want to provide a statement assistance from the NAF HRO should be obtained.

d. The supervisor must obtain the employee's side of the story as this is a crucial step in determining what action they will take. Remember the initial meeting should be a fact-finding meeting and one should keep an open mind. Let the facts lead the interviewer. In conducting this meeting, the supervisor needs to keep the following pointers in mind:

- (1) Interview witnesses and the subject of the investigation "separately" using the "Rule of 2" concept which means having a peer in the room during the interview. It's imperative that comprehensive, readable notes be taken during the investigative interview. All witness and employee meetings should be held in private without interruptions. If the person doing the interview does not have a private office, make arrangements to meet in a conference room or other private space. Make sure that telephone calls are held and that visitors will not interrupt. As a suggestion a box of facial tissue could be present in case the employee becomes emotional. If necessary, provide for a short break in questioning until the employee regains composure.

If a bargaining unit employee who "IS" the subject of an investigation requests a union representative and one cannot be obtained at the time of the interview, the interviewer should reschedule the meeting to give the employee a chance to obtain the representative.

- (2) When interviewing employees who are "NOT" the subject of the investigation, calmly explain the facts that have been gathered and ask the employee to provide an explanation of what happened and why. These employees are not authorized a union representative as they are not the subject of the investigation. As such, they are not authorized a union representative even if they ask for one.
- (3) Listen closely to what the employee has to say. Do not interrupt them. Take notes or request the employee to give a written statement. When an employee reaches a stopping point, paraphrase the points that have been made and ask if that is correct. Ask further questions needed to clarify the information presented.
- (4) Key factors to look for in the employee interview include:
 - (a) Are there facts that indicate that the employee did not engage in the alleged misconduct?
 - (b) Does the employee(s) have a plausible explanation for the circumstances leading up to the incident?
 - (c) Does the employee recognize the wrongfulness of the conduct, show contrition, and is (s)he willing to take some action to prevent its reoccurrence?
 - (d) Is the employee being honest or do they appear to be hiding information? Are they answering questions directly or are key questions being evaded? What is the employee's demeanor?
 - (e) Does the information provided require further investigation? Does it resolve the concerns that exist?

- (5) Do not argue with the employee or the union representative if one is present.
- (6) Do not admonish the employee at the meeting.
- (7) The employee who is the "subject" of an investigation does not have to give a written statement but should be offered the opportunity to provide a written statement. If they decline to give you a written statement you must summarize in writing the information obtained (**See Figure 12 in Chapter 7 of this Guide**).

e. When interviewing witnesses ask them to answer questions about what they observed and heard. Who was involved? Who did what? Who/how did the incident start, etc.?

f. Prepare a disciplinary action folder. This official record will be maintained for a period of at least four (4) years from the date of the action or last decision in the case and will be maintained in the Human Resources Office. This folder should consist of:

- (a) The investigative inquiry form along with any request of action form;
- (b) Any and all written evidence relied upon in support of the action including a copy of the hearing and the hearing officer's report if such was held;
- (c) Photographs and/or written descriptions of any physical evidence relied upon in support of the decision; however, the physical evidence may be returned to its rightful owners or placed back in service after the Navy's final determination unless there is a court appeal. If there is a court appeal all evidence will be retained until there is a final court decision.
- (d) A copy of the disciplinary action issued to the employee;
- (e) A copy of the employee's written response, if any, to any notice of proposed disciplinary action;
- (f) A copy of the written decision if applicable;

(g) A copy of all appeals and written decisions from all levels of appeal;

(h) Any written settlement agreements, if such was reached.

SECTION 202. WEIGHING THE EVIDENCE: After gathering all available information concerning the incident including verification of information provided by the employee and any other follow-up investigation, the supervisor is now in a position to determine what action, if any, should be considered. The use of the supervisor's request for action form is encouraged (see Figure 14 in Chapter 7 of this Guide).

a. Who is telling the truth? First, a decision will need to be made as to whether any misconduct has occurred. Where there is conflicting information, there will need to be a decision as to which evidence is credible (believable). In making credibility determinations, the following should be considered:

- (1) the witness's opportunity and capacity to observe the event or act in question;
- (2) the witness's character;
- (3) any prior inconsistent statement;
- (4) a witness's bias or lack of bias;
- (5) the contradiction or corroboration of the witness's version of events by other evidence;
- (6) the inherent probability or improbability of the witness's version of the facts; and
- (7) the witness's demeanor when interviewed.

b. After a determination has been made as to which evidence is credible, the supervisor will need to weigh that evidence to determine whether the misconduct occurred. For disciplinary actions based on conduct, an employer must be able to prove by substantial evidence that the conduct did occur. Substantial evidence is defined as such relevant evidence as a reasonable mind might accept to support a conclusion.

SECTION 203. DETERMINING THE ACTION TO PROPOSE/RECOMMEND: There are several things that need to be done to determine the proposed/recommended action to be taken.

a. What category of employee are they (regular or flexible)?

b. Is the employee a regular employee and in a probationary status?

(1) If the employee is a probationary employee, a consideration should be made as to whether removal during the probationary (trial) period is appropriate. Whenever a probationary (trial) employee is engaged in misconduct they should be removed once a determination has been made that the employee knew that the conduct was unacceptable. A single notice is sufficient. The only severe disciplinary action that a probationary employee is likely to be involved in is termination. The probationary period is an extended period of examination of the employee's qualifications and ability to perform the job.

(2) The process for separating probationary regular employees does not require a proposed action followed by a decision. Only a termination decision letter is required. Since a proposed notice is not used, management must assure that it has gathered or collected all necessary data in support of the action. The decision letter, as such, is a notice of finding and decision. The termination will not be effective until at least one calendar day from the date of receipt of the action except in the most limited of circumstances. Keep in mind that a termination action is effective at the end of the employee's work day when determining when to issue the termination letter. The employee must remain in a pay status during the notice period. As a minimum, these letters must include:

- i. The action to be effected and its effective date.
- ii. The reason for the decision. (If the reason is performance related, then the employee should have been counseled one or more times concerning the deficiency prior to the termination.)
- iii. The opportunity to review all evidence relied upon to support the action. The letter should specify the individual to

contact to review the information.

- iv. The person who will contact them to arrange their out-processing on the last duty day.

c. If the employee is a regular employee and not in a probationary status, then the supervisor must continue the process covered below to determine a proposed/recommended action.

- (1) Review the Table of Offenses and Recommended Remedies in Chapter 8 of this Guide and determine what level of discipline should apply.
- (2) If there is not an exact match in the Table of Offenses and Recommended Remedies determine which of the existing penalties is the closest match to the case at hand. You should put a note in the discipline action file of why it is thought that the penalty is a comparable match to the employee's misconduct. Use the reasonable person standard when making this determination. The reasonable person test basically states that if a completely objective, neutral and detached individual would take the action, then the action is reasonable. A charge will be seen as reasonable when it is possible to state the reason in terms of an offense that violated regulations, rules or general acceptable conduct or damaged or interfered with NAFI operations.

d. Any prior discipline? If any previous disciplinary action was effected within its designated reckoning period it may be cited as supporting a more severe penalty.

e. What is the range of penalties normally used for this offense as listed in the table of penalties?

- (1) We should consider all the factors to determine what penalty is appropriate.
- (2) Also consider whether this penalty is consistent with past disciplinary actions in the organization.

f. If more than one type of violation/charge is involved complete the above steps for each one. Decide what each individually would support. Then decide what all of them as a group may support. Multiple charges can often increase the penalty within the range stated for the offense but combining them

will normally not support Going above the stated maximum for the charge(s) and offense(s).

g. How serious is the offense and its relationship to the employee's duties, position, and responsibilities, including whether the offense was:

- (1) Intentional, technical, or inadvertent
- (2) Committed maliciously or for gain.
- (3) Frequently repeated.

h. The level and type of the employee's job, including:

- (1) Supervisory or fiduciary role.
- (2) Contacts with the public.
- (3) Prominence of the position.

i. What is the employee's past work record, including:

- (1) Length of Service
- (2) Performance
- (3) Ability to get along with fellow workers
- (4) Dependability

j. What is the effect of the offense upon the employee's ability to perform at a satisfactory level?

k. The supervisor's confidence in the employee's ability to perform assigned duties.

You should now have enough information to make a recommendation to management on what penalty will be appropriate.

SECTION 204. THE PRINCIPLES OF JUST CAUSE: For employees covered by a collective bargaining agreement the principles of "**JUST CAUSE**" will come into play when issuing discipline to an employee. What is "Just Cause?" Just cause is a series of prerequisites that must be answered "yes" before we issue a disciplinary action to an employee. If the answer to any of the following questions is "no", then just cause does not exist and disciplinary action should not be issued.

Arbitrators frequently divide the question of just cause into six (6) sub-questions and apply the following criteria to determine whether the action was for "Just Cause." These criteria are the basic considerations the supervisor must consider before initiating disciplinary action.

a. **Is there a rule?** If so, was the employee aware of the

rule? Was the employee forewarned of the disciplinary consequences for failure?

Important: It is not enough to say, "...well, everybody knows that rule, "...we posted that rule," or, "...we posted that rule 10 years ago." We may have to prove the employee was personally aware of the rule or that a reasonable employee should have known of the rule.

Certain standards of conduct are normally expected in the workplace environment and labor arbitrators assume that employees are aware of those standards. For example, an employee charged with intoxication on duty, fighting on duty, pilferage, sabotage, or insubordination, etc., may be generally assumed to have understood that these offenses are neither condoned nor acceptable even though management may not have issued specific regulations to that effect.

b. **Is the rule a reasonable rule?** Management must maintain work rules by continually updating and reviewing them. Work rules should be reasonably related to business efficiency, safety, and customer service.

Note: In some cases an employee can justify disobedience if it can be shown that to obey the order would jeopardize personal safety and integrity or the order is against the law.

c. **Is the rule consistently and equitably enforced?** If a rule is worthwhile, it is worth enforcing. Be sure that rules are applied fairly and without discrimination. This is a critical factor and one of the union's most successful defenses to discipline. The Federal Government has been overturned or reversed in some cases because of not consistently and equitably enforcing rules. When employee infractions of a company rule are consistently overlooked, management in effect loses its right to discipline that infraction unless it first puts employees (and the unions) on notice of our intent to again enforce the rule. For example, if employees are consistently allowed to smoke in areas designated as "No Smoking" it would be inappropriate to suddenly and without warning discipline an individual for violating that rule.

Similarly, if several employees commit an offense, it is not appropriate to single out one of the employees for discipline. On the other hand, when the Federal Government maintains that certain conduct is serious enough to be grounds for termination, it is not generally good practice to make exceptions.

d. **Was a thorough investigation completed?** Before administering the discipline, management must complete an

investigation to determine whether the employee committed the offense. Management must ensure the investigation is thorough and objective.

e. Was the discipline administered fairly and was it reasonably related to the infraction itself, as well as to the seriousness of the employee's past record?

If the Command consistently issued 7-calendar day suspensions for a particular offense, it would be extremely difficult to justify why another employee with a similar past record was issued a 30-day suspension for the same offense.

There is no precise definition of what establishes a good, average, or bad record. Reasonable judgment must be used. An employee's record of previous offenses may never be used to establish guilt in a case which is presently under consideration, but it may be used to determine the appropriate disciplinary penalty.

f. Was the disciplinary action taken in a timely manner?

Disciplinary actions should be taken as promptly as possible after the offense has been committed.

CHAPTER 3 SETTLEMENTS

SECTION 301. CONSIDERING SETTLEMENT: NOTE: When considering entering into any settlement agreement, you must contact your Human Resources Office (HRO) for guidance.

In most cases, settlements are considered and/or effected after an employee initiates a grievance, appeal, or complaint. Settlements may, however, take many forms and may be appropriate for a basic or severe disciplinary action or if other employment actions have been effected. It also may be appropriate before, during, or after an employee grievance, appeal, or complaint is initiated.

In determining whether settlement is appropriate in a particular case, here are some things you should consider, although not necessarily in this order:

- Cost of litigation
- Morale of the workforce and management
- Severity of the offense
- Employee's value to the organization/likelihood of rehabilitation

NOTE: It is advised that the guidance below applies only to Regular Employees who are not serving a probationary period or, for BUEs, where other conditions are present in a Collective Bargaining Agreement.

SECTION 302. SETTLEMENTS BEFORE DISCIPLINARY ACTION IS EFFECTIVE:

At any time after disciplinary action has been proposed and/or decided but not yet effected, Management may determine that settlement is in the best interest of the activity. Some forms of settlement at this stage are:

a. Hold the decision in abeyance to give the employee an opportunity to correct his/her deficiencies. In this case, the decision has been made to take an action; but that decision is not effected during the abeyance period.

- (1) This type of settlement is most effective in cases where an employee has completed his/her probationary period, has an otherwise unblemished work history, and is an excellent candidate for rehabilitation. In this instance, the employee is effectively placed on another probationary period without any opportunity to grieve or appeal a future employment action if he/she fails to meet the requirements of the agreement.

b. A "Last Chance Agreement." This type of settlement is most frequently used where employees have a substance abuse problem (not illegal substances under Drug Free Workplace which has specific requirements) but can be used under other circumstances as well. It is very similar to a. above. (**See Figure 15 in Chapter 7 of this Guide**)

c. A disciplinary or other employment action may be mitigated or reduced during the processing of that action. For example, if a severe disciplinary action like termination of employment is proposed but new evidence comes to light that causes the Deciding Official to decide termination was too harsh and (s)he effects a 20-day suspension. Alternatively, if the Deciding Official agrees the termination is supported but believes the employee is a good candidate for action by effecting a 20-day suspension in exchange for the employee's agreement to not pursue any grievance, appeal, or complaint for all past issues.

SECTION 303. SETTLEMENT AGREEMENTS AFTER A GRIEVANCE, APPEAL, OR COMPLAINT IS INITIATED:

Just as a disciplinary or other employment actions may be mitigated or reduced during the processing of that action, a grievance, appeal, or complaint may be settled by agreeing to mitigate or reduce a penalty that has been decided and/or effected. For example, an employee is issued a decision to suspend him/her for 10 days; and the employee files a grievance over that suspension. In settlement of the grievance, Management could agree to reduce the 10-day suspension to a 7-day suspension in exchange for the employee agreeing to withdraw his grievance and not pursue any further grievance, appeal, or complaint over the suspension.

Point: There must always be "consideration" or "quid pro quo." The activity agrees to do certain things and the employee agrees to do certain things.

SECTION 304. SETTLEMENT AGREEMENTS MUST BE IN WRITING:

NOTE: ANY EEO SETTLEMENT AGREEMENTS MUST BE REVIEWED BY THE REGIONAL OFFICE OF GENERAL COUNSEL (OGC)

When a settlement is reached, there should be an agreement signed between the parties which memorialize that agreement. The format of the agreement may vary depending on when the settlement is taking place or the forum in which you are engaged (negotiated grievance, administrative grievance, EEO complaint). The following things, however, should be included in all agreements:

a. Consideration (quid pro quo). The Employer and the Employee each agree to take certain actions. For example, the Employer agrees to reduce a suspension of 10 days to 5; and the Employee agrees to withdraw his/her grievance.

b. Waiver/release. The Employee withdraws all current claims and waives future claims for all past issues.

c. Voluntary clause. The Parties (Employer and Employee or Union) enter into the agreement knowingly and voluntarily.

d. Exculpatory (no-fault) clause

e. Severability clause. Should a third party with jurisdiction over a matter (for example, an arbitrator in the case of a negotiated grievance under a collective bargaining agreement) find any part of the agreement unenforceable, the remaining provisions remain in full force and effect.

f. Signatures of individuals with authority to settle and responsible for ensuring terms of agreement are implemented.

g. Effective Date

Following are some considerations for inclusion in a settlement agreement:

a. Lump sum payment to employee.

- (1) Make certain any amount considered/offered is less than the cost of litigation/liability that the Employer may be subjected to if the case is lost. For example, if a negotiated agreement states that the loser pays for arbitration, the cost of the arbitrator and the cost of bringing witnesses in to testify would be considered in determining how much to offer.
- (2) Document calculation/reasons for payment.
- (3) Include provision: "[Employee's name] bears full responsibility for all appropriate taxes."

b. Clean record.

- (1) Identify the specific records to be expunged from specific files. Set timeframe for completion.
- (2) Provide for employee's acknowledgment that agency complied.

c. Obtain appropriate authority to expunge. Include language that employee has waived the right to adjustment of any other employment related records other than what has been specifically identified.

d. Mitigating disciplinary action to a lesser penalty. You may agree to reimburse employee for the difference or not.

e. Attorney's fees.

- (1) State exact amount or maximum amount.
- (2) Pay to employee and attorney jointly
- (3) Obtain and review documentation from attorney
- (4) Determine reasonableness

SECTION 305. TERMS TO AVOID IN SETTLEMENT:

- a. Employer agrees not to retaliate/harass in the future
- b. Promises to perform something outside of the Employer's authority
- c. Apology
- d. Back pay if possible.

CHAPTER 4
ATTENDANCE RELATED ISSUES

One of the most frustrating parts of administering attendance policies for employers is the incredible amount of abuse that takes place. Absenteeism problems can range from employees not calling in or not showing up for their shifts, taking sick leave when not sick, and exhausting their available leave every month, to requesting extra time off and establishing patterns of abuse. For these non-protected absences employers can, and should, discipline their employees. Attendance is critical in the customer oriented mission of the NAF enterprise. Poor attendance undermines employee morale, reduces employee engagement, increases costs including overtime expenses, and is detrimental to mission accomplishment. Employee absenteeism is one of the most common workplace problems facing employers in today's workplace. Legitimate illnesses still account for the majority of employee absences, but some studies have shown that less than one-third of absences from the workplace are related to poor health.

SECTION 401. EMPLOYER'S RESPONSIBILITIES: It is the employer's responsibility to establish procedures, insure employees are aware of procedures, and to enforce them.

- a. To expect employees to be regular in attendance;
- b. At their assigned workplace;
- c. Performing their assigned work;
- d. To follow established leave procedures;
- e. To approve/disapprove leave requests; and
- f. To schedule leave with regard to mission requirements.

SECTION 402. EMPLOYEES' OBLIGATIONS: It is the obligation of the employee to be familiar with procedures and to comply with them.

- a. To be regular in attendance;
- b. Provide a fair day's work for a fair day's pay;
- c. To request and obtain leave in advance; and
- d. To otherwise follow leave procedures.

SECTION 403. BASIC EARNED LEAVE TYPES/CATEGORIES: Regular employees receive a certain number of days of paid time off which may be used at their discretion and in accordance with established leave procedures.

a. **Annual Leave:** An earned benefit for vacation and other absences for personal reasons. Advance annual leave is prohibited and flexible employees are not authorized to earn or use annual leave. **A key fact to remember is that employees "request" annual

leave and management "approves or disapproves" this request based on mission essential factors. Advance annual leave is prohibited and flexible employees are not authorized to earn or use annual leave.

b. **Sick Leave:** An earned benefit to be used for physical or mental incapacity; receiving medical, dental, or optical examination or treatment; care of family members, including medical/dental/optical examination of family member; bereavement; care of family member with a serious health condition; or when an employee's exposure to a communicable disease would jeopardize the health of others by his/her presence on the job as determined by health authorities having jurisdiction or a health care provider. Advance sick leave is prohibited and flexible employees are not authorized to earn or use sick leave.

SECTION 404. OTHER BASIC LEAVE TYPES/CATEGORIES: These can be paid, or unpaid, and are generally at the discretion of the employer.

a. **Administrative Leave (Admin):** A paid absence from duty without charge to an employee's leave. Granting of administrative leave should be limited in both circumstances and amount.

b. **Leave Without Pay (LWOP):** A temporary non-pay absence from duty requested by the employee. The permissive nature of "leave without pay" distinguishes it from "absence without leave" which is an unapproved leave status.

c. **Family Medical Leave Act (FMLA):** The Act entitles RFT/RPT and Flex Status employees that have no time limitation (not temporary or seasonal) to 12 administrative workweeks of LWOP (or they may use their accrued annual or sick leave, or a combination of all three types instead) during a 12-month period for reasons specified by the Act. Employees are eligible if they have worked at least 12 months, and have been physically at work for at least 1,250 hours over the previous 12 months. Paid and/or unpaid leave is not counted for purposes of calculating the 1,250 hours required for eligibility. The employee must make a written request for FMLA leave and attach appropriate supporting documentation.

d. **Absent Without Leave (AWOL):** A period of absence where leave was neither requested nor approved in advance, in which an employee fails to report for duty as scheduled, and/or the employee does not notify the supervisor of his/her absence and leave was not requested nor approved in advance.

SECTION 405. ATTENDANCE RELATED PROBLEMS: These fall into several broad categories.

a. **Failure to be regular in attendance.** This may involve a single leave type or combination of leave types.

b. **Sick Leave Abuse.** This is an excessive usage of sick leave, often for no apparent reason.

c. **Absent Without Leave.** Defined as an absence that has not been authorized or for which a request for leave has been denied. It does not necessarily mean that the employee had insufficient reason for requesting leave, but rather the employee's presence is required at work.

d. **Tardiness.** An employee reporting late to work is deemed tardy.

SECTION 406. PATTERNS WHICH MAY INDICATE LEAVE ABUSE: The employer must be aware of not only the type and amount of leave an employee uses, but the manner in which it is being used. If an employee is using leave in any, some, or all of the following, it may indicate leave abuse:

- Work day after a pay day;
- Before and/or after a holiday;
- Same day of the week;
- Fridays and/or Mondays;
- Before and/or after a scheduled day off;
- In conjunction with annual leave;
- As soon as earned, i.e. zero leave balance

SECTION 407. CORRECTING LEAVE ABUSE: Employee absenteeism is one of the most common workplace problems facing employers in today's workplace. Poor attendance takes supervisory time and attention. It is imperative to manage attendance in order to reduce its impact on the mission. Abuse of leave privileges are grounds for disciplinary action up to and including termination. As a general rule, approved leave cannot be used as a basis for action. If we have an employee whose approved leave interferes with the activity's mission, contact your Human Resources Office (HRO) for further advice and guidance.

a. **Monitor employee's leave usage.** The NAF leave analysis record (See Chapter 7, Figure 4) is a valuable tool which enables you to quickly identify any pattern of abuse as it arises.

b. **Request additional medical information.** Employees are required to provide written medical certification for absences of more than three consecutive work days; or all absences taken as sick leave if a pattern has been identified that causes you to suspect the employee is abusing his/her sick leave or other leave for reasons related to sick leave, e.g., medical or dental appointments or illness. Supervisors may also require medical evidence or documentation of the specific medical condition and the expected duration of the illness if they have reason to doubt the validity of the request. (See Request for Detailed Medical Information, Figures 16 and 17 in Chapter 7 of this Guide).

c. **Request other additional information.** For absences other than sick leave, documentation appropriate to the circumstances may be required.

d. Give the employee an oral admonishment. Explain the deficiency, state your expectations and have the employee tell you what they will do to meet expectations. All oral admonishments should be documented. (See Sample Leave Oral Admonishment Documentation, Figure 1, Chapter 7 of this Guide).

e. **Issue a Letter of Requirement - Leave and Attendance letter.** This requires an employee to provide medical documentation to support all absences due to sick leave regardless of duration. For other absences not requested and approved in advance, documentation should be appropriate to the fact circumstances. (See: Sample Letter of Requirement, Figure 2 in Chapter 7 of this Guide.)

f. **Disapprove unsupported leave requests.** An employee who fails to provide requested or required documentation should have their leave request disapproved and marked as AWOL.

g. **Tardy.** Leave requests of an employee who is habitually late for work should be disapproved and the absence should be marked as AWOL. Disciplinary action may be taken for unexcused lateness charged as AWOL. **Note: It is not advisable to adjust the starting time of a habitually late employee in order to compensate their tardiness.**

h. If the employee fails to correct their leave abuse, applicable and appropriate administrative and/or disciplinary action should be taken.

i. **Misrepresented Requests for Leave.** Disciplinary action may be appropriate when an employee obtains leave under false pretenses, even where there is no prior history of leave abuse.

j. **Excessive Unauthorized Absence or Abandonment of Position.** This may be charged when an employee simply chooses not to report to work over an extended period of time. Prior to taking action to remove an employee on this basis, you need to send them a letter directing them to report to duty and advising them that failure to report will be grounds for proposing removal action against them.

k. **Leave for an employee who is incarcerated.** Employees may request annual leave for periods of incarceration. Approval or denial is up to the employee's supervisor and should be based upon whether the employee's services can be spared. Normally, leave for incarceration will not be approved. If leave is disapproved, the employee should be carried in an AWOL status and the employee removed if the absence(s) are excessive.

SECTION 408. COMMON MISTAKES SUPERVISORS MAKE IN DEALING WITH SICK LEAVE ABUSE:

They don't talk to their employees about leave and attendance. Supervisors need to talk periodically to their employees about proper leave usage and leave requesting procedures before problems with specific employees come up. New employee orientation was years ago for many employees and different supervisors often handle leave practices and procedures differently, regardless of what the regulation or the labor agreement says. Supervisors should follow established procedures and make sure their employees know what they are. This helps to reduce miscommunications and misunderstandings between supervisors and employees.

a. **They don't know how much leave their employees have.** Employees who abuse their leave often have no clue as to how much leave they really have used. If their supervisor has no clue either, then it is entirely possible the supervisor will continue approving sick leave. By the time the supervisor realizes the employee has been gone "too much," an employee is lulled into a false sense that he can continue to use sick leave without any consequences.

b. **They don't talk with leave abusing employees before they act.** Most leave abuse cases are based on indirect, circumstantial patterns of facts that lead a supervisor to be reasonably concerned an employee may be abusing sick leave. Before acting, however, the supervisor should talk to the employee about these concerns before reaching a conclusion that the employee is in fact abusing sick leave. There may be other facts not previously known

to the supervisor that provide a legitimate basis or explanation for the pattern in the employee's use of sick leave. Acting without all of the information can cause unnecessary tension and hurt the supervisor-employee relationship.

c. **They fail to enforce leave restriction letters.** Once a supervisor has issued an employee a letter of requirement, it is important for the supervisor to enforce it. Failing to do so sends the employee a mixed message about the importance of the proper use of sick leave and the supervisor's ability to follow through. It may also cause the employee to question the supervisor's "real" motivation behind issuing the letter of requirement.

d. **They ignore the organizational climate.** If one employee in the work unit has a leave abuse problem, it is likely personal issues with the employee that are creating the problem. However, if a supervisor has several employees with a leave-abuse problem, there may very well be problems within the organization that are contributing to it. Most people need to like their jobs and the people they work with, feel good about what they and their organization are doing, and feel appreciated in doing it. If the organization is not meeting these needs, then employees are not going to want to come to work and will look for any excuse to avoid it. The biggest challenge for supervisors is to lead, motivate, and ensure they are meeting those employee needs.

CHAPTER 5 CONDUCT RELATED ISSUES

SECTION 501. MISUSE OF GOVERNMENT PROPERTY, VEHICLE, GOVERNMENT TRAVEL CARD, TIME, ETC. Employees are provided equipment and other tools to assist them in carrying out their Governmental functions. Sometimes, employees will improperly treat government equipment and/or use it as if it were their own. Sometimes the lines between personal and official use blur. Employees are prohibited from using government property for personal business except where that use involves negligible additional expense to the government.

a. **Phones.** It would be impractical to forbid employees to use telephones for necessary personal business that cannot be conducted outside of working hours. Examples of personal calls that can be accomplished on government phones include calls:

- 1) To or from a child's school;

- 2) To or from the home to verify a child's safe arrival;
and
- 3) To make or confirm an appointment with a physician.

These calls must be short and cannot incur additional costs to the government. It is not appropriate, however, to have long, chatty calls with friends or to conduct business such as selling Avon products on government phones or on government time.

b. Computers. Another type of equipment which is prone to improper personal use is the computer. Government computers are not to be used, for example to write a novel, keep records of personal finances, or play games. Use of a government computer to conduct work for an outside business is also prohibited. Limited personal use of computers or other office equipment and library facilities are authorized where the cost to the Government is negligible. The occasional writing of a short letter during an employee's lunch hour is permissible, while the writing of a book on the employee's favorite hobby is not. In some cases, an employee who is taking work-related courses may use the computer for school work. The key is whether there are any significant costs incurred. If so, the usage is prohibited.

Another major concern in the use of the computer is the improper use of data maintained in a government database for personal reasons. Using information from a database to find an address to set up a date or to check up on the criminal record of a neighbor or acquaintance is an invasion of privacy and a serious violation. Such a violation must be reported to the IG for investigation. Government computers may not be utilized to access or distribute any pornographic material.

c. Government Vehicles. The intentional misuse of a government vehicle is a serious offense with a statutory mandated penalty of at least a 30 day suspension without pay, [31 U.S.C. 1344 & 1349(b)]. Employees who are not on TAD/TDY are not allowed to use government vehicles as transportation to and from the workplace. They cannot conduct errands which are incidental to the official use of the vehicle such as eating at a restaurant or stopping at a convenience store in route. Carrying unauthorized passengers such as family members or hitchhikers is also prohibited.

d. Government Travel Cards. Employees are issued government travel cards to be used for expenses incurred in connection with official travel. They are not to be used for personal purchases, whether at home or while on travel. Employees agree not to use the card for personal purchases when they apply

for the cards. Appropriate uses include air tickets, hotel expenses, restaurant meals, rental cars, gasoline and taxi/limousine fares where these expenses are incurred in connection with official travel. Using the travel card for the same expenses for personal travel is not authorized. Similarly, personal expenditures while on official travel such as clothing and toiletry purchases, entertainment, and personal transportation for sightseeing are not to be charged to the government card. Employees are encouraged to carry a personal credit card to cover such charges. Audits are conducted to assure appropriate use of the cards.

- 1) As a supervisor, you can save your employees embarrassment if you remind them of the restrictions on the government travel cards. It is particularly helpful to remind them of these restrictions immediately before travel, especially if the employee has not traveled recently. Also if your employees frequently travel, you should periodically remind them of this requirement.
- 2) Employees are also expected to timely pay their outstanding balances on the government travel card. They should also not carry balances over from month to month. It is the supervisor's responsibility to confront the employee if they are informed of the employee not paying his travel card statement monthly.
- 3) All of the above travel card violations are the basis for a formal disciplinary action.

e. Government Time. Every employee is required to provide a full day's work for a full day's pay. Employees must not use official time to sleep, read novels, play games, or conduct outside business. Employees do and can occasionally chat about their families and the latest ball game, but such conversation should not be prolonged so as to interfere with the accomplishment of the work. It's the supervisor's responsibility to make sure that employees have enough work to keep busy and that they do not spend government time in non-productive pursuits.

- 1) **Setting the Example.** A supervisor's example is particularly important in assuring that there is no misuse of government time, property, or vehicles. If employees observe a supervisor conducting personal business on government time and equipment, they will consider this acceptable behavior and do so also.

- 2) In some situations the problem is office wide, while at other times only one individual is involved. If there is a problem throughout the office, the supervisor needs to notify his/her employees in a staff meeting or by other appropriate means of the behavior that is expected. An individual employee whom has been observed in misuse should be orally admonished as a minimum. If the behavior continues, the supervisor should initiate more stringent action, such as a letter of reprimand. These actions should clearly state that further such action will result in more serious discipline. This should be sufficient to stop most misuse situations. If there are further instances of misuse, the supervisor should investigate and recommend appropriate further discipline.

SECTION 502. UNAUTHORIZED REMOVAL OF GOVERNMENT PROPERTY. If there is any reason to believe that an employee has stolen or taken government property and converted it to his/her own use, it should be reported to security for investigation. Once an investigation confirms that property was taken, a disciplinary action for "unauthorized removal of government property" is appropriate. Disciplinary action for "theft" is seldom charged since it requires proof of intent to permanently deprive the government of the property which can be difficult to prove.

SECTION 503. INSUBORDINATION/FAILURE TO FOLLOW SUPERVISORY INSTRUCTIONS:

Insubordination. Subordinates are obligated to follow the proper and legal orders of supervisors. Subordinates cannot decide for themselves what they will and won't do after they have been given proper and explicit supervisory instructions. If an employee is displeased by their supervisor's instructions, except in unusual circumstances, they are expected to comply first and grieve later.

a. When faced with a situation of possible insubordination, a supervisor needs to ask three questions:

- 1) Were instructions (orders) clear and complete so that the employee could understand and follow the directions?
- 2) Were the instructions proper? An order that requires an employee to do something that is

immoral, illegal, unsafe, a violation of regulations, or requiring a feat beyond their capabilities is not enforceable.

- 3) Was the employee's failure to comply intentional? Employee remarks such as, "You can't make me do that!" or "Hell, no, I am not going to do that!" show intent to disobey the order. To take action for insubordination, you must be able to answer yes to all three.

b. When an employee's words or body language communicate that they intend to disobey an instruction, the supervisor should call in another supervisor as a witness and then give the employee a direct order. Including in the instruction is the words, "direct order," which will remove any doubt as to whether the employee knew that the request was an order.

Failure to Follow Instructions. There are some cases where the direction was clear and proper, the employee did not follow it, but it cannot be proven that the failure to follow the direction was intentional. It appears the employee didn't follow through due to such reasons as inadvertence, incompetence, obstacles created that were beyond the employee's control, or poor time management. In these cases, an oral admonishment or a letter of reprimand may be appropriate in the first instance. The oral admonishment should be about the direction that they were given to make sure that they understood it. The employee should be asked why the direction was not followed. The employee should be worked with to remove any barriers to following through with the directions. The employee should be asked if (s)he clearly understands what is to be accomplished and when. Documentation of the oral admonishment should be completed and a copy provided to the employee. The employee should be monitored to insure that the direction is followed. If the employee continues to not follow the directions, disciplinary action should be taken.

The line between conduct and performance can blur in cases involving the failure to follow instructions. An alternate approach, where the failure is connected to one of the employee's critical performance elements and the problem involves a general failure to perform rather than a single instance, is to place the employee on a Letter of Caution for Performance. If you have this situation, contact with your servicing NAF HR Office is essential.

Lax Completion of Directions. If an employee carries out an order grudgingly and does the work improperly or delays completion beyond a reasonable time disciplinary action may be considered for

"Failure to properly carry out assigned work" or "Unreasonable delay in carrying out assigned work."

SECTION 504. DISRUPTIVE CONDUCT AT WORK Disruptive conduct at work can take many forms. Some are very minor, while others are very serious. All, however, should be dealt with immediately and consistently. If minor disruptive comments by an employee are ignored, the behavior can escalate and create conflict throughout the work force and even cause physical violence. Such conduct can include inappropriate remarks, personality conflicts, threats, and fights.

a. **Inappropriate Remarks.** There are a wide range of comments which employees make which are inappropriate in the work force. These comments can include rude remarks to customers and co-workers, vulgar language and profanities, remarks which demean individuals or groups because of their race, national origin, religion, sex, age, color, disabling conditions etc., and expressions of disgust concerning customers, co-workers, superiors and subordinates. Such comments are easy to ignore, but if left alone, can create a work place environment that no employee should have to tolerate. Failure to deal with such problems can lead to subordinates filing EEO complaints and/or grievances against management for not correcting the problem, complaints by customers, disciplinary action against management officials, high attrition as employees escape a poisoned work environment, and a reduction in productivity as employees grouse and gripe among themselves.

This is one area where setting the proper example is crucial. If a supervisor or manager uses language that is rude, vulgar, demeaning, or disgusting, their employees will consider the behavior acceptable and engage in it also. Furthermore, the supervisor or manager will lose good employees who will look for other jobs where they do not have to tolerate such language.

Immediate correction of subordinates is essential. When an employee uses inappropriate language or a supervisor learns of such a remark being made, the employee should be given an oral admonishment that such language is inappropriate. If the employee continues to make such inappropriate remarks, the supervisor or manager needs to begin the process of progressive discipline. In issuing an action to an employee, the focus of attention should be on the wrongfulness of the conduct and working on gaining their commitment to improving. There may be some instances where the comments create embarrassment for the agency or are accompanied by gestures and a tone of voice which warrant more serious discipline. In any instance, discipline or an oral admonishment

to the employee that the comments are unacceptable and that further such statements could lead to more stringent discipline should be the result.

b. **Personality Conflicts.** Sometimes employees simply do not get along with each other. They come from different backgrounds, with different standards and work ethics, and have different (or too similar) personality styles. This can cause conflicts that interfere with work accomplishments. The supervisor's responsibility is to identify these problems and take action to assure that their employees work together civilly. Some symptoms of this problem include:

- (1) Employee complaints that a fellow employee is a jerk, lazy, creepy, nasty or mean;
- (2) Sulking behavior;
- (3) Tattling and complaining to you about another employee by one or more of your employees;
- (4) Loud and cross conversations between employees; and
- (5) Requests by one of the employees for you to take their side in a personal dispute.

Personality conflicts are fairly common, require sensitive handling, and can escalate into much more serious problems if not resolved in the early stages. In intervening in such a problem, it should be emphasized that one needs to be careful that (s)he does not appear to be taking the side of one or the other of the employees. The supervisor or manager should also work with the employees to open their lines of communication, assisting them in developing a solution that resolves the problem, and identify how their own behavior may be contributing to the problem. Taking classic disciplinary action is unlikely to resolve this problem by itself.

Mediating the dispute between the involved individuals by employing the services of a professional mediator to assist in resolving this problem may be an alternative solution. You should check with higher level management and your servicing NAF Human Resources Specialist if you would like to consider this option.

It is possible that an employee may consider your questions to be on a matter for which discipline can be taken and may request union representation. You can either permit the union representative to be present or discontinue the discussion. If a problem is so large that it involves several employees, you may have a meeting involving general working conditions and notify the designated union official of the planned meeting in accordance with your established procedures and collective bargaining agreement. Also, if a grievance has been filed by one of the

employees implicating the other, a union representative should be given an opportunity to attend.

Another alternative that may be used in very sensitive, confusing, or controversial cases is employing the services of a professional mediator to assist in resolving this problem. You should check with higher level management and your servicing NAF HR Specialist if you would like to consider this option.

In the meeting, one or both employees may admit to a personal problem such as alcoholism or family problems that are contributing to their behavior. If this is the case, you should defer any discussion of the personal problem to a private meeting with that employee. At the private meeting, you should refer the employee to the Employee Assistance Program (EAP).

SECTION 505. THREATS: Any communicated intent to inflict physical or other harm to a person or property is a threat. However, it is important to distinguish between idle talk (jokes) and genuine threats. A person who laughingly tells a co-worker, "Sometimes I just want to kill my boss when they reject my work" is probably not communicating a threat, but merely expressing frustration. An actual threat occurs when threatening remarks are accompanied by behaviors that communicate an intent to carry through with the threat, and the person toward whom the comments are directed perceives the statement as a threat. In determining whether a threat occurred, you need to determine:

- a. the listener's reaction;
- b. the listener's apprehension of harm;
- c. the speaker's intent;
- d. any conditional nature of the statements; and
- e. the attendant circumstances.

If the listener does not perceive the comments as a threat, there probably is no threat, even when the literal language appears threatening. If the listener is not concerned by the remarks, believes that the speaker was blowing off steam, or otherwise takes no action to protect themselves or others from the threat, the actions will not be considered a threat. Such statements are, however, disruptive and should be handled in the same manner as other disruptive remarks (see above).

When the listener is fearful and takes protective measures, a threat is likely to be found. Examples of protective measures include:

- (1) Avoiding the speaker
- (2) Notifying the police
- (3) Carrying a weapon when they would not normally do so

- (4) Installing security devices; or
- (5) Requesting a restraining order

The speaker's intent can be determined from the actions accompanying the statement. Were they angry? Loud? Glaring? Did they use hand gestures in a threatening manner such as punching, chopping, stabbing or shooting motions? Do they have the capability to follow through on the threat? Are they stalking or following the person whom they indicated that they would harm?

As a supervisor of an employee who has communicated a threat, you first need to take immediate action to protect your employees. If you hear an employee make a threat or are advised that an employee is threatening others, you should make sure that appropriate security personnel are notified. You should talk to the threatening person calmly and stall for time, while maintaining eye contact and listening attentively to their concerns. Be patient and courteous, while not making any sudden moves. If the employee is threatening you or others with a gun, knife, or other weapon, follow their instructions. Do not try to grab the weapon. Watch for a safe chance to escape to a safe area. After the incident has been resolved, notify higher level management. It is also appropriate to remove the employee from the work site, and provide administrative leave for the remainder of the day. You need to make sure that appropriate measures are taken to protect yourself, other employees, and customers. You also will want to refer the threatening employee to EAP. Assistance from the EAP for the employees who witnessed or were the target of the threats should also be requested.

Threats are very serious and may be the basis for a removal action even for the first offense. During the investigation, you may want to keep the employee away from the workplace. You cannot force an employee to take annual leave, sick leave or LWOP, but if they request it, you may approve the leave. If the employee does not request leave, you may consider granting administrative leave to the employee in accordance with governing policy, or assigning them to other duties where they will not constitute a threat to others. Another option that can be considered is the use of an indefinite emergency suspension. You should consult your servicing NAF HR office, security personnel for your worksite, and higher level managers in determining appropriate action to take during the pendency of the investigation.

SECTION 506. FIGHTING: Physical altercations between employees are serious offenses warranting discipline. Fights can include fist fights, slapping, biting, stabbing, and throwing objects at each other. In such instances, you should call security personnel. Also notify higher level management. In evaluating

the information concerning a fight, you will need to determine if the fight was provoked by actions or comments of the person who appears to be the victim. Such actions will also be a basis for discipline. Just as in cases of threats, you will need to consider whether you want to keep a violent employee(s) out of the work place during the conduct of the investigation. (See above).

SECTION 507. FALSIFICATION: As a supervisor, you have a right to expect your employees to be honest, trustworthy and candid. Falsification of a government document or providing false information to supervisors or investigators strikes at the very heart of the employee/employer relationship.

A disciplinary action for falsification or fraud requires that the information is inaccurate and that the employee intentionally provided false information. Action can also be taken when the employee provided inaccurate information with a "reckless disregard for the truth." Falsification can be found in many types of government documents that an employee completes. These include job applications, questionnaires for sensitive positions, time and attendance records, leave requests, travel vouchers, workers compensation claims, incident reports, investigation statements, and accident reports. Many of these forms, such as travel vouchers and time and attendance records, require supervisory approval before submission. If you approve a form as true and correct when you have reason to believe otherwise you could also be subjected to falsification charges. As a supervisor, you should carefully review such documents. If you notice a discrepancy, you should ask the employee for clarification. In most cases, the errors are inadvertent and the employee will quickly correct them. In such cases, counsel the employee on the importance of paying attention to detail. If the employee refuses to correct the error or you discover later that the employee may have submitted a fraudulent document, it must be investigated.

A removal action is appropriate for most proven cases of falsification of an official document or making false statements in connection with official duties. Falsification for personal gain is an aggravating factor supporting a removal. However, any falsification (even if there was no gain or benefit to the employee) warrants major disciplinary action.

SECTION 508. ALCOHOL OR DRUG ABUSE AND OTHER MEDICAL ISSUES:

Substance Abuse. According to the 1992 amendments in the Americans with Disabilities Act, employees suffering from alcoholism or drug addiction are to be held to the same standards for conduct and performance as are other employees. However, such a condition may be a mitigating circumstance in a disciplinary

case. As a supervisor, you are responsible for holding all employees to high standards of conduct and performance. You need to ~~confront~~ employees whom you suspect of having such problems, based on incidents of unacceptable conduct such as attendance problems, sleeping on the job, unsafe working practices, coming to work intoxicated, threats, fights or making inappropriate remarks.

When the employee who is suspected of having an addiction problem is first questioned, the interviewer should advise them that they are suspected of having a personal problem that may be interfering with conduct and/or performance. They should also be advised that the Employee Assistance Program (EAP) is available for anyone who has personal problems and that any decision to participate in the EAP is strictly voluntary. They should also be advised that, if they choose to avail themselves of EAP's services, leave will be approved for any treatment that may be a result of their participation in the program. They should also be made aware that management will cooperate with a treatment program prescribed by a competent medical practitioner. Participation in EAP or a treatment or rehabilitation program does not prevent the imposition of discipline, up to and including removal. Proposal and decision notices of actions should again refer the employee to EAP.

Frequently, an employee with alcohol and drug problems is in denial, refuses to admit that there is a problem, and refuses to seek assistance from EAP. In these situations, you continue to take the disciplinary action appropriate to the misconduct, while continuing to make the employee aware of EAP. You are not responsible for the denial which is a common symptom of the disease. But you can require employees with these problems to meet all standards of conduct and performance applied to other employees. Alcoholism and drug addiction do not excuse unacceptable conduct or performance. Sometimes, taking disciplinary action will create an incentive to get help. If not, unacceptable conduct or performance cannot be tolerated just because the employee is alcoholic or addicted to drugs.

If the employee provides evidence of enrollment in a treatment program as part of their reply to the action, the deciding official may consider mitigating the penalty or holding the action in abeyance pending successful completion of a specified treatment program. If an employee acknowledges the problem and seeks help, the deciding official may also consider entering into a settlement agreement with the employee in which the employee makes specific commitments to seek treatment, provide information on rehabilitation progress, and agrees not to engage in future misconduct for a specified period. Other terms of the agreement would include that upon successful completion by the employee of the terms of the agreement, the employer offers to cancel or

mitigate the action. Additional terms of the agreement would state that if the employee fails to successfully complete the agreement's terms, the action will be implemented, and more serious action, including removal, will be proposed based on the new instances of misconduct and/or failure to comply with the agreement. Deciding officials should contact the servicing NAF HR office when considering one of these options.

During the period of rehabilitation, supervisors may need to modify an employee's duties to assure that there is no harm to the employee or others.

Other Medical Issues. At any time during the disciplinary process information may come to your attention that the employee has a medical problem that contributes to the conduct. In addition, an employee may have a medical condition which disqualifies them from performing the duties of their position or which requires you to make a reasonable accommodation in order that they can continue working. As a supervisor, you are responsible for ensuring satisfactory employee work performance and conduct. You are not expected to be skilled in medical diagnosis, and do not have the primary burden of identifying a physical or mental condition that may be contributing to an employee's work problems.

When an employee with an excellent work history suddenly or over a period of time exhibits unacceptable conduct or performance, there is a high probability that a physical or mental condition is contributing to this change. As you counsel employees concerning these deficiencies, you should encourage an employee to contact the EAP for personal counseling and problem identification, and/or provide you with medical documentation that will assist you in dealing with the problem. In preparing an oral admonishment, one should include statements which encourage employees to contact EAP and/or provide medical information if a physical or mental condition is contributing to the problem.

Employees who hold positions with established physical requirements may be directed to take a "fitness for duty" examination in situations where there is a question as to the employee's physical or mental ability to perform the job. In situations where you have concerns about an employee's medical condition, you should check with your servicing NAF HR office, who will assist in arrangements for the examination and prepare a letter directing the employee's appearance at a "fitness for duty" examination.

The preferred method for obtaining medical information from an employee is to request that the employee provide the medical information. Where an employee is requesting an accommodation to a medical condition such as job restructuring, modified schedule,

prolonged leave or mitigation or abeyance of a disciplinary action, they can be required to provide medical documentation from a physician or health care practitioner. You may require that the documentation provide more information than a mere conclusion that the accommodation is warranted. Some of the kinds of medical documentation that can be required include the history of the medical condition, clinical findings from the most recent examination, diagnosis, prognosis, an explanation of how the condition impacts overall health, restrictions required, an explanation of how the condition impacts on the employee's performance of their job, a prognosis of when or if the employee will be able to resume performance of all of their assigned duties and whether the condition has stabilized or will it get worse or better. You should work with your NAF HR specialist in preparing a memorandum to the employee/physician explaining the information which is required (**see Figure 7-3**). A list of the important duties of the position or the position description should be provided to the physician when making this request. Your servicing NAF HR specialist will also assist you in obtaining physician review of any documentation provided by the employee.

A supervisor must focus on employee conduct or performance, using standard supervisory techniques such as counseling, training, and progressive discipline. When an employee is reluctant to admit the seriousness of a medical problem or to provide the information needed, the proper use of progressive discipline may finally convince the employee to deal with the problem. When you first note deteriorating performance or conduct, you should provide written counseling to the employee which outlines the deficiencies, explains what you expect, and warns the employee of the consequences if the problem is not corrected. Regardless of your suspicions as to the cause of the problem, you should recommend the disciplinary action appropriate for the misconduct. You can only deal with medical information if it is provided.

CHAPTER 6 DEFINITIONS

1. **Acceptable medical evidence or acceptable medical documentation.** This is medical documentation or evidence that provides enough information so the supervisor can make a determination as to whether approval of sick leave is appropriate.
2. **Appeal.** An appeal, as used in this guide, is an employee's expressed feeling of dissatisfaction, usually with aspects of any severe disciplinary process against the employee.
3. **Administrative Actions**

- a. Oral Admonishment
 - b. Letter of Requirement
 - c. Letter of Caution
4. **Bargaining Unit Employees (BUE)**. A group of employees found appropriate for representation by the Federal Labor Relations Authority (FLRA) and who are represented by a labor union in their dealings with agency management.
 5. **Employee Assistance Program (EAP)**. EAP provides short term counseling and referral services for employees with personal problems.
 6. **Charges and Specifications**. These are required elements of a disciplinary action for cause. Charges describe the misconduct that is being corrected, e.g., "unauthorized absence." Specification(s) are the detailed description of misconduct that supports the charge(s). For example, "On January 3, 2014, you were scheduled to work from 0730 to 1600. You did not report for work at all that day and did not call your supervisor to request leave. Accordingly, your time was reported as "absent without leave" and your absence on January 3, 2014 is unauthorized.
 7. **Day**. Unless specifically stated otherwise, "day" means calendar day.
 8. **Decrease or reduction in base pay**. This is a form of severe disciplinary action that is less harsh than demotion for cause. If an employee is reduced in base pay, they do not lose their position or responsibilities, but they do suffer a reduction in base pay for performing the same job. An employee's base pay may also be reduced for performance reasons.
 9. **Demotion for Cause**. A form of severe disciplinary action resulting from an employee's misconduct which results in the employee being moved from a higher pay grade to a lower one for a non-pay band employee. For a pay band employee, it means moving the employee from a higher pay band to a lower band. An employee may be demoted for cause.
 10. **Disciplinary action**. A disciplinary action is an action taken to correct misconduct. It can be a Letter of Reprimand that stays in the employee's OPF for two (2) years or it can be a personnel action that reduces the employee's basic pay separates the employee from NAFI employment. It is taken for cause, i.e., the disciplinary action stemmed directly from the action(s) of the employee. Disciplinary actions are placed into one of two categories:

Basic disciplinary actions are:

- 1) Oral Admonishment;
- 2) Letter of Reprimand;
- 3) Suspensions of up to 30 calendar days

Severe disciplinary actions are:

- 1) Suspensions of 31+ calendar days;
- 2) Termination/removal of a regular employee

There are actions that use disciplinary action procedures but are not disciplinary in nature. These include BBA separations, probationary separations, flexible employee separations, separations for disability including inability to return to work in workers' compensation cases, etc.

11. **Employee**. As used in this guide an employee of the federal government who is paid with non-appropriated funds. Also referred to as a NAFI (Non-appropriated Fund Instrumentalities) employee.
12. **Employee's representative**. An individual asked by an employee undergoing the severe disciplinary process to aid the employee in presenting their case to the appropriate authority. The representative may be anyone of the employee's choice (fellow employee, attorney, paralegal, etc.). An individual is not eligible to serve as an employee's representative if doing so would create a conflict of interest between the representative's duties as representative and the representative's employment as a government employee.
13. **Grievance**. A grievance is an employee's expressed feeling of dissatisfaction, usually with aspects of their working conditions. Subjects of a grievance may include, but are not restricted to, such matters as job assignments and schedules; and interpretation or application of established policies, practices and procedures that affect the individual grievant. Basic disciplinary actions such as written reprimands and suspensions of 30 calendar days or less are considered grievable matters. For bargaining unit employees, suspensions of more than 30 calendar days and terminations may also be grievable. You need to refer to your CBA and contact your NAF HR Specialist for guidance. Grievances may be initiated and processed under one of the following procedures, depending on the grievant's status:

- a. Administrative Grievance Procedure is the procedure used by an employee who is not in a bargaining unit, i.e., not represented by a union.
 - b. Negotiated Grievance Procedure is the exclusive procedure for an employee who is in a bargaining unit, i.e., represented by a union. This procedure applies to a bargaining unit employee whether they pay union dues or not.
14. **Gross Negligence**. The intentional failure to perform a manifest duty in reckless disregard of the consequences and affecting the life or property of another; such a gross want of care and regard for the rights of others as to justify the presumption of willfulness and wantonness.
 15. **Legitimate Business Reason (LBR)**. Legitimate business reasons are necessary factors in determining appropriate disciplinary actions for misconduct or unsatisfactory performance.
 16. **Letter of Caution**. A Letter of Caution is a warning that an employee's performance is not acceptable and states what is required to bring performance to an acceptable level. A Letter of Caution is not a disciplinary action and is not administratively grievable.
 17. **Letter of Requirement**. A Letter of Requirement notifies an employee that, due to his/her failure to follow workplace rules, (s)he will have to follow more stringent rules than his/her coworkers for a specific period of time. Letters of Requirement are most commonly used in cases where an employee has established a pattern of leave use that lends one to suspect him/her of sick leave abuse.
 18. **Losing faith and confidence**. A military term that means that the Commanding Officer or other responsible official has lost faith and, therefore, confidence in a military member because of something the member has done or failed to do. A military member may be relieved from their present duties or reassigned to another billet or even reassigned to another command when they have lost their superior's faith and confidence. The loss of faith and confidence may be for any reason such as a matter of judgment, misconduct, job performance, interpersonal relationships, etc. While losing faith and confidence does not provide cause to issue a disciplinary action to a NAFI employee, it may be an underlying factor in the judgment used to uphold the proposed or effected disciplinary action. For example, in a case involving embezzlement of funds from a club, it would be

proper for the Commanding Officer to uphold the termination of the club manager by the MWR Director because either the Commanding Officer or the Director may have lost faith and confidence in the manager once the embezzlement was proven.

19. **Management or NAFI representative.** An individual appointed to act as the command's or NAF facility's advocate during any appeal or grievance of a basic or severe disciplinary action. Once appointed, all communication between the command or NAF facility and the employee or employee's representative should be through the management's representative.
20. **Negligence.** The failure to do something which a reasonable person, guided by those ordinary considerations which ordinarily regulate human affairs, would do, or the doing of something which a reasonable and prudent man would not do.
21. **Nexus.** Nexus is the link between the conduct and its effect on the employee's ability to perform the duties of their position and the NAF activity's mission.
22. **Notice Period.** The period between the issuance of a proposed suspension or termination and the earliest date the action may be effected. During the notice period, the employee is given an opportunity to respond to the charges of misconduct upon which the proposed action is based.
23. **Oral admonishment.** This is a basic disciplinary action that is designed to informally correct minor infractions of workplace rules. It is not disciplinary in nature and is not administratively grievable. Supervisors should document oral admonishments on the "NAF Employee Admonishment" Form. (See Figure 1 in Chapter 7 in this Guide).
24. **Probationary period.** Newly-hired employees are on a probationary period for one (1) year during which time their employment may be terminated without grievance or appeal rights if they fail to comply with workplace rules and standards. New supervisors are on a supervisory probationary period for one (1) year during which time they may be returned to their non-supervisory position or a comparable position without grievance or appeal rights if they fail to fulfill the requirements of their supervisory position.
25. **Relief or remedy.** An employee or union that files a grievance must include in that grievance the relief or remedy they are requesting in order to correct the conditions that are the subject of the grievance. For example, an employee who is

grieving a 3-day suspension would request the following relief:

- a. Cancel the 3-day suspension
- b. Purge all records of the suspension and charges
- c. Reimburse the employee for the pay lost as a result of the suspension

26. **Sick leave abuse.** Monitoring leave use will provide supervisors with information to determine whether a pattern of sick leave abuse exists for which a Letter of Requirement is appropriate. Examples of sick leave abuse can be found in Chapter 7, figure 3.
27. **Substantial evidence.** Substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.
28. **Suspension.** A suspension places an employee in a non-pay status and should be used when a supervisor determines that a serious or repeated offense has occurred. There are three types of suspension: (1) for 30 consecutive days or less; (2) for more than 30 consecutive days; and (3) emergency suspensions.
29. **Terminations.** Termination as used in this guide refers to removal from NAF employment for cause. It is an involuntary cessation of employment by the employee because of the employee's misconduct or unsatisfactory performance.

CHAPTER 7

SAMPLE ADMINISTRATIVE ACTIONS AND OTHER HELPFUL EMPLOYEE RELATIONS FORMS¹

- FIGURE 1 SAMPLE RECORD OF ORAL ADMONISHMENT FORM
- FIGURE 2 SAMPLE LETTER OF REQUIREMENT-LEAVE AND ATTENDANCE
- FIGURE 3 SIGNS OF SICK LEAVE ABUSE CHECKLIST
- FIGURE 4 SAMPLE LETTER OF CAUTION FOR UNSATISFACTORY PERFORMANCE EVALUATION
- FIGURE 5 SAMPLE LETTER OF REPRIMAND
- FIGURE 6 SAMPLE PROPOSED SUSPENSION

¹ Many of the forms listed in this chapter can be found in the CNIC NAF labor and employee relations folder on the G2

- FIGURE 7 SAMPLE PROPOSED REMOVAL (REGULAR EMPLOYEES ONLY)
- FIGURE 8 SAMPLE DECISION LETTER OF TERMINATION FOR CAUSE (REGULAR EMPLOYEES ONLY)
- FIGURE 9 SAMPLE TERMINATION LETTER FOR PROBATIONARY AND FLEXIBLE EMPLOYEES
- FIGURE 10 SAMPLE EMERGENCY SUSPENSION ACTION
- FIGURE 11 SAMPLE EMERGENCY SUSPENSION CLOSURE ACTION
- FIGURE 12 INVESTIGATION FORM
- FIGURE 13 INVESTIGATION EVIDENCE WORKSHEET
- FIGURE 14 SUPERVISOR'S REQUEST WORKSHEET FOR DISCIPLINARY OR ADMINISTRATIVE ACTION
- FIGURE 15 SAMPLE LAST CHANCE AGREEMENT
- FIGURE 16 SAMPLE REQUEST FOR DETAILED MEDICAL DOCUMENTATION
- FIGURE 17 SAMPLE PERMISSION TO RELEASE MEDICAL INFORMATION FORM
- FIGURE 18 SAMPLE NON-ACTION SEPARATION PROPOSAL LETTER
- FIGURE 19 SAMPLE SUPERVISOR'S CHECKLIST FOR MAKING REASONABLE CAUSE DETERMINATION OF AN EMPLOYEE BELIEVED TO BE UNDER THE INFLUENCE OF A DRUG OR ALCOHOL
- FIGURE 20 SAMPLE PLACEMENT ON ADMINISTRATIVE LEAVE LETTER

NOTE: The following samples are written for non-bargaining unit employees. If the employee who is the subject of these procedures is a bargaining unit employee, you should check the Collective Bargaining Agreement and consult with the appropriate NAF HRO to revise the samples as required.

Figure 1

EMPLOYEE ORAL ADMONISHMENT FORM	DATE:
This record is for use when a supervisor finds that the employee's work performance or personal conduct is a matter of concern requiring a discussion of the issue to be corrected. It is to be used at the discretion of the supervisor to document the matter discussed. It is expected that the discussion will achieve corrective action; however, if formal disciplinary action is necessary this form may be used to support the action.	
Employee's Name:	Work Location:
Supervisor's Name:	
Issue:	
Expectations:	
Consequences:	
Notes:	
Supervisor's Initials:	Employee Initials:

Figure 2

SAMPLE LETTER OF REQUIREMENT-LEAVE AND ATTENDANCE

From:

To:

Subj: LETTER OF REQUIREMENT-LEAVE AND ATTENDANCE

Ref: (a) CNICINST 5300.2

(b) *(If the employee is represented by a union review the collective bargaining agreement to see if an employee can file a grievance on a Letter of Requirement. If they can reference the collective bargaining agreement here and in the body of the letter)*

1. Your excessive use of unscheduled leave and your continuing absences from work have a disruptive effect on the work planning and production of our department. Your absences result in a reduction in our department's efficiency, and the efficiency and effectiveness of the Nonappropriated Fund Organization. Accordingly, per reference (a), this letter is issued for the purpose of requiring medical certification for each absence for reasons of illness, dental, optical or medical appointments. This letter is also to emphasize the proper procedures for requesting annual and sick leave. Additionally, all leave requests must be in strict compliance with reference (a).

2. You are directed to substantiate all future sick leave requests by an administratively acceptable physician's statement, which means an original statement, signed by the doctor, indicating you were totally incapacitated, and giving the duration and nature of the illness. This detailed statement is required regardless of the length of absence. Your failure to submit an acceptable medical certificate upon your return to work may be considered the basis for denying sick leave. As a result, disciplinary action may be taken based on unauthorized absence from denial of leave. In addition, you are required to telephone me personally or leave a message on my voicemail each day that you are out sick no later than one hour prior to your assigned work schedule.

3. As you are aware, all annual leave must be requested at least one week in advance. Requests for annual leave will be submitted to me in writing and telephone requests for unscheduled annual leave will not be approved except in the case of a bona fide emergency. I will determine whether the emergency justifies approval of annual leave. Please note that you may be required to

provide acceptable documentation supporting the necessity for emergency annual leave. Telephone requests for emergency leave must be made by you personally no later than one hour prior to your assigned work schedule.

4. You are also being advised that any absence from the job not approved in advance and leave that has not accrued will be charged as Absence Without Leave (AWOL). Failure to adhere to the above requirements as well as any unexcused tardiness may be the basis for disciplinary action.

5. I wish to advise you that the NAF Employee Assistance Program is available to assist you if you are experiencing personal problems affecting your job performance, attendance, or conduct. ACI provides help in a variety of situations including, but not limited to, alcoholism, drug dependency, compulsive gambling and financial difficulties. I am not implying that you have any of these problems; this counseling program is routinely communicated to all employees who appear to be experiencing difficulties in connection with their work. I encourage you to contact ACI at 800-932-0034 at any time, day or night.

6. This Letter of Requirement is not considered a disciplinary action, and will not be placed in your Official Personnel Folder. It will not be counted as a prior offense but it may be considered in determining an appropriate remedy in any subsequent disciplinary action.

7. This requirement with respect to submission of Medical Certification for sick leave will be reviewed annually and if your record improves satisfactorily, this requirement will be cancelled. If there is no improvement in your unplanned and unscheduled sick and annual leave usage, the requirement may be extended. In any event, you will be notified in writing.

Supervisor's name

RECEIPT ACKNOWLEDGED:

Employee Signature

Date

Figure 3

Absences Which May Indicate Sick Leave Abuse

- 1. Work day after pay day**
- 2. Before/after holiday**
- 3. Fridays and/or Mondays**
- 4. Same day of the week**
- 5. Before/after RDO**
- 6. In conjunction with annual leave**
- 7. As soon as earned**

Figure 4

SAMPLE LETTER OF CAUTION

From:

To: Subj: LETTER OF CAUTION - UNACCEPTABLE PERFORMANCE

Ref: (a) CNICINST 5300.2 PERSONNEL MANUAL FOR NONAPPROPRIATED
 FUND INSTRUMENTALITIES
 (b) *(If the employee is represented by a union review the
 collective bargaining agreement to see if an employee
 can file a grievance on a Letter of Requirement. If
 they can reference the collective bargaining
 agreement here and in the body of the letter)*

1. This letter, which is being issued pursuant to reference (a), constitutes notice that your performance is currently at an unacceptable level. Therefore I am issuing this letter of caution. You are being given a xx day (must be 30 days or greater) opportunity to raise your level of performance to a satisfactory level.

2. I have previously discussed many of the problems with you during the last 90 days. I also gave you several suggestions on how to improve. Unfortunately, your performance has not improved. The performance problems noted during the past 90 days are as follows:

a. Five vacancy announcements have been issued with the incorrect qualifications. Vacancy announcements should be issued with correct qualifications. If you have questions concerning unusual qualifications, you should ask your supervisor before finalizing the vacancy announcement.

b. Twenty personnel actions have been processed late. All personnel actions will be processed before the effective date unless you have my approval to process it late.

c. There have been three employee complaints about your attitude when dealing with employees. Investigations indicate that these complaints are valid. We must provide good customer service at all times. There is no excuse for losing your temper or displaying a bad attitude.

3. As a result of these problems, your performance is less than satisfactory on the critical elements of quality of work, productivity and customer service and your overall performance is less than satisfactory. I have copies of the referenced documents if you desire to review them.

4. I believe you have received all the training necessary to perform your duties in a correct manner. If you feel that you need additional training, please identify any training necessary to correct your shortcomings. Within reason we will provide the training you need to fulfill your duties. Only you can change the performance and attitude problems listed above and you must do that immediately. Please feel free to contact me at any time during working hours for any assistance or guidance that you need. I will also meet with you daily at 1500 to discuss your work and answer any question you may have. I want you to take full advantage of this opportunity, as I believe it can help you.

5. If upon completion of the (30*) day caution period your performance meets the requirements of the position as cited in this letter, you will be notified in writing. You will also be expected to maintain or sustain at least the satisfactory level of performance for one year. If, at any time during this upcoming one year period your performance again becomes unacceptable, formal disciplinary action may be proposed without initiating another opportunity to improve.

6. If upon completion of this opportunity period, your performance is still not deemed as satisfactory, you will be informed of the performance requirements you failed to meet and will be given an unsatisfactory performance rating. This letter of caution satisfies the requirement to give at least a 30-day minimum period to improve your performance. It will also substitute for the proposal letter if your performance does not become satisfactory or above, a severe disciplinary action becomes necessary.

7. If your performance is rated unsatisfactory at the end of this period, you will be given a decision letter that will identify the specific disciplinary action that will be taken which may include demotion, loss of pay, reassignment or termination action. Severance pay is not authorized in this type of termination.

8. If you have any questions concerning the content of this letter, your performance standards or my expectations during this opportunity period, please contact me immediately. I am available to assist you with any problems you may have or encounter.

I sincerely hope you immediately take steps to raise your level of performance to at least the satisfactory level I look forward to working with you in an effective and professional manner that will benefit all concerned.

Signed

I acknowledge receipt of this letter

Employee

Date

***NOTES:**

- On Letters of Caution you must give at least 30 days to improve. You should evaluate performance at least every 30 days. You will need to give the employee the total time stated in the letter to meet the satisfactory level before officially rating unsatisfactory and taking disciplinary action.

- A Letter of Caution is not administratively grievable or appealable and is not included in the OPF unless it becomes the supporting documentation (substitution for a letter of proposal) for a disciplinary action based upon unacceptable performance.

- Counsel and document as you go.

- Do a written evaluation at the end of the trial period for the OPF (satisfactory or unsatisfactory).

Figure 5

SAMPLE WRITTEN REPRIMAND

From:

To:

Subj: LETTER OF WRITTEN REPRIMAND

Ref: (a) CNICINST 5300.2 PERSONNEL MANUAL FOR NONAPPROPRIATED
FUND INSTRUMENTALITIES

(b) (*If the employee is represented by a union reference the collective bargaining agreement here and in the body of the letter*)

1. This Letter of Reprimand is based on your tardiness in reporting to work. To be more specific, on or about xx July xxxx, you arrived at work at 0930, which is 2 hours later than the start of your scheduled workday, i.e., 0730. When your supervisor, (supervisor's name), asked why you were late, you stated that you had overslept so you were charged AWOL for the time you were absent since oversleeping is not a valid excuse for tardiness.

2. This is the second time you have been late for work. In fact, as a result of your lateness on or about xx June xxx, you were orally admonished for your tardiness and told that repetition of tardiness could lead to disciplinary action.

3. Per reference (a) a copy of this letter of reprimand will be placed in your Official Personnel Folder (OPF) for a period of two years from the date of receipt of this letter. During this two year period this Letter of Reprimand may be used as a basis to support more severe disciplinary action in the event you fail to abide by established conduct, rules, or policies.

4. You have a right to administratively grieve this action (*If the employee is covered by a union collective bargaining agreement take out the administrative portion and refer them to their contract for their grievance rights*). If you do decide to grieve, you must do so in writing and within seven calendar days of receipt of this notice. Any such grievance must be in writing to the CNIC Director and contain:

- a. Detailed and clear description of the grievance.
- b. A description of any previous attempts or steps taken to resolve the issue.
- c. The relief being sought.

5. Questions pertaining to this action should be addressed to (full name) in the NAF human resources office. The phone number is xxx-xxxx.

Signed

I acknowledge receipt of this letter

Employee Signature

Date

Figure 6

SAMPLE SUSPENSION OF 30 CALENDAR DAYS OR LESS

From:

To:

Subj: SUSPENSION OF 30 CALENDAR DAYS OR LESS

Ref: (a) CNICINST 5300.2 PERSONNEL MANUAL FOR NONAPPROPRIATED FUND INSTRUMENTALITIES

(b) *(If the employee is represented by a union reference the collective bargaining agreement here and in the body of the letter)*

1. This letter is written to notify you that per reference (a) you will be suspended from work without pay for () calendar days from your position as (), as of xx August xxxx (date must be at least seven days after receipt). You will return to work on your regular schedule on xx August xxxx.

2. The basis for your suspension is the following charge/s and specification/s:

Charge: Use of offensive and vulgar language while on duty.

Specification 1: Three customers filed a written and signed complaint to the club manager that stated, in part, that on xx July xxxx, at approximately 1430, you swore at several customers who happen to be rooting for the Washington Redskins (the TV game was on in the lounge where you were working and the Redskins were playing the Dallas Cowboys). Your language was not only loud, but also highly insulting to the family lineage of those to whom your profanity was addressed. Two customers, in fact, have claimed that they will never again bring their business to our lounge bar as long as you work there. In discussing this charge with you on xx July xxxx, you agreed with the charges as written by the three patrons. In your defense, you stated that you were not feeling well on the day of the incident, and that the customers' antics over a "silly and stupid football game," got on your nerves and you exploded.

3. As you know, you were given a letter of reprimand, dated xx April xxxx, for tardiness. That action was considered in arriving at this () calendar day suspension. *(Use this section if the employee has had prior discipline).*

4. A personnel action report (PAR) of this suspension will be made a permanent part of your Official Personnel Folder (OPF). If in the future you fail to abide by established work rules, policies/standards of conduct, this suspension may be used to support stronger action, including removal.

5. You have a right to administratively grieve this action (*If the employee is covered by a union collective bargaining agreement take out the administrative portion and refer them to their contract for their grievance rights*). If you do decide to grieve, you must do so in writing and within seven calendar days of receipt of this notice. Any such grievance must be in writing to the CNIC Director and contain

- a. a detailed and clear description of your grievance.
- b. a description of the previous attempts or steps taken to resolve the issue.
- c. the relief being sought.

6. Questions pertaining to this action should be addressed to Mr./Ms. (Employee Name) of our NAF human resources office. Her phone number is xxx-xxx-xxx.

Signed

I acknowledge receipt of this letter

Employee Signature

Date

Figure 7

SAMPLE SEVERE DISCIPLINARY ACTION - PROPOSED REMOVAL, A SUSPENSION
OF MORE THAN THIRTY (30) DAYS, OR A DEMOTION FOR CAUSE
(REGULAR EMPLOYEES ONLY)

From:

To:

Subj: NOTICE OF PROPOSED REMOVAL FOR CAUSE

Ref: (a) CNICINST 5300.2 Personnel Manual for Nonappropriated
Fund Instrumentalities

(b) (If the employee is represented by a union reference the
collective bargaining agreement here and in the body of
the letter

1. You are hereby notified that per reference (a) you will be removed from your position as NF-1101-01, Marina Dock Master, no earlier than 14 days from the date of receipt of this notice, due to the following charges and specifications:

a. Charge 1. Insubordination.

(1) Specification 1. On or about xx April xxxx, you called Mr. Sloop E. Sales a rotten scum, a screwed-up fleabag, and a stupid loudmouth or words to that effect.

(2) Specification 2. That between xx January xxxx and xx April xxxx, you failed to make the proper log entries as directed on xx December xxxx by your supervisor, Mr. (Supervisor's Name), either by intentionally failing to carry out his orders or by undue delay in carrying out his orders. This letter is to inform you that per reference (a) you will be removed from your position as regular full time Housing Management Assistant (Organizational Title "Site Manager"), NF-1173-03, no earlier than 14 days from the date of receipt of this notice, due to the following charges and specifications:

b. Charge 2. Falsification, Misstatement, Concealment of information on your Declaration of Federal Employment, Optional Form 306.

(1) Specification 1. On your Declaration for Federal Employment you answered no when asked if you had been convicted or on parole. An investigation revealed that you are a convicted felon with numerous felony arrests, including aggravated battery and trafficking in cocaine. We cannot have someone with these types of convictions in our work force occupying a position of trust. With this history we cannot trust you to perform the duties that your position requires.

2. Because of the actions sited in paragraph 1, I am proposing your removal as a NAF employee. Due to the severity of these charges and the need to insure protection of government property you will remain on administrative leave until a final decision on this proposal is made. As a reminder you are also directed not to return to the installation or to NAF workspaces without the permission of (). You are to call () at 0800 Monday through Friday for information regarding your status.

3. All documents, statements, and other evidence that I have utilized in reaching my decision to propose your termination are available for your inspection at the CNIC Human Resources Office, xxxxx, NAS Somewhere.

4. You may wish to provide rebuttal to this proposal of termination. If so, such rebuttal must be in writing and postmarked or received by me or my secretary, Ms. (Employee's Name), in my office at Building xxxx, NAS Somewhere, within seven calendar days of receipt of this proposal.

Signed

I acknowledge receipt of this letter

Employee Signature

Date

Figure 8

**SAMPLE DECISION LETTER OF SUSPENSION 1-30 CALENDAR DAYS/TERMINATION
FOR CAUSE (REGULAR EMPLOYEE ONLY)**

From:

To:

Subj: DECISION TO SUSPEND/TERMINATE FOR CAUSE

Ref: (a) Notice of Proposed Suspension/Removal for Cause
Dated()
(b) Your Letter of Rebuttal dated ()
(c) CNICINST 5300.2 Personnel Manual for Nonappropriated
Fund (NAF) Instrumentalities

1. Reference (a) proposing to suspend/terminate you was delivered to you on March 2007. You replied in writing (reference (b)) to this proposal on ().

2. Your reference (b) response lacks credibility. You denied hitting Mr./Ms. (Employee Name), calling him names and not completing your log entries. Mr. (Employee's Name) testimony and that of the other witnesses clearly establishes that you hit him and called him the names as alleged. The logbooks clearly show that you did not make the entries as required.

a. Without even considering whether or not you had any prior misconduct, these actions alone are sufficient grounds to terminate your employment. Any benefit of the doubt you have in this case is clearly overcome by the fact that you also falsified your application. **(If there was previous discipline in the past two years state the charges again.)**

b. You have not presented any credible evidence to rebut the charges and supporting specifications in reference (a) of:

- (1) Falsification, Misstatement, Concealment of Information on your Declaration of Federal Employment.
- (2) Violations of the Standards of Conduct or JER.

Therefore, both charges in reference (a), (insubordination and battery) are sustained.

3. In deciding this action, I have taken into account the charges and the evidence that supports the charge. I have also taken into consideration your response (*if there wasn't eliminate this sentence*). After doing this and reviewing and considering references (a) and (b) and all other available information, per reference (c) I have determined that the charges and specifications in reference (a) are fully supported, are sustained, and warrant your removal from your NAF position as (), NF-0000-03, and from the rolls of this organization as of close of business(date). Your actions interfered with mission accomplishment and cannot be condoned or tolerated.

4. You have a right to appeal this decision to the Region Commander (CO) via my office. Such appeal must be in writing and received in my office, or be postmarked, no later than seven calendar days from receipt of this decision. If you cannot complete your appeal within seven days, additional time may be granted for completion of your appeal if good cause is shown. Your extension request must be in writing and submitted prior to the expiration of the seven-day time period.

5. During the appeal process, you have a right to a representative of your choosing in keeping with the following guidance:

a. You cannot elect to choose an employee of a government Human Resources Office, a government attorney, or an employee of a government legal office.

b. Your selection of a government employee is acceptable as long as such selection meets with the selected employee's approval and management does not object on the basis of conflict of interest, or priority workload requirements.

c. You may hire an attorney of your choice; however, you may not have both a government employee and an attorney as your representative. You may have one or the other but not both. As soon as you have obtained a representative, either an attorney or an employee representative, please inform this office in writing of their name, business address, and phone number.

d. Any fees charged by any representative are to be paid by you. The government or the NAFI will not pay these fees.

e. You and your chosen representative will be free from restraint, coercion, discrimination, or reprisal.

f. Once appointed and accepted, your representative will act as your sole point of contact with this activity on all matters pertaining to your appeal.

6. You have a right to a hearing during this step of the appeal process. This hearing must be requested in your appeal letter to the Region CO. The hearing will take place at (), and will precede any decision from the Region CO. The hearing will be used to ascertain the facts of the case, and to allow you or your representative an opportunity to further state your case as to why this decision should not be allowed to stand. During this hearing, which will be "heard" by a Hearing Officer of the Region CO's choosing, you or your representative will be given an opportunity to submit evidence, including the testimony of witnesses; cross examine witnesses; and/or present appropriate affidavits and depositions. The chosen Hearing Officer will contact you or your representative prior to the hearing to allow for reasonable "preparation" time".

This hearing is an administrative hearing and as such is not a legal or judicial procedure. Therefore, while this hearing will be conducted in a fair and impartial manner, the rules of evidence and other procedural rules associated with a formal judicial proceeding will not be utilized.

7. If a hearing is held, the Region CO will consider all evidence presented including the hearing transcript and the recommendation(s) and opinions of the Hearing Officer, and will normally provide you with a decision within 45 days of receipt of the Hearing Officer's report. If you do not request a hearing the Region CO will make their decision based upon a review of this disciplinary action file.

8. Ms. Employee Name, of our NAF human resources office, will be in contact with you prior to your last day on our organization's rolls in order to "out-process" you, i.e., collect necessary ID cards, obtain a final mailing address, and to answer questions you might have concerning this and related matters.

Signed

I acknowledge receipt of this letter

Employee

Date

Figure 9

SAMPLE TERMINATION LETTER FOR PROBATIONARY AND FLEXIBLE EMPLOYEES

From:

To:

Subj: TERMINATION LETTER FOR PROBATIONARY AND FLEXIBLE EMPLOYEES

Ref: (a) CNICINST 5300.2 PERSONNEL MANUAL FOR NONAPPROPRIATED FUND INSTRUMENTALITIES

(b) *(If the employee is represented by a union, review the collective bargaining agreement to see if a flexible employee has collective bargaining agreement grievance rights. If they do, reference the agreement here and in the body of the letter)*

1. This letter is to inform you that per reference (a) you will be terminated (during your probationary period OR from your flexible position) as a Contract Specialist, NF-1102-04 effective xx August xxxx due to your unacceptable performance and conduct.

2. You were counseled about your performance and conduct on xx June xxxx, xx July xxxx and xx August xxxx.

3. All documents, statements, and other evidence that I have utilized in reaching my decision to terminate you are available for your inspection at the CNIC Human Resources Office, Building 2001, NAS Somewhere.

4. Since your performance/conduct is at an unacceptable level, I have no choice but to terminate your employment. This action is not grievable or appealable.

5. Mr./Ms. xxxxxx, of our NAF Human Resources Office, will be in contact with you prior to your last day on our organization's rolls in order to "out-process" you, i.e., collect necessary ID cards, obtain a final mailing address, and to answer questions you might have concerning this and related matters.

Signed

I acknowledge receipt of this letter

Employee Signature

Date

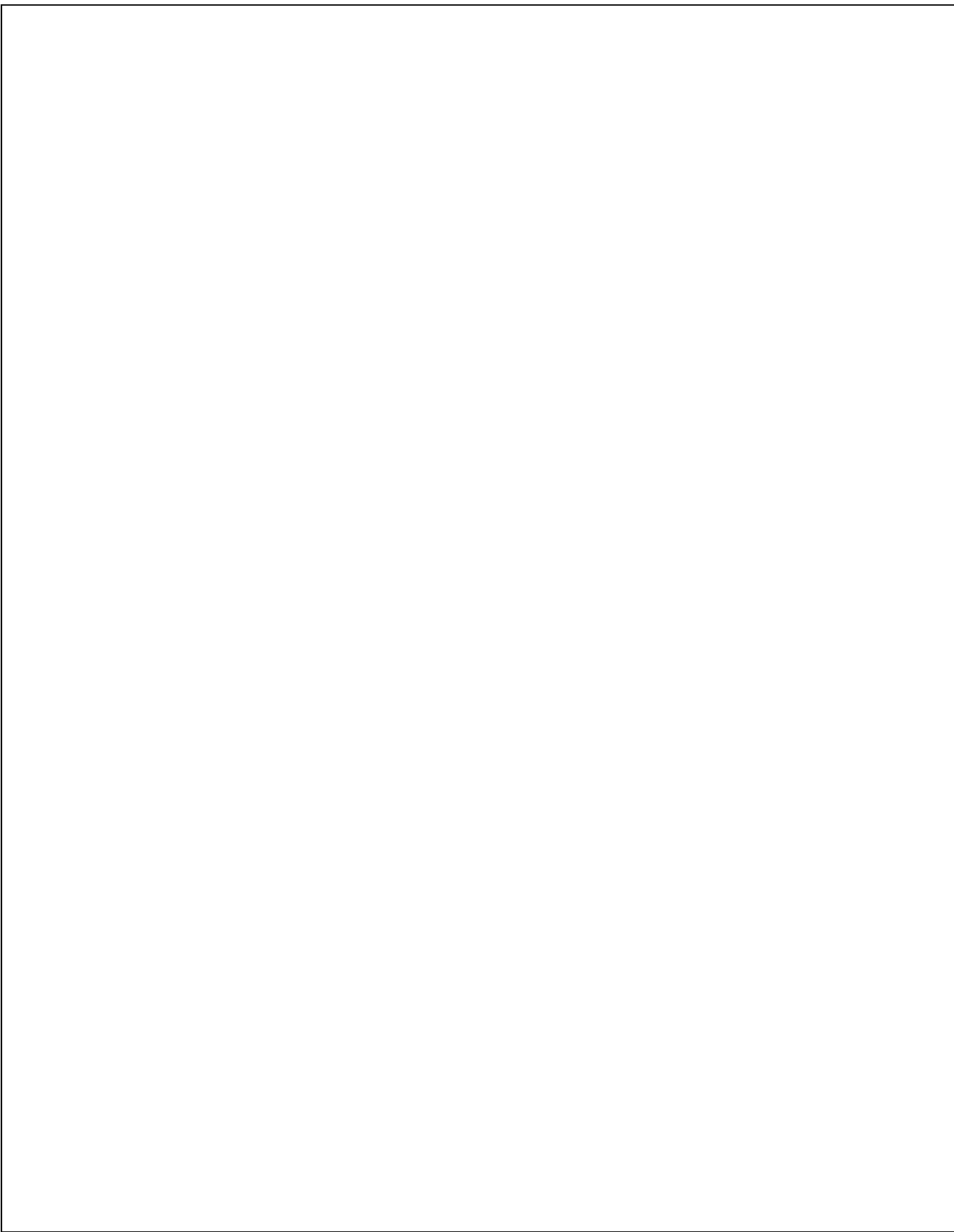


Figure 10

SAMPLE EMERGENCY SUSPENSION ACTION

From:

To:

Subj: EMERGENCY SUSPENSION

Ref: (a) CNICINST 5300.2 PERSONNEL MANUAL FOR NONAPPROPRIATED
FUND INSTRUMENTALITIES

(b) Collective Bargaining Agreement if a bargaining unit
employee

1. This letter is written to notify you that per reference (a) you will be placed on Emergency Suspension from work without pay effective (date). (you must give 24 hours advance paid notice).

2. The reason for this Emergency Suspension is to provide time to investigation allegations of lost funds under your control. (give general reason). It has been determined that your retention in the work place might result in damage or loss of property or funds, or might be injurious to yourself or other employees, or might be detrimental to the interests of the NAFI or there are reasons to believe that you are guilty of a crime for which a prison sentence might be imposed. You will not return to NAF workspace without permission of the undersigned.

3. If this Emergency Suspension extends beyond 30 days, you may file a grievance to the undersigned.

4. You will receive written notification of the results of this investigation and additional written notification of any disciplinary action that may be taken as a result.

5. Questions pertaining to this action should be addressed to Mr./Ms. (Employee Name) of our NAF Human Resources Office. Her phone number is XXX-XXXX.

Signed

I acknowledge receipt of this letter

Employee Signature

Date

Figure 11

SAMPLE EMERGENCY SUSPENSION CLOSURE NOTICE

From:

To:

Subj: EMERGENCY SUSPENSION

Ref: (a) Emergency Suspension Notification dated ()
(b) CNICINST 5300.2 PERSONNEL MANUAL FOR NONAPPROPRIATED
FUND INSTRUMENTALITIES
(c) Collective Bargaining Agreement if bargaining unit
employee if action is taken

1. TEXT TO USE IF NO ACTION IS BEING TAKEN (EMPLOYEE CLEARED)

Reference (a) placed you on Emergency Suspension. The investigation of the incident(s) referenced in (a) has been completed and it has been determined that you did not do anything that warrants disciplinary action. You should return to duty on 09/01/0000. You will be made whole for the time on Emergency Suspension.

Signed

I acknowledge receipt of this letter

Employee Signature

Date

2. IF ACTION IS BEING TAKEN:

(a) If the employee is to be terminated or suspended for a specific number of days then issue the appropriate type of disciplinary action letter based upon the type of action being taken and include the information of the impact of the Emergency Suspension in that letter.

(1) If employee has not been suspended for the number of days being given as a suspension include the following guidance in the suspension letter. "To maintain the continuity of the suspension, you will remain on suspension for an additional () calendar days."

(2) If employee has been on suspension for longer than the suspension to be given include the following guidance in the suspension letter. "Since you have already been on suspension longer than this, you should return to work on_(date). You will be made whole for the number of days you have been suspended in excess of this suspension. (give reason for suspension, right to reply and grieve/appeal).

Figure 12

INVESTIGATION FORM	
SUPERVISOR:	WORK LOCATION:
EMPLOYEE:	WORK LOCATION:
INQUIRY HELD - TIME:	TIME OF OCCURRENCE:
INQUIRY HELD - DATE:	DATE(S) OF OCCURRENCE:
ISSUE OF INQUIRY: () FACT- FINDING () FOLLOW-UP	
EMPLOYEE RESPONSE:	
SUPPORTING DOCUMENTATION IS ATTACHED: () YES () NO	
YOUR CONCLUSIONS:	

Figure 13

INVESTIGATION EVIDENCE WORKSHEET					
<p>This form is intended to assist you in obtaining evidence related to an employee's possible misconduct. Please use those portions of the form which apply to the particular situation and attach the evidence (or records of evidence) you gather to this form.</p> <p>Disciplinary actions must be supported by a preponderance of the evidence. Preponderance of the evidence can be defined as "evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it". Evidence can be any testimony, writings, material objects, or other things presented that are offered to provide the existence or nonexistence of a fact.</p>					
<p>1. Please indicate which type(s) of evidence you have to support your case:</p>					
Supervisor's notes	<input type="checkbox"/>	Attendance records	<input type="checkbox"/>	Law/regulation	<input type="checkbox"/>
Witness Statements	<input type="checkbox"/>	Counseling Memos	<input type="checkbox"/>	Activity Instruction	<input type="checkbox"/>
Photographs	<input type="checkbox"/>	Job package/request	<input type="checkbox"/>	Police report	<input type="checkbox"/>
Physical Evidence	<input type="checkbox"/>	Customer complaint	<input type="checkbox"/>	Security report	<input type="checkbox"/>
Other	<input type="checkbox"/>	Employee's work product examples	<input type="checkbox"/>	Naval Criminal Investigative Service report	<input type="checkbox"/>
<p>2. Attach evidence to this form as part of your pre-action investigation. If it is physical evidence (for example, government property that is alleged to have been taken without authorization), please contact your NAF Human Resources Office to determine whether NCIS or the local Security Office should be contacted to seize and document the evidence.</p>					
<p>3. List below the evidence submitted in this case:</p>					
<hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>					
<p>Submitted by: _____</p>					
Name	Title			Date	

LIST OF SUPPORTING DOCUMENTS

(ATTACH ALL RELEVANT DOCUMENTS TO REQUEST)

ATTENDANCE

MISCONDUCT

PERFORMANCE

OTHER DOCUMENTS TO CONSIDER (utilize the NAF Evidence Worksheet)

Figure 15

SAMPLE LAST CHANCE AGREEMENT

1. In exchange for the promises by (Employee) _____, the _____ (Union if relevant), in paragraph 2 of this Agreement, the Activity, _____ agrees that:

- a. The decision on the proposed removal, dated _____, will be resolved to a last chance agreement which will allow (Employee) _____ an opportunity to demonstrate acceptable attendance, performance and conduct; and
- b. If during the two (2) year period described above, (Employee) _____ demonstrates satisfactory attendance, performance and conduct as determined by management within a two (2) years period from the date of this agreement.
- c. However, if at any time during this two (2) year period, (Employee) _____'s performance, conduct or attendance is less than satisfactory a removal will be issued. The removal may be effected following a notice of intent to effect the removal and the waiver of rights contained in paragraph 2 below will remain in effect.
- c. The Activity will not make this Agreement a part of (Employee) _____'s Official Personnel Folder (OPF). However, this Agreement and other pertinent records will be maintained in a separate file in the event that future problems should arise in the course of (Employee) _____'s employment with the Activity and may be used as evidence in any action taken pursuant to this Agreement.

2. In exchange for the promises made by the Activity in paragraph 1 of this Agreement, (Employee) _____ agrees to the following:

- a. To comply with all workplace regulations of (Activity) _____ and other work sites as may be assigned;
- b. To maintain fully satisfactory performance, conduct and attendance (including proper notification of unplanned absences), as determined by the Activity;
- c. To abstain from the use of alcohol and illegal drugs and to submit to random drug testing and to submit to his supervisor administratively acceptable medical documentation

from his physician or practitioner to substantiate any absence from work due to illness, injury or medical appointment during the life of this Agreement. Such documentation must include dates of doctor's appointments, dates of incapacitation, summary diagnosis and prognosis, work limitations (if any), and expected date of return to full or light duty. This documentation will be submitted as soon as practical following the first day of any absence due to illness, injury or medical appointment, but in no case, later than five workdays following the onset of the absence; *(IF RELEVANT)*;

d. To abide by the following for any requests for sick leave and/or annual leave:

1. All requests for sick leave will have to be supported by the completion of medical certification form by a health practitioner. The certification by the treating medical practitioner must contain the following information:

- i. Date(s) you actually saw the doctor for your illness or injury;
- ii. Description of your illness/injury
- iii. Brief description of treatment received.
- iv. Exact dates you were incapacitated for work
- v. Health practitioner's legible name, address, telephone number, and signature.

2. Each day of absence due to emergency illness must be reported directly to your supervisor no later than 15 minutes after the beginning of the shift. I may be reached at _____. If I am not in the office, you must contact the next supervisor in the chain of command by calling _____.

3. For every absence due to illness, you will be carried in an AWOL status until you substantiate your absence by providing a completed medical certification. For sick leave to be approved, the certification form must be submitted upon your return to duty.

4. If the documentation you submit does not sufficiently address the items listed in paragraph 5(a) above, or if you do not have sufficient leave balances to cover your absence, Leave Without Pay (LWOP) may not be granted. Instead, I may continue to carry you in an AWOL status that may be used as the basis for disciplinary action.

5. You must make every effort to schedule non-emergency medical/dental appointments outside of normal working hours.
 6. If it is necessary to schedule non-emergency medical/dental appointments during your normal working hours, sick leave must be requested at least three (3) days in advance of the appointment date. If it is determined that your services are needed at work, your sick leave request may not be approved, and you may be required to reschedule your appointment.
 7. Also be advised that effective immediately, all requests for annual leave must be requested in advance on a NAF request for leave form. No annual leave will be approved by phone. Requests for annual leave, where there are insufficient hours accrued and/or your attendance is required due to workload, generally will not be approved.
 8. To plan the use of annual leave in advance. Request for approved leave due to personal emergencies will be dealt with on a case-by-case basis. In the case of requests for annual leave or leave-without-pay due to emergencies, approval will be contingent upon submission of acceptable documentation to his supervisor and the supervisor's concurrence that the employee's absence was justified. The documentation must be submitted immediately upon return to work from the emergency;
- e. (Employee) _____ agrees to maintain a satisfactory work record and conduct that is acceptable to management. He further agrees to obey all Civil Service, Agency and Activity laws, rules and regulations;
- f. (Employee) _____ understands that the Activity may remove him for any failure on his part to comply with this Agreement. Further, that he waives any and all appeal rights to union negotiated grievance procedure (*if relevant*), administrative grievance rights or rights to file suit in state or Federal Court. This waiver of rights will apply to any action arising from provisions of this Agreement including but not limited to a removal taken in accordance with paragraph 1b above. By signing this agreement, the Union agrees to waive any right to file a

negotiated grievance or request for arbitration on behalf of (Employee) _____ or on its own behalf over any removal of (Employee) _____ pursuant to this Agreement (*if relevant*;
and

g. (Employee) _____ waives all attorney fees and appeal costs, and agrees to pay the Agency's costs as a result of any appeal filed by him in violation of the waiver in paragraph 2.g. above.

3. The parties agree and understand:

a. The terms of this Agreement will not establish any precedent, nor will the Agreement be used as a basis by (Employee) _____ or any representative or organization to seek or justify similar terms in any subsequent grievance, appeal, or complaint;

b. This Agreement constitutes the full and complete understanding between the parties to this matter. No other promises or agreements shall be binding, unless signed by both parties; and

c. This Agreement may be used as evidence in a subsequent proceeding in which either of the parties alleges a breach of the Agreement.

Employee

DATE

Union Representative (*if relevant*)

DATE

Management representative

DATE

Figure 16

SAMPLE REQUEST FOR DETAILED MEDICAL DOCUMENTATION

Date

From:

To:

Subj: REQUEST FOR DETAILED MEDICAL DOCUMENTATION

Ref: (a) Written Note to Supervisor dated 7 April 2014
 (b) CNICINST 5300.2

Encl: (1) Job/Position Description for Recreation Assistant
 (Fitness Instructor)
 (2) Permission to Release Medical Information Form

1. Per reference (a), your note detailing your stress levels and anger issues causes the Department of Navy concern. Per reference (b), I need more information regarding your condition in order for me to make the proper personnel management decisions.

2. Your position description (PD) is provided for your physician's review as enclosure (1). You are directed to present this letter and your PD to your physician and he/she is requested to respond to the following questions in narrative form prior to your return to work. Failure to provide this documentation within the time limitations may result in administrative action up to and including your removal from Federal service.

- a) Your specific medical condition(s), prognosis, and any resulting limitations.
- b) Is this a temporary or permanent condition?
- c) If temporary, how long are you expected to be incapacitated for duty?
- d) If permanent, please describe the permanent limitations and if known, the approximate time you are expected to be incapacitated for duty.
- e) If limitations exist, explain how they impact your ability to work, and particularly if you or this Agency can take any steps to safely accommodate your condition in your position.
- f) Whether your present medical condition allows you to safely perform the essential functions of your position on a full-time basis.

g) Physician's legible name, address, telephone number, date and his/her signature.

3. The Health Insurance Portability and Accountability Act of 1996 (HIPAA), which became effective 14 April 2003, imposes new requirements on medical providers, employers, health plans and plan administrators to ensure that your individual medical and health information is kept confidential. In adhering to this regulation, your health provider will not release medical documentation without your permission. Please be sure to complete the permission to release medical information form, enclosure (2), provide the original to your physician and send a copy to me within 10 days of receipt of this letter.

4. The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. Therefore, please do not provide any genetic information when responding to this request for medical information. 'Genetic information' as defined by GINA, includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

5. The requested information should be completed and returned to me within the timeframe specified in paragraph #3. If you or your physician has any questions regarding this request, please have him/her contact me at ().

Signed

Figure 17

**SAMPLE (1) NAF EMPLOYEE CONSENT AND AUTHORIZATION
RELEASE OF INFORMATION**

I, () hereby authorize use or disclosure of all information listed below, including but not limited to health information protected by the Health Insurance Portability and Accountability Act (HIPAA), to the Navy Installations Command/MWR, or any representative, attorney, or agent thereof in connection with any grievance, claim, action or issue I have against Navy Installations Command/MWR. Any person, class of persons, or facility listed below is authorized to make the requested used or disclosure.

As regards to any request for medical information, the undersigned is aware that this release covers all information whether it be of a physical or mental nature and specifically includes, but is not limited to, information concerning a psychological or psychiatric condition, treatment, counseling, etc. As such, I hereby waive the privacy of sensitive material.

I authorize any health care practitioner of the () who has attended me to furnish any and all information that may be requested regarding my treatment rendered there between the dates of (date) and (date). I authorize any Navy Installations Command/MWR representative or agent or any physician retained by the Navy Installations Command/MWR to obtain and examine any records, reports, x-rays or other diagnostic testing performed or records regarding my condition or treatment. I hereby waive the privacy of any sensitive material

This authorization to release information includes the custodian of records for any of the above referenced persons/entities.

I understand that the information used or disclosed may be subject to re-disclosure by the person or class of persons or facility receiving it, and would then no longer be protected by federal privacy regulations.

I may revoke this authorization in writing of my desire to revoke it. However, I understand any action already taken in reliance on this authorization cannot be reversed, and my revocation will not affect those actions.

I understand that the medical provider to whom this authorization is furnished may not condition its treatment of me on whether or not I signed the authorization.

I understand I have the right to receive a copy of this authorization upon demand.

I am willing that a Photostat or Facsimile reproduction of this authorization be accepted with the same authority as the original and am willing to certify this authorization.

(Name of employee)

Date

Signature

Figure 17b

**SAMPLE (2) NAF AUTHORIZATION TO USE, DISCLOSE OR
RELEASE HEALTH INFORMATION**

Patient Name: _____

Telephone Number: _____

Date of Birth: _____

1. I authorize _____ to use, disclose or release the following protected health information about the above named patient: (includes dates below)

- | | |
|---|--|
| <input type="checkbox"/> history and physical | <input type="checkbox"/> operative report |
| <input type="checkbox"/> discharge summary | <input type="checkbox"/> pathology report |
| <input type="checkbox"/> laboratory results | <input type="checkbox"/> ray imaging reports |
| <input type="checkbox"/> progress notes | <input type="checkbox"/> physician orders |
| <input type="checkbox"/> consultation reports from (doctors' names): _____ | |
| <input type="checkbox"/> entire record (but excluding psychotherapy records if any exist) | |
| <input type="checkbox"/> psychotherapy records | |
| <input type="checkbox"/> Other (Specify what is to be used, disclosed or | |

released): _____

Treatment from (date) _____ to
(date) _____ Or,
all records

2. I understand that the information to be disclosed may include information relating to sexually transmitted disease, acquired immunodeficiency syndrome (AIDS), or human immunodeficiency virus (HIV). It may also include information about behavioral mental health services, and treatment or testing for alcohol or drug abuse.

3. I authorize disclosure of the above listed information to the following individual or organization:

Name: _____

Address: _____ City _____

State _____ Zip Code _____

For the purpose of: _____

4. I understand that I have a right to cancel this authorization, in writing, at any time by presenting my written cancellation to

, at the specific entity. I understand that a cancellation will not apply to information that has already been released under this authorization

5. Unless I cancel it sooner, this authorization will expire on the following date, event, or condition:

_____. If I fail to specify an expiration date, event or condition, this authorization will expire in six months from the date appearing at the bottom.

6. I understand that authorizing the disclosure of this health information is voluntary. I can refuse to sign this authorization. I do not need to sign this form to obtain treatment. However, information will not be released to the above indicated individual or organization without my signature. I understand that I may inspect or copy the information to be used or disclosed, as provided by the federal government's rules, which are in the United States Code of Federal Regulations at section 164.524. I understand that any disclosure of information carries with it the potential for an unauthorized re-disclosure and the information may not be protected by federal confidentiality rules.

Signature of Patient or Legal Representative Date

If signed by Legal Representative, relationship to patient:

You are to receive a copy of this signed authorization to keep for your records.

Figure 18

SAMPLE NON-DISCIPLINARY SEPARATION PROPOSAL LETTER

From:

To:

Subj: NOTICE OF PROPOSED DISABILITY TERMINATION

Ref: (a) CNICINST 5300.2 Personnel Manual for Non-appropriated
Fund Instrumentalities

(b) Collective Bargaining Agreement (if a bargaining unit
employee)

1. Per reference (a), you are hereby notified of my proposal to remove you from your regular full time position as NF-0301-04, Manager, no earlier than 14 days from the date of receipt of this notice. This removal is being proposed because of a medical condition that has made you unavailable for work and placed you on workers' compensation.

2. You have been continuously absent from work from xx May xxxx through the present. You are currently receiving workers' compensation and there is no indication when you will be able to return to work.

3. I regret having to take this course of action but you have been accommodated as much as we can. This proposal action is for non-disciplinary reasons. When worker compensation and the doctor releases you and you are able to return to work, please contact us and if there is a position available, we will be happy to consider you for any vacancy for which we feel you are qualified.

4. All documents, statements, and other evidence that I have utilized in reaching my decision to propose your removal are available for your inspection at the NAF Human Resources Office. Please call them at xxx-xxx-xxxx to arrange an appointment to review the material.

5. You may wish to provide rebuttal to this proposed removal. If so, such rebuttal must be in writing and postmarked or received by me within seven calendar days of receipt of this proposal. The rebuttal should be sent to (address). I will provide a prompt and equitable decision in writing and I will consider your rebuttal to this action prior to making my final decision on this proposed action. OR You may grieve this action in accordance with reference (b) [if a bargaining unit employee].

Signed

I acknowledge receipt of this letter

Employee

Date

Use the severe disciplinary action decision letter format and appeal process for the decision letter.

Figure 19

SUPERVISOR'S CHECKLIST FOR MAKING REASONABLE CAUSE DETERMINATION

Employee's name _____

Department _____

Date(s) _____

KNOWING THE SIGNS

The indicators listed below are "warning signs" of drug and/or alcohol abuse and may be observed by supervisors:

Moods:

- Depressed
- Anxious
- Irritable
- Suspicious
- Complains about others
- Emotional unsteadiness (e.g., outbursts of crying)
- Mood changes after lunch or break

Actions:

- Withdrawn or improperly talkative
- Spends excessive amount of time on the telephone
- Argumentative
- Has exaggerated sense of self-importance
- Displays violent behavior
- Avoids talking with supervisor regarding work issues

Absenteeism:

- Acceleration of absenteeism and tardiness, especially Mondays, Friday, before and after holidays
- Frequent unreported absences, later explained as "emergencies"
- Unusually high incidence of colds, flu, upset stomach, headaches
- Frequent use of unscheduled vacation time
- Leaving work area more than necessary (e.g., frequent trips to water fountain and bathroom)
- Unexplained disappearances from the job with difficulty in locating employee
- Requesting to leave work early for various reasons

Accidents:

- Taking of needless risks
- Disregard for safety of others
- Higher than average accident rate on and off the job

Work Patterns:

- Inconsistency in quality of work
- High and low periods of productivity
- Poor judgment/more mistakes than usual and general carelessness
- Lapses in concentration
- Difficulty in recalling instructions
- Difficulty in remembering own mistakes
- Using more time to complete work/missing deadlines
- Increased difficulty in handling complex situations

Relationship to Others on the Job:

- Overreaction to real or imagined criticism (paranoid)
- Avoiding and withdrawing from peers
- Complaints from co-workers
- Borrowing money from fellow employees
- Persistent job transfer requests
- Complaints of problems at home such as separation, divorce and child Discipline problems

OBSERVING AND DOCUMENTING CURRENT INDICATORS

Patterns of any of the above conduct or combinations of conduct may occur but must be accompanied by indicators of impairment in order to establish "reasonable cause." Please check all indicators listed below that are currently present:

- | | |
|--|--|
| <input type="checkbox"/> Constricted pupils | <input type="checkbox"/> Drowsiness |
| <input type="checkbox"/> Dilated pupils | <input type="checkbox"/> Odor of alcohol |
| <input type="checkbox"/> Scratching | <input type="checkbox"/> Nasal secretion |
| <input type="checkbox"/> Red or watering eyes | <input type="checkbox"/> Dizziness |
| <input type="checkbox"/> Involuntary eye movements | <input type="checkbox"/> Muscular incoordination |
| <input type="checkbox"/> Sniffles | <input type="checkbox"/> Unconsciousness |
| <input type="checkbox"/> Excessively active | <input type="checkbox"/> Inability to verbalize |
| <input type="checkbox"/> Nausea or vomiting | <input type="checkbox"/> Irritable |
| <input type="checkbox"/> Flushed skin | <input type="checkbox"/> Argumentative |
| <input type="checkbox"/> Difficulty concentrating | <input type="checkbox"/> Sweating |
| <input type="checkbox"/> Yawning | <input type="checkbox"/> Slurred speech |
| <input type="checkbox"/> Twitching | <input type="checkbox"/> Bizarre behavior |
| <input type="checkbox"/> Violent behavior | <input type="checkbox"/> Needle marks |
| <input type="checkbox"/> Possession of paraphernalia (such as syringe, bent spoon, metal bottle cap, medicine dropper, glassine bag, paint can, glue tube, nitrite bulb, or aerosol can) | |
| <input type="checkbox"/> Possession of substance that appears to possibly be a drug or alcohol | |

____ Other

DETERMINING REASONABLE CAUSE

If you are able to document one or more of the indicators above, ask yourself these questions to establish reasonable cause:

Y N

Has some form of impairment been shown in the employee's appearance, actions or work performance?

Does the impairment result from the possible use of drugs or alcohol?

Are the facts reliable? Did you witness the situation personally, or are you sure that the witness(es) are reliable and have provided firsthand information?

Are the facts capable of explanation?

Are the facts capable of documentation?

Is the impairment current, today, now?

Do NOT proceed with reasonable cause testing unless all of the above questions are answered with a YES.

TAKING ACTION

____ Reasonable cause established

____ Reasonable cause NOT established

Prepared by:

Supervisor's/Manager's Signature:

Figure 20

SAMPLE PLACEMENT ON ADMINISTRATIVE LEAVE LETTER

From:

To:

Subj: Placement on Administrative Leave

Ref: (a) CNICINST 5300.2, PERSONNEL MANUAL FOR NONAPPROPRIATED
FUND INSTRUMENTALITIES

1. This letter is written to notify you that per reference (a) you will be placed on administrative leave effective the date of this letter. This status will continue until you are notified otherwise.

2. The reason for this placement is (*put in here the reason for the placement*).

3. You will be in a paid duty status therefore you are obligated to be available during your normal duty hours to receive phone calls, to report to your duty station when instructed to do so, and not return to the NAF workspace without permission of the undersigned. You are to call in to me each day of your schedule at (*time*) at (*telephone #*) to receive instructions for the next day. Failure to contact me each day at (*time*) will result in you being carried as AWOL for the day. Failure to comply with any of these requirements may result in disciplinary action up to and including your removal.

4. Questions pertaining to this matter should be directed to (*name of HR person*) of our NAF human resources office. His/her phone number is (*telephone #*).

(*Supervisor's name*)

I acknowledge receipt of this letter

Employee Signature

Date

Copy to: HRO

CHAPTER 8

TABLE OF OFFENSES AND RECOMMENDED REMEDIES

810. Offenses and Recommended Remedies

a. Instructions for use of the Table

(1) The table is a guide. Disciplinary actions are to be corrective in nature and are expected to be progressive for subsequent offenses, regardless of whether subsequent offenses are the same as previous offenses and normally falls within the range shown in this figure. Mitigating or aggravating factors can justify a remedy outside the range. For example, remedies greater than those shown can be appropriate when the facts of an aggravated offense, frequent infractions, or simultaneous multiple offenses are established.

(2) Consistent with CNIC policy the table generally provides for a range of remedies (e.g., Reprimand to Removal) to provide management with flexibility in correcting conduct deficiencies. Selection of a reasonable remedy from such a broad range should be made with good judgment.

(3) Some of the offenses listed in this schedule combine several offenses in one statement connected by the word -or. Use only the portion of the statement of offense that accurately describes the employee's conduct; leave out all parts that do not apply. In choosing a charge, it may be better to describe the offense, rather than select a charge from the schedule that does not accurately describe the offense, and then to refer to similar offenses in the schedule when selecting the remedy.

(4) The table does not cover every possible offense. When specifying an offense not listed in the table, be careful. When using terms such as theft or fraud, which require establishing the element of intent and should only be used when the element of intent can be proven. Management officials should contact their servicing NAF HR office for assistance in framing appropriate charges.

(5) Due to the nature of their positions, offenses by managers/supervisors or managers may warrant more severe remedies than the same offense committed by a non-supervisory employee.

(6) All disciplinary action cases, whether based on off-duty or on-duty misconduct, require establishment of a nexus or link between the conduct and its effect upon the efficiency

of the service. Nexus is normally assumed when the misconduct is sustained in on-duty misconduct cases. In taking adverse actions for off-duty misconduct, the deciding official must show, by substantial evidence, that the disciplinary action will promote the efficiency of the service by establishing a nexus between the off-duty misconduct and the employee's or NAF activity's performance. The NAF activity should not rely on a presumption of nexus but should make its strongest possible argument and introduce evidence showing the relationship between the misconduct and the employee's or NAF activity's performance.

(7) Other statutory and regulatory offenses. For information concerning other offenses for which employees may be disciplined by removal, fine or imprisonment, including offenses which require minimum mandatory remedies (such as misuse of government vehicles, Hatch Act violations, and giving gifts to superiors), see 5 CFR 734, 735, and 2635, and DOD 5500.7-R.

(8) An alcoholic employee who engages in misconduct need not be offered a choice between treatment and discharge.

(a) To be considered a request for reasonable accommodation, the employee must request accommodation before committing the misconduct that violates one of the agency's qualification standards for employment or job performance and behavior under which the agency uniformly imposes discipline.

(b) There are certain acts of misconduct which when committed by an employee who is an alcoholic or drug addict, take that employee outside the scope of the protecting legislation because the misconduct renders that person not a qualified individual with disabilities. Egregious or notorious misconduct that hampers an employee's ability to perform his or her duties or to represent the agency, or which strikes at the core of the job or the agency's mission, can, standing alone, disqualify a Federal employee from his or her position.

Table 8-1 follows:

TABLE OF OFFENSES AND RECOMMENDED REMEDIES

OFFENSES	RANGE OF REMEDIES		
ALCOHOL ABUSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
Unauthorized possession, sale or transfer of alcohol on duty or on a military ship, aircraft, submarine, NAF activity, or command	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Use of, or being under the influence of alcohol on duty or on a military ship, aircraft, submarine, NAF activity or command	14-day suspension to removal	30-day suspension to removal	Removal
ATTENDANCE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
Excessive unauthorized absence (more than 3 consecutive workdays)	Reprimand to removal	10-day suspension to removal	Removal
Leaving job to which assigned or leaving DON premises at any working time without proper authorization	Reprimand to 5-day suspension	Reprimand to 10-day Suspension	Reprimand to removal

Unexcused or unauthorized absence on one or more scheduled days of work or assigned overtime	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
Unexcused tardiness	Reprimand	Reprimand to 5-day suspension	Reprimand To removal
DISCRIMINATION	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
Discrimination against an employee or applicant based on race, color, religion, sex, disability, national origin, or age, or any reprisal or retaliation action against a complainant, representative, witness, or other person involved in the EEO complaint process	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Discrimination based on sexual orientation	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Sexual harassment	Reprimand To removal	14-day suspension to removal	30-day suspension to removal

DRUG ABUSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
Unlawful use, being under the influence, or possession of drugs or drug paraphernalia	14-day suspension to removal	Removal	
Unlawful use, being under the influence, or possession of drugs or drug paraphernalia on a military ship, aircraft, or submarine	30-day suspension to removal	Removal	
Refusal to obtain counseling and rehabilitation after having been found to use illegal drugs	Reprimand to removal	Removal	
Unlawful distribution, sale, or transfer of drugs or drug paraphernalia on or off duty	Removal		

DRUG TESTING	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
Refusal to provide a urine sample when required	14-day suspension to removal	Removal	
Failure to appear for testing when directed, without a deferral	Reprimand to removal	Removal	
Substituting, adulterating or otherwise tampering with a urine sample, testing equipment or related paraphernalia	14-day suspension to removal	Removal	
Attempted or actual falsification, misstatement or concealment of a material fact, record, correspondence or other communication prepared in connection with the collection, handling, transportation or testing of urine samples	Reprimand to removal	14-day suspension to removal	30-day suspension to removal

MISCELLANEOUS OFFENSES	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
Betting, gambling or the promotion thereof on duty or on DON premises	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
Careless workmanship resulting in delay in production or spoilage or waste of materials	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
Criminal, dishonest, infamous or notoriously disgraceful conduct	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Disobedience to constituted authorities; deliberate refusal or failure or delay in carrying out any proper order, work assignment or instruction; insubordination including failure to follow local or higher level policy	Reprimand to removal	5-day suspension to removal	10-day suspension to removal

Discourteous conduct to the public within any one-year period or any other pattern of discourteous conduct	Reprimand to 14-day suspension	7-day suspension to 14-day suspension	14-day suspension to removal
Disrespectful conduct, use of insulting, abuse or obscene language to or about other personnel	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
Falsification (or aiding or assisting in falsification) of time and attendance records or claims against the government	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Falsification, misstatement or concealment of material fact in connection with any official record or proceeding	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Loafing, wasting time, inattention to duty or sleeping on duty	Reprimand to 5-day suspension	5-day suspension to removal	10-day suspension to removal

Making threats to other employees or supervisor; fighting; engaging in dangerous horseplay	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Misuse of a Government vehicle	Reprimand to removal	30-day suspension to removal	Removal
Reckless driving or improper operation of motor vehicle	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Immoral, indecent or notoriously disgraceful conduct e.g. incest, child abuse, etc.	15 day suspension to removal	Removal	
Violations of the Standards of Conduct or Joint Ethics Regulation	Reprimand to removal	10 day suspension to removal	15 day suspension to removal
Gross Negligence	Reprimand to removal	10 day suspension to removal	Removal
Abuse of NAF privileges	15 day suspension to removal	Removal	

Unsatisfactory performance or conduct offenses by a flexible employee for which a suspension would be given a regular employee	Removal		
Performance or conduct that indicates an inability to adapt to Federal employment during probationary period	Removal		
Unauthorized possession, use, loss, theft or damage to Government property or the property of others	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
Misuse of Government equipment (e.g., unauthorized use of electronic mail, Internet, phones, or facsimile equipment)	Reprimand to removal	14-day suspension to removal	30-day suspension to removal

Misuse of Government sponsored travel charge card (e.g., use for unauthorized personal expenses, failure to pay charge card bill in a timely manner, or failure to use card for required expenses arising from official travel)	Oral admonishment to removal	5-day suspension to removal	10-day suspension to removal
Unauthorized use of or failure to appropriately control use of Government purchase card	Oral admonishment to removal	14-day suspension to removal	30-day suspension to removal
PROHIBITED PERSONNEL PRACTICE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
Committing a prohibited personnel practice (see 5 U.S.C. 2302)	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
SAFETY	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
Failure to observe posted smoking prohibitions	Reprimand to removal	5-day suspension to removal	10-day suspension to removal

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Failure to use protective clothing or equipment	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
Violation of safety or traffic regulations on duty or on an installation (on or off duty)	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
SECURITY	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
Failure to safeguard classified material	Reprimand to removal	14-day suspension to removal	Removal
UNAUTHORIZED DISCLOSURE OR USE OF PROTECTED MATERIAL	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE
Unauthorized disclosure or use of information or other protected material (e.g., records covered by the Privacy Act)	Reprimand to removal	14-day suspension to removal	30-day suspension to removal
<p>* 31 U.S.C. § 1439(b) requires a minimum suspension of 30 calendar days even for the first offense, if the misuse was willful, i.e., employee acted either with knowledge that the intended use would be characterized as unofficial or with reckless disregard of whether such use was unofficial.</p>			