



DEPARTMENT OF THE NAVY
OFFICE OF THE SECRETARY
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WASHINGTON DC 20350-1000

SECNAVINST 12752.1
ASN(M&RA)
1 September 2011

SECNAV INSTRUCTION 12752.1

From: Secretary of the Navy

Subj: DISCIPLINARY ACTIONS

Ref: (a) 5 CFR §752
(b) 5 U.S.C. Ch. 71
(c) SECNAVINST 12711.2
(d) 5 U.S.C. §75
(e) 5 U.S.C. §43
(f) 5 CFR §432
(g) 5 CFR §792
(h) 5 CFR §731
(i) 5 CFR §315
(j) 5 CFR §531
(k) DoD Directive 1400.25 of 25 Nov 96
(l) DoD 5500.7-R, Standards of Conduct, 1 Aug 93

1. Purpose. To establish and implement policy, assign responsibilities, and prescribe procedures under references (a) through (l) for disciplinary actions in the Department of the Navy (DON).

2. Policy. Discipline shall be used as a managerial tool to correct deficiencies in employee conduct and performance in a manner consistent with this instruction and references (a) through (l). Discipline should not be punitive; it should serve as a deterrent to unacceptable conduct or behavior and for correction of other situations that interfere with effective and efficient operations. In order to ensure high standards of government service and maintain public confidence in the DON, disciplinary actions and those performance-based actions initiated under the authority of reference (a) may be taken only for such as cause as will promote the efficiency of the service. Officials are encouraged to consider, when appropriate, the use alternative dispute resolution (ADR), such as last-chance-agreements and alternative discipline to enhance communication and seek positive resolution of issues that might otherwise give rise to disciplinary actions.

3. Scope and Applicability. This instruction applies to career and career-conditional DON employees as outlined in references (a) through (l).

4. Responsibilities

a. The Assistant Secretary of the Navy (Manpower and Reserve Affairs). Issue disciplinary actions policy and delegate authority in the DON as appropriate.

b. The Deputy Assistant Secretary of the Navy (Civilian Human Resources) (DASN(CHR)). Manage and direct the disciplinary actions program in the DON and issue directives on specific disciplinary action matters.

c. The Department of the Navy/Assistant for Administration, the Chief of Naval Operations, and the Commandant of the Marine Corps. Assure that this policy is implemented within their respective organizations.

d. The Director, Office of Civilian Human Resources (OCHR). Interpret changing statutory and regulatory guidance as it is received and prepare implementing guidance as applicable. Ensure OCHR professional and legal staff review of all agency petitions for review (PFR) to the Merit System Protection Board (MPSB). Such professional and legal staff may, at their discretion, assume authority/responsibility for preparing any such agency PFR.

e. Directors of Human Resources Service Centers (HRSCs). Ensure that the policies and procedures in disciplinary action matters are in compliance with this instruction by:

(1) Providing advice, guidance, and training to Human Resources Offices (HROs) staffs on disciplinary actions, including preparation of PFR in MSPB cases.

(2) Receiving, reviewing, analyzing and maintaining PFRs for purposes of gathering best practices and determining training needs.

(3) Taking action to promptly correct disciplinary action errors and ensuring disciplinary action decisions

directed by the DON, Department of Defense (DoD), and or Office of Personnel Management (OPM) are implemented without delay.

f. The Heads of Major Commands

(1) Ensure subordinate commands and activities comply with statutes, regulations, policies, and guidance from higher level authorities, e.g., DASN(CHR), DoD, and OPM.

(2) Implement delegation of disciplinary program authority per DON policy.

(3) Ensure that subordinate activities are provided or aligned with sufficient resources to ensure effective disciplinary program accomplishment.

(4) Provide advice and guidance on disciplinary program matters to subordinate commands and activities.

(5) Conduct periodic assessments of disciplinary programs at subordinate activities to evaluate their effectiveness.

g. Directors of HROs. Ensure that the policies and procedures in disciplinary action matters are in compliance with this instruction by:

(1) Advising activity managers and supervisors on the proper execution of disciplinary actions.

(2) Ensuring that appropriate training on disciplinary actions is provided to all individuals taking disciplinary actions.

(3) Assisting heads of commands and activities in the conduct of periodic self-assessments of their disciplinary action programs.

h. Activity Heads and Commanders, or their Designees

(1) Ensure coverage of their civilian employees under the policies and procedures of this instruction and any applicable and related OCHR authorities and guidance. This may be done either as an instruction issued by an activity or

command, or through coverage under an appropriate instruction issued by a servicing HRO (or another activity command). This instruction may be supplemented by an activity or command policy statement and delegation of authority or within the scope of a collective bargaining agreement (CBA) as long as language contained therein does not adversely impact on management rights as established under the authority of reference (b). Such guidance should encourage the use of workplace ADR services to enhance communication and seek collaborative resolution of concerns when possible.

(2) Ensure that all employees are apprised of this policy, including associated implementing guidance associated with it.

(3) Propose and decide disciplinary or adverse actions under this instruction. Authority to take disciplinary actions per this instruction may be delegated to subordinate managers and supervisors to the extent deemed appropriate. This authority may be withdrawn and re-delegated as deemed necessary. To correct an error of fact or judgment, a proposed disciplinary or adverse action may be canceled or modified as long as due process rights are afforded to the employee.

(4) Ensure that applicable standards of conduct information, as prescribed in the Joint Ethics Regulation, is available to all civilian employees for their review.

(5) Ensure that all official disciplinary action records are appropriately maintained by the servicing HRO.

(6) Continually discharge their obligations under reference (b), to fulfill any requirement of collective bargaining prior to implementation; adhere to the provisions of applicable CBAs related to disciplinary actions per reference (c).

(7) Ensure that disciplinary actions are not taken against employees as reprisal or retaliation for engaging in activities protected under law or regulation.

(8) Ensure that employees are apprised of applicable grievance and or appeal rights when disciplinary actions are taken.

(9) Ensure that persons appointed to represent the activity or command in any disciplinary matter or appeals are properly trained and competent.

(10) Conduct periodic self-assessments regarding use of disciplinary action.

(11) Encourage agency representatives in cases before the MSPB to seek advice and guidance from their servicing HRSC. In addition, ensure agency representatives send a copy of any response to a PFR to their servicing HRSC at the same time it is filed with the MSPB. Ensure all proposed agency PFRs are coordinated in advance with the OCHR Director, Workforce Relations and OCHR Office of Counsel. No agency PFR shall be filed with the MSPB without the express consent of these OCHR offices. After acquiring consent from OCHR, ensure agency representatives send a copy of any agency PFR to OCHR and their servicing HRSC at the same time it is filed with the MSPB agency representatives.

i. Agency Representatives. Represent the DON in third-party proceedings and shall:

(1) Serve as DON representative, ensuring appropriate coordination with DON officials on all issues pertaining to matters appealed to the MSPB.

(2) Ensure DON's position on matters appealed to the MSPB is supported by objective evidence.

(3) Draft or review proposed settlement agreements.

(4) Advise DON officials regarding proposed terms of settlements.

(5) Respond to PFR filed by appellants and file reply briefs on behalf of DON.

(6) Send a copy of any response to a PFR to their servicing HRSC at the same time it is filed with the MSPB, and a copy of any agency PFR to OCHR and the servicing HRSC after appropriate coordination with the Director, OCHR.

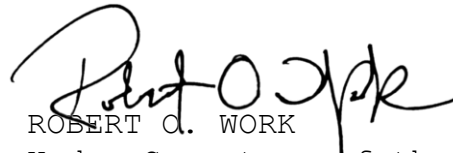
(7) Send requests to file agency PFR to the OCHR Director, Workforce Relations and OCHR Office of Counsel as provided for in paragraph 4h(11) above.

j. Managers and Supervisors

(1) Implement and execute disciplinary actions at the local command level.

(2) Ensure that disciplinary actions are accomplished following applicable DON, DoD, and OPM guidance and criteria when exercising delegated disciplinary program authority.

5. Records Management. Records created by this instruction, regardless of media and format, shall be managed per Secretary of the Navy Manual 5210.1 of November 2007.



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Under Secretary of the Navy

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