

CONDUCT MANAGEMENT

National Guard

Technician Personnel Management Course



Section A:

Discipline &
Adverse Actions

Section B:

Non-disciplinary Actions &
Voluntary Actions

References: TPR 752 and TPR 715
Local Union Agreements

Section A: Discipline & Adverse Actions

Affects:

- The technician
- Co-workers
- Supervisor(s)
- The general organization
- The technician's family

Discipline & Adverse Action

Discipline:

- Typically taken when a conduct-related incident occurs that warrants action by the supervisor but less serious than adverse action situations

Adverse Action:

- Typically taken by the supervisor for more serious conduct-related incidents, resulting in more severe actions(s), such as downgrade or removal. Adverse Action affects pay

Discipline & Adverse Actions

Responsibilities

- The Technician – whose behavior/conduct must be appropriate for the workplace
- The Supervisor – Who must ensure that the technician's conduct does not interfere with an orderly and productive work environment

Discipline & Adverse Actions

Supervisor's Role:

- Ensure workers know expected behavior
- Ensure they know consequences of unacceptable behavior
- Respond to ALL cases; bring to technician's attention immediately
- Remove names/personalities to minimize bias; focus on problem – not person
- Initiates all disciplinary & adverse actions

Discipline & Adverse Actions

Responsibilities:

- Involve HRO
- Fact-gather; ensure technician has representation, if requested
- Ensure actions are in compliance with NGB regulations and local union agreement(s)
- Consider individual's circumstances
- Document carefully and completely

Discipline & Adverse Actions

Progressive Discipline: starts with

- Counseling – Private verbal exchange; discuss observations and improvement needed. Not documented
- Written Warning – next step if behavior repeated. Annotated in pencil on 904 card or Supervisors work folder. Both parties initial. Should be removed within 1 years time if issue has been corrected

Discipline & Adverse Actions

Types of actions to take:

- Letter of Reprimand – Formal, written description of conduct; placed in eOPF, action may be grieved and/or further like offenses could result in Adverse Action
 - Are valid from 1 to 3 years, you decide
 - Must consult with Labor Relations Specialist before issuing to employee
 - Can be used to help determine range of penalty for future discipline even when expired

Discipline & Adverse Actions

Types of adverse action:

- Suspension
- Reduction in grade – rarely, if ever, done.
- Removal

Discipline & Adverse Action

More about adverse action:

- Get HRO involved; read related laws, regulations, and case precedents
- Have a verifiable reason (cause); be able to support charge(s)
- Show how proposed action will:
 - “Promote the efficiency of the service”
- Determine, with HRO, the type of action to take; prepare Notice of Proposed Adverse Action

5-Step Adverse Action Process

STEP 1	Notice of Proposed Adverse Action
STEP 2	Technician's Right to Reply
STEP 3	Decision Letter
STEP 4	Administrative Appeal
STEP 5	Final Decision

Adverse Actions Process

Step 1. Supervisor, with HRO Clearance prepares Notice of Proposed Adverse Action, to include:

- Action proposed
- Reason(s) for proposed action
- Rationale for penalty selection
- Right to review material
- Right to reply
- Right to excused absence to prepare reply
- HRO Availability for assistance
- Reference to next step (Step 2)

Adverse Actions Process

Step 2. Technician has a right to reply (no restrictions prescribed)

- Must give due consideration

Step 3. Deciding Official provides decision letter which includes:

- Action decided upon
- Date action will be effective
- Reference to technician's reply
- Reason(s) for decision
- HRO Availability for assistance
- Technician's appeal rights

Adverse Actions Process

Step 4. Processing of the Administrative Appeal, which allows the appellant a choice of:

- Appellate review; or
- Administrative Hearing

Adverse Actions Process

Step 5. The Final Decision, where the Adjutant General must address:

- Are the charges accurate/real?
- Will discipline promote the efficiency of the service?
- Is the selected penalty appropriate to the offense?

Administrative Hearing Process

- The HRO makes all hearing arrangements
- A Pre-hearing may be held on the day before to clarify the process and resolve and problems
- The hearing is held to develop all the facts
- The examiner's report is sent to the Adjutant General through the HRO, with copies to NGB and the appellant

Other Issue to Consider

- The union may want to represent the appellant
- You must prove a clear relationship between the offense and the penalty selected
- Removals, CLG's and 15 Day suspensions are now appealable to MSPB

Other Issues to Consider

- Disciplinary actions must be annotated on the technician's Supervisor Brief or NGB Form 904-1
 - Entries should only be penciled in initialed by both
- Was there a need to contact the EAP manager about the conduct?
- Did you consider informal mediation?

Other Issues to Consider

Under no circumstances initiate an Adverse Action without the assistance of the HRO



Document!



Document!



Document!

Section B: Non-Disciplinary Actions & Voluntary Actions

- Non-Disciplinary Actions – Management initiated; not for cause
- Voluntary Actions – Technician initiated

Non-Disciplinary Actions

EXAMPLES:

- Loss of military membership/loss of technician status
- Removal of technician from position due to failure to meet position requirement(s)
- Management reassignment
- Enforced leave
- Furlough of 30 days or less

Non-Disciplinary Actions

Loss of Military Membership

- Driven by failure to meet National Guard conditions of employment (Title 32 709(b))

OR

- Mission changes requiring involuntary staffing changes or reductions in hours

Non-Disciplinary Actions

Loss of Military Membership:

- A technician who fails to maintain military membership **MUST BE** promptly separated from technician service
- Separation must occur as close to military separation as possible – following a 30 day notice period

Established by National Guard Technician Act 1968 and reemphasized by P.L. 104-106, signed in Feb. 96

Non-Disciplinary Actions

Removal from position for failure to meet position requirements:

- Compatible military assignment
- Appropriate military appointment
- Flying Status
- Security Clearance
- Job-required licenses/certification

Non-Disciplinary Actions

Enforced Leave

Management must have the technician leave the work site if/when...

- The technician is not ready, willing, and able to perform assigned duties;

OR

- The technician's continued presence is highly undesirable or presents a threat

Non-Disciplinary Actions

Enforced Leave

In emergency situation, the supervisor must...

- Remove the technician from the work site and place him/her in appropriate leave status

When emergency is resolve...

- Discontinue enforced leave and offer technician the choice of approved type leave or LWOP

Non-Disciplinary Actions

Enforced Leave

- If acceptable resolution – business as usual
- If not – discipline or adverse action should be pursued

Non-Disciplinary Actions

Furlough of 30 days or less:

- Need legitimate reasons
- Must honor negotiated agreements
- May request TAG review

Voluntary Actions

- Resignation
- Voluntary change to lower grade
- Optional retirement
- Abandonment of position

Voluntary Actions

Resignations:

- Technician makes decisions relative to notice, effective date and time
- Not required to be written
- Supervisor completes SF 52: technician signs back or resignation is attached
- Technician can withdraw resignation prior to effective date/time
- Management must honor withdrawal, unless position is to be abolished or is obligated

Voluntary Actions

Voluntary change to lower grade:

- A voluntary, written request to be placed in a position at a lower grade without right to retained grade or pay
- Cannot be in response to competitive advertisement
- Must meet qualifications for other position
- Withdrawal requirements and conditions are the same as for resignations

Voluntary Actions

Optional Retirement:

- Encompasses same conditions and requirements as for resignations
- One exception is that the request for optional retirement and/or its withdrawal must be in writing

Voluntary Actions

Abandonment of position:

- Involves failure of a technician to report for work for a reasonable period of time, with the supervisor unable to ascertain the technician's intention of returning
- Reasonable period of time has been defined by TPR 715 as “usually 10 calendar days” but that is not firm

Performance Management Versus Conduct Management

Performance Management

- Involves “can’t”
- Often resolved by training

Conduct Management

- Involves “won’t”
- Most often requires discipline or taking adverse actions

QUESTIONS

