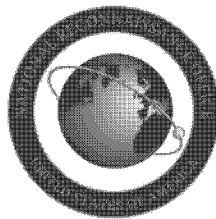


National Reconnaissance Office

Business Function 70, National Reconnaissance Office
Department of Defense Cadre

Directive 70-7, Employee Relations



15 JULY 2015

ND 70-7, Employee Relations
FY 2015

TABLE OF CONTENTS

ND 70-7 CHANGE LOG	3
SECTION I - INTRODUCTION.....	4
SECTION II - APPLICATION.....	4
SECTION III - REFERENCES/AUTHORITIES.....	4
SECTION IV - POLICY.....	5
A. General.....	5
B. Disciplinary Actions.....	6
C. Adverse Actions.....	8
D. Performance-based Actions.....	12
E. Clearance-related Adverse Actions.....	14
F. Off-duty Adverse Actions.....	15
G. Removals During The Trial Period.....	15
H. Appeals.....	15
I. Whistleblower Protections.....	16
SECTION V - ROLES AND RESPONSIBILITIES.....	16
SECTION VI - DIRECTIVE POINT OF CONTACT.....	16
SECTION VII - IMPLEMENTING INSTRUCTIONS.....	17
APPROVING SIGNATURE.....	18
APPENDIX A - GLOSSARY and ACRONYM LIST.....	19
APPENDIX B - TABLE OF PENALTIES.....	21
APPENDIX C - DOUGLAS FACTORS.....	32

ND 70-7, Employee Relations
FY 2015

ND 70-7 CHANGE LOG

Revision	Date	Revised By	Pages Affected	Remarks
0	15 Jul 15	NRO Department of Defense Human Resources	All	Initial release as an "interim" directive
1	9 Sep 16	NRO Department of Defense Human Resources	All	Admin change to remove "interim" status
2	29 Sep 16	NRO DOD Cadre OHR	Multiple	Fix the uniform language of the Proposed Notice Period (Advance Notice) sections and remove conflicting "off-duty vice "on-duty" proposing and deciding official identification. We only use one proposing and deciding official scenario except for Trial Period actions.

ND 70-7, Employee Relations
FY 2015

SECTION I - INTRODUCTION

In accordance with the National Reconnaissance Office (NRO) Governance Plan this NRO Directive (ND) defines the scope, authorities, and responsibilities specific to NRO Business Function (NBF) 70. The ND is coordinated with appropriate stakeholders, and is approved by the NBF owner, with administrative approval of the Director, Office of Policy and Strategy (OP&S). Official record copies are archived by OP&S.

SECTION II - APPLICATION

All NRO Department of Defense (DoD) civilian employees who perform tasks or have duties specific to the NRO DoD Civilian Workforce will comply with this ND and its corresponding instructions. When the work to be performed under an NRO contract must comply with this directive and corresponding instructions, the program office shall list these documents as reference documents in the contract statement of work.

Unless specifically addressed in this ND, this policy applies to NRO DoD civilian employees covered by the Federal Wage System.

Unless specifically addressed in this ND, this policy does not apply to members of the Defense Intelligence Senior Executive Service (DISES) and Defense Intelligence Senior Level (DISL) employees.

SECTION III - REFERENCES/AUTHORITIES

The information contained in this ND complements and integrates the following policies, regulations, or their successors:

- a. ND 80-8, Grievance Resolution, Ombuds, and Alternative Dispute Resolution, 19 October 2015.
- b. ND 70-6, DCIPS Performance Management, 15 July 2015.
- c. 10 United States Code (USC).
- d. 5 USC Chapter 73, Suitability, Security, and Conduct.
- e. 5 Code of Federal Regulations (CFR), Part 735, Employee Responsibilities and Conduct.
- f. 5 CFR, Part 2635, Standards of Ethical Conduct for Employees of the Executive Branch.
- g. NBF 40, Human Capital and Training, 3 April 2012.

**ND 70-7, Employee Relations
FY 2015**

- h. DoD Directive 1400.35, Defense Civilian Intelligence Personnel System (DCIPS), 24 September 2007, as amended.
- i. DoD Instruction (DoDI) 1400.25, Vol. 2001, DoD Civilian Personnel Management System (CPMS): DCIPS Introduction, Incorporating Change 1, Effective 17 March 2014.
- j. NI 70-7-X, NRO Personnel Evaluation Board, *proposed*.
- k. Directive-type Memorandum 13-008, DoD Implementation of Presidential Policy Directive 19, 3 July 2013.
- l. NBF 70, NRO DoD Cadre, 6 September 2016.

SECTION IV - POLICY

A. General

1. This directive sets forth the NRO philosophy for employee relations. The goal for employee relations at the NRO is to align the NRO Civilian DoD employee with overall NRO mission. The NRO DoD Office of Human Resources (DoDHR) will support the NRO DoD Civilian employee as the central node for all employee relations concerns. DoDHR supports all employee relations processes and must be informed or consulted on all concerns.
2. To promote the efficiency of the Federal Service the NRO will use disciplinary, performance-based, and adverse actions to correct deficiencies in employee conduct or performance for the NRO DoD Civilian workforce. When implementing disciplinary, performance-based, and adverse action, there must be a clear nexus between the misconduct and/or performance to the workplace. A progressive discipline approach will be utilized in the event an employee continues to engage in misconduct after having been disciplined. Except in situations involving national security matters or previous misconduct where progressive discipline would not be appropriate.
3. Discipline is not punitive; it should serve as a deterrent to unacceptable conduct or for correction of other situations that interfere with effective operations.
4. The following chart illustrates NRO's progressive discipline spectrum from least to most severe.

Category	Type	Section
Disciplinary action (informal)	Oral admonishment	B.1.a
Disciplinary action (informal)	Letter of Caution	B.1.b
Disciplinary action (formal)	Letter of Reprimand	B.2.a
Disciplinary action (formal)	Suspension (14 days or less)	B.2.b
Adverse Action	Suspension (more than 14 days)	C.3.a

ND 70-7, Employee Relations
FY 2015

Adverse Action	Involuntary reduction	C.3.b
Adverse Action	Removal	C.3.c

B. Disciplinary Actions

These actions are supervisory actions taken to correct improper or inappropriate conduct and are intended to be corrective in nature.

1. Informal Disciplinary Actions. Informal disciplinary actions are the first step in progressive discipline and are not retained in an employee's OPF; however, these actions may be used to substantiate a follow on disciplinary action if the conduct does not improve.

a. Oral Admonishment. Oral admonishment is an informal disciplinary action in which a supervisor verbally outlines an employee's inappropriate conduct with the intent of preventing future misconduct.

(1) Progressive Discipline. This is least severe step in progressive discipline, usually reserved for minor rule infractions.

(2) Advanced notice. None required prior to decision.

(3) Opportunity to respond. None required prior to decision.

(4) Decision. The supervisor must document the oral admonishment, together with the reasons and corrective actions discussed, and provide a copy to the employee. Employees may respond verbally, but oral admonishment is informal and there is no formal response period.

(5) Appeals and grievances. Oral admonishment may not be appealed or grieved.

(6) Records retention. Oral admonishment will not be contained in the employee's OPF.

b. Letter of Caution. A written letter issued by a supervisor to an employee concerning unacceptable conduct, placing the employee on notice that formal disciplinary action may be imposed if the conduct does not improve.

(1) Progressive Discipline. This is second step in progressive discipline, usually reserved for minor rule infractions that could not be addressed through oral admonishment.

ND 70-7, Employee Relations
FY 2015

(2) Advanced notice. None required prior to decision.

(3) Opportunity to respond. None required prior to decision.

(4) Decision. A supervisor may determine a Letter of Caution is appropriate at any point. The supervisor must provide the Letter of Caution, containing the reasons and corrective actions discussed, and provide a copy to the employee

(5) Appeals and grievances. Letters of Caution may not be appealed or grieved.

(6) Records retention. Letters of Caution will not be contained in the employee's OPF.

2. Formal Disciplinary Actions. When implementing formal disciplinary actions, the use of progressive discipline is encouraged; however, not all misconduct can be addressed using formal disciplinary actions (see Table of Penalties). These actions consist of Letters of Reprimand (LOR) and suspensions for 14 calendar days or less. All disciplinary actions must be coordinated with DoDHR.

a. LOR. An LOR is a written disciplinary action issued by a supervisor to an employee based on specific unacceptable conduct.

(1) Progressive Discipline. This is the first formal step in progressive discipline, usually issued once informal means have been exhausted.

(2) Opportunity to respond. None required prior to decision.

(3) Decision. A supervisor, in conjunction with DoDHR, may issue an LOR at his or her discretion for instances noted in the Table of Penalties. An LOR is 'one-step,' where the LOR is issued immediately after the supervisor has investigated the incident, discussed it with the employee, and determined, in consultation with DoDHR, that the incident warrants formal disciplinary action. The LOR will be effective upon issuance, and will cite the specific charge(s) and a reasonably detailed account of the offense(s) including such facts as time, date, names, place, and circumstances.

(4) Appeals and grievances. Formal disciplinary actions may not be further appealed, but may be grieved pursuant to Reference (a).

(5) Records retention. A signed or annotated copy of the LOR will be forwarded to DoDHR for inclusion in the employee's

ND 70-7, Employee Relations
FY 2015

Official Personnel File (OPF) for two years or the duration of NRO employment, whichever occurs first.

b. Suspension (14 calendar days or less). A suspension prevents an employee from performing work and denies salary for the suspension period. When it is alleged an employee has demonstrated significant conduct or repeat infraction(s), a supervisor, in consultation with DoDHR, may propose the employee be suspended for 14 days or less (calendar or business) in a non-pay, non-duty status.

(1) Progressive Discipline. This is the second formal step in progressive discipline, usually issued once lesser penalties have been exhausted, or when recommended in the Table of Penalties for repeat offenses.

(2) Opportunity to respond. Employees may review the documentation and have at least 24 hours, but not more than 7 calendar days to respond in writing. Employees are entitled to representation as outlined in paragraph C.2.

(3) Decision. Employees will be given a written final decision that specifies the action and the effective date.

(a) The Director of DoDHR (D/DoDHR) is the proposing official and the Executive Director of the DoD Cadre (EDD) is the deciding official.

(b) An employee will remain on duty and in a pay status during the notice period. Once a decision is made, the employee will be notified if his or her pay or duty status will change.

(4) Appeals and grievances. Formal disciplinary actions may not be further appealed, but may be grieved pursuant to Reference (a).

(5) Records retention. Suspensions will be included in the employee's OPF for two years or the duration of NRO employment, whichever occurs first.

C. Adverse Actions

An Adverse Action is a suspension for more than 14 calendar days, involuntary reductions in work level, pay grade, or base pay, or removal because of inappropriate conduct or unacceptable performance.

1. All adverse actions must be coordinated with DoDHR. When it is alleged an employee has demonstrated inappropriate conduct, when the conditions of employment have not been met or maintained, or when performance is determined to be unacceptable, in accordance with

ND 70-7, Employee Relations
FY 2015

Reference (b), a supervisor, in consultation with DoDHR, may propose an appropriate action against that employee.

2. Representation. A request to have a representative assist in preparing and/or presenting a reply to the notice of proposed action. If such representative is desired, an employee must advise DoDHR in writing. An employee's choice of a representative may be declined by DoDHR when such representation would result in a conflict of interest or position; conflict with the priority needs of the NRO, compromise classified activities of the Government, or give rise to additional cost to the Government.

3. Types of adverse actions

a. Suspension (for more than 14 days). A suspension prevents an employee from performing work and denies salary for the suspension period due to inappropriate conduct or performance.

(1) Progressive discipline. This is the first adverse action step in progressive discipline, usually issued once formal disciplinary means have been exhausted, when recommended in the Table of Penalties, or for repeat offenses.

(2) Notice of Proposed Action. An employee will be provided at least 30 calendar days' advance written notice of the proposed action unless the NRO has reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment may be imposed and is proposing a removal or suspension, including indefinite suspension. This notice will identify the specific reasons for the proposed action and include specific examples, where applicable.

(3) Opportunity to respond. Employees may review the documentation and have at least 24 hours, but not more than 7 calendar days to respond in writing. Employees are entitled to representation as outlined above.

(4) Decision. Employees will be given a written final decision that specifies the action, the effective date, and unless proposed by the EDD, includes a statement that the action has been concurred with by the D and O Director.

(a) The D/DoDHR is the proposing official and the EDD is the deciding official.

(b) An employee will remain on duty and in a pay status during the notice period. Once a decision is made, the employee will be notified if his or her pay or duty status will change.

ND 70-7, Employee Relations
FY 2015

(5) Appeals. Adverse actions may be appealed (see section G, "Appeals").

(6) Records retention. Suspensions will be included in the employee's OPF for two years or the duration of NRO employment, whichever occurs first.

b. Involuntary reduction. Involuntary reduction moves and employee to a lower grade than was held when demonstrating inappropriate conduct or performance.

(1) Progressive discipline. This is the second formal step in progressive discipline, usually issued once lesser penalties have been exhausted, or when recommended in the Table of Penalties for repeat offenses.

(2) Notice of Proposed Action. An employee will be provided at least 30 calendar days' advance written notice of the proposed action unless the NRO has reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment may be imposed and is proposing a removal or suspension, including indefinite suspension. This notice will identify the specific reasons for the proposed action and include specific examples, where applicable.

(a) In no case may the employee's salary exceed the maximum for the grade to which reduced.

(b) An employee's annual compensation may not be reduced more than once in a 12-month period.

(3) Opportunity to respond. Employees may review the documentation and have at least 24 hours, but not more than 7 calendar days to respond in writing. Employees are entitled to representation as outlined above.

(4) Decision. Employees will be given a written final decision that specifies the action, the effective date, and unless proposed by the EDD, includes a statement that the action has been concurred with by the D and O Director.

(a) The D/DoDHR is the proposing official and the EDD is the deciding official.

(b) An employee will remain on duty and in a pay status during the notice period. Once a decision is made, the employee will be notified if his or her pay or duty status will change.

(5) Appeals. Adverse actions may be appealed (see section G, "Appeals").

ND 70-7, Employee Relations
FY 2015

(6) Records retention. Suspensions will be included in the employee's OPF for two years or the duration of NRO employment, whichever occurs first.

c. Removal. Removal is generally an action of last resort. It is usually taken when corrective action has been tried without effective result, or the situation is of such gravity as to indicate that correction and retention of the employee is appropriate. Ordinarily, before it is proposed to remove an employee, progressive disciplinary measures will have been taken to attempt correction. It must be determined that the removal is warranted to promote the efficiency of the service.

(1) Progressive discipline. This is the final step in progressive discipline, removal will only be recommended when absolutely necessary because all other means have been exhausted, when recommended in the Table of Penalties, or for repeat offenses.

(2) Notice of Proposed Action. An employee will be provided at least 30 calendar days' advance written notice of the proposed action unless the NRO has reasonable cause to believe that the employee has committed a crime for which a sentence of imprisonment may be imposed and is proposing a removal or suspension, including indefinite suspension. This notice will identify the specific reasons for the proposed action and include specific examples, where applicable.

(3) Opportunity to respond. Employees may review the documentation and have at least 24 hours, but not more than 7 calendar days to respond in writing. Employees are entitled to representation as outlined above.

(4) Decision. Employees will be given a written final decision that specifies the action, the effective date, and unless proposed by the EDD, includes a statement that the action has been concurred with by the D and O Director.

(a) The D/DoDHR is the proposing official and the EDD is the deciding official.

(b) An employee will remain on duty and in a pay status during the notice period. Once a decision is made, the employee will be notified if his or her pay or duty status will change.

(5) Appeals. Adverse actions may be appealed (see section H, "Appeals").

ND 70-7, Employee Relations
FY 2015

(6) Records retention. Suspensions will be included in the employee's OPF for two years or the duration of NRO employment, whichever occurs first.

2. National Security Provision. If the adverse action is a suspension and removal in the interests of national security, the NRO may immediately suspend an employee in accordance with section 7532 of title 5, U.S.C. or immediately remove the employee in accordance with section 1609 of title 10, U.S.C. The following provisions will apply:

a. Within 30 calendar days from the date of notification of suspension, the employee has a right to submit documentation to show why he or she should be restored to duty.

b. If the employee has a permanent or indefinite appointment, has completed his or her trial period, and is a United States citizen, the employee is entitled, after suspension and before removal, to:

(1) Within 30 calendar days, a written notice of the charges against him or her, which shall be stated as specifically as security considerations permit. This notice may be amended within 30 days after the original notice.

(2) Thirty calendar days to respond to the charges and submit documents, and an additional 30 calendar days if the charges are amended.

(3) A hearing if requested by the employee.

(4) A review of his or her case by the EDD, before a decision adverse to the employee is made final.

(5) A written final decision.

3. Employee Status During the Notice Period. Except when removal or indefinite suspension is proposed, an employee will remain on duty and in a pay status during the notice period. DoDHR, in consultation with the D and O Director, will determine an employee's duty status during the notice period for removals and indefinite suspensions.

D. Performance-based Actions

These actions are reductions in grade, work level, or rate of base pay, or removals taken to address unacceptable performance. Actions to address unacceptable performance shall be taken according to the procedures of this ND, in compliance with Reference (b), and in accordance with the merit principles identified in section 1612 of Reference (c).

ND 70-7, Employee Relations
FY 2015

1. The NRO may reduce an employee's rate of base pay, reduce an employee's work level, reduce an employee's grade, and/or remove an employee from employment as a consequence of performance that fails to meet established standards. Such performance must be of a level that it is, or will be, documented as unacceptable performance in accordance with Reference (b).

a. The NRO may determine that an employee's overall performance is unacceptable at any time during the performance evaluation period.

b. If, in the rating official's judgment, an employee's performance is unacceptable, the rating official will document feedback sessions with the employee, using the tools outlines in Reference (b).

c. Once an employee has failed to demonstrate acceptable performance after a reasonable opportunity, the supervisor may propose a reduction in an employee's work level, grade, or base pay rate; or removal on the basis of unacceptable performance.

d. Employees may review the documentation and have at least 24 hours, but not more than 7 calendar days to respond in writing.

e. When an employee is moved involuntarily to a lower work level, pay grade, or base pay rate as a result of unacceptable performance, the deciding official may reduce the employee's base salary to an amount not less than the minimum for the grade to which the employee is reduced.

(1) In no case may the employee's salary exceed the maximum for the pay grade to which the employee is reduced.

(2) An employee's annual compensation may not be reduced under involuntary procedures more than once in a 12-month period.

2. An employee whose removal or reduction in work level, pay grade, or base pay rate on the basis of unacceptable performance is entitled to:

a. A 30 calendar-day advance written notice of the proposed action.

b. A request to have a representative assist in preparing and/or presenting a reply to the notice of proposed action. If such representative is desired, an employee must advise DoDHR in writing. An employee's choice of a representative may be declined by DoDHR when such representation would result in a conflict of interest or position; conflict with the priority needs of the NRO, compromise

ND 70-7, Employee Relations
FY 2015

classified activities of the Government, or give rise to additional cost to the Government.

c. A written final decision that specifies the instances of unacceptable performance on which the decision is based and, unless proposed by the D/NRO, includes a statement that the action has been concurred with by the D and O Director.

d. Notification of the right to appeal the final decision in accordance with the "Appeals" section of this ND.

E. Clearance-related Adverse Actions

Continued NRO employment is conditioned on an employee meeting all conditions of employment, to include obtaining and maintaining appropriate clearance and polygraph examination results. Employees who fail to meet this condition will be removed.

1. Indefinite Suspension. When the OS&CI issues a letter indicating the intent to revoke a security clearance and/or access to classified information or sensitive compartmented information (SCI) and suspends that access, D/DoHR may propose the employee be placed on an indefinite suspension without pay, pending final security clearance adjudication.

a. An employee subject to an indefinite suspension without pay under this paragraph will be provided advanced notice using the process identified under the "Adverse Actions" section of this ND.

b. An employee may appeal clearance-related adverse actions, via the NRO Appeals Program.

c. In addition to the requirements identified under "Adverse Actions," the notice of proposed indefinite suspension will tell the employee the indefinite suspension will continue through the date a final decision has been reached by NRO's Personnel Evaluation Board on whether the employee's access to classified information or SCI has been revoked and associated administrative actions have been completed.

2. Removal. An employee subject to removal for loss of access to classified information or SCI will be provided with a proposed removal notice using the process identified under "Adverse Actions" and appeal rights specified under NI 70-7-1, Appeals.

3. Proposing and Deciding Officials. In clearance-related adverse actions D/DoHR is the proposing official and the EDD is the deciding official.

ND 70-7, Employee Relations
FY 2015

F. Off-duty Adverse Actions

1. Off-duty Misconduct. An employee who demonstrates misconduct may be subject to disciplinary or adverse action, provided a clear nexus between the off-duty misconduct and the efficiency of the service exists. Supervisors must coordinate with DoDHR to ensure this nexus is defensible.

2. Proposing and Deciding Officials. In off-duty-related adverse actions D/DoDHR is the proposing official and the EDD is the deciding official.

G. Removals During The Trial Period

An employee on a trial period may be terminated if performance or conduct fails to demonstrate suitability for continued employment with NRO.

1. Supervisors must document disciplinary or performance-based discrepancies found during trial periods and discuss the discrepancies with the employee.

2. For veterans' preference eligible employees terminated during the trial period, DoDHR will follow the policy under the "Adverse Actions" section of this ND, provided the employee has served in the same or similar position for more than one year.

3. There is no proposal or reply period for these actions. Therefore, the document of termination within trial period will be signed by the EDD or his/her designee.

H. Appeals

1. Eligible employees may not grieve an adverse action, but may appeal adverse action decisions by submitting a written appeal to the EDD, who serves as the designated appellate authority, within 15 calendar days of the effective date of the adverse action. The appellate authority will review the employee's written appeal and the record of the action and issue a written, final decision as soon as practicable.

2. Appeals of actions resulting from unacceptable performance will be adjudicated in accordance with Section 7701(c)(1)(A) of Reference (d). Appeals of actions resulting from inappropriate conduct will be adjudicated in accordance with Section 7701(c)(1)(B) of Reference (d).

3. A veterans' preference eligible employee who has completed at least one continuous year of service in the same or similar position has appeal rights to the MSPB. If an employee elects to appeal to the

ND 70-7, Employee Relations
FY 2015

MSPB, he or she may not also maintain an appeal of the same action through the process described in NI 70-7-1, Appeals. Prosecuting an appeal through this process does not extend the filing deadlines applicable to MSPB appeals.

I. Whistleblower Protections

In accordance with reference (1), reprisals against NRO DoD civilian employees for protected disclosures is prohibited. All employees are prohibited from taking, failing to take, threatening to take, or threatening to fail to take, personnel action against any NRO DoD civilian employee, including DISES and DISL members, as a reprisal for a protected disclosure. This prohibition includes administrative actions such as restricting access to classified information.

SECTION V - ROLES AND RESPONSIBILITIES

EDD, will:

- a. Oversee the administration of Employee Relations programs for NRO DoD Civilian Employees.
- b. Serve as the NRO DoD Civilian appellate authority for adverse employment actions.

D/DoDHR, or delegate, will:

- a. Manage NRO Employee Relations programs and issue supplemental instructions where permitted.
- b. Provide guidance to supervisors and D and O Directors; ensure personnel actions comply with all applicable laws, rules, and regulations prior to processing; and, bring possible inconsistencies to the attention of D and O Directors, Supervisors, consulting with legal counsel as necessary.

Supervisors will:

- a. Make sure employees understand rules, regulations, and other standards of conduct.
- b. Administer fair, consistent, and correct disciplinary and adverse action programs within their organizations according to regulations.
- c. Process all employee relations actions through the DoDHR and the servicing employee relations personnel office.

SECTION VI - DIRECTIVE POINT OF CONTACT

D/DoDHR, secure and unsecure

(b)(3)

ND 70-7, Employee Relations
FY 2015

SECTION VII - IMPLEMENTING INSTRUCTIONS

The D/DoDHR will approve and sign any implementing Instructions developed under this ND.

Interim ND 70-7, Employee Relations
FY 2015

APPROVING SIGNATURE

As the NRO Director, DoD Office of Human Resources, I confirm that this document conforms with applicable DoD and federal regulations.



Andrew J. Doane
Director, DoD Office of
Human Resources

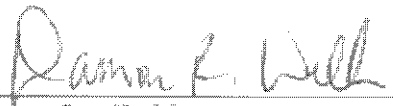
15 July 2015
Date

As the Executive Director of the DoD Workforce (EDD) I confirm that this document provides a complete representation of the NRO DoD Civilian Workforce and that the document will govern the NRO DoD Civilian Workforce until such time as a permanent ND can be adjudicated and approved.



Michael Martin Hale
Executive Director of the
DoD Civilian Workforce

15 JUL 2015
Date



Damon R. Wells
Director, Office of Policy
and Strategy

15 July 2015
Date

ND 70-7, Employee Relations
FY 2015

APPENDIX A - GLOSSARY and ACRONYM LIST

Term and Acronym	Definition
Adverse action	Suspension for more than 14 calendar days, reduction in grade, work level or rate of base pay, and removal taken to address inappropriate conduct.
Conditions of Employment	Criteria or terms an employee or candidate must satisfy in order to begin or continue employment with the NRO.
Conduct-based action	Action taken when an employee's conduct, not related to performance of duties, is determined to be inappropriate or in violation of NRO policy.
Deciding official	An official delegated authority by the EDD, to make a determination on a proposed disciplinary or adverse action; normally the D or O Director.
Efficiency of the Service	An adverse action promotes the efficiency of the service when the grounds for the action relate to either an employee's ability to accomplish his duties satisfactorily or to some other legitimate government interest.
Employee Grievance System	As defined in Reference (a).
Formal Disciplinary action	Formal disciplinary actions include Letters of Reprimand or suspension for 14 calendar days or less.
Informal Disciplinary action	Informal disciplinary actions include oral admonishment and Letters of Caution.
Nexus	A clear connection between employee misconduct and the duties and/or responsibilities of their position.
Non-veterans' preference eligible employee	An employee who, lacking qualifying military service, is not eligible by law for special consideration in any personnel action.
Performance-based action	Reduction in grade, work level, or rate of base pay, or removal taken to address unacceptable performance.
Proposing official	An official who initiates a disciplinary or adverse action and provides a written notice of that proposed action to the affected employee. A proposing official will normally be the supervisor.
Rating Official	The official in an employee's chain of command, generally the supervisor, responsible for conducting performance planning, managing performance throughout the evaluation period, providing performance feedback, and preparing the end-of-year employee performance appraisal.

ND 70-7, Employee Relations
FY 2015

Term and Acronym	Definition
Remedial actions	Initial steps taken by management to improve an employee's conduct or performance when that deficiency does not immediately warrant the initiation of a disciplinary or adverse action. Remedial steps to address conduct include counseling including issuing a Letter of Caution. Remedial actions to address performance are specified in Reference (e).
Suspension	The placement of an employee, for reasons of misconduct into a non-paid, non-duty status during the dates specified by NRO. Suspensions preclude the employee from working at NRO, even as a volunteer.
Veterans' Preference Eligible Employee	An individual who qualifies as "preference eligible" under section 2108, and as an "employee" under Section 7511 of Reference (c).

ND 70-7, Employee Relations
FY 2015

APPENDIX B - TABLE OF PENALTIES

A. Introduction

This Appendix assists management officials in determining appropriate penalties and provides a framework for progressive discipline. In determining an appropriate disciplinary penalty, management officials will be mindful that discipline will be administered in a progressive manner and is intended to:

1. Correct the inappropriate conduct, attitude or work habits.
2. Help maintain the morale and efficiency of the NRO.
3. Be fair and reasonable in its degree of severity.
4. is warranted or likely to rehabilitate the employee's conduct.

b. Table Description

The following Table of Penalties provides descriptions of the nature of deficiencies and penalties. All mention of "days" are calendar days. The Table is used to assist supervisors in selecting penalties and to provide a framework for progressive discipline. In selecting an appropriate disciplinary action, it should be remembered that discipline has a progressive purpose and is intended to correct the unacceptable conduct, help maintain morale and efficiency of the service and be fair and reasonable in its degree of severity.

1. The Table is not intended to cover every possible offense. Rather, it covers the most common offenses committed by employees. Remedies for offenses not listed will be determined consistent with the criteria established in this policy.

2. The Table is intended to serve only as a guide, and greater or lesser penalties than suggested may be imposed as circumstances warrant. For example, removal on first offense may be warranted for extended absent without leave (AWOL) periods.

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
1. Insubordination	Refusal to obey orders, defiance of authority.	Oral admonishment to removal	Letter of caution to removal	Reprimand to removal	
2. Fighting/ Creating a Disturbance*	a. Creating a disturbance resulting in an adverse effect on morale, production, or maintenance of proper discipline.	Oral admonishment to 5 day suspension	Letter of caution to 10 day suspension	Reprimand to removal	*Penalty may be exceeded if work is severely disrupted.
	b. Threatening or attempting to inflict bodily harm without bodily contact.	Oral admonishment to 14 day suspension	Reprimand to removal	5 day suspension to removal	*Penalty may be exceeded based on such factors as type of threat, provocation, extent of injuries, whether actions were defensive or aggressive in nature, or whether actions were directed at a supervisor.
	c. Hitting, pushing or other acts against another without causing injury.	Written reprimand to 30 day suspension	10 day suspension to removal	Removal	
	d. Hitting, pushing or other acts against another causing injury.	Written reprimand to removal	Removal		
3. Sleeping on duty	a. Where safety of personnel or property is not endangered.	Oral admonishment to 1 day suspension	Letter of caution to 5 day suspension	Reprimand to removal	
	b. Where safety of personnel or property is endangered.	Reprimand to removal	10 day suspension to removal	Removal	
4. Loafing; delay in carrying out instructions	a. Idleness or failure to work on assigned duties.	Oral admonishment to 3 day suspension	Letter of caution to 5 day suspension	Reprimand to removal	
	b. Delay in carrying out or failure to carry out instructions within the time required.	Oral admonishment to 3 day suspension	Letter of caution to 5 day suspension	Reprimand to removal	

UNCLASSIFIED

ND 70-7, Employee Relations
FY 2015

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
5. Attendance related offenses	a. Any absence from the regularly scheduled tour of duty which has not been authorized and/or for which pay must be denied (AWOL) or any absence from management directed additional hours of duty (Unauthorized Absence). Includes leaving the work site without permission	Oral admonishment to 3 day suspension	Letter of caution to 14 day suspension	Reprimand to removal	Penalty depends on length of absences. Removal may be appropriate for 1st or 2nd offenses if the absence is prolonged.
	b. Failure to follow established leave procedures	Oral admonishment to 3 day suspension	Letter of caution to 14 day suspension	Reprimand to removal	
	c. Unexcused tardiness	Oral admonishment to 1 day suspension	Letter of caution to 3 day suspension	Reprimand to 5 day suspension. Habitual tardiness warrants removal.	Includes delay in reporting at the scheduled starting time, returning from lunch or break periods, and returning after leaving work station on official business. Penalty depends on length and frequency of tardiness.

ND 70-7, Employee Relations
FY 2015

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
6. Unauthorized use of alcohol, drugs or controlled substances	a. Unauthorized possession, use, or transfer of alcoholic beverages while on government premises or in a duty status.	Oral admonishment to 5 day suspension	Letter of caution to 14 day suspension	Reprimand to removal	Penalty may be exceeded when aggravating circumstance are present.
	b. Reporting to work or being on duty while under the influence of alcohol to a degree which would interfere with proper performance of duty, would be a menace to safety, or would be prejudicial to the maintenance of discipline.	Written reprimand to 30 day suspension.*	14 day suspension to removal	Removal	*Removal may be warranted if the safety of personnel or property is endangered.
7. Discourtesy	Discourtesy, e.g., rude, unmannerly, impolite acts, gestures, or remarks (non-discriminatory).	Oral admonishment to 1 day suspension	Letter of caution to 5 day suspension	Reprimand to 14 day suspension	Penalty for fourth offense within 1 year may be 14 day suspension to removal. Penalty may be exceeded if discourtesy or similar conduct was directed to a supervisor.
8. Gambling	a. Participating in an unauthorized gambling activity while on Government premises or in a duty status.	Oral admonishment to 1 day suspension	Letter of caution to 5 day suspension	Reprimand to 30 day suspension	

ND 70-7, Employee Relations
FY 2015

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
	b. Operating, assisting or promoting an unauthorized gambling activity while on Government premises or in a duty status or while others involved are in a duty status.	14 day suspension to removal	Removal		
9. False Statements	a. Misrepresentation, falsification, or concealment of a material fact in connection with any official document.	Oral admonishment to removal	5 day suspension to removal	10 day suspension to removal	Removal is warranted for a first offense.
	c. Making false or malicious statements against co-workers, supervisors, subordinates, or government officials with the effect of harming or destroying the reputation, authority, or official standing of that individual or an organization.	Oral admonishment to removal	Reprimand to removal	5 day suspension to removal	

ND 70-7, Employee Relations
FY 2015

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
10. Stealing	Stealing, actual or attempted, unauthorized possession of government property or property of others, or collusion with others to commit such acts.	Reprimand to removal	5 day suspension to removal	10 day suspension to removal	Penalty depends on such factors as the value or the property or amounts of employee time involved, and the nature of the position held by the offending employee which may dictate a higher standard of conduct.

ND 70-7, Employee Relations
FY 2015

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
11. Misuse or abuse of Government Property	a. Loss of, damage to, misuse of, unauthorized use of, or destruction of Government property.	Written reprimand to removal	5 day suspension to removal	10 day suspension to removal	Penalty depends on such factors as the value of the property or amounts of employee time involved, and the nature of the position held by the offending employee which may dictate a higher standard of conduct.
	b. Willfully using or authorizing the use of a government passenger motor vehicle or aircraft for other than official purposes.	30 day suspension to removal	Removal		See 31 USC 1349. Penalty cannot be mitigated to less than 30 days.
	c. Misuse of Government credentials	Written reprimand to removal	5 day suspension to removal	14 day suspension to removal	
	d. Misuse of the Government Travel Charge Card (e.g., use for unauthorized personal expenses, failure to pay charge card bill or pay such bill in a timely manner).	Reprimand to removal	5 day suspension to removal	10 day suspension to removal	

ND 70-7, Employee Relations
FY 2015

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
	e. Unauthorized use of or failure to appropriately control use of the Government Purchase Charge Card as a cardholder, approving official responsible for the use or oversight of the card.	Reprimand to removal	14 day suspension to removal	30 day suspension to removal	
12. Unauthorized use or possession of a controlled substance	a. Introduction of a controlled substance to a work area or government installation for personal use.	3 day suspension to removal	Removal		
	b. Unlawful use of illicit drugs, prescription drugs, or other substance in a manner other than for their legally intended purpose in accordance with current laws, regulations, and DoD issuance.	10 day suspension to removal	Removal		
	c. Introduction of a controlled substance to a work area or government installation in amounts sufficient for distribution or distribution of a controlled substance on a government installation.	Removal			
13. Failure to observe written regulations, orders, rules, or procedures	a. Violation of administrative rules or regulations where safety to persons or property is not endangered.	Oral admonishment to 1 day suspension	Letter of Caution to 5 day suspension	Reprimand to removal	
	b. Violation of administrative rules or regulations where safety to persons or property is endangered.	Oral admonishment to removal	Letter of Caution to removal	Reprimand to removal	

ND 70-7, Employee Relations
FY 2015

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
14. Violations of official security regulations. Action against National Security.	Consult OGC				
15. Discrimination because of race, color, religion, age, sex, national origin, political affiliation or disability, marital status, or sexual orientation	Prohibited discriminatory practice in any aspect of employment.	Oral admonishment to removal	Reprimand to removal	14 day suspension to removal	Appropriate penalty depends on the facts in a given case weighed against NRO policy that discrimination is prohibited.
16. Sexual Harassment	Quid pro quo.	Oral admonishment to removal	Reprimand to removal	14 day suspension to removal	Appropriate penalty depends on the fact situation in a given case weighed against NRO policy that sexual harassment will not be tolerated.
17. Conduct Unbecoming a Federal Employee	a. Immoral, indecent, or disgraceful conduct.	Oral admonishment to removal	Letter of Caution to removal	Reprimand to removal	Includes off-duty conduct if nexus is established.
	b. Solicitation of or accepting anything of monetary value from person who is seeking contracts or other business or financial gain.	Consult OGC			

ND 70-7, Employee Relations
FY 2015

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
	c. Inappropriate use of a position of authority.	Oral admonishment to removal	Reprimand to removal	14 day suspension to removal	
18. Interference or obstruction	Falsification, giving false testimony, or withholding material facts or refusal to testify in connection with matters under official investigation, inquiry, or other official proceeding.	Reprimand to removal	5 day suspension to removal	Removal	Witness shall be assured freedom from restraint interference, coercion, discrimination, or reprisal in their testimony.
19. Political Activity	a. Violation of prohibition against soliciting political contributions.	Consult OGC			
	b. Violation of prohibition against campaigning or influencing elections.	Consult OGC			
20. Misappropriation	a. Directing, expecting or rendering services not covered by appropriations.	Removal			5 USC 3103
	b. Failure to deposit into the Treasury money accruing from lapsed salaries or from unused appropriations from salaries.	Removal			5 USC 5501
21. Reprisal	Reprisal, restraint, coercion, or interference with an employee for use of a grievance or appeal procedure, or reporting fraud, waste, or abuse, or for filing a discrimination complaint.	Oral admonishment to removal	Reprimand to removal	14 day suspension to removal	

ND 70-7, Employee Relations
FY 2015

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
22. Prohibited Personnel Practices	Prohibited actions under 5 USC 2302 by any employee who has authority to take, direct others to take, recommend, or approve any personnel action.	Oral admonishment to removal	Reprimand to removal	14 day suspension to removal	5 USC 2302

ND 70-7, Employee Relations
FY 2015

APPENDIX C - DOUGLAS FACTORS

The MSPB has enunciated 12 factors (Douglas Factors) that should be considered when selecting an appropriate disciplinary penalty (Douglas v. Veterans Administration, 5 MSPB 313(1981). Not all factors are relevant in every case and not all are of equal weight in making a decision.

a. The nature and seriousness of the offense and its relation to the employee's duties and responsibilities, including whether the offense was intentional or technical; inadvertent or committed maliciously or for gain; or was frequently repeated.

b. The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and the prominence of the position.

c. The employee's past disciplinary record.

d. The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability.

e. The effect of the offense upon the employee's ability to perform at a satisfactory level.

f. Consistency of the penalty with those imposed upon other employees for the same or similar offenses.

g. Consistency of the penalty with the Table of Penalties.

h. The notoriety of the offense, or impact upon the reputation of NRO.

i. The clarity of the notification given to the employee regarding any rules which were violated in committing the offense, or warning about the conduct in question.

j. Potential for the rehabilitation of the employee's conduct.

k. Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, bad faith, malice or provocation on the part of others involved in the matter.

l. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.