

CIVILIAN MARINE PERSONNEL INSTRUCTION

CMPI 750

COVER SHEET - 342

Discipline

Date: 19 Feb 2008

Attached is new CMPI 750, Discipline. This change replaces CMPI 750 in its entirety.

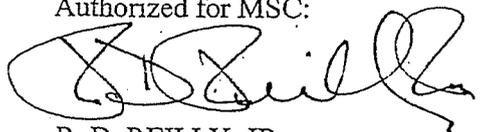
Reason for Revision

CMPI 750 has been updated reflecting the organizational changes from APMC and Area Commands to MSFSC. CMPI 750 is reviewed as part of the total CMPI review project, the goal of which was to streamline the CMPIs, eliminate redundant and non-policy information, and return them to basic policy documents required for the management of the MSC civil service mariner (CIVMAR) program.

Effective Date

The above revision is effective upon receipt. Collective bargaining obligations with recognized labor organizations must be satisfied prior to implementation with each seagoing unit.

Authorized for MSC:



R. D. REILLY, JR.
Rear Admiral, U.S. Navy
Commander

Approved:

 SES

Director, HR Operations + Customer Engagement

By direction of the Secretary of the Navy

CIVILIAN MARINE PERSONNEL INSTRUCTION 750
(C.S. 342 of 19 Feb 08)

DISCIPLINE

- Section 1. General Provisions
 - 2. Responsibilities
 - 3. Uniformity of Discipline
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Section 1. General Provisions

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1-1. SCOPE AND COVERAGE. This instruction sets forth policies, assigns responsibilities, and delegates authorities for discipline of civil service mariners (CIVMARs) of the Military Sealift Command (MSC).

1-2. REFERENCES

- a. Title 5, United States Code (5 USC)
- b. 5 Code of Federal Regulations (5 CFR)
- c. DoN Civilian Human Resource Manual (Subchapter 752)
- d. SECNAVINST 5210.8 (series)
- e. Joint Ethics Regulations (DoD 5500.7-R)

1-3. DEFINITIONS. See CMPI Definitions/Glossary Appendix.

1-4. BASIC PRINCIPLES AND POLICY

a. Discipline is a management tool used to correct deficiencies in employee conduct/behavior and performance in compliance with references (a) and (b). Discipline is not

punitive; it should serve as a deterrent to unacceptable conduct/behavior and for correction of situations that interfere with efficient operations. To ensure high standards of government service and maintain public confidence in the Military Sealift Command and Department of the Navy, adverse actions may be taken only for such cause as will promote the efficiency of the service.

b. Discipline will be initiated promptly following the instance(s) of unacceptable conduct or performance on which the action is based insofar as practicable.

Where guidelines are not provided by this instruction for making determinations concerning discipline of CIVMARs, applicable statutes, directives, and decisions issued by higher authority, including case law, should be followed. Although CIVMARs are excluded from reference (c), it may be used for guidance by Military Sealift Fleet Support Command (MSFSC).

1-5. RETURN OF EMPLOYEES ASHORE

a. When discipline proceedings have been initiated against an employee assigned or detailed to a ship, the employee may, with the prior approval of the MSFSC, be returned to MSFSC, CIVMAR Support Unit (CSU), or other location designated by MSFSC. Normally suspensions of 14 days or less will be served after the employee completes his/her tour of duty and the employee should not be returned ashore from his/her shipboard assignment during his/her shipboard tour.

b. When an employee is to be returned to MSFSC (CSU), or other location designated by MSFSC from a ship or port, the Master will request that the MSC authority in the port of call arrange for the employee's return ashore. If the action takes place in a port where there is no MSC Command, office, or common-service representative, the Master will make necessary arrangements for the employee's return or as otherwise directed by MSFSC. Travel arrangements, duty and leave status of the CIVMAR will be determined by MSFSC in accordance with applicable instructions and regulations.

1-6. SHIP'S ORDERS. Ship's Orders, enclosure 6-1, set forth standards of conduct and performance of duty for CIVMARs serving aboard ships. It is the responsibility of all Masters and other supervisors to ensure compliance with Ship's Orders. Failure to comply with Ship's Orders may result in disciplinary action. Masters may supplement Ship's Orders with the written approval of Director, MSFSC or his/her designee. Ship's Orders may also be supplemented with MSFSC policy and/or COMSC Commander's Policy. Copies of the Ship's Orders are to be conspicuously posted in suitable locations aboard ship.

1-7. RECORDS

a. Discipline records will be maintained, protected, and disposed of by MSFSC in compliance with higher level policy and recordkeeping requirements and regulations, including the Privacy Act and references (b) and (d). Discipline records aboard ship will be provided or sent to MSFSC at the earliest opportunity after conclusion of action aboard ship.

b. At a minimum, records are to include copies of the advance written notice of proposed action (for those actions requiring one); the employee’s written answer, if any; a written summary of the employee’s oral reply, if an oral reply was made; the reason(s) for and written notice of decision, any order affecting the action, and evidence and supporting material, and the Notification of Personnel Action (for those disciplinary actions requiring one).

Section 2. Responsibilities

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2-1. GENERAL. Director, MSFSC is charged with overall authority and responsibility for implementing, managing, and administering an effective CIVMAR discipline program in a manner conducive to a high standard of conduct and high level of morale. Masters (or Officer in Charge (OIC)) are charged with maintaining discipline afloat. Nothing in this instruction precludes an appropriate higher level of authority from initiating or deciding an action. At the discretion of the Director, MSFSC and consistent with provisions of this instruction, delegation of authority and types of disciplinary actions that may be proposed or decided may be further restricted.

2-2. DIRECTOR, MILITARY SEALIFT FLEET SUPPORT COMMAND (MSFSC). The Director will:

- a. Ensure that the CIVMAR discipline program is managed and administered effectively, appropriately, and consistently.
- b. Issue MSFSC policies and procedures for initiating, processing, managing and administering discipline for CIVMARs. Policies, procedures, and guides established and issued must be consistent with the provisions of this instruction and applicable higher-level policies and procedures as well as civil service laws and regulations.
- c. Ensure that MSFSC has an administrative grievance system (AGS) established for CIVMARs who may not have a negotiated grievance procedure. Serve as Deciding Authority for the AGS.
- d. Serve as Deciding Authority on discipline of Masters and Chief Engineers. This authority may not be delegated further.

e. Ensure that Masters (or OICs, as appropriate) serve as proposing and deciding officials on shipboard disciplinary actions for crewmembers up to and including suspensions of 14 days or less (except for suspensions of Chief Engineers), consistent with enclosure 6-2 delegations and discipline program policies.

f. Designate in writing MSFSC ashore official(s)/employees authorized to serve as proposing and deciding officials on disciplinary actions. Officials may be designated by name or by organizational title, and the levels of these individuals in MSFSC, as well as the types of actions for which they may serve as proposing or deciding officials must be consistent with the types of actions and levels of officials identified on enclosure 6-2. Authority to serve as Proposing and/or Deciding Official may be withdrawn and re-delegated at any time in the disciplinary action processing as deemed necessary by the Director, MSFSC or the person to whom the Director delegates this authority. In addition, the Director, MSFSC or the person to whom the Director, MSFSC delegates this responsibility may withdraw the authority at any time and may restrict the types of disciplinary actions that MSFSC ashore officials may propose or decide.

g. Make determinations to disallow the choice of an employee's representative, as necessary. This authority may be re-delegated to a level no lower than the level of official designated to make the final written decision on a disciplinary or adverse action.

h. Ensure that the discipline program and policies of this CMPI as well as any issued by MSFSC are publicized and that CIVMARs are apprised of the policies.

i. Ensure that employees processing personnel and personnel related actions are trained to perform the functions of their positions and position requirements.

j. Ensure that discipline records are maintained and disposed of in compliance with higher level directives and regulations.

k. Ensure assumption of administrative responsibility for CIVMARs who are not assigned to a ship and are ashore awaiting disciplinary action or who have been suspended from duty.

l. Ensure that bargaining obligations with exclusively recognized labor organizations as required by 5 USC, Chapter 71, are satisfied.

m. Submit to COMSC (Attn: N1) by 30 April and 31 October each year, metrics on CIVMAR disciplinary actions taken in the preceding six months. The metrics shall categorize actions by infraction, grouping similar infractions into common categories using logical criteria. The metrics shall also enable users to compare similar data by department and officer and non-officer categories.

2-3. DEPUTY DIRECTOR, MILITARY SEALIFT FLEET SUPPORT COMMAND (MSFSC). The Deputy Director will serve as Proposing Authority for discipline of Masters and Chief Engineers. This authority may not be delegated further.

2-4. DIRECTOR, HUMAN RESOURCES AND MANPOWER (MSFSC). This individual (or equivalent level position as designated by that individual) will:

a. Serve as proposing or deciding official on disciplinary and adverse actions as delegated by Director, MSFSC.

b. Ensure that employees, supervisors, and managers, ashore and afloat, are provided advice, assistance, guidance and training on the discipline program policies and procedures.

c. Ensure consistency and uniformity as well as policy, procedural, regulatory and legal compliance in actions taken.

d. Ensure that subordinate employees are trained to perform the functions of their positions.

e. Ensure discipline records are maintained, protected, transmitted, and disposed of in compliance with higher level directives and regulations, including references (b) and (c).

f. Ensure that each Master or ashore supervisor is advised about disciplinary and adverse actions, employees' grievance and/or appeal rights and entitlements and of any final decision on appeals or grievances taken on disciplinary action initiated or imposed by him/her.

g. As determined appropriate, use or encourage the use of Alternative Dispute Resolution services to enhance communication and seek collaborative resolution of workplace concerns.

2-5. MASTER. The Master (or OIC, as may be appropriate) is charged with primary responsibility for managing and administering discipline aboard ship fairly and impartially and in a manner that is consistent with the policies and procedures prescribed by MSFSC N1, higher level authority, this instruction and applicable laws, rules, and regulations governing discipline of civil service employees, and any applicable labor-management agreements. The Master:

a. Consistent with discipline program delegations by MSFSC, may issue reprimands and propose and decide log penalties and conditional suspensions for all subordinate shipboard employees under his/her jurisdiction. He/she may propose and decide suspensions of 14 days or less for all subordinate shipboard employees under his/her jurisdiction, except Chief Engineers.

b. Must refer recommendations of disciplinary actions more severe than a 14-day suspension (including demotions and removals), suspensions (any length) of Chief Engineers, and any other recommended disciplinary action for which his/her authority has been restricted, along with all supporting documentation and background to MSFSC.

c. Will ensure completion of written notices, forms, and/or letters of or related to disciplinary/adverse actions initiated and/or taken aboard ship and send or provide written documentation involving disciplinary actions aboard ship to MSFSC at the earliest opportunity.

d. Will consult/coordinate with MSFSC officials on each disciplinary action initiated

aboard ship to ensure consistency in processing, consideration of aggravating and mitigating factors, content of forms/letters, and to advise employees about responding to charges and about their rights, entitlements and time limits in discipline cases.

- e. Must request approval from MSFSC for any repatriation of a CIVMAR.
- f. May not delegate discipline authority.
- g. Should set a good example by his/her own conduct and work performance.

In the case of a bona-fide emergency onboard requiring immediate action by the Master, and after reasonable but unsuccessful effort to contact an MSFSC representative, the Master may take such action that he/she deems appropriate to ensure the safety and well being of ship's personnel consistent with MSFSC program policies and procedures.

2-6. SUPERVISORS. Supervisors will:

- a. Communicate requirements and expectations about conduct and performance to employees.
- b. Set good examples by their own personal conduct and performance.
- c. Monitor employee conduct and performance and recommend, take, and/or initiate appropriate corrective action as required.
- d. Report individual cases of misconduct or deficient performance of assigned subordinate employees to Proposing and/or Deciding Officials and submit recommendations of discipline with details of offense, supporting evidence and any other relevant documentation to the Proposing/Deciding Official(s), as appropriate.
- e. Refer employees to the Civilian Employee Assistance Program, as may be appropriate.

2-7. EMPLOYEES. Employees will:

- a. Conduct themselves, both on and off duty, in a manner that will ensure that their conduct does not reflect adversely on MSFSC, Military Sealift Command, and the Department of the Navy (DON).
- b. Comply with Ship's Orders, enclosure 6-1, reference (a) and (e), and on-the-job work rules, including reporting for work on time and in a condition that will permit safe, reliable, and acceptable level of performance of assigned job duties.

Section 3. Uniformity of Discipline

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3-1. COUNSELING, COACHING AND OTHER NON-DISCIPLINARY TOOLS

a. Supervisory counseling and coaching are valuable tools and may be effective in precluding the initiation of discipline in some instances.

b. In addition, the use of such non-disciplinary measures such as Letter of Caution or Letter of Requirement may preclude the need to initiate discipline. Letters of Caution and Requirement are not considered disciplinary actions and are not made a matter of record in the employee's Official Personnel Folder (OPF). However, they may be valuable and effective tools for clearly putting employees on notice about inappropriate behavior or performance deficiencies and the need to improve. They are not counted as a prior offense when determining a range of remedies under enclosure 6-3, but may be considered in determining an appropriate remedy should an offense subsequently occur.

c. Letter(s) of Caution or Letter(s) of Requirement must be coordinated with MSFSC prior to issuance to ensure content correctness and consistency. Signature authority for Letters of Caution or Letters of Requirement should normally be no lower than the first level supervisor, or as otherwise determined appropriate by MSFSC.

3-2. SCHEDULE OF OFFENSES AND REMEDIES. This Schedule, enclosure 6-3, serves as a guide in identifying offenses, assessing appropriate penalty(s)/reasonable remedy(s) to correct the situation, and achieving equitable and consistent treatment among employees. It does not cover all conceivable situations. Should an offense be committed that is not adequately or properly identified by one of the listed offenses, such terms and such remedy as best fit the act of misconduct for which the employee is being disciplined will serve as a guide. In any case, the final decision should be based on such relevant factors set forth in enclosure 6-5.

3-3. TYPES OF APPROPRIATE PENALTIES/REASONABLE REMEDIES. A wide range of penalties/remedies is available to correct misconduct.

a. Reprimand. A written notice/letter of disciplinary action issued to an employee based on specific unacceptable conduct deficiencies. It is normally maintained in the Official Personnel Folder (OPF) for up to two years (but may be removed earlier) after which it is

removed and not considered as a prior offense for further disciplinary purposes. It may document a single incident of serious misconduct or repeated minor misconduct offenses which have not been corrected by less formal actions.

b. Log penalty. "Logging" is a pay forfeiture assessed by the Master as a disciplinary action. Hence, a penalty of "one day's log" is the forfeiture of one day's base pay. It can be issued for no less than one nor no more than two days. It may only be assessed aboard ship and only for certain shipboard offenses and cannot be issued to a CIVMAR who is not assigned or detailed to a ship.

c. Conditional suspension. This is a suspension levied aboard ship that is held in abeyance on the condition that the employee commits no other offense(s). A conditional suspension cannot exceed 7 days and is assessed aboard ship for a shipboard offense. While MSFSC is not precluded from using it ashore, the offense for which it is used as a remedy must have occurred aboard ship.

d. Suspension. A suspension places an employee in a temporary, non-duty and non-pay status for disciplinary reasons. Suspensions require two levels of action, a proposing level and deciding level. The deciding level official must be at a higher administrative level than the proposing official.

e. Demotion. This action moves an employee to a position with a lower rate of basic pay. It requires two levels of action, a proposing level and deciding level, except where an employee volunteers for demotion. The deciding level official must be at a higher administrative level than the proposing official.

f. Removal. This action is used to effect an involuntary separation of an employee from Federal service, except when resulting from a reduction-in-force. It requires two levels of action, a proposing level and a deciding level. The deciding official must be at a higher administrative level than the proposing official.

Neither "discharge from the ship" nor "transfer to another ship" is an authorized penalty/remedy for an offense. Restriction of liberty is not an authorized remedy for an offense, although liberty may be restricted because of offensive behavior ashore and that behavior may serve as the basis for subsequent discipline. Confinement is not a disciplinary action or a remedy for one. An employee may be confined only to protect safety of the ship, crewmembers, cargo, stores, or equipment. The confinement of any employee must be coordinated with MSFSC, including the prospective place of confinement, the medical fitness/condition of the employee, and the employee's release to appropriate authorities at the first opportunity. The place of confinement must meet minimum habitability standards, the confined employee should be checked frequently and confinement must be recorded in the ship's log.

3-4. TRIAL AND TEMPORARY EMPLOYEES. Director, MSFSC is responsible for policies and procedures for trial periods and trial and temporary employees. If it becomes necessary to remove a trial or temporary employee and the employee is ashore, the Director, MSFSC or the person to whom the Director delegates this responsibility or COMSC will initiate appropriate

action consistent with applicable policies, procedures, and regulations. If the employee is afloat, the Master will consult with MSFSC to confirm the employee's status, recommend the employee be separated, provide written reasons for that recommendation and request authorization to return the employee ashore, to a location designated by MSFSC. MSFSC will coordinate and process all necessary actions.

3-5. DESERTION. Actual desertion is extremely rare and can be proven only if the intent not to return to the ship is established by the evidence. In some cases and circumstances, when an employee leaves a ship during a voyage/deployment without authority and with intent not to return to the ship, resignation, by mutual consent, from the ship and from the Federal service may be arranged, but must be coordinated with MSFSC to obtain guidance on administrative processing and travel/transportation arrangements/costs prior to being accepted/acceptable. In any case, a charge of desertion may only be made after consultation with MSFSC. The following provisions are applicable to apparent desertion cases.

a. Establishment of intent required. Desertion must be distinguished from unauthorized absence. Desertion can be proven only if the intent not to return to the ship is established by the evidence. When an employee leaves a ship during a voyage without authority and with intent not to return to the ship, he/she may be charged with desertion.

b. Return to the ship during voyage. An apparent deserter who returns to the ship during the voyage requesting restoration to active duty should be restored to duty in the crew. The desertion charges should be canceled, MSFSC should be notified, and other appropriate action should be initiated. The Master may refuse to restore the employee to duty if a replacement has been assigned to the ship or if the employee's presence aboard would jeopardize the safety of the ship, personnel, and cargo. If the employee is not restored to duty in the crew he/she should be directed to report to an ashore office/official/location as designated by MSFSC and should be carried as absent without leave (AWOL) until such time as he/she reports to the MSFSC designated office/official/location.

c. Report of Cases. When an employee has apparently deserted, the Master notifies MSFSC about the case and follows up with a written report to MSFSC at the earliest opportunity. The written report should include, but not be limited to, statement of evidence available aboard the ship that supports the basis of the intent of the employee not to return to the ship's duties; affidavits/declarations made under penalty of perjury (enclosure 6-4, Form 6) from ship's officers and other personnel who are able to furnish direct information on the employee's intent prior to his/her departure from the ship; and an inventory of personal effects, if any, left by the employee concerned. An apparent desertion is to be reported to a Consular Officer, if any, at the port of desertion within 48 hours or, where necessary, at the next port of call. MSFSC is responsible for taking action on pay and allotments and for initiating appropriate follow-up action and case processing, coordinating with the Master as necessary.

3-6. ABSENCE WITHOUT LEAVE (AWOL). AWOL is not a disciplinary action, although one or more charges of AWOL may serve as the basis for discipline. Normally, when an employee does not report for duty when scheduled to do so and has not obtained approval/authorization for leave, the employee's immediate supervisor should contact or attempt

to contact the employee to determine his/her whereabouts. Dependent upon the individual's situation and the circumstances of the case, the employee may be placed in an AWOL status, or other appropriate leave approved, and/or other appropriate action initiated or taken. AWOL that is charged initially may be corrected, if the circumstances warrant. MSFSC is to be advised whenever an employee does not report for duty when scheduled to do so and guidance and assistance should be requested of and provided by MSFSC.

3-7. EMPLOYEE ABSENT ON SAILING DAY. When an employee is absent on sailing day, MSFSC must be notified and will initiate appropriate action including securing a replacement, if necessary. If the employee misses the sailing of the ship or reports to the ship after a replacement has been authorized or obtained, MSFSC is to be contacted immediately for guidance on the appropriate action. If the employee misses the ship, the crew list will be so annotated and the employee will be carried in an AWOL (non-pay) status until MSFSC notifies the ship of the employee's whereabouts and provides guidance on actions to take, etc. Normally MSFSC will establish an interim position for any replacement obtained.

3-8. SELECTING THE REMEDY/PENALTY FOR THE OFFENSE

a. Factors to be Considered. The Merit Systems Protection Board set out twelve factors that should be considered in selecting an appropriate penalty in the case of Douglas, Curtis vs. Veterans Administration (Docket No. AT075299006). Not all twelve factors apply in every case, and in some cases some of the pertinent factors will weigh in the employee's favor (mitigating factors) while others may not (aggravating factors). The "Douglas Factors" are listed in enclosure 6-5 and reference (d). The Douglas Factors only apply to decisions involving adverse actions that are generally appealable actions (i.e., suspension of 15-days or more, reductions in grade or pay, furlough for 30-days or less). These, as well as all other facts and circumstances of each individual discipline case are to be considered in proposing and deciding the appropriate remedy.

b. Schedule of Offenses and Remedies. This Schedule, enclosure 6-3, is a guide. It lists a broad range of remedies (also called penalties) for various offenses. Remedies should normally fall within the range shown in the schedule unless mitigating or aggravating factors justify selection of a remedy outside the range. Selection of a reasonable remedy should be made with sound judgment and consideration of any appropriate Douglas Factors.

c. Progression of disciplinary action. As a general rule, disciplinary action should be progressive in nature. If an employee's disciplinary record reflects a lack of response to minimal corrective action more severe remedies/penalties should be imposed.

d. Dealing with Repeat Offenders. Frequency of offenses should be considered in taking discipline. Such consideration may lead to a heavier remedy even though the current offense may be relatively minor, and not related to the prior offense. Prior offenses and other actions taken may be considered when determining the severity of the remedy to be assessed and should be identified in the notice of proposed action.

e. Drug and Alcohol Abuse Offenses. Any employee who engages in misconduct

involving drugs and/or alcohol shall be disciplined according to this CMPI and MSFSC established procedures, except when covered under “Safe Harbor” as described in CMPI 792. Safe Harbor is a provision of the Drug-Free Workplace Program (DFWP) which gives an employee a one-time opportunity to voluntarily identify himself or herself as a user of illegal drugs, to willingly undertake counseling and, as necessary, rehabilitation. Safe harbor insulates the employee from discipline for these admitted, but otherwise unknown, past acts of illegal drug use. It does not protect the employee from discipline for admitting to drug trafficking or other drug-related offenses. Also, it does not insulate the employee from removal based on loss of security clearance.

f. Reasonable Accommodation. The latest guidance on reasonable accommodation may be found on the Equal Employment Opportunity Commission’s (EEOC) web site. Reference (c) also contains information on this topic.

g. Leave During Advance Notice Periods, Ashore. MSFSC will coordinate and manage all cases. Employees usually remain in a duty and pay status during an advance notice period. Employees may request leave and such requests will be acted upon by MSFSC. MSFSC also has authority to excuse absences, on a case-by-case basis, for the minimum period required, when there is reason to believe that retaining an employee in a duty status may impede efficient operations, may result in damage to government property, may reflect unfavorably on the public’s perception of the Agency, or would cause the employee to be injurious to him/herself, other employees, or the general public.

Section 4. Initiation of Discipline

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4-1. FORMS, LETTERS, AND CONSULTATION WITH MSFSC N1

a. Enclosure 6-4 contains discipline, form-style notices, that may be used by shipboard supervisors in processing discipline aboard ship and recommending discipline to MSFSC. Officials of MSFSC normally use letter style notices for actions processed ashore. Letters are not prohibited from being used aboard ship in lieu of form notice. MSFSC correspondence policy for style of notice used (form or letter) to recommend, propose and decide discipline aboard ship rests with Director, MSFSC or his/her designee. Additionally, enclosure 6-4 contains a Declaration Under Penalty of Perjury form for employees to complete when providing statements in discipline cases and a Designation of Representative form that employees may use in designating a representative.

b. Regardless of the style of notice used or required by MSFSC to be used aboard ship,

officials of MSFSC are to be consulted by or on behalf of the ship's Proposing/Deciding Official(s) at the start of each action aboard ship, and throughout the action as circumstances warrant. The ship's Proposing/Deciding Official(s) will need to obtain the employee's status (e.g., trial or temporary), prior disciplinary record, advice on the appropriateness of action under consideration, and any other information necessary for proper completion of the form or letter including, but not limited to, the employee's rights and entitlements and time limits for responding to and/or contesting the action. If an employee refuses to accept a disciplinary form/letter or to sign an acknowledgment of receipt, all copies of the disciplinary form/letter should be so noted and signed by the appropriate supervisory official.

4-2. RESPONSIBILITY FOR DISCIPLINE

a. MSFSC. Director, MSFSC or the persons to whom the Director delegates this responsibility, are authorized to initiate and complete (propose and decide) discipline, up to and including removal, for all CIVMARs ashore, including CIVMARs who have been returned ashore and/or who have missed the sailing of a ship. Log penalties cannot be imposed on CIVMARs ashore. Conditional suspensions may be imposed on employees ashore if the offense for which it is imposed was committed aboard ship. To correct an error of fact or judgment made by a Master/OIC, a proposed disciplinary action may be cancelled or modified by MSFSC officials to propose a more severe remedy as long as due process rights are afforded the employee.

b. Masters are charged with primary responsibility for managing and administering discipline aboard ship and may, consistent with program delegations by Director, MSFSC or the persons to whom the Director delegates this responsibility, issue reprimands and impose log penalties and conditional suspensions for all CIVMARs under their jurisdiction and propose and decide suspensions of 14 days or less for all CIVMARs under their jurisdiction, except Chief Engineers. For all other disciplinary/adverse actions (i.e., suspensions of Chief Engineers and all adverse actions of suspensions exceeding 14 days, demotions and removals), Masters must recommend such actions to MSFSC and provide supporting documentation. Types of discipline that Masters (or OIC's) may initiate aboard ship may be restricted further at the discretion of Director, MSFSC or the persons to whom the Director delegates this responsibility.

c. Immediate afloat supervisors (usually the Department Heads) recommend discipline of subordinate(s) to the proposing and/or deciding official (usually Master). The recommendation should be in writing and should be submitted to the proposing/deciding official along with all other supporting evidence.

An afloat employee will normally be continued on the manning scale of the ship to which assigned when the offense occurred until required shipboard action is completed. If questions arise about jurisdiction or processing, MSFSC is to be consulted and will make final decisions about jurisdiction and processing.

4-3. REPRIMAND, LOGGING, CONDITIONAL SUSPENSION AND SUSPENSION 14 DAYS OR LESS

a. Reprimand. A written reprimand is the least severe form of discipline. The reprimand notice (a proposal is not required) must include the reason(s) for its issuance, the employee's right to file a grievance, the length of time that it will be retained in the employee's Official Personnel File (OPF) and during which it may be counted as a prior offense for determining a range of remedies.

(1) Director, MSFSC usually imposes a reprimand with a Letter of Reprimand.

(2) For reprimands afloat, the deciding official (usually Master) communicates and coordinates with MSFSC prior to proceeding with the action and obtains any information necessary to proceed, considers all facts and circumstances surrounding the incident/situation, including any recommendation received, and decides whether or not a reprimand is appropriate. Notice to the employee about the reprimand decision may be issued by Letter of Reprimand or Form A(2) (either of which has been completed/prepared in coordination with MSFSC). A copy of the Letter/Notice of Reprimand issued afloat, along with any supporting documentation, must be sent or delivered to MSFSC as soon as possible after its issuance for record maintenance purposes.

b. Logging. A log penalty is the forfeiture of one day's base pay. It can be issued for no less than one day and no more than two days. Log penalties may be imposed only for employees assigned to a ship and for those attendance offenses identified on the Schedule of Offenses and Remedies. Except for unauthorized absence CIVMARs may not be logged for offenses in port. Logging in combination with another penalty is prohibited.

c. Conditional Suspension. This type of suspension is normally issued only to CIVMARs assigned to a ship and cannot exceed 7 days. The serving of the suspension is held in abeyance on the condition that the employee commits no other offense in specified period of time of up to three years. Any notice of conditional suspension must inform the employee that the conditional suspension will be invoked should another offense be committed within the three year reckoning period for which a more severe penalty is imposed. When a prior conditional suspension is invoked in combination with a suspension for a total actual suspension of more than 14 days, the guidance for suspensions of more than 14 days will be followed.

d. Suspension of 14 Days or Less. This action is the most severe form of discipline that may be processed aboard ship and involves the placement of an employee in a temporary status without duties and pay. When a suspension is imposed it is normally served after completion of the employee's shipboard tour of duty.

e. Proposal Notices for Logging, Conditional Suspension, and Suspension 14 Days or Less. The proposing official reviews each situation, any recommendation for discipline received (on Form A(1) or other written method) and consults with appropriate officials of MSFSC. The Proposal Notice (letter format, Form B(1) in enclosure 6-4, or format/form/style specified by MSFSC) will include, at a minimum:

(1) The specific reasons for the proposed action, details of each offense, and the proposed penalty/remedy.

(2) Any prior disciplinary action and/or other prior efforts to correct the problem, if appropriate.

(3) That the employee has the right to reply orally, in writing, or both and the amount of official time (if otherwise in an official duty status) to which the employee is entitled to reply and to obtain and provide affidavits and other documentary evidence, including medical documentation to support any medical condition alleged to have caused or contributed to the problem. (The amount of official time is to be a reasonable amount, but in no case can it be less than 2 calendar days). The employee is to be informed that use of such time must be arranged in advance). An employee may request additional time to respond orally and/or in writing. The official designated to accept the response will make the decision to grant or deny such a request.

(4) The name and title of the official designated to hear the oral reply and/or receive the written reply. (This official must have authority to make or recommend a final decision on the proposed action. Aboard ship, the official is the Master or OIC).

(5) That any reply(s) made will be carefully considered before issuing a decision, and that a written decision will be made at the earliest practicable time, after the employee has replied or after expiration of the time period allowed for the reply, but before the effective date of any action decided.

(6) That the employee has the right to be represented by an attorney or other representative of his/her choice. (An employee's representative may be disallowed if it is an individual whose activities as representative would cause conflict of interest or position or if it is an employee whose release from his/her official position would give rise to unreasonable costs or whose priority work assignments preclude his/her release).

(7) That the employee has the right to review, or have a representative review, the material relied on to support the reason(s) for the proposed action.

The proposal notice should include information about the availability of confidential counseling and referral services of the Civilian Employee Assistance Program (CEAP). Also medical documentation that is provided, if any, will be considered. (Medical documentation may have to be referred to appropriate medical authority for review and follow-on action, including the requirement for the employee to submit to a medical examination.)

f. Decision on Logging, Conditional Suspension, and Suspension of 14 Days or Less. The Deciding Official is responsible for carefully considering all documentary evidence and any written and/or oral reply made and preparing and issuing a decision at the earliest practicable time after a reply or after the time to reply has passed. A written summary of any oral reply made is to be prepared and made part of the record. The decision notice (letter format, Form B(2) in enclosure 6-4, or format specified by MSFSC) is required to be coordinated with MSFSC to ensure its correct contents, including the employees' grievance and/or appeal rights and time limits. The decision notice will include:

(1) The decision made and the reasons relied on in reaching the decision. (Only the reasons specified in the proposal notice may be considered. The factors in enclosure 6-5 are also considered in reaching the decision.)

(2) Information about consideration of the employee's (or his/her representative's) reply, if any, was made. Information about consideration of any documentary evidence, if any, was submitted.

(3) The effective date of the action.

(4) Specific information about the employee's grievance or appeal rights.

A decision of a remedy/penalty more severe than that contained in the proposal notice is prohibited. In the rare case that a discipline remedy more severe than the one proposed is being considered, contact MSFSC immediately for advice and assistance.

4-4. RECOMMENDING DISCIPLINE TO MSFSC. Any discipline of Masters, suspensions of Chief Engineers and all actions of suspensions of more than 14 days, demotions (reductions in pay) and removals will be processed by MSFSC. Shipboard supervisors, including Masters, recommending such actions must provide sufficient supporting information to MSFSC for appropriate follow-on action. Typically recommendations are made as follows:

a. Shipboard supervisors usually notify the Master when discipline of a subordinate is recommended using Form A(1) in enclosure 6-4 or form/format specified by MSFSC as long as it provides sufficient information for the Master to make a decision about initiating appropriate action.

b. If after review of a situation (whether or not a recommendation of discipline has been received) the Master believes that action may need to be recommended ashore, the employee should be notified. Employee notification may be made using Form C(1), Part I or form/format/style specified by MSFSC.

c. If after considering the employee's reply, or after the time to reply has expired, it is concluded that a suspension, demotion, or removal is to be recommended to MSFSC, the Master should complete Form C(1), Part II, (or form/format/style specified by MSFSC) and send or provide it to MSFSC with a copy to the employee. (If it is concluded a lesser disciplinary action is appropriate and that disciplinary action is within the Master's delegated authority as Deciding Official, consult with MSFSC for guidance and procedures for completion of the action).

4-5. DISCIPLINE OF MASTERS/CHIEF ENGINEERS AND APPEALABLE (ADVERSE) ACTIONS. These actions will be initiated and taken under MSFSC established policies and procedures that are consistent with this instruction and governing laws, rules, and regulations to ensure that ashore employees effectively and efficiently implement and administer disciplinary and adverse actions of CIVMARs. Internal policies and procedures should include, but not be limited to, information about time limits, curtailing the notice period, employee's status during advance notice period, reasonable accommodation, medical documentation, and the like.

Adverse actions may only be taken for such cause as will promote the efficiency of the service. Appeal able (adverse) actions, per reference (b), entitle the affected employee to:

a. Proposal notice/letter that:

(1) Provides at least 30 days advance written notice and specifies the action being proposed, the details of each offense, and the reasons for the proposed action.

(a) Per references (a) and (b) the advance notice may be reduced, but to a period of not less than 7 days, for the employee to furnish an answer to the proposed action and affidavits and other documentary evidence in support of the answer if there is reason to believe that he/she has committed a crime for which a sentence of imprisonment may be imposed.

(b) Material may not be used that cannot be disclosed to the employee or his or her designated representative or physician, reference (b).

(2) Identifies any prior disciplinary action and/or other prior efforts to correct the problem, if appropriate and applicable.

(3) Notifies the employee of his/her right to be represented by an attorney or other representative. (An employee's representative may be disallowed if the individual's activities as representative would cause conflict of interest or position or if the employee's release from his/her official position would give rise to unreasonable costs or if the employee's priority work assignments would preclude his/her release).

(4) Notifies the employee that he/she has the right to reply orally, in writing, or both and of the timeframe in which to reply. (Typically employees are provided 10 – 15 days to answer from receipt of the advance written notice.) An employee may request additional time to respond orally and/or in writing. The official designated to accept the response will make the decision to grant or deny such a request.

(5) Informs the employee that he/she is entitled to a reasonable amount of official time if he/she is otherwise in an active duty status, to review, or have a representative review, the material relied upon to support the reason(s) in the proposal notice, to secure affidavits or other documentary evidence in support of his/her answer, and to prepare a reply. (The amount of official time is to be reasonable e.g., up to 8 hours is typical. The employee should be informed that use of official time must be arranged in advance of its use.)

(6) Provides the name, title, and location of the official designated to hear the oral reply and/or receive the written reply. (This official must have authority to make or recommend a final decision on the proposed action.)

(7) Informs the employee that any reply(s) made will be carefully considered before issuing a decision, and that a written decision will be made at the earliest practicable time, after the employee has replied or after expiration of the time period allowed for the reply, but before the effective date of any action decided.

Where appropriate, the advance notice may include information about the availability of confidential counseling and referral services of the Civilian Employee Assistance Program (CEAP); that medical documentation provided, if any, may be referred to appropriate medical authority for review and follow-on action including the requirement for the employee to submit to a medical examination; that time periods provided may be extended, if requested, etc.

b. A written decision notice/letter is to be signed by the Deciding Official and issued at the earliest practicable time after a reply is received or after the time to reply has passed. A written summary of any oral reply made is to be prepared and made part of the record. The decision will:

- (1) Reference the proposal notice and inform the employee of the decision made.
- (2) Specify the reasons relied on in reaching the decision. (Only the reasons specified in the proposal notice may be considered. The factors in enclosure 6-5 are also to be considered in reaching the decision.)
- (3) Include information about consideration of the employee's (or his/her representative's) reply, if any, was made as well as information about consideration of any documentary evidence, including medical documentation, if any was submitted.
- (4) Provide the effective date of the action.
- (5) Inform the employee of his/her right to appeal to the Merit Systems Protection Board (MSPB) and, when applicable, to file a grievance under a NGP, but not both.
- (6) Provide the time limits and address for filing an appeal to MSPB, a copy of the MSPB regulations found in 5 CFR Parts 1201 and 1209, a copy of the MSPB Appeal form (Optional Form 283). Current MSPB regulations and appeal form may be downloaded from MSPB website.

Section 5. Grievances and Appeals

	Paragraph No.
General	5-1
Submission of Cases	5-2
Allegation of Discrimination in Connection with Discipline	5-3

5-1. GENERAL. Grievance and appeal rights, entitlements, procedures, and time limits available to employees for contesting disciplinary and adverse actions are dependent upon several factors. Each case must be reviewed and various factors considered being able to inform the affected employee about his/her grievance and/or appeal rights, entitlements, conditions, procedures and time limits. Factors include the nature and type of disciplinary or adverse action taken, the appointment type on which the employee is serving, whether or not the employee is in

a trial period, whether or not the employee has veteran's preference, and the applicable labor-management agreement, if any, to name a few. Officials of MSFSC are responsible for ensuring CIVMARs are informed of their applicable grievance and/or appeal rights (references (b) and (g)).

5-2. SUBMISSION OF CASES

a. Employee. Employee grievances and/or appeals are to be submitted in accordance with applicable procedures and time limits of the governing body (e.g., applicable labor-management agreement, Merit Systems Protection Board regulations, higher level policy, etc.). MSFSC is responsible for ensuring that employees are provided correct regulations, forms, procedures and time limits to follow in submission of grievances and appeals.

b. MSFSC. In cases forwarded to COMSC, MSFSC will ensure that the file is arranged and marked appropriately in accordance with acceptable correspondence practices.

5-3. ALLEGATION OF DISCRIMINATION IN CONNECTION WITH DISCIPLINE.

Should discrimination be raised or reprisal for prior EEO complaint be alleged in connection with a grievance and/or appeal, advice and guidance may be sought from MSFSC EEO office.

Section 6. Enclosures

	Paragraph No.
Ship's Order	6.1
Delegations of Authority - CPMI 750	6.2
Schedule of Offenses and Remedies - CPMI 750.....	6.3
Forms	6.4
Douglas Factors	6.5

6.1. SHIP'S ORDERS. Form utilized for reporting crew members (Officer and non-officer) aboard MSC vessels. Unauthorized or unjustified failure to any crewmember to comply with these orders will subject the offender to action appropriate for the offense.

6.2. DELEGATION OF AUTHORITY - CMPI 750. Director, MSFSC is responsible for delegating authority to MSFSC Officials. This delegation may be withdrawn at any time and re-delegated in the disciplinary process as deemed necessary by Director, MSFSC, or if delegated that responsibility, MSFSC N1.

6.3. SCHEDULE OF OFFENSES AND REMEDIES- CMPI 750. Guide for remedies and offenses for first, second, and third offenses.

6.4. FORMS

6.5. DOUGLAS FACTORS. The factors to be considered in selecting the appropriate disciplinary action against an employee.

SHIP'S ORDERS

USNS _____

(Name of Ship)

The following statement orders apply to civilian marine personnel serving aboard this ship. Unauthorized or unjustified failure of any crewmember to comply with any of these orders will subject the offender to disciplinary action appropriate for the offense under the charge of 'failure to comply with the SHIP'S ORDERS.'

ORDERS

All officer and non-officer crewmembers of this ship are hereby directed to comply with the following orders:

1. Crewmembers shall promptly obey all legal orders received from competent authority.
2. Crewmembers shall obey all posted rules and regulations.
3. Crewmembers shall comply with all local port regulations, instructions, and laws emanating from responsible authority and published to the crew.
4. Crewmembers shall not physically resist authority in the enforcement of a lawful command.
5. Crewmembers shall perform all assigned duties with promptness and dispatch and shall remain alert at all times while on watch or duty.
6. Crewmembers shall not conceal defective work nor remove or destroy such work without authority.
7. Crewmembers shall not participate in any strike or job action against the Government of the United States.
8. Crewmembers shall complete all voyages to which assigned unless separated from the ship by orders from competent authority.
9. Crewmembers shall not leave the ship without proper authority and shall report to the ship promptly on or before expiration of all authorized leave or liberty.
10. Crewmembers shall report for watch, presailing muster, muster, duty, or drills at the scheduled time unless relieved from such reporting requirements by proper authority. (*'Duty' includes overtime when crewmember is ordered to work overtime.*)
11. Crewmembers shall remain on duty or at watch stations until properly relieved.
12. Crewmembers shall not exchange any watch or duty without authorization.
13. Crewmembers shall not be under the influence of alcohol/intoxicants or unlawful drugs when reporting for watch or duty or on watch or duty.
14. Crewmembers shall not introduce alcohol/intoxicants aboard ship without proper authorization nor shall they sell, hold in their possession, or use alcohol/intoxicants aboard ship.
15. Crewmembers shall not unlawfully use, be under the influence of or possess drugs or drug paraphernalia on or off duty aboard ship or ashore.
16. Crewmembers shall not unlawfully use, possess or bring aboard ship or engage in the sale, transfer or distribution of drugs or drug paraphernalia.
17. Crewmembers shall not possess or use narcotics or instruments to prepare or administer narcotics without authority.
18. Crewmembers shall not introduce or possess dangerous weapons or explosives aboard without authority.
19. Crewmembers shall wear the prescribed uniform/work clothes while on watch or duty aboard ship.
20. Crewmembers shall use protective clothing and/or equipment when required and provided.
21. Crewmembers shall observe prescribed standards of cleanliness and sanitation.
22. Crewmembers shall report to the Master or a U.S. Medical Officer all cases of venereal disease and all contagious infectious diseases as soon as discovered.
23. Crewmembers shall safeguard all information and material of a classified nature.
24. Crewmembers shall protect the safety of the ship, passengers, crew, cargo, and equipment at all times.
25. Crewmembers shall exercise due diligence in safeguarding all property, stores, material, and equipment entrusted to their care for which they have properly been assigned responsibility.
26. Crewmembers shall report immediately all injuries and accidents, however slight, to superiors.
27. Crewmembers shall not create unnecessary disturbances.
28. Crewmembers shall not use abusive, insulting, or obscene language to or about other personnel.
29. Crewmembers shall not threaten to injure or assault or commit assault or inflict injury upon other persons aboard ship or on U.S. Government premises.
30. Crewmembers shall not engage in fighting aboard ship or on U.S. Government premises.
31. Crewmembers shall not make false or malicious statements which harm the reputation, authority, or official standing of other employees, superiors, officers, or MSC.
32. Crewmembers shall not gamble, bet, or promote such activity aboard ship or on U.S. Government premises.
33. Crewmembers shall not engage or attempt to engage in black market activities.
34. Crewmembers shall not give nor receive bribes with the intent of influencing decisions on official matters.
35. Crewmembers shall not steal nor attempt to steal any property of other persons or of the U.S. Government.
36. Crewmembers shall not engage in criminal, dishonest, or notoriously disgraceful conduct ashore or aboard ship.
37. Crewmembers shall not file false claims against the U.S. Government or knowingly aid and assist in the prosecution of false claims.
38. Crewmembers shall not falsify, exaggerate, or conceal a material fact in connection with any official action, record, investigation, or other proper proceeding.
39. Crewmembers shall properly declare all merchandise and other articles obtained or acquired in a foreign country.
40. Crewmembers shall not enter unauthorized areas of the ship without proper authority.
41. Crewmembers shall support EEO principles, policies, and practices during the course of shipboard assignment.
42. Crewmembers shall not engage in sexual harassment.
43. Crewmembers shall not engage in shipboard relationships that interfere with or undermine good order, discipline, and authority aboard ship or result in personal gain or create a hostile work environment.

(Signature of Master)

DELEGATIONS OF AUTHORITY CHART – CMPI 750		
CIVMAR and PENALTY	PROPOSING OFFICIAL	DECIDING OFFICIAL
<p><u>CIVMARs AFLOAT</u> (except Masters and *Chief Engineers)</p> <p>Written Notice/Letter of Reprimand ¹ Logging, Conditional Suspension, and Suspensions of 14 days or less</p>	<p>Master ²</p>	<p>Master ²</p>
<p><u>CIVMARs ASHORE</u> (except Masters and Chief Engineers)</p> <p>Letter of Reprimand ¹ Conditional Suspension, ³ Suspension, Demotion, Removal</p>	<p>As delegated by Director, MSFSC, but to a level no lower than two levels below the level of MSFSC N1</p>	<p>As delegated by Director, MSFSC, but to a level no lower than two levels below the level of MSFSC N1 (must be at a higher level than the level of the proposing official)</p>
<p><u>MASTERS & CHIEF ENGINEERS</u></p> <p>Letter of Reprimand ¹ Suspension, Demotion, Removal</p>	<p>Deputy Director, MSFSC</p>	<p>Director, MSFSC</p>
<p>¹ Written Notices/Letters of Reprimand do not require a proposal notice/letter. Masters cannot serve as proposing and deciding official for suspensions involving Chief Engineers.</p> <p>² When these actions are accomplished ashore for afloat employees, the Proposing and Deciding Officials will be as delegated by Director, MSFSC and MSFSC N1.</p> <p>³ A Conditional Suspension is a remedy most appropriate for use afloat. In certain instances, it may be levied on a Master, a Chief Engineer, or other CIVMAR who has committed an offense afloat appropriate for a conditional suspension remedy even though the individual receives it ashore.</p> <p>Nothing in this CMPI precludes an appropriate higher level authority, up to and including the Commander, Military Sealift Command or his/her designee, from initiating/deciding a disciplinary/adverse action on a CIVMAR. MSFSC is responsible for delegating authority to officials, to the extent delegable, to propose and/or decide disciplinary actions; delegations must be in writing and must be available for review during inspections. Authority to serve as Proposing and/or Deciding Official may be withdrawn and redelegated at any time in the disciplinary action processing as deemed necessary by Director, MSFSC. Types of discipline identified in this instruction that may be proposed and/or decided by Masters (or OICs) and Director, MSFSC or MSFSC N1 officials may be further restricted by Director, MSFSC.</p>		

SCHEDULE OF OFFENSES AND REMEDIES – CMPI 750

1. This schedule is a guide. Remedies for offenses should normally fall within the range shown in the schedule unless mitigating or aggravating factors justify a remedy outside the range. Remedies greater than those shown can be appropriate when the facts of an aggravated offense, frequent infractions, or simultaneous multiple offense are established.
2. Consistent with DON policy the schedule generally provides for a range of remedies (e.g., reprimand to removal) to provide management with flexibility in correcting conduct and/or performance deficiencies. Selection of a reasonable remedy from such a broad range should be made with good judgment and when appropriate “Douglas Factors” (see para 3-8a).
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.
4. The schedule does not cover every possible offense. Offenses not listed on the schedule may be prescribed by MSFSC N1, consistent with penalties for offenses of comparable gravity. Care should be exercised 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.
5. Due to the nature of their positions, offenses by afloat supervisors or managers (e.g., Masters, Chief Engineers, Department Heads) may consist with the Douglas Factors, warrant more severe remedies than the same offense committed by a non-supervisory employee.
6. Disciplinary actions are to be taken following the provisions of law and regulation. Employees who engage in misconduct involving drugs and/or alcohol should be disciplined consistent with this instruction, except when covered under “Safe Harbor”.
7. MSFSC N1 is responsible for obtaining and providing:
 - advice and assistance on issues such as establishing the required nexus between off-duty misconduct and the efficiency of the service, appropriate wording of charge(s), application of mitigating factors, consistency of remedies based on case law, etc.
 - the latest information, guidance and case law on alcohol abuse and drug offenses, Safe Harbor, and reasonable accommodation. Information and guidance on alcohol abuse and drug offenses may be found in reference (d), CMPI 792; SECNAVINST 12792.3 and Navy’s implementing directive 792 (series). Information on reasonable accommodation may be found in reference (d) and on the EEOC web site.

Schedule of Offenses and Remedies

OFFENSE	Remedies - First Offense	Remedies - Second Offense	Remedies - Third Offense
<p>See paragraph 7 on page 1 of this Schedule.</p> <p>ALCOHOL</p> <p>Unauthorized introduction, possession, sale or transfer of alcohol/intoxicant aboard ship or on duty ashore or afloat or on a military ship, aircraft, submarine, activity or command</p>	<p>Reprimand to removal</p>	<p>14-day suspension to removal</p>	<p>Removal</p>
<p>Use of, or being under the influence of alcohol/intoxicant when reporting for watch or duty or on watch or duty ashore or afloat or on a military ship, aircraft, submarine, activity or command</p>	<p>14-day suspension to removal</p>	<p>30-day suspension to removal</p>	<p>Removal</p>
<p>ATTENDANCE</p> <p>Those identified with * below are appropriate for Log remedy/penalty.</p> <p>Excessive unauthorized absence when assigned ashore or afloat (5 or more consecutive workdays)</p>	<p>Reprimand to removal</p>	<p>10-day suspension to removal</p>	<p>Removal</p>
<p>Failing to report for duty, watch, presailing muster, muster, or drills at the scheduled time or failing to return to ashore assignment or reporting aboard ship after expiration of authorized leave or liberty</p>	<p>Reprimand to removal</p>	<p>10-day suspension to removal</p>	<p>Removal</p>
<p>Leaving the ship to which assigned or leaving the job to which assigned at any time during working hours without proper permission or authority</p>	<p>Reprimand to Removal</p>	<p>10-day suspension to removal</p>	<p>Removal</p>
<p>Reporting aboard ship after presailing muster or missing the sailing of the ship</p>	<p>Reprimand</p>	<p>Reprimand to 5-day suspension</p>	<p>Reprimand to removal</p>
<p>Unexcused tardiness</p>			

Schedule of Offenses and Remedies

	Reprimand to Removal	5-day suspension to removal	Removal
<p>*Unexcused or unauthorized absence on one or more scheduled days of work or assigned overtime work</p> <p>Desertion</p>	Removal		Removal
<p align="center">DISCRIMINATION</p> <p>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</p>	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
<p align="center">DRUGS (Abuse / Testing)</p> <p align="center">See paragraph 7 on page 1 of this Schedule</p>			
Refusal to obtain counseling or rehabilitation through CEAP after having been found to use illegal drugs	Reprimand to removal	Removal	
Unlawful use, being under the influence, or possession of drugs or drug paraphernalia on or off duty	Reprimand to removal	Removal	
Unlawful use, being under the influence, or possession of drugs or drug paraphernalia when reporting for watch or duty or on or off duty ashore or afloat, or on a military ship, aircraft, submarine, activity, or command	30-day suspension to removal	Removal	
Unlawful distribution, sale, or transfer of drugs or drug paraphernalia on or off duty	Removal		

Schedule of Offenses and Remedies

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
Failure to appear for testing when directed, without a deferral	Reprimand to removal	Removal	
Refusal to provide a urine sample when required	Reprimand to removal	Removal	
Substituting, adulterating or otherwise tampering with a urine sample, testing equipment or related paraphernalia	Suspension to removal	Removal	
MISCELLANEOUS			
Betting, gambling, or the promotion thereof on duty or on Department of the Navy premises or property	Reprimand to removal	5-day suspension to removal	10-day suspension to removal
Careless workmanship or failure to follow standard operating procedures resulting in delay in production or sailing or damage to ship's equipment, stores, or cargo, 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
Covering up or concealment of defective work or workmanship or removing or destroying defective work or work product without authorization or permission	Reprimand to removal	5-day suspension to removal	14-day suspension to removal
Discourteous conduct to the public	Reprimand to 14-day	7-day suspension to	145-day suspension to

Schedule of Offenses and Remedies

<p>Disobedience to constituted authorities; deliberate refusal or failure or delay in carrying out any proper order, lawful command, work assignment or instruction; insubordination, including failure to follow local or higher level policy</p>	<p>suspension Reprimand to removal</p>	<p>14-day suspension 5-day suspension to removal</p>	<p>removal 10-day suspension to removal</p>
<p>Disorderly conduct; fighting; threatening or attempting or actually inflicting bodily injury to other employees or supervisor or ship's officer; engaging in horseplay or resisting competent authority</p>	<p>Reprimand to removal</p>	<p>14-day suspension to removal</p>	<p>30-day suspension to removal</p>
<p>Disrespectful conduct, use of insulting, abusive, offensive or obscene language or gestures to or about other personnel</p>	<p>Reprimand to removal</p>	<p>5-day suspension to removal</p>	<p>10-day suspension to removal</p>
<p>Falsification or aiding or assisting in falsification of time and attendance records or claims against the government</p>	<p>Reprimand to removal</p>	<p>14-day suspension to removal</p>	<p>30-day suspension to removal</p>
<p>Falsification, misstatement, or concealment or aiding or assisting in falsification, misstatement, or concealment of material fact in connection with any official record</p>	<p>Reprimand to removal</p>	<p>14-day suspension to removal</p>	<p>30-day suspension to removal</p>
<p>False testimony or refusal to testify in an inquiry, investigation or other official proceeding</p>	<p>Reprimand to removal</p>	<p>14-day suspension to removal</p>	<p>30-day suspension to removal</p>
<p>Failure to honor just debts or other legal obligations without good cause</p>	<p>Reprimand to 14-day suspension</p>	<p>Reprimand to 30-day suspension</p>	<p>Reprimand to removal</p>
<p>Improper or unauthorized importation of goods</p>	<p>Reprimand to removal</p>	<p>Reprimand to Removal</p>	<p>Removal</p>
<p>Loafing, wasting time, inattention to duty, sleeping on duty, or failure to attend to duties</p>			

Schedule of Offenses and Remedies

<ul style="list-style-type: none"> • Where no danger to persons or property is involved • Where danger to person or property is involved 	<p>Reprimand to 5-day suspension 14-day suspension to removal</p>	<p>5-day suspension to removal 30-day suspension to removal</p>	<p>Removal Removal</p>
<p>Making false or malicious statements with the intent to harm or destroy the reputation, authority, or official standing of individuals or organizations</p>	<p>Reprimand to removal</p>	<p>14-day suspension to removal</p>	<p>30-day suspension to removal</p>
<p>Misuse of a Government vehicle (See reference (d) and 31 USC 1349(b) about minimum suspension requirements if use is willful)</p>	<p>Reprimand to removal (30-day suspension to removal, if misuse was willful)</p>	<p>30-day suspension to removal</p>	<p>Removal</p>
<p>Misuse of Government equipment (e.g., unauthorized use of electronic mail, internet/intranet, phones, or facsimile equipment)</p>	<p>Reprimand to removal</p>	<p>14-day suspension to removal</p>	<p>30-day suspension to removal</p>
<p>Misuse of government sponsored travel charge card (e.g., use of unauthorized personal expenses, failure to pay charge card bill in a timely manner, or otherwise failure to use the card properly)</p>	<p>Reprimand to removal</p>	<p>5-day suspension to removal</p>	<p>10-day suspension to removal</p>
<p>Reckless driving or improper operation of government provided motor vehicle</p>	<p>Reprimand to removal</p>	<p>14-day suspension to removal</p>	<p>30-day suspension to removal</p>
<ul style="list-style-type: none"> • Causing personal injury to self or others or damage to government property • No personal injury to self or others or damage to government property 	<p>Reprimand to removal</p>	<p>10-day suspension to removal</p>	<p>30-day suspension to removal</p>
<p>Negligent performance of duties</p>	<p>Reprimand to 5-day suspension</p>	<p>14-day suspension to removal</p>	<p>Removal</p>
<ul style="list-style-type: none"> • Where wastage or other cost is insubstantial • Where wastage or other cost is substantial 	<p>Reprimand to 14-day suspension</p>	<p>30-day suspension to removal</p>	<p>Removal</p>

Schedule of Offenses and Remedies

<p>Unauthorized possession, use, loss, theft or damage to the ship, her equipment, stores or cargo or Government property or the property of others (see reference (d) and Miguel v. Department of the Army, 727, F.2d 1081, 1083-84 (Fed.Cir. 1983) about the value of items stolen when determining a penalty)</p> <p>Participating in a strike, work stoppage, or slow down, or sick-out, or other job action</p> <p>Violation of Ship's Order not otherwise covered by other charges</p>	<p>Reprimand to removal</p> <p>Removal</p> <p>Reprimand to removal</p>	<p>5-day suspension to removal</p> <p>5-day suspension to removal</p>	<p>Removal</p> <p>Removal</p>
<p>PROHIBITED PERSONNEL PRACTICE</p> <p>Committing a prohibited personnel practice (See 5 USC 2302)</p>	<p>Reprimand to removal</p>	<p>14-day suspension to removal</p>	<p>30-day suspension to removal</p>
<p>SAFETY</p> <p>Failure to observe posted smoking prohibitions or no smoking regulations or carrying matches in restricted areas</p>	<p>Reprimand to removal</p>	<p>5-day suspension to removal</p>	<p>14-day suspension to removal</p>
<p>Breach of safety regulations or instructions or practices or failure to report an accident or injury</p> <ul style="list-style-type: none"> • Where imminent danger to self or other persons or property is not involved • Where imminent danger to self or other persons or property is involved 	<p>Reprimand to 5-day suspension</p> <p>Reprimand to removal</p>	<p>10-day suspension to removal</p> <p>30-day suspension to removal</p>	<p>Removal</p> <p>Removal</p>
<p>Endangering the safety of or causing injury to personnel through carelessness or unsafe work practices</p>	<p>Reprimand to removal</p>	<p>5-day suspension to removal</p>	<p>14-day suspension to removal</p>

Schedule of Offenses and Remedies

<p>Failure to obey posted safety rules or signs, written or oral safety instructions, or to use protective clothing or equipment</p>	<p>Reprimand to removal</p>	<p>14-day suspension to removal</p>	<p>14-day suspension to removal</p>
<p>Violation of safety or traffic regulations on duty or on an installation (on or off duty)</p>	<p>Reprimand to removal</p>	<p>14-day suspension to removal</p>	<p>30-day suspension to removal</p>
<ul style="list-style-type: none"> • Causing injury to self or others or damage to property or endangering the safety of self or others • No injury or property damage; not endangering the safety of self or others 	<p>Reprimand to 5-day suspension</p>	<p>Reprimand to 10-day suspension</p>	<p>Reprimand to removal</p>
<p>Failure to use required protective clothing and/or equipment</p>	<p>Reprimand to removal</p>	<p>5-day suspension to removal</p>	<p>10-day suspension to removal</p>
<p style="text-align: center;">SECURITY</p>			
<p>Failure to safeguard classified material or breach of security regulation or practices</p>	<p>Reprimand to 5-day suspension</p>	<p>14-day suspension to removal</p>	<p>30-day suspension to removal</p>
<ul style="list-style-type: none"> • Where security or restricted information is not compromised and breach is unintentional • Where security or restricted information is compromised and breach is unintentional 	<p>Reprimand to removal</p>	<p>14-day suspension to removal</p>	<p>Removal</p>
<p>Deliberate violation</p>	<p>30-day suspension to removal</p>		
<p style="text-align: center;">UNAUTHORIZED DISCLOSURE OR USE OF PROTECTED MATERIAL</p>			
<p>Unauthorized disclosure or use of information or other protected material (e.g., records covered by the Privacy Act or under 42 CFR Part 2 (CEAP records))</p>	<p>Reprimand to removal</p>	<p>14-day suspension to removal</p>	<p>30-day suspension to removal</p>

FORMS

1. FORM A(1) Recommendation of Disciplinary Action
(12750/11)
2. FORM A(2) Reprimand
(12750/17)
3. FORM B(1) Proposal of Disciplinary Action of Logging or Conditional
(12750/13) Suspension or Suspension of 14 Days or Less
4. FORM B(2) Decision on Proposed Logging, Conditional Suspension,
(12750/14) Suspension of 14 Days or Less
5. FORM C(1) Recommendation of Discipline Ashore
(12750/15)
6. FORM Declaration Under Penalty of Perjury
7. FORM Designation of Representative

FORM A(1) Recommendation of Disciplinary Action

This form may be used by an afloat supervisor (department head) to recommend to the Master disciplinary action of an assigned/detail shipboard subordinate employee.

The recommending supervisor should complete the blocks below and provide the completed, signed form to the Master.

To: Master USNS	Date
Concerning: <i>(Name of Employee)</i>	Position Title/Rating:

1. **Report of Offense(s).** I recommend that disciplinary action be taken against the employee named above on the basis of the following *(state the specific details of the offense(s))*:

2. **Witnesses.** Witnesses statements of shipboard employees are to be made in the form of declarations made under penalty of perjury. Witnesses to this offense are as follows: *(include position titles) (type or print)**

NAME*	SIGNATURE	DATE	POSITION TITLE

Any statements obtained from witnesses should be in the form of declarations made under penalty of perjury.

3. **Recommendation.** I recommend the following action as appropriate for the offense *(check only one; if other is checked, specify the recommended remedy)*:

<input type="checkbox"/> Reprimand	<input type="checkbox"/> Suspension of ____ days
<input type="checkbox"/> Logging (NTE 2 days)	<input type="checkbox"/> Demotion
<input type="checkbox"/> Conditional suspension (NTE 7 days) of ____ days	<input type="checkbox"/> Removal
	<input type="checkbox"/> Other <i>(specify)</i>

4. **Remarks:**

Signature: *(Afloat Supervisory/Department Head)*

FORM A(2) Reprimand

This form may be used by the shipboard Deciding Official (usually Master) to issue a reprimand to an assigned/detail shipboard subordinate employee. Letter may be used in lieu of this form if it is coordinated with MSFSC N1 prior to use.

- The Shipboard Deciding Official (usually Master) is responsible for certain disciplinary actions aboard ship as per CMPI 750. The Disciplinary action of a written reprimand does not need a *proposal notice* before it is issued.
- Prior to issuing a written reprimand, the shipboard Deciding Official is required to communicate with MSFSC N1 to obtain/validate employee data for proper completion of the action including, but not limited to obtaining information on employee status, prior discipline, etc. If the employee is temporary or serving a trial period, MSFSC N1 will advise on how to proceed. A space is provided on this form that is to be completed with MSFSC N1 POC.
- Two copies of the reprimand notice are required to be completed. The original is to be provided to the employee; the copy is used to obtain the employee's acknowledgement of receipt.
- Once all actions are completed, the complete disciplinary file (with all supporting documentation) will be provided to MSFSC N1 for record maintenance.

From: Deciding Official/Master
USNS

Date:

To: (Name of Employee/CIVMAR):

Position Title/Rating:

Work Schedule (days of week and hours):

This is notice that I am reprimanding you for the following reasons/offense(s): (specify reasons/offense(s) and details).

Name of MSFSC N1 specialist consulted/communicated with on this matter:

Date(s) MSFSC N1 POC contacted:

- This action is effective on _____.
- A reprimand is maintained in your official record at MSFSC N1 for up to two years. It may be counted as a prior offense in determining the appropriate remedy for a subsequent offense.
- Grievance (or Appeal) rights – According to your record at MSFSC N1 (obtain information for completion of below from MSFSC N1):
- You may grieve this action in accordance with the procedures and time limits of your collective bargaining agreement.
- Other (specify) _____
- If there is anything you do not understand or if you have any questions about your rights and entitlements, please let me know and I will assist you in obtaining answers.
- Other (specify) _____

Signature of Employee:

Date Original Received:

Signature of Deciding Official/Master:

Date:

FORM B(1) Proposal of Disciplinary Action of: Logging or Conditional Suspension or Suspension of 14 Days or Less

This form may be used by the Proposing Official (usually Master) to propose certain disciplinary action of assigned/detailed shipboard subordinate employees. A letter may be used in lieu of this form if it is coordinated with MSFSC N1 prior to use.

- Proposing Official (usually Master) is responsible for proposing and deciding certain disciplinary actions aboard ship (see CMPI 750).
- Prior to initiating action, the Proposing Official is required to communicate with MSFSC N1 to obtain employee data for proper completion of the action including, but not limited to prior discipline, employee status (temporary/trial), etc. If the employee is temporary or serving a trial period, MSFSC N1 will advise on how to proceed. A space is provided on this form that is to be completed with the name of MSFSC N1 POC.
- Two copies of the proposal notice are required to be completed. The original is to be provided to the employee; the copy is used to obtain the employee's acknowledgement of receipt.
- Once all actions are completed, the complete disciplinary file (with all supporting documentation) will be provided to MSFSC N1 for record maintenance.

From: Proposing Official USNS	Date
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To: (Name of Employee)	Position Title/Rating:	Employee's Scheduled Tour of Duty: <i>(Include days of weeks and hours)</i>
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Subj: PROPOSAL OF DISCIPLINARY ACTION

This is a notice that I propose to:

- Log you for ____ day(s) (NTE 2)
- Conditionally suspend you for ____ days (NTE 7)
- Suspend you from duty and pay for ____ days (NTE 14)
- Other: (specify after consultation with MSFSC N1)

for the following offense(s) (proposing official must specify the offense(s) and provide details):

Date & Time:	Location: (sea)
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In determining the severity of this proposed action the following past disciplinary actions, as provided by MSFSC N1 from your records, were taken into consideration. (If none, so state, otherwise state details of past offenses including dates and penalties).

Name of MSFSC N1 specialist consulted/communicated with on this matter:

Date(s) MSFSC N1 POC contacted:

You have _____ two calendar days from receipt of this notice to reply. You have the right to a representative in presenting or preparing your reply. You and your representative may review any material relied upon to support this proposal.

Any written reply should be directed to the Master. If you wish to reply in person, you should contact the master to arrange an appointment.

Full consideration will be given to any replies that you present before a final decision is made. As soon as possible after your replies are received or if you do not reply, after the expiration of the time provided above, you will be issued a written decision.

_____ (name/department) is available to answer questions, or obtain answers to questions that you may have concerning your rights and to type any written reply you wish to submit.

Other _____

It is the policy of the Military Sealift Command to offer confidential counseling and referral services to employees who may have an alcohol, drug or other serious personal problem which affects job performance/conduct. If you feel that this program could be of assistance, you are urged to contact _____ at MSFSC N1.
(name, telephone no. and email address)

Signature of Employee:

Date Original Received:

Signature of Proposing Official:

Date:

FORM B(2) Decision on Proposed Logging, Conditional Suspension, Suspension of 14 Days or Less

This form may be used by the Deciding Official (usually Master) to issue decisions on certain disciplinary actions aboard ship of assigned/detailed shipboard subordinate employees. A letter may be used in lieu of this form if it is coordinated with MSFSC N1 prior to use.

- Deciding Official is responsible for deciding certain disciplinary actions aboard ship as per CMPI 750.
- Prior to preparing the decision, the Deciding Official is required to communicate with MSFSC N1 to obtain/validate employee data for proper completion of the action (e.g. prior discipline, employee status (temporary/trial, etc.) If the employee is temporary or serving a trial period, MSFSC N1 will advise on proceeding. A space is provided on the form that is to be completed with the name of MSFSC N1 POC.
- Two copies of the decision notice are required to be completed. The original is to be provided to the employee; the copy is used to obtain the employee's acknowledgement of receipt.
- Once all actions are completed, the disciplinary file (with all supporting documentation) is provided to MSFSC N1 for recordkeeping.

From: Deciding Official USNS	Date
To: (Name of Employee/CIVMAR):	Position Title/Rating:

Subj Decision on Disciplinary Action

1. On Form B(1) dated, _____, I proposed to: _____
(specify the discipline proposed)

2. I have carefully considered the information on this matter and your reply(ies) of (provide dates) _____.
(check box if employee/representative replied; line through reply portion, if the employee and/or representative did not reply).

My decision is:

Log you for ____ day(s) (NTE 2 days)

Conditionally Suspend you for ____ day(s) (NTE 7 days)

Suspend you from duty and pay for ____ day(s) (NTE 14 days) (except Chief Engineers)

Other: _____
(specify, including no discipline, if that is the decision; consult with MSFSC N1 as needed)

3. Name of MSFSC N1 specialist consulted/communicated with on this matter:	Date(s) MSFSC N1 POC contacted:
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4. In reaching this decision I considered the following prior offenses *(as provided from record held by the MSFSC N1). (If none, so state, otherwise state details of past offenses and include dates and penalties).*

5. I also considered the following: *(specify any other relevant factors considered)*

This action will be effective on _____ *(date).*

Grievance rights—According to your record at MSFSC N1 (obtain information for completion from MSFSC N1)

You may grieve this action in accordance with the procedures and time limits of your collective bargaining agreement.

Other (specify) _____

If there is anything you do not understand or if you have any questions about your rights and entitlements, please let me know and I will assist you in obtaining answers.

Signature of Employee:	Date Original Received:
Signature of Master:	Date:

FORM C(1) Recommendation of Discipline Ashore

This is a two-part form, and Part I may be used by the Master to notify a subordinate shipboard employee that he/she is considering recommending to MSFSC N1 that it initiate certain disciplinary/adverse action on the employee. Part II may be used for the Decision to Recommend to MSFSC N1 that discipline be initiated.

- Masters may propose and decide suspensions of 14 days or less for all CIVMARS, except Chief Engineers. For all other disciplinary/adverse actions, i.e., suspensions (any length) of Chief Engineers and all adverse actions of suspensions exceeding 14 days, demotions and removals, Masters must recommend to MSFSC N1 that it initiate action.
- Prior to making a recommendation ashore, the Master is required to communicate with MSFSC N1 to obtain/validate employee data for proper completion of the recommendation (such as employee's employment status). If the employee is temporary or serving a trial period, MSFSC N1 will advise on how to proceed. A space is provided on this form that is to be completed with the name of MSFSC N1 POC and dates contacted.
- Two copies of the form are required to be completed. The original (Part I) is to be provided to the employee, the copy is used to obtain the employee's acknowledgement of receipt.
- Part II of the copy is completed by the Master on the decision of recommendation and provided to MSFSC N1 along with all supporting documentation.

From: Master USNS		Date
To: (Name of Employee)	Position Title:	Employee's Scheduled Tour of Duty: (Include days of week and hours)

PART I Subj: Recommendation of Disciplinary/Adverse Action Ashore

1. I am considering making a recommendation to the Afloat Personnel Management Center that it initiate the following disciplinary action:

- Suspend you from duty and pay for _____ days.
- Demote you to the position/rating of _____.
- Remove/terminate you from employment with MSC and the Federal service.
- Other (specify): _____.

2. Name of MSFSC N1 specialist consulted/communicated with on this matter:	Date(s) MSFSC N1 POC contacted:
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3. The offense(s)/reason(s) for on which this action is recommended follows: (Include date, time, and location "sea" and specify offense(s) and details.)

4. In determining the severity of this recommended action the following past disciplinary actions, as provided by MSFSC N1 from your records, were taken into consideration. (If none, so state, otherwise state details of past offenses includes dates and penalties.)

PART I, (Cont'd) FORM C(1) Recommendation of Discipline Ashore

5. You have two calendar days from receipt of this notice to reply. You have the right to a representative in presenting or preparing your reply. You and your representative have the right to reply orally and/or in writing and to submit evidence in support of your reply. You and your representative may review any material relied upon to support this recommended action.
- Any written reply should be directed to me. If you wish to reply in person, you should contact me to arrange an appointment.
- Full consideration will be given to replies that you present. As soon as possible after your replies are received or if you do not reply, after the expiration of the 2-day period, I will decide what (if any) action to recommend.
- _____ (name/department) is available to answer any questions or obtain answers to questions that you may have concerning your rights and to type any reply you wish to submit.
- _____
- It is the policy of the Military Sealift Command to offer confidential counseling and referral services to employees who may have an alcohol, drug or other serious personal problem which affects job performance/conduct. If you feel, that this program could be of assistance, you are urged to contact _____ at MSFSC N1.
(name, telephone no., email address)

6a. Signature of Employee:	6b. Date Original Received:
7a. Signature of Master:	7b. Date:

PART II – Subj: Decision on Recommendation of Disciplinary/Adverse Action Ashore

From: Master USNS	Date
To: <i>MSFSC N1 (Name of MSFSC N1 POC):</i>	Copy To: Name of Employee and Position Title/Rating

Subj: DECISION ON RECOMMENDATION OF DISCIPLINARY/ADVERSE ACTION ASHORE

1. On Form C(1), I informed the above named employee that I was considering making a recommendation that action be initiated by MSFSC N1 for discipline of: _____
(specify discipline)

I have carefully considered all information on this matter and your reply(ies) of (provide dates) _____
(check box if employee/representative replied; line through reply portion, if the employee and/or representative did not reply.)

My decision is to recommend that MSFSC N1 initiate disciplinary action of _____
(specify discipline or if no discipline, so state)

2. Attached are all the documents supporting my recommendation, copies of any replies made by the employee including a summary of any oral reply, and any other information relevant to the case.

Signature: (Master)

FORM 6

DECLARATION UNDER PENALTY OF PERJURY

MILITARY SEALIFT FLEET SUPPORT COMMAND (N1),

DECLARATION OF _____
(Name)

I hereby declare under penalty of perjury under the laws of the United States of America that I have read the foregoing statement and that the information contained therein is true and correct to the best of my knowledge and belief.

Dated at _____, _____ this _____ day of _____, 20__.
(City) (State) (Month)

Signature _____ Position _____

Name of Ship _____

Address _____

FORM 7

DESIGNATION OF REPRESENTATIVE

I hereby designate _____ to act as my representative in matters
(Name)
related to this action.

_____ is located at
(Name)

_____ (Work or Home Address)
and can be reached during working hours at _____. This designation will remain
(Telephone Number)
in effect for matters pertaining to this action until specifically canceled or superseded in writing by
me personally.

(Employee Signature)

(Date)

Notice to employee:

You may be represented by a representative of your choice. However, MSFSC N1 may disallow as your representative an individual whose activities as representative would cause a conflict of interest or position; an employee of MSC whose release from his/her official position would give rise to unreasonable costs or whose priority work assignments preclude his/her release.

**FACTORS TO BE CONSIDERED IN SELECTING THE APPROPRIATE ACTION -
THE DOUGLAS FACTORS¹**

1. The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional, technical, inadvertent, or was committed maliciously or for gain, or was frequently repeated;
2. The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;
3. The employee's past disciplinary record;
4. The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
5. The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisor's confidence in the employee's ability to perform assigned duties;
6. Consistency of the penalty with those imposed upon other employees for the same or similar offenses;
7. Consistency of the penalty with any applicable agency table of penalties;
8. The notoriety of the offense or its impact upon the reputation of the agency;
9. The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question;
10. Potential for the employee's rehabilitation;
11. Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, medical/physical condition, harassment, or bad faith, malice or provocation on the part of others involved in the matter; and
12. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

¹In *Douglas, Curtis vs. Veterans Administration* (Docket No. AT075299006), the Merit Systems Protection Board set out guidelines (or factors) that agencies should consider in selecting an appropriate penalty.

NOTE: Not all of these factors apply in every case. In an individual case, some of the pertinent factors will weigh in the employee's favor; others may not or may even constitute aggravating circumstances. The deciding official should make notes about the factors as they are considered. Selection of an appropriate penalty involves a responsible balancing of the relevant factors in the individual case. Aggravating factors, such as prior disciplinary record, relied upon to enhance the penalty should be included in the advance notice of charges so that the employee has a fair opportunity to respond to those alleged factors before the deciding official. The decision notice should explain what weight was given to those factors.