



IDAHO NATIONAL GUARD
JOINT FORCE HEADQUARTERS
HUMAN RESOURCE OFFICE
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BOISE, IDAHO 83705-8112



NGID-HRO

4 February 2025

MEMORANDUM FOR Idaho National Guard (IDNG) AGR, Federal Employees

SUBJECT: HR Policy Letter 022; Adverse and Non-Disciplinary Actions Procedure Policy

1. References.

- a. 5 USC § 4303, 23 June 2017, *Actions Based on Unacceptable Performance*
- b. 5 USC Ch. 75, 12 December 2017, *Adverse Actions*
- c. 32 U.S.C. § 709, 23 December 2016, *Technicians: employment, use, status*
- d. CNGBI 1400.25 Vol 293, 25 July 2018, *National Guard Supervisor's Employee Work Folder Program*
- e. CNGBI 1400.25 Vol 431, 20 January 2022, National Guard Technician and Civilian Personnel Performance Management and Appraisal Program
- f. CNGBI 1400.25 Vol 715, 15 September 2021, National Guard Technician and Civilian Personnel Voluntary and Non-Disciplinary Actions Program
- g. CNGBI 1400.25 Vol 752, 8 November 2021, National Guard Technician and Civilian Personnel Discipline and adverse Action Program
- h. MFR Delegation of Deciding Official Authority for Title 32 (T32) Technicians Title 5 (T5) Employees Adverse Actions Dated 18JUL24
- i. Idaho Collective Bargaining Agreement, 31 October 2019

2. Purpose and Intent. Per CNGBI 1400.25 Vols 431, 715, and 752, this policy establishes that all supervisors will inform and coordinate with the Idaho Human Resources Office for all performance management (non-disciplinary) and/or misconduct that requires corrective action for Federal Employees in the IMD. A key tenet in Federal employment is that all employees are afforded due process based on the merit systems principles, in accordance with references d, e, f, and g. The intent is to ensure proper procedures are followed for all adverse actions and non-disciplinary from Letters of Reprimand to Removal and all Performance Improvement Plans.

3. Applicability and Scope. This policy applies to Federal Employee of the IMD, it covers civilian personnel and military supervisors of civilian personnel, all appropriated (APF) and non-appropriated (NAF) civilian employees and applicant(s) for employment.

4. Policy.

a. The Adjutant General (TAG) has delegated to the first O-6 position in the chain of command the authority to issue the agency decision regarding Category 1 and Category 2 adverse actions for IMD federal employees. For any decision regarding Category 2 Adverse Actions, the expectation will be to keep TAG informed as necessary.

b. State JAG

(1) Advises TAG, in disciplinary cases including adverse actions and MSPB hearings.

(2) Provides legal guidance and direction to all managers and supervisors on disciplinary responsibilities, rights, and obligations.

(3) Defends any administrative complaint, grievance, claim, or action.

c. HRO

(1) Will advise the TAG on cases including adverse, non-disciplinary, and performance management actions.

(2) Ensure Federal employees are afforded due process through references a-g as well as timelines and processed defined through the Idaho Collective Bargaining Agreement reference i.

(3) Provide necessary training to managers and supervisors on the IMD Technician and Civilian Personnel Discipline and Adverse Action Program.

(4) Consult with the State JAG Office for legal advice on adverse actions, Douglas Factors, and proposed penalties.

(5) Ensure commanders or security professionals report derogatory information promptly (typically within 72 hours) to the appropriate adjudication facility through the Joint Personnel Adjudication System and assist commanders in determining whether the derogatory information warrants the suspension of access to classified information.

d. Labor Relations Specialist (LRS)

(1) Administer disciplinary and adverse action program for the HRO and TAG in coordination with the State JAG where appropriate and IAW local guidance.

(2) Will advise and assist Commanders, Superiors, and Managers with all adverse, non-disciplinary, and performance management actions to limit the potential liability to the organization.

(3) The HRO LRS will advise and assist managers and supervisors with the correct process, procedures and forms. In addition, the LRS will coordinate with a servicing Judge Advocate to ensure any actions are legal sufficiency.

(4) The LRS will document and track all adverse, non-disciplinary, and performance management actions.

(5) Execute education and training for assigned IMD employees, military and civilian supervisors, and managers to promote a better understanding of performance management statutes, regulations, and policies.

(6) Advise supervisors or proposing officials on the differences between unacceptable performance and conduct actions.

(7) Monitor compliance with law, applicable Code of Federal Regulations (CFR) provisions, other CNGB Instructions, this volume, and all local directives and policies of TAG.

(8) Notify the exclusive representative (labor organization) of the bargaining unit for appropriate bargaining when new regulations, policies, and local directives that substantially impact working conditions are proposed for implementation. When a change is in conflict with a negotiated collective bargaining agreement, the agreement prevails unless the change is necessary to comply with a statutory change or in order for management to take necessary actions to carry out its mission in emergency situations.

e. Commanders and Supervisors/Managers.

(1) Maintain an office or shop atmosphere conducive to good employee-management relations.

(2) Practice and maintain discipline to reduce the need for formal discipline or adverse actions.

(3) Ensure employees understand their duties and work practices, safety, and security requirements.

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(4) Investigate allegations of misconduct in coordination with LRS and servicing SJA. Report allegations of criminal misconduct to law enforcement in coordination with servicing SJA.

(5) Promptly report derogatory information about an individual with National security eligibility (regardless of whether that individual has access to classified information) to the appropriate security professional or commander of the NG organization to which the employee is assigned when such information relevant to the adjudicative guidelines is developed or otherwise becomes available.

(6) Promptly notify the LRS if an employee is in the process of or losing a condition of employment e.g. a loss of security clearance.

(7) Managers and Supervisors are free to administer Technician Counseling (HRO Form 5) to employees for conduct or performance issues without coordination with HRO and the LRS.

(8) Any employee subject to an Adverse Action beginning with a Letter of Reprimand, the manager or supervisor must contact the HRO LRS for guidance and coordination.

(9) All managers or supervisors who plan to put an employee on a Performance Improvement Plan must contact the HRO LRS for guidance and coordination.

(10) Ensure actions taken or proposed on behalf of TAG or CG comply with law, applicable CFR provisions, other CNGB Instructions, this volume, all local directives and policies of TAG or CG, and the collective bargaining agreement.

(11) Review Appendix 1 and ensure all T5 non-dual status employees are aware of all reporting requirements that are listed within. HRO LRS will be advised of any T5 employee security clearance violations. Employees are encouraged to self-report activities outlined in Appendix 1 so they can work with the appropriate service (Army or Air) security clearance manager to prepare a response for the security adjudicating agency to retain their security clearance.

5. POC – Labor Relations Specialist, (208) 272-3809.

Encl:
Appendix 1: Reportable Activities List

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