Department of the Army

Volume 2009

Defense Civilian Intelligence Personnel System Disciplinary, Performance-Based, and Adverse Action Procedures

March 25, 2012

Incorporating Change 1, March 22, 2013

SUMMARY of CHANGE

AP-V 2009
Defense Civilian Intelligence Personnel System (DCIPS) Disciplinary, Performance-Based, and Adverse Action Procedures

This new Army Policy Volume provides Disciplinary, Performance-Based, and Adverse Action Procedures policies and procedures governing civilian employees of the Defense Civilian Intelligence Personnel System

Change 1 (3/22/2013)

Provides references within Enclosure 1 for interim subchapters “Defense Intelligence Senior Executive Services (DISES)” and “Defense Intelligence Senior Level (DISL) Program” approved for use while awaiting release of DoDI 1400.25, Volumes 2002 and 2003

Corrected reference issuance date within Enclosure 1 for AP-V 2011 (Performance Management) to June 29, 2011

Removes paragraph 5 (Indefinite Suspension – RESERVED) from Enclosure 3 (Procedures) and renumbers remaining paragraphs within Enclosure 3

Expands definition of an “Adverse Action”, “Deciding Official” and “Proposing Official”

Removes placeholder dates and inserts an actual date of approved document

Removes watermark, as document is no longer pre-signature

Department of Army DCIPS Policy

VOLUME 2009 – Defense Civilian Intelligence Personnel System Disciplinary, Performance-Based, and Adverse Action Procedures

1. Purpose

a. Overall Policy. Refer to Department of the Army (DA) Policy-Volume 2001 (AP-V 2001), Defense Civilian Intelligence Personnel System (DCIPS) Introduction (Reference (a)).

b. This Volume. In accordance with references listed in Enclosure 1, this Volume establishes policies and guidance for DCIPS disciplinary, performance-based, and adverse actions (whether based on unacceptable performance or misconduct) and appeals for positions covered by DCIPS and establishes procedures, prescribes authorities, assigns responsibilities, and provides guidance for all Army DCIPS employees.

2. References

See Enclosure 1.

3. **Applicability**

This policy applies to Army civilian positions, employees or organizations as described in Reference (a) engaged in or in support of an intelligence or intelligence-related mission. It does NOT apply to employees covered by the Federal Wage System or equivalent, non-appropriated fund employees, employees serving DCIPS trial period (see Reference (b)), or foreign national employees. Does not apply to members of the Defense Intelligence Senior Executive Service (DISES) or the Defense Intelligence Senior Level (DISL) unless specifically addressed in Reference (c) or (d).

4. Definitions

See Glossary.

5. Policy

It is Army policy that DCIPS policies and procedures will be followed when executing disciplinary, performance-based and adverse actions, concerning DCIPS employees. Supervisors and Managers of DCIPS employees are required to execute these actions fairly, equitably, impartially and consistently. All persons involved in these processes shall be free from restraint, interference, coercion, discrimination, or reprisal. This policy must be used in concert with Reference (e) and other Army policy guidance on civilian personnel management. Additional supplementation is not authorized except where permitted.

6. Responsibilities

See Reference (a) and Enclosure 2.

7. Procedures
See Enclosure 3.

8. Releasability
Unlimited. This policy is approved for public release.

9. Effective date
This policy is effective immediately.

Enclosures

1. References, *page 5*

2. Responsibilities, *page 7*

3. Procedures, *page 10*

4. Special Termination Authority, *page 19*

5. Post-Employment Assistance: Certain Terminated Intelligence Employees, *page 21*

6. Army DCIPS Employee Adverse Action Appeals Process, *page 22*
A. Sample Designation of Representative, *page 25*
B. Sample Appeal from Appellant, *page 26*
C. Sample Response to an Army DCIPS Employee Adverse Action Appeal (Decision Memo), *page 27*

Glossary

ENCLOSURE 1

REFERENCES

(a) AP-V 2001, "Defense Civilian Intelligence Personnel System Introduction," March 25, 2012

(b) *AP-V 2005, "Defense Civilian Intelligence Personnel System Employment and Placement," March 25, 2012*

(c) *Under Secretary of Defense (Personnel and Readiness) Memorandum; subject: "Interim Policy Directive for Intelligence Components to Operate Under Certain Defense Civilian Intelligence Personnel System (DCIPS) Subchapters," May 25, 2005 [Authorizes use of Interim Subchapter 1002, "Defense Intelligence Senior Executive Services (DISES)," which will be rescinded upon publication of Volume 2002]*

(d) *Under Secretary of Defense (Personnel and Readiness) Memorandum; subject: "Interim Policy Directive for Intelligence Components to Operate Under Certain Defense Civilian Intelligence Personnel System (DCIPS) Subchapters," May 25, 2005 [Authorizes use of Interim Subchapter 1003, "Defense Intelligence Senior Level (DISL) Program," which will be rescinded upon publication of Volume 2003]*

(e) DoD Instruction 1400.25, Volume 2009, "Defense Civilian Personnel Management System: Defense Civilian Intelligence Personnel System (DCIPS) Disciplinary, Performance Based and Adverse Action Procedures," May 20, 2012

(f) Part 2635 of title 5, Code of Federal Regulations

(g) AP-V 2011, "Defense Civilian Intelligence Personnel System Performance Management," June 29, 2011

(h) Sections 1609, 1611, 1612, and 1613 of title 10, United States Code

(i) *AP-V 2006, "Defense Civilian Intelligence Personnel System Compensation Administration," March 25, 2012*

(j) AR 690-700, Chapter 751, "Discipline", May 1990

(k) AR 380-67, "Personnel Security Program", September 9, 1988

(l) AR 25-400-2, "The Army Records Information Management System (ARIMS)," October 2, 2007

(m) *AP-V 2014, "Defense Civilian Intelligence Personnel System Employee Grievance Procedures," March 25, 2012*

(n) Part 1201 of title 5, Code of Federal Regulations

(o) Sections 2105, 2302, 7511(a)(1)b(B) and 7701 of title 5, United States Code

(p) DoD Directive 1400.35, "Defense Civilian Intelligence Personnel System (DCIPS)," September 24, 2007 (Incorporating Change 1, September 1, 2009)

(q) Intelligence Community Policy Guidance 704.1, "Personnel Security Investigative Standards and Procedures Governing Eligibility for Access to Sensitive Compartmented Information and Other Controlled Access Program Information," October 2, 2008

(r) Intelligence Community Policy Guidance 704.2, "Personnel Security Adjudicative Guidelines for Determining Eligibility for Access to Sensitive Compartmented Information and Other Controlled Access Program Information," October 2, 2008

(s) *AP-V 2004, "Defense Civilian Intelligence Personnel System Adjustment in Force (AIF)," March 25, 2012*

(t) *AP-V 2007, "Defense Civilian Intelligence Personnel System Occupational Structure," March 25, 2012*

ENCLOSURE 2

RESPONSIBILITIES

Responsibilities in this enclosure supplement and must be conducted in concert with those listed in Reference (a).

1. Secretary of the Army

The Secretary of the Army will:

a. Implement the DoD Policy 1400.25-Volume 2009 (Reference (e)) within the DA; issue supplemental guidance as appropriate, monitor DA Programs for compliance with the provisions of this policy, and respond to reporting requirements established by the USD(I).

b. Delegate the authority as appropriate, to implement this policy within Army.

2. The Assistant Secretary of the Army for Manpower and Reserve Affairs (ASA (M&RA))

See Reference (a) for roles and responsibilities of the ASA M&RA.

3. The Headquarters Department of the Army, Deputy Chief of Staff, G-1, Assistant G-1 (Civilian Personnel) (AG-1(CP))

See Reference (a) for roles and responsibilities of the AG-1 (CP).

4. The Headquarters Department of the Army, Deputy Chief of Staff, G-2, (HQDA, DCS, G-2)

The DCS, G-2 will establish the Army DCIPS disciplinary, performance-based, and adverse action programs' strategic direction, provide the overall policy framework, and approve policy guidance for administration of DCIPS disciplinary, performance-based, and adverse actions.

5. The Headquarters Department of the Army, Assistant Deputy Chief of Staff, G-2 (HQDA, ADCS, G-2)

The HQDA, ADCS, G-2 will:

a. Provide executive advice and consultation to the HQDA, DCS, G-2 and direct the full spectrum of Army DCIPS disciplinary, performance-based, and adverse action programs, policies, and systems through supervision of Headquarters Department of the Army, Office the Deputy Chief of Staff, G-2, Director, Intelligence Personnel Management Office..

b. Ensure the implementation of DCIPS disciplinary, performance-based, and adverse actions programs and compliance with policy guidance.

6. The Headquarters Department of the Army, Office of the Deputy Chief of Staff, G-2, Director, Intelligence Personnel Management Office (HQDA, ODCS, G-2, IPMO)

See Reference (a) for roles and responsibilities of the HQDA, ODCS, G-2, Director, IPMO.

7. Commanders of the Army Commands (ACOMs), Army Service Component Commands (ASCCs), Direct Reporting Units (DRUs) and the Administrative Assistant to the Secretary of the Army (AASA)

Commanders will:

a. Manage command disciplinary, performance-based, and adverse actions programs and issue supplemental guidance where permitted and needed.

b. Commanders may delegate disciplinary, performance-based, and adverse action authority, as appropriate, in accordance with HQDA, G-2, Delegated Civilian Human Resources (CHR) Authorities.

8. Assistant Deputy Chief of Staff, G-1, Civilian Human Resources Agency (CHRA), Civilian Personnel Advisory Centers (CPACs)

Servicing CPACs will:

a. Provide DCIPS disciplinary, performance-based, and adverse action guidance to activity commanders, supervisors, and managers.

b. Serve as the source of authoritative information.

c. Interpret policies and procedures concerning civilian discipline and adverse actions.

d. Provide advice and assistance that management relies upon to ensure their decisions are based on merit and comply with governing rules and regulations.

9. Servicing Legal Counsel

The Servicing Legal Counsel will *provide advice and assistance to supervisors, managers, and the servicing CPAC on employee disciplinary, performance-based, and adverse actions and review final decisions on formal actions for legal sufficiency.*

10. Proposing Officials

Proposing Officials will:

a. Gather, document, and analyze the facts concerning each potential disciplinary, performance-based, and adverse action.

b. Ensure that all official disciplinary, performance-based, and adverse action records used in proposing the action are forwarded to the servicing CPAC for recordkeeping purposes.

c. Issue a notice of proposed disciplinary, performance-based, and adverse action upon coordination and review of servicing CPAC.

11. Deciding Officials

Deciding Officials will:

a. Review and consider all relevant material relied upon by the Proposing Official, including matters submitted by the employee to rebut the proposed action.

b. Issue a notice of final decision on a disciplinary, performance-based, and adverse action upon coordination and review of servicing CPAC.

c. Ensure that all official disciplinary, performance-based, and adverse action records used in deciding the action are forwarded to the servicing CPAC for recordkeeping purposes.

12. Army DCIPS Employees

Army DCIPS Employees will:

a. Conduct themselves, both on and off duty, in a way that ensures their conduct does not reflect adversely on the Department of the Army.

b. Follow the work rules and directives provided by their supervisors.

c. Comply with the standards of conduct prescribed in the Standards of Ethical Conduct for Employees of the Executive Branch (Reference (f)).

ENCLOSURE 3

PROCEDURES

1. General

To promote the efficiency of the *Army DCIPS workforce*, the Army shall take disciplinary, performance-based, and adverse actions in accordance with these procedures, in the event of unacceptable performance or misconduct.

2. **Performance-Based Actions**

a. *Unacceptable Performance*. Actions to address unacceptable performance *(e.g., improvement plans)* will be implemented in accordance with *Reference (g)* and in accordance with merit principles identified in section 1612 in *Reference (h).*

b. Supervisors and managers may determine that an employee's performance is unacceptable at any time during the performance evaluation period. *Employees will be given a reasonable opportunity to improve performance.* In doing so, supervisors and managers shall notify the employee of the performance objectives and elements for which performance is unacceptable, and the performance requirements or standards that must be attained in order to demonstrate acceptable performance.

c. If, in the rating official's judgment, an Army DCIPS employee's performance is unacceptable, the rating official shall document feedback sessions with the employee. *The rating official* shall provide documentation to the employee; this documentation shall include, at a minimum, a statement of the performance requiring improvement, the performance improvement actions that the supervisor and employee have agreed to implement, and the consequences of failure to demonstrate acceptable performance improvement within an established period of time.

d. In deciding whether to reduce an employee's work level or grade or to remove the employee as a *consequence of performance that fails to meet established standards and has been appropriately documented (i.e., provided an opportunity to improve via an Improvement Plan (IP), and failed to improve performance to an acceptable performance which was officially documented with an overall rating of "Unacceptable" on the employee's evaluation of record as provided for in Reference (g)),* the Deciding Official should consider whether the remediation of performance is a reasonable possibility given such factors as mission demands, equity within their command / organization, qualification requirements, costs of replacement, the effect on performance in the work unit and other considerations supportive of sustaining a productive, performance-oriented work environment.

3. ***Executing Performance-Based Actions***

a. Supervisors and managers, when executing performance-based actions must adhere to basic merit principles identified in section 1612 in Reference (h).

b*. Under most circumstances the first level supervisor (the Proposing Official) will sign and issue the proposal and the second level supervisor (the Deciding Official) will be responsible for receiving and considering the employee's reply/rebuttal to the*

proposed notice and making a final decision on the matter by issuing a notice of decision.

c. Deciding Officials may decide upon such personnel actions as reduce an employee's rate of base pay, reduce an employee's work level, reduce an employee's grade, or remove an employee from Federal service, with appropriate documentation, as a result of performance that fails to meet established standards and has been appropriately documented. *For these types of actions, the performance must have resulted in an overall rating of "Unacceptable" on the employee's evaluation of record and documented by an improvement plan required in accordance with Reference (g). Such actions shall be executed in accordance with merit principles. Proposal notices shall identify the specific performance objectives and/or performance elements against which performance has been found to be unacceptable, and cite specific examples of unacceptable performance. Note: Reassigning an employee to another position is also an option; however, reassignment of the employee to a position within the same work level is not viewed as an appropriate means of addressing unacceptable performance since employee has shown they cannot perform at their present work level.*

d. The deciding official may reduce the employee's salary in accordance with Reference (i) to an amount not less than the minimum of the grade to which reduced. In no case may the employee's salary exceed the maximum for the grade to which reduced. An employee's annual compensation may not be reduced under involuntary procedures more than once in a 12-month period. *Supervisors and managers, in coordination with the servicing CPAC, must ensure that employees being placed in vacant positions as a result of a performance-based action meet all qualification requirements and conditions of employment.*

e. Final decision notices resulting from a performance-based action must be coordinated with the servicing CPAC and the servicing legal counsel prior to issuance. Such review of the record assures that the decision is procedurally sound and legally sufficient.

f. If a decision notice cannot be delivered to the employee in person because of absence, the decision notice may be delivered by mail. In such cases, proof of mailing should be established.

g. The servicing CPAC must maintain a separate file for each employee's performance-based action in accordance with Reference (l). The file must include, at a minimum: (1) copies of the notice of proposed action and supporting documents (2) the answer of the employee when written, a summary thereof when made orally, (3) the notice of decision and reasons therefore, (4) any order effecting an action covered by this policy, together with any supporting material and (5) Notification of Personnel Action affecting the decision.

h. Employee Rights. When performance-based actions are proposed, *(i.e.,* removal, reduction in work level or reduction in grade), *an Army DCIPS* employee is entitled to:

(1) *Advanced Written Notice*. A 30 calendar-day advance written notice of the proposed action. *This notice shall identify the specific performance deficiencies and efforts made by management to improve the employee's performance.*

(2) Representation. Army DCIPS employees may be represented by an individual of his or her choosing at his or her own cost to assist in preparing and/or presenting a reply to the notice of proposed action, grieving or appealing a decision to effect the performance-based action. If such a representative is chosen, the Army DCIPS employee must designate that individual in writing. After consultation with servicing human resources and legal office, the deciding official may disallow, as an employee's representative, an individual whose activities as a representative would cause a conflict of interest or position, compromise classified activities of the Government, conflict with the Army's priorities (e.g., an employee of the agency whose release from his or her official position would give rise to unreasonable costs or whose priority work assignments preclude his or her release), or give rise to additional cost to the Government.

(3*) Reasonable Amount of Time to Respond*. Employees will typically have 7 to 15 calendar days to answer the notification orally and / or in writing.

(4) *Documentation. Employees have the right to review the documentation upon which the proposed action is based.*

(5) *Written Decision. A written final decision, the effective date of the action, including a statement that the action has been concurred with by the Deciding Official*.

(6) *Appeal Rights.* Notification of the right to appeal the final decision. Army DCIPS employees have the right to appeal a performance-based action in accordance with paragraph 7 of this Enclosure.

4. *Disciplinary and* Adverse Actions (as defined separately in glossary).

a. *Addressing misconduct is a part of the daily responsibility of supervisors. When disciplinary and adverse actions are needed to motivate Army DCIPS employees to conform to acceptable standards of conduct and prevent prohibited actions, management must be prepared to take disciplinary and adverse actions with evidence that the misconduct occurred, and that the disciplinary and adverse actions imposed upon Army DCIPS employees promotes the efficiency of the service.*

b. Army's procedures, standards and guidelines for disciplinary and adverse actions based on misconduct will generally allow for specific progressive actions such as informal discipline (e.g., oral admonitions, letters of instruction, written warnings, etc.) and progressing to formal actions (e.g., written reprimands, suspensions, involuntary reductions in grade or pay, removal, etc.) in order to correct the employee's behavior. When misconduct occurs, managers of Army DCIPS employees should apply increasingly more severe penalties as the employee continues to breach the employee-employer relationship. The Department of Army Table of Penalties for Various Offenses contained in Reference (j) should be used as a guide when determining appropriate discipline. It is a guide to discipline, not a rigid standard. Deviations are allowable in several cases for a variety of reasons such as *when the nature and severity of the offense or other factors preclude progressive approach.*

c. Proposing and Deciding Officials should consider individual aggravating and mitigating circumstances when proposing and deciding on disciplinary or adverse actions.

(1) In determining the appropriate penalty, supervisors must observe the principle of "like penalties for like offenses in like circumstances." This means that penalties will be applied as consistently as possible. Deciding officials must establish that the penalty selected does not exceed the limits of reasonableness. Any decision notice concerning an adverse action must cite the fact that the relevant factors, as applicable, were considered in reaching the decision. These factors are often referred to as the Douglas factors based upon a well known Merit Systems Protection Board (MSPB) case (Douglas v. Veterans Administration) addressed this issue in detail. A number of factors which the deciding official must weigh in deciding an appropriate course of action are discussed in this case and identified below:

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

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

(c) The employee's past disciplinary record.

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

(e) The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon the supervisor's confidence in the employee's ability to perform assigned duties.

(f) The consistency of the penalty with those imposed upon other employees for the same offense in like or similar circumstances.

(g) The consistency of the penalty with agency guidance on disciplinary actions.

(h) The notoriety of the offense or its impact upon the reputation of the agency.

(i) The clarity with which the employee was on notice of rules that was violated in committing the offense, or had been warned about the conduct in question.

(j) The potential for the employee's rehabilitation.

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

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

(2) In situations involving off-duty misconduct, supervisors and managers must determine whether a nexus exists between off-duty misconduct and the employee's duties and whether the off-duty misconduct warrants an adverse / disciplinary action.

d. Supervisors and managers should weigh the stringent standards of on- or off-duty misconduct expected of employees required to obtain and maintain access to classified information and facilities. Supervisors and managers must report employee misconduct in accordance with Reference (k).

e. Care must be taken when considering disciplinary or adverse action involving denial or revocation of security clearance and/or suspension of access to classified information. Disciplinary or adverse action may be taken based on the underlying incidents or facts that caused the security clearance to be denied or revoked and/or the

access to classified information to be suspended. However, except as set forth in paragraph 5 below, no action may be proposed or decided based solely on the denial or revocation of a security clearance or the suspension of access to classified information until the employee has been afforded the due process protections contained in paragraph 8-6 in reference (k). A waiver to the due process requirements may be granted IAW Reference (k) when a person is incarcerated on conviction of a criminal offense.

f. Unauthorized Absences. Managers will notify the supporting agency security manager when an employee has an unexplained absence for more than 3 work days, contact with that employee has been unsuccessful; and when the employee has had recent access to national defense information classified Secret or higher, or Communications Security (COMSEC) information, the unauthorized disclosure of which would result in serious or exceptionally grave danger to the United States.

5. Executing Disciplinary Actions

a. *Supervisors and managers, when executing disciplinary actions must adhere to basic merit principles identified in section 1612 in Reference (h). The determination of which penalty to impose in a particular situation requires the application of responsible judgment. Disciplinary action taken is based on the conclusions that there is a preponderance of evidence available to support the reason(s) for action and that the disciplinary action is warranted and reasonable in terms of the circumstances which prompted it.*

b. The Proposing Official (which in most circumstances will be the first level supervisor) will sign and issue the proposal and the Deciding Official (which in most circumstances will be the second level supervisor) will be responsible for receiving and considering the employee's reply/rebuttal to the proposed notice and making a final decision on the matter by issuing a notice of decision.

c. Final decision notices resulting from discipline must be coordinated with the servicing CPAC and servicing legal counsel prior to issuance in accordance with Reference (j). Such review of the record assures that the decision is procedurally sound and legally sufficient.

d. If a decision notice cannot be delivered to the employee in person because of absence, the decision notice may be delivered by mail. In such cases, proof of mailing should be established.

e. The servicing CPAC must maintain a separate file for each employee's disciplinary action in accordance with Reference (l). The file must include, at a minimum: (1) copies of the notice of proposed action and supporting documents, (2) the answer of the employee when written, a summary thereof when made orally, (3) the notice of decision and reasons therefore, (4) any order effecting an action covered by this policy, together with any supporting material, and (5) Notification of Personnel Action affecting the decision.

f. Employee Rights. When disciplinary actions are proposed, *(i.e., suspensions of 14 calendar days or less*) *an Army DCIPS* employee is entitled to:

(1) *Advanced Written Notice. Proposing and Deciding Officials will provide for notice to the employee of the proposed action stating the specific reason(s) for the proposed action. Employees will have not less than 7 calendar days to respond.*

(2) Representation. Army DCIPS employees may be represented by an individual of his or her choosing at his or her own cost to assist in preparing and/or presenting a reply to the notice of proposed action, grieving a decision to effect the disciplinary action. If such a representative is chosen, the Army DCIPS employee must designate that individual in writing. After consultation with servicing human resources and legal office, the deciding official may disallow, as an employee's representative, an individual whose activities as a representative would cause a conflict of interest or position, compromise classified activities of the Government, conflict with the Army's priorities (e.g., an employee of the agency whose release from his or her official position would give rise to unreasonable costs or whose priority work assignments preclude his or her release), or give rise to additional cost to the Government.

(3) *Documentation.* Employees have the right to review the documentation upon which the proposed action is based.

(4) *Written Decision.* A written final decision that specifies the instances of misconduct on which the decision is based, *the effective date of the action*, including a statement that the action has been concurred with by *the Deciding Official*.

(5) *Grievance Rights*. Notification of the right to *grieve* the final decision. Army DCIPS employees have the right to grieve the decision in accordance with *Reference (m).*

6. Executing Adverse Actions (for other than performance reasons)

a. Supervisors and managers, when executing adverse actions must adhere to basic merit principles identified in section 1612 in Reference (h).

b. The *Proposing Official (which in most circumstances will be the first level supervisor) will sign and issue the proposal and the Deciding Official (which in most circumstances will be the second level supervisor) will be responsible for receiving and considering the employee's reply/rebuttal to the proposed notice and making a final decision on the matter by issuing a notice of decision.*

c. Typically, removal based upon misconduct is imposed only after a progression of penalties taken in an effort to rehabilitate the employee unless removal for the first or second offense is warranted. Before removal is initiated, the facts and circumstances in the case must be carefully reviewed. Conclusions must be that the employee has demonstrated unwillingness or refusal to conform to established rules of conduct or has breached the employee-employer relationship in such a way that other rehabilitation is not appropriate and removal is warranted for the offense(s). Army DCIPS employees having engaged in violations of law, gross negligence with respect to national security protections, or fraud, waste and abuse will be considered for removal from the Federal service.

d. Demotion or removal from Federal service based solely on the inability to meet and/or maintain the requirements of a condition of employment, inability to perform the duties of the position, lack of work or funds, or statutory requirement will be processed as an adverse action.

e. Final decision notices resulting from an adverse action must be coordinated with the servicing legal counsel prior to issuance in accordance with Reference (j). Such review of the record assures that the decision is procedurally sound and legally sufficient.

f. If a decision notice cannot be delivered to the employee in person because of absence, the decision notice may be delivered by mail. In such cases, proof of mailing should be established.

g. The servicing CPAC must maintain a separate file for each employee's adverse action in accordance with Reference (l). The file must include, at a minimum: (1) copies of the notice of proposed action and supporting documents (2) the answer of the employee when written, a summary thereof when made orally, (3) the notice of decision and reasons therefore, (4) any order effecting an action covered by this policy, together with any supporting material, and (5) Notification of Personnel Action affecting the decision.

h. Employee Rights. When adverse actions are proposed, *(i.e.,* removal, *suspension of more than 14 calendar days,* reduction in work level or reduction in grade), *an Army DCIPS* employee is entitled to:

(1) *Advanced Written Notice.* A 30 calendar-day advance written notice of the proposed action unless there *exists* reasonable cause to believe the employee has committed a crime for which a sentence of imprisonment may be imposed and the *Proposing Official* is proposing a removal or suspension including indefinite suspension. This notice shall identify the specific misconduct or behavior and cite specific examples of misconduct.

(2) Representation. Army DCIPS employees may be represented by an individual of his or her choosing at his or her own cost to assist in preparing and/or presenting a reply to the notice of proposed action, or appealing a decision to effect the adverse action. If such a representative is chosen, the Army DCIPS employee must designate that individual in writing. After consultation with servicing human resources and legal office, the deciding official may disallow, as an employee's representative, an individual whose activities as a representative would cause a conflict of interest or position, compromise classified activities of the Government, conflict with the Army's priorities (e.g., an employee of the agency whose release from his or her official position would give rise to unreasonable costs or whose priority work assignments preclude his or her release), or give rise to additional cost to the Government.

(3) *Reasonable Amount of Time to Respond.* Employees will typically have 7 to 15 calendar days to answer the notification orally and / or in writing.

(4) *Documentation*. Employees have the right to review the *documentation* upon which the proposed action is based.

(5) *Written Decision.* A written final decision that specifies the instances of misconduct on which the decision is based, the effective date of the action, including a statement that the action has been concurred with by *the Deciding Official*.

(6) *Appeal Rights.* Notification of the right to appeal the final decision. Army DCIPS employees have the right to appeal an adverse action in accordance with paragraph 7 of this Enclosure.

7. Appeals

a. Except for terminations for national security purposes *(see Enclosure 4),* Army DCIPS employees who have successfully completed a DCIPS trial period and who are employed under other than a temporary appointment of two years or less, may appeal an adverse action or a performance-based action (a disciplinary action may be grieved in accordance with AP-V 2014, but not appealed under these procedures). An Army DCIPS employee who believes that the action was taken based on prohibited discrimination may file a complaint *through Army Equal Employment Opportunity (EEO) channels*. Disputes based *solely* on the employee's performance evaluation shall be addressed through the *DCIPS performance evaluation* administrative reconsideration process *in accordance with Reference (g), except for adverse or performance-based action resulting from the performance evaluation of record.* Disciplinary actions (as defined in glossary) *may not be appealed, but may be grieved pursuant to Reference (m).*

*(1) Preference-eligible: Army DCIPS preference-eligible employees who have completed one year of current continuous service in the same or similar positions may appeal adverse and performance-based actions (as defined in glossary) t*o the U.S. Merit Systems Protection Board (MSPB) in accordance with Reference (n) except for terminations for national security reasons under 10, U.S.C. 1609 which are described in Enclosure 4 of this volume. However, if the employee bypasses the Army DCIPS employee appeals process (Enclosure 6 of this volume) and appeals directly to the MSPB, the employee may not subsequently appeal the same action utilizing the Army DCIPS employee appeals process.

(2) Non-preference eligible:

(a) Army DCIPS non-preference eligible employees who have not completed a DCIPS trial period may be separated with no right to appeal at any time if it is determined that the employee's conduct or performance is unsatisfactory unless otherwise provided for in Enclosure 1 of Reference (b).

(b) *Army DCIPS* non-preference eligible employees who have completed a DCIPS trial period may only *appeal their removal, suspensions of more than 14 calendar days, reduction in grade or pay, or furlough for 30 calendar days or less, in accordance with the Army DCIPS appeal procedures in Enclosure 6 of this volume.*

b. Employees covered by 1612(b) of *Reference (h)* may appeal adverse and performance-based actions to the MSPB.

c. Army DCIPS shall apply the standard of "substantial evidence" in section 7701(c)(1)(A) of title 5, U.S.C. (Reference (o)) in adjudicating employee appeals of actions resulting from unacceptable performance.

d. Army DCIPS shall apply the standard of "preponderance of the evidence" in section 7701(c)(1)(B) of Reference (o) in adjudicating employee appeals of actions resulting from unacceptable conduct.

e. Alternative Dispute Resolution (ADR) is authorized for use to resolve an employee appeal if mutually agreed to by the manager and employee (see paragraph 8).

f. Employee appeals of termination decision effected under *Enclosure 4* of this volume shall be adjudicated by the Secretary of Defense.

g. An employee allegation of a prohibited personnel practice or prohibited discrimination *may form the basis of an appeal.* In a case in which the employee alleges that an action taken to address unacceptable performance was the result of a prohibited personnel practice as defined in section 2302(b) of *Reference (o),* the employee may either appeal the action to the MSPB in accordance *with Reference (n)* or make a complaint to *the Army Inspector General*, or take other appropriate avenues (*e.g., filing a complaint with the U.S. Office of Special Counsel, etc.)*.

8. Nontraditional Approaches

a. The Department of the Army has not established common or mandatory agency-wide nontraditional discipline and dispute resolution programs. Organizations and installations have been allowed to use innovative approaches to nontraditional disciplinary actions such as AD and alternative dispute resolution (ADR) to determine what might work best, if anything, in their individual operating environments. ADR may include peer panels, mediators, or other impartial individuals or panels necessary to assist the parties in resolving disputes. Those organizations and installations that have found such nontraditional programs work well in their operating environments are encouraged to continue their use. Other organizations are encouraged to test nontraditional approaches to discipline, dispute resolution and formalizing them if they prove effective.

b. Using Alternative Discipline (AD). Some organizations have established formal AD programs that cover specific behavioral offenses, such as those dealing with absenteeism. In such programs where a written AD agreement has been signed by both management and the offending employee documenting the AD, the AD may serve as the basis for the enhanced penalty, e.g. second or third offense. The servicing legal counsel should be consulted when enhancing a penalty based upon a prior nontraditional discipline offense with the discipline being imposed

ENCLOSURE 4

SPECIAL TERMINATION AUTHORITY

1. General

Notwithstanding any other provisions, pursuant to section 1609 of *Reference (h)* and consistent with *Reference (e) and (p):*

a. The Secretary of the Army has been delegated the authority by the Secretary of Defense to terminate the employment of any Army DCIPS employee under the conditions specified in section 1609, title 10, United States Code only if they consider that such action is in the interest of the United States and it is determined that the procedures prescribed in other provisions of law that authorize the termination of employment cannot be invoked in a manner consistent with the national security. This authority may not be further delegated. *Use of the special termination authority is rare.*

b. Procedures:

(1) The Activity, Local Command or Command employing the Army DCIPS employee will conduct a thorough and timely incident or case investigation including review by their servicing legal counsel and servicing CPAC before submitting a request for action to terminate employment pursuant to this authority.

(2) Notification to USD(I). Prior to invoking the extraordinary authority of section 1609 of Reference (h), the HQDA G-2, IPMO will notify the USD(I) of the intended use of this authority, on behalf of the proposing official. Such notification will also request authority to proceed and to have an action officer identified by the USD(I) for related actions, as needed.

(3) Request for action. Commanders of the ACOMs, ACSS, DRUs, and the AASA will submit a written request and draft removal notice to the HQDA, DCS G-2 for review and coordination with the Secretary of the Army for his signature. The written notification of the decision to terminate will contain the following information:

(a) The proposed effective date of termination.

(b) Information on the exit process and points of contact pertinent to the termination.

(e) Information on the employee's right to appeal to the Secretary of Defense following procedures outlined in paragraph 1.d of this enclosure.

(f) When determined to be warranted, authorization for postemployment assistance may be requested from the USD(I).

(4) Approval of proposed action. HQDA, G-2 IPMO will prepare the termination action for final and forward it to the Office of General Counsel for legal review and coordinate with any other appropriate review authorities before it is forwarded to the Secretary of the Army for approval. The Secretary of the Army shall issue a written decision to the employee notifying the employee of their termination of employment.

(5) Employee Communications. All documentation and all communications with the employee shall be maintained consistent with applicable security and counterintelligence standards.

(6) Notice to Congress. The HQDA G-2, IPMO will notify the Director, Human Capital Management Office in the Office of the USD(I) on decisions to terminate

employment of an employee under this authority for their prompt notification to Congressional oversight committees.

(7) Employment. Termination of employment does not affect the right of the removed employee to seek or accept employment with any other department or agency of the United States if the Director of the Office of Personnel Management declares the employee eligible for such employment.

c. Special Termination Authority Appeals.

(1) The decision to terminate the employment of a DCIPS employee under this authority may be appealed to the Secretary of Defense.

(2) The authority to hear an appeal cannot be further delegated, and the decision to terminate may not be appealed or reviewed outside of the Department of Defense.

(3) The following procedures apply to appeals of such actions to the Secretary of Defense:

(a) The employee, or his or her designated representative, may present information in support of his or her case.

(b) Appeals must be in writing and state specific reasons why the termination action should not have been taken and should include all matters the employee wishes the Secretary to consider in deciding the appeal including, but not limited to, copies of any documents in the employee's possession related to the termination decision. The appeal must state the specific relief requested.

(c) Appeals must be submitted to the Secretary of Defense through his or her designed representative at the address and fax number that will be provided for his or her purpose within 30 calendar days of the termination decision, and must be signed and dated. An appeal submitted after the 30 calendar-day deadline shall be considered untimely unless good cause is shown as to the reason such appeal could not be submitted within the time provided.

(d) If the employee requires an extension to the time limit for filing an appeal, he or she directly, or through their representative, may make a written request to the designated point of contact at the address or fax number provided. The request must include the basis for the extension and the period of additional time requested. The request for an extension to the time limit must be received within the 30 calendar-day period provided for the employee to submit the appeal.

(e) Appeals shall provide the written address to which the Secretary's decision should be sent. After the Secretary of Defense considers the employee's appeal, the employee will be notified of the Secretary's decision, in writing, at the address identified in his or her appeal.

ENCLOSURE 5

POST-EMPLOYMENT ASSISTANCE

1. General

As provided by section 1611 of Reference (h), the Secretary of Defense may provide postemployment assistance to certain terminated employees when such assistance is essential to maintain the judgment and emotional stability of the qualified former intelligence employee and is essential to avoid circumstances that might lead to the unlawful unauthorized disclosure of classified information. This authority is intended to address highly unusual personal situation where the national security is demonstrably threatened, and is not meant as authority, for example, to provide monetary assistance to former employees solely because they are experiencing personal difficulties once they leave employment. *When warranted, Army will request such assistance from the USD(I) through* the Director, Human Capital Management Office (HCMO).

2. Certification

In requesting that such postemployment assistance be provided to a former Army DCIPS employee, the Secretary of the Army shall certify to the USD(I) that such assistance is essential to avoid circumstances that might lead to the unlawful disclosure of classified information and poses a threat to national security. In making this certification, the SA shall consider and provide to the USD(I):

a. An assessment by appropriate psychological and/or psychiatric medical professional(s) of the judgment and emotional stability of the former employee.

b. An assessment within Army by security and counter-intelligence professional(s) of the threat to national security if the former employee were to unlawfully disclose classified information. In weighing the risk of unlawful disclosure, Army shall apply the principles and elements of Intelligence Community Policy Guidance 704.1 (Reference (q)) and the standards and adjudicative guidelines of Intelligence Policy Guidance 704.2 (Reference (r)).

c. An assessment of any documentation, correspondence, or statements provided by the former employee, for credible evidence that such assistance is essential to avoid circumstances that may threaten national security.

d. The nature, duration (not to exceed 5 years from the date of termination of the qualified former intelligence employee) and funding required for such postemployment assistance.

e. The plan for assuring appropriate follow-up and monitoring of the former employee's progress.

ENCLOSURE 6

ARMY DCIPS EMPLOYEE APPEALS PROCESS

1. General

Army DCIPS employees to whom this Volume applies who have successfully completed a DCIPS trial period and who are employed under other than a temporary appointment of 2 years or less may appeal adverse or performance-based actions in accordance this Enclosure of this Volume. Such appeals must be based upon a final written decision issued by the Army. Army DCIPS employees will be given the opportunity to appeal adverse actions to the proper authority without fear of restraint, interference, coercion, discrimination, or reprisal. Disputes will be resolved impartially, equitably and promptly. The Army DCIPS appeals procedures provide for equitable treatment, high standards of integrity and efficiency, and freedom from favoritism and arbitrary action. The standard of "substantial evidence" in section 7701(c)(1)(A) of Reference (o) apply in adjudicating employee appeals of actions resulting from unacceptable performance. The standard of "preponderance of the evidence" in section 7701(c)(1)(B) of Reference (o) apply in adjudicating employee appeals of actions resulting from misconduct.

a. Commanders of the ACOMs, ASCCs, DRUs and AASA will:

(1) Manage the command Army DCIPS employee appeals programs.

(2) Ensure implementation of the Army Appeals Procedures in their organizations.

(3) Give advice and guidance to subordinate organizations.

(4) Issue supplemental guidance where permitted and needed.

(5) Serve as the Deciding Official for Army DCIPS employee appeals, unless directly involved in the matter being appealed. This role may be further delegated in writing to the lowest organizational level above any Army DCIPS employee involved in the appeal or having an interest in the appeal.

b. Army DCIPS Employees who have completed a DCIPS trial period shall ensure they follow all relevant policies and procedures for filing an appeal under this appeals process.

2. Appealable Matters

Army DCIPS employees are entitled under this Enclosure of the Volume to appeal their removal, suspension of more than 14 calendar days, reduction in grade or pay, or furlough for 30 calendar days or less. These procedures do not pertain to –

a. Termination or expiration of a term or temporary appointment on the date specified (or earlier date) as a condition of employment at the time the appointment was made (or extension of appointment) was made.

b. Any action taken under adjustment in force (AIF) proceedings. Such actions may be appealed in accordance with AP-V 2004 (Reference (s)).

c. Any action taken pursuant to national security including determinations regarding eligibility for access to classified, compartmented, or other controlled access information *(includes removal procedures taken under Section 1609, Title 10)*.

d. The terms of any mediated agreement that an Army DCIPS employee is a part to resulting from participation in the Alternative Dispute Resolution (ADR) Program

3. Procedures

a. The Army DCIPS employee must submit the appeal, in writing (see Appendix B) to the deciding official within 15 calendar days following the effective date of the adverse action being appealed.

b. The appeal must be signed, dated, and contain:

(1) A detailed unclassified statement of the specific issue(s).

(2) The specific, personal relief sought.

(3) Copies of any documents in the Army DCIPS employee's possession related to the appeal. Classified information shall not be included when doing so would not obscure pertinent facts. If review of classified information is essential to the case, the appeal shall include a statement giving the location where the classified documents may be reviewed and the level of clearance required to do so.

(4) The name, address, and telephone number of the appellants representative, if any.

(5) If the employee is a preference eligible who completed a DCIPS trial period, the employee will state in writing that he/she has not filed a MSPB appeal concerning the same matter. (Refer to Enclosure 3, Para 7.a.(1)).

c. Upon receipt of the appeal the Deciding Official will do one of the following as appropriate:

(1) Cancel the appeal if the matter disputed is not an appealable concern (see paragraph 7.a(2) of Enclosure 3, Appeals), or if it was not filed timely, without good cause for delay, or for failure to follow procedural requirements. The deciding official must inform the appellant of the decision in writing and inform the appellant that he or she may request that an individual at the next higher management level within Army, if any, review the decision.

(2) Accept the appeal for decision on the merits if grounds for rejection do not exist, and contact the servicing CPAC to establish an appeal file.

d. If an appeal is accepted for decision on its merits, the Deciding Official may:

(1) Determine that an investigation is required and appoint a fact-finder, as appropriate. If it is decided that a fact-finder is needed, the deciding official will identify a suitable individual for that purpose who has not been personally involved.

(2) Determine that an alternative dispute resolution (ADR) process, such as mediation, is appropriate. Any agreement resolving the matter through ADR must be in writing and reviewed by the servicing legal counsel prior to finalization. If ADR is conducted but does not resolve the appeal, the mediator will prepare a memorandum for record (MFR) stating that ADR was attempted during the appeal and was unsuccessful. The MFR will be filed in the servicing CPAC's appeal file.

e. If an appeal is accepted on its merits, and has not been resolved by ADR:

(1) The deciding official must determine whether to permit the appellant's requested representative.

(2) The deciding official must fully and fairly consider the appeal and issue a written decision (see Appendix C) with supporting rationale for the decision. The deciding official shall issue the decision as soon as possible but normally no later than 60 calendar days from the filing of the appeal. The deciding official may extend time

frames when warranted by special circumstances (e.g. when those involved are geographically dispersed or where a fact-finder is used in the process). However, an appeal decision should be rendered no more than 90 calendar days from the filing of the appeal absent mutual agreement to extend this time limit to accommodate resolution of the dispute. If the deciding official fails to render a decision within 90 calendar days absent such mutual agreement, the appellant may request review by the next higher management level, if any, within Army. A deciding official must be assigned to an organizational level higher than an Army DCIPS employee involved in the appeal or having a direct interest in the matter being grieved unless the deciding official was previously involved in the matter being appealed.

(3) A deciding official's decision on the merits of the appeal is final and not subject to further review (except when an appeal is cancelled under one of the conditions in paragraph 2 (a) through (d) of Enclosure 6).

4. Appeal Files

The servicing CPAC will establish and maintain a separate unclassified file for each written appeal, and retain it for four years or as provided for in accordance with applicable laws, regulations and records retention schedules. The appeal file must include: (Note: Classified information must not be sent or included in any file maintained by the servicing CPAC).

a. *The Army DCIPS employee's written appeal.*

b. The written designation of representative, if any.

c. In the case of fact finding, the written designation of the management representative.

d. The report of findings and recommendations of the fact-finder or investigation, if any.

e. The appellant and/or the representative's written comments on the contents of the appeal file, if any.

f. A written offer of or request for ADR, or other written agreement to use ADR to resolve the appeal

g. Any other documents and/or finding related to the appeal including documentation related to an investigation (if applicable).

h. Statement giving the location where the classified documents essential to the case may be reviewed and the level of clearance required to do so (if applicable).

i. Any written settlement agreements pertaining to the appeal.

j. The decision issued by the deciding official with supporting documents, if any.

APPENDIX A TO ENCLOSURE 6

SAMPLE DESIGNATION OF REPRESENTATIVE

MEMORANDUM FOR (Name of Deciding Official)

SUBJECT: Appeal

1. This provides notice that I have designated (name) of (organization) (telephone number) to represent me with regard to any and all matters relating to my appeal which was submitted on (date). I recognize that Army may disallow as my representative any person whose activities as a representative would cause a conflict of interest or position, or whose release from his or her official position would give rise to unreasonable costs, or where priority work assignments preclude his or her release.

2. I further authorize the above-named individual full and complete access to any and all records concerning myself that may be held by management.

(Appellant's Signature and Date)

CF
(Name of Representative)

APPENDIX B TO ENCLOSURE 6

SAMPLE APPEAL FROM APPELLANT

MEMORANDUM FOR (Name, title, and mailing address of Deciding Official)

SUBJECT: Appeal

1. This is an appeal under the Army Defense Civilian Intelligence Personnel System Employee Adverse Action Appeal Procedures.

2. The adverse action matter on which this appeal is based was effective on (give date) and is described in detail as follows: (Furnish sufficient detail to clearly identify the matter being appealed. Appropriate documents related to your appeal should be attached. Classified information shall not be included. If review of classified information is essential to the case, the appeal shall include a statement giving the location where the classified documents may be reviewed and the level of clearance required to do so.)

3. The personal relief (i.e., corrective action) I seek is: (Specify clearly.) (Note: "Personal relief" means a specific remedy directly benefiting you and may not include a request for disciplinary or other action affecting another employee. For example, if you were suspended without pay, your "personal relief" request may be to cancel the suspension and reinstate your pay. Failure to provide sufficient information relating to your appeal or to clearly specify the personal relief you are requesting will result in your appeal being cancelled. It is preferable that you personally deliver your appeal when practicable. When mailing is used, the postmark usually determines the filing date of the appeal.)

I request Alternative Dispute Resolution (ADR), if offered, to attempt to resolve this appeal. (Yes/No).

Enclosures: (It is preferable to identify any enclosures.)

(Appellant's Signature and Date)

APPENDIX C TO ENCLOSURE 6

SAMPLE RESPONSE TO AN ARMY DEFENSE CIVILIAN INTELLIGENCE PERSONNEL SYSTEM ADVERSE ACTION APPEAL (DECISION MEMO)

(Letterhead)

(DATE)

MEMORANDUM FOR (Appellant Name, Title, Organization)

SUBJECT: Appeal Decision

1. This memorandum is in response to your adverse action appeal received on [DATE].

2. According to your appeal, you raised the following issues of concern:
[STATE ISSUES]

3. As relief for your appeal, you are requesting that:
[STATE RELIEF SOUGHT]

4. After reviewing all of the facts and statements, I have reached the following decision:

a. [RESTATE ISSUE #1] DECISION ON ISSUE #1:

GRANT SOUGHT RELIEF, PARTIAL RELIEF OR NO RELIEF (State reason if relief not granted in full)

CANCEL APPEAL: (State reason if appeal is cancelled)

The above is my decision to your appeal. This is my full and final decision based upon the appeal filed by you (address any fact-finding as applicable). [IF APPEAL IS CANCELLED, INCLUDE THE FOLLOWING STATEMENT: You may request (Name of next higher Army management official) to review my decision to cancel this appeal.] You have the right to review the appeal file by contacting your servicing Civilian Personnel Advisory Center (address).

I am available to discuss any questions you may have about my decision.

(Deciding Official's Name/Title)

GLOSSARY

DEFINITIONS

Acceptable Performance
Performance that meets an employee's objectives, requirements or standards at a level of performance above the "Unacceptable" level.

Admonishment
A notification given by a superior to an employee concerning conduct deficiencies and warning the employee that a disciplinary action or letter of instruction may be imposed for continued deficiencies.

Adverse Action
A removal *from Federal Service*, suspension for more than 14 calendar days, furlough of 30 calendar days or less, or involuntary reduction in work level or grade, or base pay taken by management to address conduct or performance deficiencies. These actions do not include those resulting from reductions or adjustments in force pursuant to AP-V 2004 to furloughs of more than 30 calendar days, or performance-based actions taken consistent with *paragraphs 2 and 3* of *Enclosure 3 (procedures) of this policy; or separations consistent with section 1609 of Reference (h), which are not adverse actions.*

Alternative Discipline
Alternative Discipline (AD) seeks to maintain good order and discipline within the work environment through a process that; (1) focuses on the work-related problems caused by an employee's conduct and, (2) creates an environment in which an employee can acknowledge and correct the problem without the adversarial confrontations or impact normally associated with traditional discipline systems. MSPB case law indicates that alternative discipline must be structured to meet the requirements of progressive discipline. This includes documenting in writing prior offenses/counseling; placing the employee on notice that it intends to rely on the record of those actions in assessing future penalties; and, when using prior offenses to enhance a penalty, citing the previous actions/counseling in proposal letters thereby allowing employees to dispute their validity. AD may be established as an alternative to formal discipline under the requirements of this chapter.

Alternative Dispute Resolution
Any procedure that parties agree to use, instead of a formal adjudication, to resolve issues in controversy, including, but not limited to, settlement negotiations, reconciliation, facilitation, mediation, fact-finding, mini-trials, and arbitration, or any combination thereof. The purpose of ADR is to offer parties an opportunity to openly express their positions and interests in a confidential setting with the goal being to resolve their dispute in a mutually satisfactory fashion.

Appeal
A request for review of an agency action.

Appellant
The party who appeals.

Classified
Information which, at the time of a violation of this section, is, for reasons of national security, specifically designated by a United States Government Agency for limited or restricted dissemination or distribution as defined in 18 U.S.C. § 798.

Deciding Official
Management official who makes the final decision on a proposed formal disciplinary, performance-based, or adverse action. Typically the supervisor of the Proposing Official (employee's 2nd line supervisor)

Disciplinary Action
A management action taken to correct improper or inappropriate behavior or conduct and intended to be corrective in nature. *These do not constitute an adverse action but are used to correct misconduct or delinquency or to motivate employees to improve their workplace behavior or conduct. Disciplinary actions include oral admonishments, letter of caution, written warning, reprimands, to suspensions of 14 calendar days or less.*

Electronic Filing (e-filing)
Filing and receiving documents in electronic form in proceedings within the Board's appellate or original jurisdiction in accordance with Reference (n).

Employees
Any Army civilian employee as defined in section 2105 of title 5, U.S.C. (Reference (o)) who is covered by DCIPS, except for DISES and DISL employees.

Evaluation of Record
See definition in glossary of Reference (g).

Formal Discipline
Formal disciplinary actions consist of written reprimands and suspensions of 14 calendar days or less.

Grade
See definition in glossary of Reference (t).

Informal Discipline
Informal disciplinary actions are taken by the supervisor on his/her own initiative in situations of a minor nature involving unacceptable behavior. Oral admonitions, letters of instruction and written warnings are examples of informal discipline.

Letter of Instruction
A written notification (order) issued by a superior to an employee concerning conduct deficiencies, such as sick leave abuse or tardiness, which sets forth requirements and procedures to be followed by the employee to avoid a future disciplinary action for similar deficient conduct.

Nexus
The connection or link between the misconduct and the employee's conduct that establishes that the adverse action will promote the efficiency of the service.

Pay
The rate of basic salary fixed by law or administrative action for the position held by an employee.

Performance-based Action
A removal, reduction in base pay, or reduction in work level or grade as a consequence of performance that fails to meet established standards and has been properly documented as unacceptable.

Progressive Discipline
A series of actions ranging from counseling, oral admonishment, letter of caution, and written reprimand, to suspension designed to correct repeated acts of inappropriate behavior or misconduct. *Management officials shall decide what the penalty shall be as part of a disciplinary action. Progressive discipline is an element of just cause and provides guidelines in assessing penalties. It does not require any rigid application of a progression of penalties but rather requires an evaluation of whether the application of the progression of lesser penalties to more harsh penalties is appropriate. It may be entirely appropriate that more severe, or the harshest of penalties may be appropriate for even a first offense. Under this concept of progressive discipline, a manager may select any penalty considered appropriate, subject to the overall principle of just cause.*

Proposing Official
The management official who issues a notice of proposed disciplinary, performance-based or adverse action. Typically the first line supervisor of the affected employee.

Removal
Involuntary separation of an employee from the Federal service initiated by the agency or the Merit Systems Protection Board under parts 432, or 752 of title 5, Code of Federal Regulations; section 1201 of title 5, U.S. Code; or comparable agency statutes or regulations.

Suspension
Placing an employee in a temporary status without duties and pay for disciplinary reasons.

Table of Penalties
A guide for determining the most appropriate charges and penalties for behavior(s) or action(s) which warrant corrective/remedial action and helps to ensure a relative consistency of penalties for like offenses.

Unacceptable Performance
Performance of an employee that fails to meets established performance standards or requirements, and would result in an evaluation of "Unacceptable" ("1") under DCIPS performance management.

Written Reprimand
A written disciplinary action issued by a superior to an employee based on specific misconduct.

Written Warning
A non-disciplinary written notification issued by a superior to an employee concerning misconduct and warning the employee that a disciplinary action may be imposed unless the conduct improves.