



Employee Relations

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| <div>TOPIC LEARNING OBJECTIVES</div> <div>Upon successful completion of this topic, the student will be able to:</div> <div><div><div>1. Identify the different types of work schedules available to civilian employees.</div><div>2. Recognize the policies applicable to civilian leave categories.</div><div>3. Identify the rules governing the use of leave.</div><div>4. Identify the elements in the civilian performance evaluation cycle.</div><div>5. Recognize various types of civilian incentive awards.</div><div>6. Recognize Navy procedures for dealing with employee poor performance and the Navy’s philosophy of discipline.</div><div>7. Recognize the various types of civilian disciplinary actions.</div></div></div> | <div>STUDENT PREPARATION</div> <div>Student Support Material</div> <div><div>1. None</div></div> <div>Primary References</div> <div><div>1. None</div></div> <div>Additional References</div> <div><div><div>1. Court Leave Guidance</div><div>2. Family and Medical Leave Act of 1993</div><div>3. Family Friendly Leave Act</div><div>4. CSRS/FERS/Thrift Savings Plan</div><div>5. Worker’s Compensation</div><div>6. Hours of Work - Flexible and CWS</div><div>7. Civilian Performance Appraisal form</div><div>8. Performance Recognition</div><div>9. Disciplinary Actions/Schedule of Offenses and Recommended Remedies (OCPMINST 12752.1)</div><div>10. Glossary of Personnel Terms</div><div>11. List of Additional Performance Requirements</div></div></div> |
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Overview

- Supervisor/Employee Responsibilities
- Work Schedules
- Types of leave and rules governing use of leave
- Leave Abuse and Absenteeism
- Civilian Performance Evaluation
- Civilian Incentive Awards
- Employee Discipline



Supervisor Responsibilities

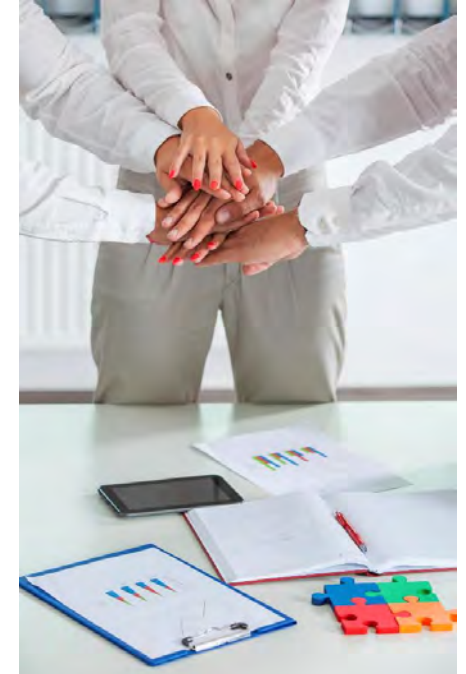
- Things To Do
 - Provide leadership
 - Lead by example
 - Provide direction
 - Orders and instructions
 - Set expectations early and often
 - Reward good and/or exceptional conduct
 - Awards
 - Time-off
 - Money
 - “Thank you”/ kudos
 - Address poor and/or unacceptable conduct
 - Issue appropriate corrective actions (discipline or adverse actions)





Basic Employee Responsibilities

- To perform acceptably
- To be at work regularly
- To conduct himself/herself acceptably on the job
- Off-the-job behavior consistent with job responsibilities





Employee Relations Functions

- Provide advice & guidance to management
- Leave administration
- Provide training
- Performance management:
 - Performance appraisal systems administration
 - Performance-based actions
- Employee administrative actions





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Work Schedules

- Basic Work Schedule
 - 40 hours which do not extend over more than 6 of any 7 consecutive days
 - Normal schedule will include 8 1/2 hours each day
 - Includes a 30-minute unpaid lunch period
 - Schedule has set beginning and ending times
- Alternative Work Schedules
 - Compressed Work Schedule: 80 hours in biweekly pay period completed in less than 10 workdays
 - 5 - 4/9: 80 hours worked in 9 working days
 - 4 - 10: 4 days a week/10 hours a day
 - Flextime Schedule: a system of work scheduling which splits the workday into core and flexible time
 - Core Hours: Specific hours employees must be at work (i.e., 9-11 a.m. and 1-3 p.m.)
 - Flexible Hours: Hours worked before and/or after core hours
 - Still must total 80 hours worked in biweekly pay period



Schedule Considerations

- Overtime
 - Work hours performed in excess of the normal number of hours per day or 80 hours per pay period
 - Overtime should be scheduled in advance
 - Reminder: Fair Labor Standards Act (FLSA) non-exempt employees receive overtime pay when management requires or permits work beyond their basic work week
 - FLSA exempt employees may receive compensatory time (comptime) or overtime pay but pay caps apply
- Timekeeping
 - Required for all civilian personnel
- Leave
 - Employees on leave for an entire day are charged for the entire scheduled hours of work for that particular day (i.e., 8, 9, or 10 hours)
- Telework
 - Governed by local instructions



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Leave Programs & Categories

- Annual leave (LA)
- Sick leave (LS)
- Leave without pay (LWOP)
- Absent without leave (AWOL)
- Family Medical Leave Act (FMLA)
- Military (Reservists/USERRA)
- Court leave/jury duty (LC)
- Voluntary Leave Transfer Program (VLTP)



USERRA – Uniformed Services Employment and Reemployment Rights Act

Reference: <https://www.opm.gov/policy-data-oversight/pay-leave/leave-administration/#url=Overview>



Annual Leave

- For vacation and time off for personal business and/or emergency needs
- An employee's legal right to use
- Subject to management's right to schedule
 - Must be requested in advance and approved by management prior to taking
 - The only supportable reason for denying annual leave requested in advance is that the employee is needed at work for a specific reason





Sick Leave

- Incapacitation due to:

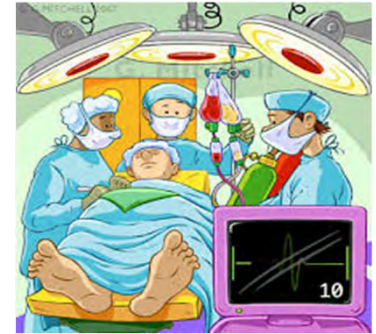
illness



injury



surgery



- Medical, dental, or optical examination or treatment
- Care and attending to ill, injured, incapacitated family member

Note: fishing, baseball game, shopping, and other employment are not listed!



Leave Without Pay (LWOP)

- Approved leave in a **non-pay** status granted at employee's request
 - **May** be granted at management's discretion, not automatic
- An employee **does not** have an absolute right to LWOP,
 - Employee is responsible for requesting from supervisor
- Management may not abuse its discretion in denying it

http://www.opm.gov/oca/leave/HTML/lwop_eff.asp





Absence Without Leave (AWOL)

- AWOL is an **unapproved, unpaid** leave status
- It is not a disciplinary action
 - But **may** form the basis of a disciplinary or adverse action
- Ensure that the AWOL is properly recorded in your timekeeping
- **Do not let it build up**
 - Take action immediately, call Human Resources Office (HRO)





Family Medical Leave Act (FMLA)

- Requests must:
 - Be in writing
 - Contain OPM-71
 - Contain DOL Form WH-380 and/or administratively acceptable medical documentation
 - The information needed for care of a family member is the same as required for an employee

OPM – Office of Personnel Management
DOL – Department of Labor



Paid Parental Leave (PPL)

- As part of the FY20 National Defense Authorization Act (NDAA), the Family Medical Leave Act (FMLA) was extended to include Paid Parental Leave (PPL)
 - To be eligible, the employee must meet the following requirements:
 - Has completed at least 12 months of Federal service
 - Has a part-time or full-time work schedule
 - Has an appointment of more than 1 year in duration
 - Has a qualifying birth or placement event (for adoption or foster care)
 - Limited to 12 weeks
 - May be used only during the 12-month period following the birth or placement
 - Prior use of FMLA leave (e.g., for other health condition) during a 12-month period may reduce the PPL available for birth or placement purposes in same period
 - A written service agreement to work at the command for 12 weeks after the day on which PPL concludes is required





Voluntary Leave Transfer Program (VLTP)

- Allows all Federal employees (even those from other agencies) to donate annual leave to other Federal employees who have:
 - applied and have been approved via the VLTP program
 - a medical emergency or condition
 - exhausted their own leave



Administrative Excusal (Admin Leave)

- Paid non-duty status not charged to a leave balance
- Rules on Admin Leave are tight
 - Non-discretionary Administrative Excusal
 - Military leave (20 days per year for active duty)
 - Court leave
 - Organ donations
 - Discretionary Administrative Excusal
 - Operations suspended (bad weather at duty location is usual cause)
 - Short closings (example: building closed due to bomb threat)
 - Participation in “public interest” activities
 - Examples include donating blood and ‘clean the beach’ programs





Leave Abuse and Absenteeism

- Supervisor's responsibility:
 - Manage employee's leave & attendance
 - Pay attention to patterns of leave abuse
 - Address early! Call HRO





Absences Which May Indicate Sick Leave Abuse

- Frequent, short, and intermittent
- Work day after pay day
- Before / after holidays
- Fridays / Mondays
- Same day of the week
- Before / after Regular Day Off (RDO)
- In conjunction with annual leave
- As soon as earned (“earn & burn”)





Correcting Sick Leave Abuse

- Monitor and document your employees' attendance records
- Counsel employee
- Require employee to call in to designated official or supervisor
- Issue Letter of Requirement (contact HRO)
- Request additional medical information from employee to determine if absence is genuine
- **Can disapprove** unsupported sick leave requests
 - Contact HRO first
- Take progressive discipline (up to and including removal) for AWOL if employee fails to provide medical documentation
 - Letter of Requirement
 - Suspension





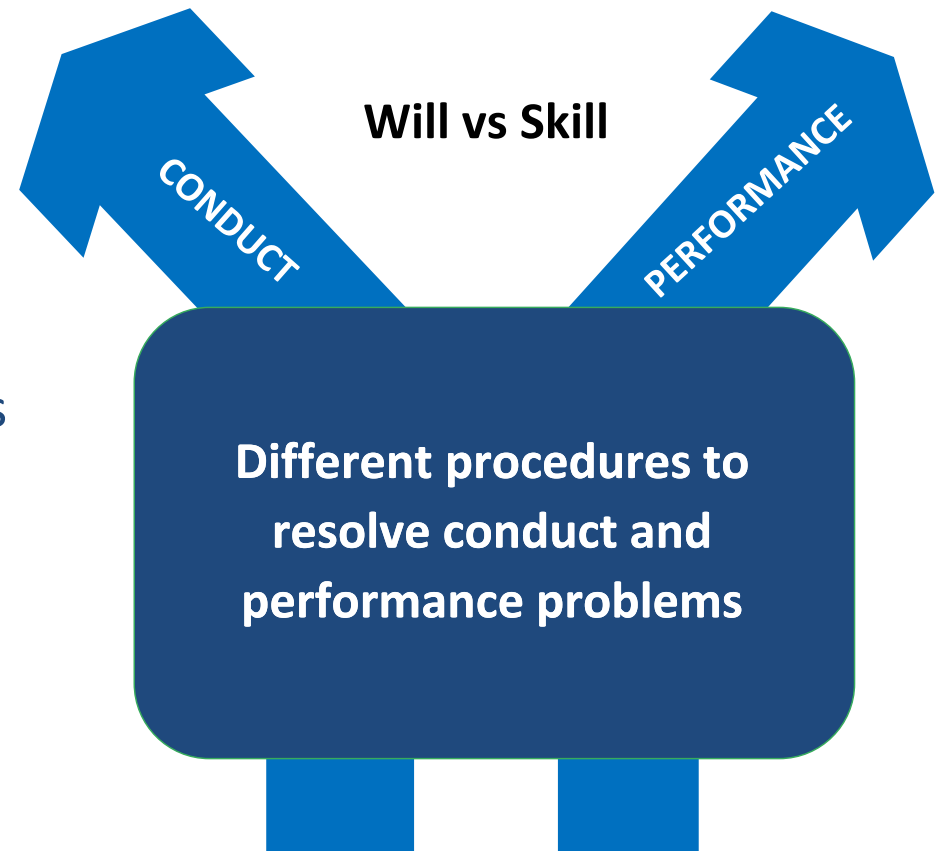
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- **Civilian Performance Evaluation**
- Civilian Incentive Awards
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Managing Employee Performance

- Specific process is associated with Performance Management
 - Defense Performance Management and Appraisal Program (DPMAP)
 - ACQDEMO
- Setting clear performance objectives is key!



ACQDEMO - Acquisition Workforce Personnel
Demonstration Project

*Employees should not be “surprised” at end-of-year review.
Performance should be addressed immediately – poor and excellent!*



Performance Appraisals

- Appraisal Period
 - Required for rating of record
 - Typical appraisal periods:
 - 1 Oct – 30 Sep, 1 Apr – 31 Mar, and 1 Jul - 30 Jun
 - Appraisal must cover a minimum period of 90 days
 - Mid-term documented discussions are required
- Performance Plans
 - Each employee must have an approved plan
 - Established within 30 days of starting job or start of appraisal period
- Common Issues
 - Expectations/Standards not set or are set late in the performance cycle
 - Performance Standards are not clear or relevant
 - Evaluations not conducted
 - Feedback has not been provided in a direct, specific, and timely manner





Unacceptable Performance

- Must be in one or more critical elements
- Employee must be notified in writing
- Employee must be given an opportunity to improve
 - Performance Improvement Plan (PIP) is required for unacceptable performance ratings
 - A PIP is not required for unacceptable conduct
 - What if the employee is serving a “probationary” period?

With Other Faculty, Staff
and/or Community

Performance Evaluation

| | |
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| Supervisor's Name: | |
| Title: | |
| Department: | |
| Length of time you have supervised employee | |
| Months: | |

FUNCTIONAL AREAS OF RESPONSIBILITY
essential functions of the position, and/or projects for which the employee is e

Rating Standards
performance is inadequate and inferior to the standard.
Performance at this level cannot be allowed.
performance does not consistently meet the effort is needed to improve
performance



Probationary Period

The standard probationary period for new DoD civilian employees appointed in the competitive service is 1 year

- It is the final step of the selection process during which the employee's competence and suitability for permanent employment are evaluated (considered candidates during this period)
- Probationary employee may be separated by written notice that their continued employment is not in the best interest of the command



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Civilian Incentive Awards

- Monetary
- Special Act
 - On-the-Spot
 - Performance
 - Quality Step Increase (QSI)
 - Beneficial suggestion
 - Invention
- Time-off
 - Civilians may receive up to 80 hours a year
- Informal recognition awards
 - Plaques, certificates, and other forms of recognition



Civilian Incentive Awards

- Career Service
 - Length of Service
 - Career Service & Retirement Certificates
- DoN Honorary Awards
 - Distinguished Civilian Service (highest)
 - Superior Civilian Service
 - Meritorious Civilian Service



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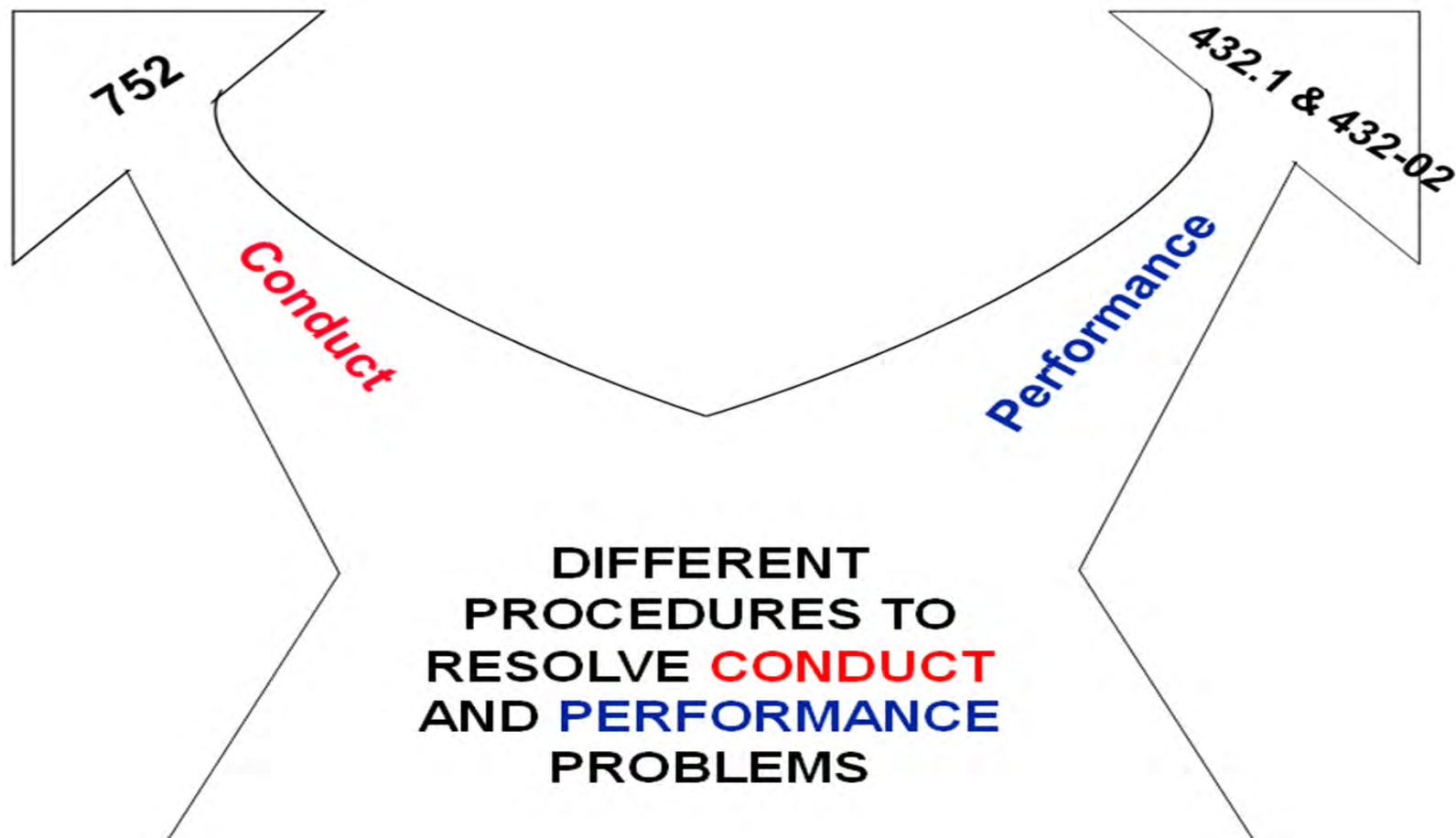


Whose comments are these?

- “I am too busy.”
- “I don’t like confrontation.”
- “It takes away from my mission.”



Employee Discipline



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Employee Discipline

DON CHRM Subchapter 752 of 2003

Conduct

Actions: removal, suspension, ltr of reprimand, reduction in pay grade

Actions taken for “such cause as to promote the efficiency of the service”

Action must be proven by a “**preponderance of the evidence**” (higher standard than Chapter 43)

Action can be based on ad hoc standards or established/formal standards

No requirement for a PIP under Subchapter 752

No time limit for inclusion of “incidents/charges” in Subchapter 752

May take immediate action because no requirement for a PIP

Action may be mitigated by the MSBP if it is an appealable action

DON CHRM 432.1 & DON Guide 432-02

Performance

Actions: removal or reduction in grade

Actions taken for “unacceptable performance”

Actions must be proven by “**substantial evidence**” (lower standard than Chapter 75)

Actions may only be based on an employee’s formal, established, communicated standards

Employee is entitled to an “Opportunity to Improve” (PIP)

Time limited to performance “deficiencies” occurring within the previous one year

Time consuming - because of PIP employee remains on job

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Navy's Philosophy of Discipline

- Discipline is administered to correct offensive conduct - not to punish employees
- Progressive discipline should be utilized, although certain acts of misconduct could warrant removal in the first instance
- The minimum corrective action necessary to correct the misconduct should be used
- Action must be fair and just
- Action must be timely
- Determinations regarding the choice of action must consider the employee as unique with evaluation of both aggravating and mitigating factors (Douglas Factors)
- Actions must promote the efficiency of the service



Corrective Actions

- Counseling
 - Verbal
 - Written
 - Letter of Requirement
 - Letter of Caution
 - Letter of Expectation
-
- Formal Disciplinary Actions
 - Letter of Reprimand
 - Suspensions of 14 days or less
 - Adverse Actions (may be appealed)
 - Suspensions of over 14 days
 - Reduction in grade
 - Removal





Summary

- What are the different types of work schedules available to civilian employees?



Summary

- What are the different types of leave available for civilian employees?
- What are the characteristics of the DoN Performance Management System?



Summary

- What are the different types of civilian incentive awards?
- What are the forms of employee discipline?
- What are the types of civilian disciplinary actions?



Backup



Steps in Employee Discipline

- Investigate incident thoroughly
- Ensure “nexus” can be established
- Select appropriate penalty
- Take appropriate disciplinary or adverse action
- Document



Douglas Factors

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 or technical or 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 supervisors' confidence in the employee's work ability to perform assigned duties



Douglas Factors

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. The potential for the employee's rehabilitation
11. 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
12. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others



Conducting effective investigations (prior to issuing discipline)

1. Plan the Investigation

- Work with HR
- Command will designate investigator in writing
- If during an investigation criminal charges are brought up STOP! May need to contact NCIS (ask HR/Security)

2. Interview Subject and/or Witnesses

- Question witnesses separately
- Start interviews with a general, open question
- Follow up with specific questions to develop or confirm details
- Use the 5 W's as a guideline (who, what, where, when, why?)
- Identify potential sources of corroboration
- Document interviews
 - Take notes
 - Get a written statement
 - Pin down witness identification
 - Get both sides of the story



Conducting effective investigations (prior to issuing discipline)

3. Obtain the Evidence

- Physical evidence
- Documentary evidence
- Routine business records (time keeping records)
- External documents
- Reference materials
- Testimonial evidence

4. Document the Evidence

- Get it in writing, witness statements
- Take a picture



Counseling

- Explain to the employee the reason (issue(s) at hand) for the formal counseling
- Clearly define your expectations
- Clearly provide employee the consequences which will follow if the issue/conduct/behavior continues
- Although most employees want to do a good job, they may test the boundaries of acceptable behavior. When they do, counseling can be utilized to correct deficiencies





Letter of Reprimand

- The least serious formal disciplinary action that may be taken against an employee
- Maintained in the employee's Official Personnel Folder for no more than 2 years
- May serve as a basis for justifying more severe disciplinary action should further infractions occur
- May be issued instead of a formal counseling because of the severity of the infraction



Suspension (for 14 calendar days or less)

- Employees have the following rights:
 - An advanced notice of the proposed action
 - A reasonable amount of time to reply (not less than 24 hours)
 - Representation
 - A written agency decision



Removal (non-probationary)

- Removal is the involuntary separation of an employee from employment
- The most severe sanction that the Government may impose
- An employee against whom removal is proposed is entitled to:
 - At least 30 days advance written notice
 - A reasonable amount of time, but not less than 7 days, to answer orally or in writing as well as to furnish affidavits and other documentary evidence in support of their rebuttal
 - Consult and adhere to any applicable internal regulations or collective bargaining agreement requirements
 - Representation by an attorney or any other representative
 - A reasonable amount of official time to review material, prepare an answer and secure affidavits
 - A written decision and the specific reason(s) for the decision at the earliest practicable date, but before the effective date of the action