

The following constitutes agreement between the Department of Veterans Affairs and the National VA Council regarding MP-5, Part II, Chapter 8, Disciplinary and Grievance Procedures.

1. Upon request, the National VA Council will be provided a list of major adverse actions decided by the Under Secretary for Health. This list will include employee position, alleged charges, and disposition of charges so long as this does not effect the privacy of individuals involved. Upon request, the local union will be provided with a summary list of all major and non-major actions dealing with professional conduct and competence to include jurisdiction. The summary list will include employee position, alleged charges, and disposition of charges so long as this does not effect the privacy of individuals involved. If this information is gathered at the national level, the National VA Council will be provided with this information. Upon request, the local union will receive all or a portion of a case file in accordance with governing rules, regulations or law.
2. Upon request, the employee will be provided with a copy of all material relied upon to support the reason(s) for the proposed disciplinary or major adverse action in a prompt manner. The above information will be made available to the employee's designated representative.
3. The employee and their representative will be given a reasonable amount of official time to review the evidence relied upon to support the reasons for the proposed disciplinary or major adverse action and to prepare a reply.
4. Prior disciplinary actions which have expired or have been withdrawn may not be cited as the basis for a future action.
5. The employee will be provided with an original and one copy of the final decision so that he/she may furnish a copy to the union.
6. The employee may, after six months, make a written request to the supervisor that the admonishment be withdrawn. The employee may, after two years, make a written request to the supervisor that the reprimand be withdrawn.

7. Change last sentence of Section A, 5.g.(1): The employee's supervisor may after six months, make a written request to the Personnel Officer that the admonishment, including patient abuse cases, be withdrawn, if the employee's conduct so warrants.

Change last sentences of Section A, 5.g.(2): The employee's supervisor may, after two years, make a written request to the Personnel Officer that the reprimand, including patient abuse cases, be withdrawn, if the employee's conduct so warrants.

8. An employee must be advised of the right to request a hearing before the Board, and advised that the request for a hearing must be submitted with the notice of appeal.

9. The employee and their representative will be given a reasonable amount of official time to prepare the grievance.

10. For a major adverse action, the employee will be advised of the right to request a grievance hearing in the decision letter.

11. When the facility Director decided the action being grieved, the grievance examiner and grievance decision official will be from outside the facility. See further guidance in VHA Supplement MP-5, Part II, Chapter 8, Section II, paragraph 8.13.

12. Upon request, the employee representative will be provided a copy of the recording of the grievance hearing, if available.

13. The Secretary will seriously consider employees for membership on Disciplinary Appeals Boards from a list provided by the National VA Council.

14. The NVAC will be provided the roster of employees on the panel from which board members in a DAB case are appointed. This roster will be provided at the same time as the announcement of availability is published in the Federal Register. The Under Secretary for Health will seriously consider any union objections.

15. Include in Section B, paragraph 1.b. " A bargaining unit employee may elect to use the VA grievance procedure described in this section or the negotiated grievance procedure, but not both, in the case of a disciplinary or major adverse action covered under Section A of this chapter which does not involve a question of professional conduct or competence."

16. In Section C, paragraph 7a: Replace the word "involves" by the statutory language "arises out of or includes" a question of professional conduct or competence.

17. In most cases, technical advisors to disciplinary appeals boards will be from outside the appellant's facility.

18. In Section C, paragraph 8 b. delete the term "charging official."

19. In Section C, paragraph 8 f change to : The hearing will be conducted on official Government time and normally, without charge to leave of the employee(s) concerned.

20. A copy of the Board's decision should be provided to the appellant and appellant's representative.

21. In Section C, paragraph 9c add: "In accordance with the Back Pay Act" after "backpay".

22. The appellant may request information and records in connection with an appeal from a Chairman of a Board. If a request is denied the reason(s) shall be provided in writing.

23. Individuals designated to serve on the panel must possess sufficient professional knowledge which would enable them to analyze, interpret and evaluate written evidence and testimony and to make an impartial, objective and well-reasoned decision.

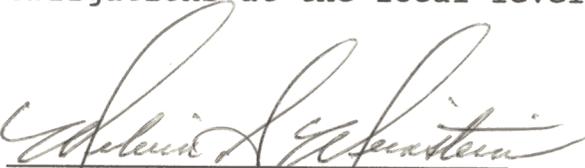
24. An employee's representative who is employed by the VA may be disallowed by the facility Director because of conflict of position or conflict of interest. The disallowance of a designated representative may be challenged in accordance with Section II, paragraph 8.14 of the Supplement.

25. Management will provide a one-time training session on MP-5, Part II, Chapter 8 for union representatives at a location and site designated by the National VA Council on a mutually agreeable date. Each party will be responsible for their own expenses.

26. Whenever the Secretary proposes to prescribe regulations under 38 USC Chapter 74, Subchapter V which give rise to a labor-management obligation, the National VA Council's Negotiating Committee will be provided with a copy of the proposed regulations for negotiations as appropriate.

27. Local Personnel Officers will, upon receipt, provide a copy of this policy and MOU to the local union president.

28. Local Management shall meet its labor-management obligations at the local level prior to implementation.


For Management


For the NVAC

August 5, 1993
Date