



The Adjutant General of New Hampshire
State Military Reservation
NEW HAMPSHIRE NATIONAL GUARD

4 Pembroke Road
Concord, NH 03301-5652
Comm. Tel. No. (603) 225-1251
Facsimile Transmittal No. (603) 225-1391

Date: April 1, 2001

MEMORANDUM FOR ALL Managers and Supervisors

SUBJECT: Procedural Guidance for Managers and Supervisors

1. The enclosed sample memorandums are provided in order to assist you in carrying out your supervisory responsibilities relative to the Labor/Management-Employee Relations functional area. In preparing these sample memorandums, we have identified the various types of actions which you may be required to take. This guide is categorized as follows:

SECTION A. Introduction

SECTION B. Disciplinary/Adverse Action

- (1) Memorandum of Warning (Informal)
- (2) Official Reprimand (Formal)
- (3) Proposed Suspension/Decision (Formal)
- (4) Proposed Removal/Decision (Formal)

SECTION C. Physical Disqualification

- (1) Proposed Separation/Decision

SECTION D. Job Disqualification

- (1) Proposed Separation/Decision

SECTION E. Performance Management

- (1) Performance Improvement Plan
- (2) Withholding of Wage Grade Increases

SECTION F. Miscellaneous

- (1) Sick Leave Abuse
- (2) Abandonment of Position.

2. Please keep in mind that these memorandums are samples only, and you are responsible for ensuring the accuracy of each action submitted; therefore, your draft must be factual in nature and identify exactly what has transpired. Each situation must be evaluated on a case-by-case basis and a determination made as to which type of action should be taken. Although you, as a supervisor, are responsible for personnel management functions, we, in the Human Resource Office, understand that you are not a specialist in the technical/legal aspects. However, it is up to you to recognize a developing problem and take action to resolve it. Inaction usually turns small difficulties into major disruptions, and these require significant blocks of everyone's resources to resolve. Should you have any questions, please contact CW5 Larry E. Colby at (603) 225-1330 or DSN 684-9330.

Encls.

MICHAEL W. HORNE
COL, NHANG
Human Resource Officer

Section A Introduction

Section B Disciplinary/Adverse Actions (Progressive Discipline)

Section C Physical Disqualification

Section D Job Disqualification

Section E Performance Management

Section F Miscellaneous

Section A

INTRODUCTION

INTRODUCTION

1. Many times, managers or supervisors are faced with employees whose conduct or performance raises problems. Not sure how to proceed or believing that any action is too difficult, the supervisor may let these problems slide. Inaction, however, is not a viable answer because it may turn small difficulties into major disruptions. This guidance is designed to help you take action on your problems by discussing the decision-making process you should use when faced with problem employees, explaining the distinction between conduct and performance problems, and outlining briefly the procedures that must be followed.
2. You must be aware of your labor relations obligations to the employee and to the exclusive representative (ie., to the Union) in any effort to deal with problem employees; therefore, you should familiarize yourself with provisions of the applicable collective bargaining agreement(s). You should also develop an ongoing line of communication with the Human Resources Office and appropriate Union representatives.
3. While this guide primarily deals with employees who have completed their probationary periods, a supervisor should not put off corrective actions during the probationary period if a problem is evident. During the probationary period, you have the authority to separate the employee with far fewer procedural requirements. Any delay in taking action until the probationary period is over means that the supervisor will be faced with an even greater problem which will be even more difficult to solve.

Section B

DISCIPLINARY/ADVERSE ACTION
(Progressive Discipline)

DISCIPLINARY/ADVERSE ACTION

1. Disciplinary/adverse actions will be administered in accordance with TPR 752 and information contained in this *Guide for Supervisors*.
2. Employee misconduct, abuse of leave, tardiness, abuse of lunch hours or coffee breaks, failure to comply with established procedures, or any other breach of the employee/employer relationship are examples of problems for which disciplinary actions may be appropriate. Such actions range from oral counseling, warnings, and written reprimands to suspensions or removal. The table of suggested penalties is included in the FPM 715 and 752. Prior to taking any disciplinary action, you should contact the Human Resources Office.
3. What you are trying to find, naturally, is the minimum discipline likely to solve the problem, so that the employee will not be penalized out of proportion to the offense. This is particularly true of an employee who previously had a satisfactory record. Using the least severe penalty possible also allows you to establish a record of progressively severe discipline, which you need later if major adverse action is necessary. Sometimes, the misconduct will require severe action immediately. An often-given but nonetheless good piece of advice is to impose like penalties for all like offenses. Merit principles require “fair and equitable treatment in all aspects of personnel management,” and state that employees should be protected against arbitrary action. However, the specific offense, mitigating circumstances, or a previous record of poor conduct may require different corrective actions or penalties when two or more employees are involved in the same offense or misconduct.
4. If you decide that the only solution to the problem is suspension, reduction in grade or pay, or removal, you must comply with appropriate statutory and regulatory procedures. If you have established and documented a record of progressive corrective action, your later proposal to take severe adverse action will be easier to sustain on appeal. Often, too, a record of progressive discipline will support a removal for the last in a series of minor infractions that by itself would not support removal. Always keep records to later document any proposed action. The standard for adverse actions in these situation is “... such cause as will promote the efficiency of the service.” You will need to provide a “preponderance” of evidence for your action to be sustained on appeal. You should know that there are no appeal rights to the Merit System Protection Board. Both the merits and the procedures of these suspensions are grievable.

(Office Symbol)

(Date)

MEMORANDUM FOR

SUBJECT: Memorandum of Warning

1. On (Date) , you were scheduled to report for duty at (Time) . You did not report for duty at this time nor did you notify me within the required two-hour period after the start of your duty day that you would be absent. You did not call or report for duty on that day; therefore, you were charged (No.) hours AWOL.
2. This is not your first incident of AWOL. You were AWOL on (Date) and I counseled you on (refer to previous counseling and attach copies) . You are hereby warned that any future occurrences of this nature will result in a recommendation for more severe disciplinary action.
3. If you are experiencing problems that would preclude you from reporting for duty as required, you may want to avail yourself of the Employee Assistance Program (EAP). Call the Human Resource Office at (603) 225-1251 for more information regarding the EAP program.

(Signature Block)

Receipt Acknowledged _____ Date _____

NOTE: Acknowledgement does not indicate concurrence with the details listed, only that the employee has read and received the memorandum.

(Office Symbol)

(Date)

MEMORANDUM FOR

SUBJECT: Official Reprimand

1. This memorandum is to notify you that you are hereby reprimanded for failure to follow established procedures in securing leave, and absence with leave (AWOL).

2. On (Date) , you were scheduled to report for duty at (Time) . You did not report for duty at that time nor did you notify me within the required two-hour period after the start of your duty day that you would be absent. You did not call or report for duty on that day; therefore, you were charged (No.) hours AWOL.

3. On (Date) , you reported for duty at (Time) . At this time, I discussed the AWOL of the previous day with you. During the discussion you informed me that you had personal business to take care of and gave no explanation as to why you again failed to request leave in advance or call in and request emergency leave as policy requires. During this meeting, I reminded you of your previous offenses of failure to follow established procedures in securing leave and of AWOL which resulted in numerous counseling letters and, most recently, a letter of warning on (Refer to previous counseling/warnings and attach copies) . At the conclusion of our meeting, I informed you that disciplinary action would be forthcoming.

4. (Name) , I am extremely concerned that you will not comply with established policy. Any unexcused absence creates a staffing problem which results in an undue hardship on your fellow workers. If such breaches of discipline are permitted to continue, the efficiency of the service cannot be preserved and proper discipline cannot be maintained. Therefore, I find it necessary to issue you this official reprimand which will remain in your OPF for a period of (cannot exceed one year) from this date. Any future occurrence of this nature will result in a proposal for more severe disciplinary action.

5. Additionally, you are reminded/advised of the availability of the Employee Assistance Program, Tel. No. (603) 271-4336 or 1-800-852-3345 Ext. 4336. I urge you to avail yourself of this program if you are experiencing problems which would preclude you from reporting for duty as required.

6. You have the right to submit a grievance under Article V, "Grievance Procedures" in the Labor Agreement.

7. (Name) , Employee Relations Specialist, Human Resource Office, Tel. No. 225-1251, is available to advise you in the event you choose to file a grievance.

(Signature Block)

Receipt Acknowledged _____ Date _____

NOTE: Acknowledgement does not indicate concurrence with the details listed, only that the employee has read and received the memorandum.

(Office Symbol)

(Date)

MEMORANDUM FOR

SUBJECT: Proposed Suspension

1. This memorandum is to inform you that I am proposing you be suspended without pay from your position of _____ (Job Title, Grade), for _____ (No.) consecutive workdays commencing not earlier than seven (7) calendar days from the date you receive this memorandum. The basis for my proposal is your failure to follow established procedures in securing leave and absence without leave (AWOL) (Second Offense).

2. On _____ (Day/Date), you were scheduled to report for duty at _____ (Time). You did not report for duty at this time nor did you notify me within the required two-hour time period after the start of the your duty day that you would be absent. You did call and report your absence to a fellow employee who reminded you that you needed to report your absence to a fellow employee who reminded you that you needed to report your absence and request approval from your immediate supervisor or his alternates. You did not report the absence nor did you request approval to be absent from the appropriate official; therefore, you were charged with _____ (No.) hours AWOL.

3. On _____ (Day/Date), you reported for duty at _____ (Time) as scheduled. You informed a fellow employee that you were sick and that you had obtained approval from your supervisor to take sick leave from _____ (Time). Contrary to what you told your co-worker, you had not obtained approval nor reported the absence to the appropriate officials; therefore, you were charged _____ (No.) hours AWOL.

4. On _____ (Day/Date), you arrived at your duty station prior to the start of your tour of duty. At this time, you stated that you needed to take 8 hours annual leave. You stated that you would have to babysit your son. Your request for annual leave was denied due to staffing problems and you were encouraged to obtain a babysitter and were instructed to report for duty at the start of your tour of duty. You indicated that you would do this, but if you had problems you would call me within the required 2-hour time period. You did not report to duty nor did you notify me of a problem in obtaining a babysitter; therefore, you were charged 8 hours AWOL.

5. On _____ (Day/Date), you were scheduled to report for duty at _____ (Time) as scheduled. Additionally, you were scheduled to begin work on _____ (Date) at _____ (Time). You failed to report for duty on any of these days; therefore, you were charged 40 hours AWOL.

6. Because I had not heard from you since _____ (Date), I sent a certified letter to you dated _____ (Date) which directed you to notify me of your intent regarding your return to duty. On _____ (Date), you reported for duty as scheduled after absenting yourself without leave for a total of _____ (No. of hours).

7. In spite of the numerous counselings I have given you regarding your repeated offenses of AWOL as well as the Official Reprimand, dated (Refer to previous letter), you continue to ignore

the seriousness of this matter and refuse to correct your behavior. Your repeated unauthorized absences create a staffing problem and result in undue hardships on your fellow workers. As I stated in the official reprimand of _____ (Date), if such breaches of discipline are permitted (Office Symbol) (Date)
(Subject)

to continue, the efficiency of the service cannot be preserved and proper discipline cannot be maintained. I also stated that any future occurrences of this nature would result in a proposal for more severe disciplinary action.

8. You have the right to reply to this notice both orally and in writing and to submit any and all reasons why you believe the proposed suspension is unjustified or inappropriate. You may also submit affidavits and call witnesses on your behalf. Should you choose to make an oral reply, you have a right to be accompanied by a representative of your own designation. Any replies you wish to make should be presented to _____ (Name, Title, Organization) and must be submitted within 15 calendar days after receipt of this memorandum. Should you desire to make an oral reply, you may contact _____ (Name), Employee Relations Specialist, Human Resource Office, at 225-1251, to arrange for an appointment with _____ (Name). If compelling reasons prevent you from submitting your reply within the time limits specified, you may request an extension of the time by submitting a written request to _____ (Name) prior to the end of the 15-day period, stating your reasons for requesting an extension.

9. A final determination concerning the proposed suspension will not be made until any replies you make are carefully considered. You will be notified of a final determination in writing.

10. The material relied upon to support this proposed suspension is available for your review in HRO. A reasonable amount of official time will be allowed for you to review the material, prepare a written reply, secure affidavits, and to make an oral reply if you desire to do so. Any time away from official duties for these purposes must be requested from me.

11. You are to remain in a work status until further notice.

(Signature Block)

Receipt Acknowledged _____ Date _____

NOTE: Acknowledgement does not indicate concurrence with the details listed, only that the employee has read and received the memorandum.

(Office Symbol)

(Date)

MEMORANDUM FOR

SUBJECT: Decision – Suspension

1. Reference memorandum to you from _____ Name/Title _____, dated _____, in which he proposed that you be suspended for _____ (No.) _____ consecutive workdays for your failure to follow established procedures in securing leave and absence without leave (AWOL) (Second Offense).

2. _____ (Name) _____ explained the basis for his proposal and advised you, in referenced memorandum, of your right to submit both oral and written replies which would be considered before a decision was made in this matter. He also informed you of your right to review the material relied on to support his proposal, to have a representative present if you chose to submit an oral reply, and to submit affidavits and call witnesses in your behalf. You did not exercise the rights available to you. Therefore, my decision in this matter is based on information available as contained in referenced memorandum. After careful consideration of all available information, I have decided that the charge made in _____ (Name) _____'s proposal is sustained and the proposed suspension is warranted and necessary if proper discipline is to be maintained and the efficiency of the service is to be preserved.

3. Accordingly, you will be suspended without pay for _____ (No.) _____ consecutive workdays beginning _____ (Date) _____ (SF 50 enclosed). You will return to duty at your scheduled reporting time on _____ (Date) _____.

4. I must remind you that this constitutes your second offense of absence without leave. I hope that this suspension will serve to remind you of the seriousness of your situation and that you will take whatever steps are necessary to ensure that you obtain prior approval before absenting yourself in the future.

5. You have the right to submit a grievance under Article V, "Grievance Procedures," in the Labor Management Agreement.

6. _____ (Name) _____, Employee Relations Specialist, HRO, 225-1251, is available to advise you concerning the procedures to be followed in the event you choose to submit a grievance.

Encl
SF-50

(Signature Block)

Receipt Acknowledged _____ Date _____

NOTE: Acknowledgement does not indicate concurrence with the details listed, only that the employee has read and received the memorandum.

(Office Symbol)

(Date)

MEMORANDUM FOR

SUBJECT: Proposed Removal

1. This memorandum is to inform you that I am proposing you be removed from your position of _____ (Job Title) _____, not earlier than thirty (30) calendar days from the date you received this memorandum. The basis for my proposal is your failure to follow established procedures in securing leave and absence without leave (AWOL)(Third Offense). (Refer to Table of Penalties for exact nature of offense).
2. On _____ (Date) _____, you were scheduled to report for duty at _____ (Time) _____. You did not report for duty at this time, but reported at _____ (Time) _____. You explained that you thought your tour of duty was _____ (Time) _____ to _____ (Time) _____. You were told by me that the scheduled tour of duty of _____ (Date) _____, and _____ (Date) _____, was posted during the first week of _____ (Date) _____. You did not report to duty on time nor did you request approval to be absent from appropriate official; therefore, you were charged _____ (No.) _____ hours AWOL.
3. Upon your arrival on _____ (Date) _____, I requested that you provide a medical certificate for your sick leave of _____ (Date) _____. This certificate was required in accordance with my Memorandum of Warning, dated _____, in which you were counseled concerning your questionable sick leave record. Additionally, I had reminded you on _____ (Date) _____, that a certificate would be required. You were given until _____ (Date) _____ to furnish the certificate. On _____ (Date) _____ you stated that you could not provide the certificate; therefore, your absence on _____ (Date) _____ was AWOL.
4. On _____ (Date) _____, you telephoned and requested three (3) hours of annual leave. You told me you would report to duty between (Hrs) and (Time). Your request for annual leave was approved. This was the last communication you had with me. You did not report for duty nor did you request approval to be absent for the remainder of the tour of duty; therefore, you were charged five (5) hours AWOL. Thereafter, you continued to remain AWOL during your scheduled tours of duty on _____ (Dates) _____ for an additional _____ (No.) _____ hours.
5. On _____ (Date) _____, I sent a certified letter to you which outlined your AWOL. I requested you contact me within 24 hours of receipt to let me know what your plans were with regard to your job. You signed for the letter on _____ (Date) _____.
6. On _____ (Date) _____, while still AWOL, you telephoned me and confirmed that you had received the certified letter. Although you offered no explanation of your absences, you told me you were ready to come back to work and asked me about your scheduled tour of duty. You were told that your scheduled tour of duty was _____ (Time) _____. You stated that you would be in at _____ (Time) _____. At this time I informed you that appropriate adverse action would be proposed in order to correct your abuse of established procedures for securing approval for leave and AWOL. You were told that when you reported to duty that we would discuss the prolonged

unexcused absences. You did not report to duty on that day. As a result you continued to remain AWOL.

(Office Symbol)
(Subject)

(Date)

7. To date, you have not reported for duty nor contacted me since our discussion on _____(Date)_____. This brings your total hours of AWOL to ___(No.)___. This ___(No.)___ hours is in addition to the ___(No.)___ hours for which you received the five-day suspension on_____(Date).

8. In spite of the numerous counselings I have given you regarding your repeated offenses of AWOL as well as the official reprimand, dated ___(Refer to previous action)___, and the five-day suspension, dated ___(Date)___, you continue to ignore the seriousness of this matter and refuse to correct your behavior. You have defied all efforts to correct your behavior and have continuously absented yourself without permission even during the time when a disciplinary action was pending. You have refused to comply with my instructions and have shown no regard for authority. Your repeated unauthorized absences create a staffing problem and result in undue hardships on your fellow workers. As I stated, if such breaches of discipline are permitted to continue, the efficiency of the service cannot be preserved and proper discipline cannot be maintained. I also stated that any future occurrences of this nature would result in a proposal for more severe disciplinary action.

9. You have the right to reply to this notice both orally and in writing and to submit any and all reasons why you believe the proposed removal is unjustified or inappropriate. You may also submit affidavits and call witnesses in your behalf. Should you choose to make an oral reply, you have a right to be accompanied by a representative of you own designation. Any replies you wish to make should be presented to _____(Name, Title and Organization)_____, and must be submitted within 15 calendar days after receipt of this memorandum. If compelling reasons prevent you from submitting your reply within the time limit specified, you may request an extension of the time by submitting a written request to ___(Name)___ prior to the end of the 15-day period, stating your reasons for requesting an extension. Should you desire to reply to this proposal orally, you should contact _____(Name)_____, Employee Relations Specialist, Human Resource Office, 225-1251, between the hours of 0730 and 1615, Monday through Friday, to make arrangements for a meeting with _____(Name)_____.

10. A final determination concerning the proposed removal will not be made until any replies you make are carefully considered. Whether you reply or not, a written notice of decision will be given to you. The material relied upon to support this proposed removal is available for your review in the Human Resource Office.

11. A reasonable amount of official time will be allowed for you to review the material, prepare a written reply, secure affidavits, and make an oral reply if you choose to do so.

12. You will remain in a duty status until further notice.

(Signature Block)

Receipt Acknowledged _____ Date _____

NOTE: Acknowledgement does not indicate concurrence with the details listed, only that the employee has read and received the memorandum.

(Office Symbol)

(Date)

MEMORANDUM FOR

SUBJECT: Decision – Removal

1. Reference memorandum to you from _____ (Name) _____, dated ____ (Date) _____, in which he proposed that you be removed for failure to follow established procedures in securing leave and absence without leave (AWOL)(Third Offense). (Refer to Table of Penalties for exact nature of offense.)
2. _____ (Name) _____ explained the basis for his proposal and advised you, in referenced memorandum, of your right to submit both oral and written replies which would be considered before a decision was made in this matter. _____ (Name) _____ also informed you of your right to review the material relied on to support his proposal, to have a representative present if you choose to submit an oral reply, and to submit affidavits and call witnesses in your behalf.
3. You did exercise your right to reply to me, both orally and in writing. On ____ (Date) _____, I met with you and your representative, _____ (Name) _____, in order to receive your written reply, dated _____, and to hear why you believed the proposed removal was inappropriate.
4. During the meeting you stated that you believed the proposed removal was too harsh and asked me to consider a lesser penalty. We also discussed your continuing and excessive AWOLs but you were unable to offer any justifiable reasons to support these unexcused absences.
5. After careful consideration of all available information, I have decided that the charge made in _____ (Name) _____'s proposal is sustained and is warranted and necessary if proper discipline is to be maintained and the efficiency of the service is to be preserved. Accordingly, you will be removed from your position and Federal Service effective ____ (Date) _____.
6. You have the right to appeal this action under the negotiated grievance procedure contained in the current agreement with the Association of Civilian Technicians (ACT).

(Signature Block)

Receipt Acknowledged _____ Date _____

NOTE: Acknowledgement does not indicate concurrence with the details listed, only that the employee has read and received the memorandum.

Section C

PHYSICAL DISQUALIFICATION

PHYSICAL DISQUALIFICATION

1. What appears to be a performance problem may be something entirely different. Poor performance may only be the symptom. The cause could be medical disability or a form of misconduct, each requiring very different approaches, procedures and solutions. The initial step you take is very critical. An incorrect identification of the problem can have disastrous consequences that subsequently make it impossible for you to deal with the employee, restore his or her confidence in your supervisory authority and ability, and reset the stage for a second effort.
2. A clerk-typist with increasing arthritis of the hands, a forklift operator with gradually failing eyesight, and an accountant with migraine headaches are examples of employees with medical problems that adversely impact on the quality and quantity of their work performance. The futility of approaching such problems by way of performance evaluation is easily recognized. Here, the performance problem is only symptomatic of a condition indicating a fitness for duty problem to either a change in assignment, disability retirement, or separation.
3. A separation based upon medical disqualification is initiated if an employee is physically or mentally incapable of performing his/her assigned duties. Medical documentation is required prior to taking this action.

(Office Symbol)

(Date)

MEMORANDUM FOR

SUBJECT: Proposed Separation

1. This memorandum is to inform you that I am proposing that you be separated from your position of _____ (Name of Position) _____, not earlier than thirty (30) calendar days from the date you receive this memorandum. My proposal is based upon your medical disqualification as outlined below.
2. On/about _____ (Date) _____, you were examined by _____ (Name of Doctor) _____, for evaluation of an elevated Framingham Risk Index, normal exercise treadmill test, and positive coronary artery fluoroscopy. At the conclusion of the examination, you were medically grounded because of an elevated Framingham Risk Index.
3. On _____ (Date) _____, Dr. _____ (Name) _____ submitted a memorandum to the _____ (Name) _____ which documented his evaluation and outlined his recommendations for you to undergo (a) Twenty-four hour holter monitor; (b) Thallium Stress test; and (c) Echocardiogram, 2-D and M-mode. A decision concerning recommendation of a cardiac catheterization was held in abeyance pending the results of these tests.
4. On _____ (Date) _____, Dr. _____ (Name) _____ advised that you did not meet the medical fitness standards for _____ (Name of Duties) _____ due to elevated cardiac risk index and positive cardiac fluoroscopy and that you had a greater than 60 percent chance of having some degree of coronary artery disease. Dr. _____ (Name) _____ further stated that you did not desire additional evaluation in order to be considered for a waiver. As a result, it was determined that effective on _____ (Date) _____, you were medically incapacitated and unable to perform the full scope of your duties as a _____ (Job Title) _____.
5. Thereafter, several attempts were made to locate another position for which you qualified and could be reassigned. On _____ (Date) _____, the HRO advised the _____ (Director's Name) _____ that no appropriate position existed into which you could be reassigned.
6. On _____ (Date) _____, you were counseled regarding your eligibility to apply for disability retirement; however, to date you have not elected to pursue retirement. The continued retention of an employee who is medically incapable of fully performing the duties of his position would be contrary to sound management principles and adversely affects the efficient accomplishment of this mission. Therefore, this action is proposed in order to promote the efficiency of the service.

(Office Symbol)
(Subject)

(Date)

7. You have the right to reply to this notice both orally and in writing and to submit any and all reasons why you believe the proposed separation is unjustified or inappropriate. You may also submit affidavits and call witnesses in your behalf. Should you choose to make an oral reply, you have a right to be accompanied by a representative of your own designation. Any replies you wish to make should be presented to _____ (Name, Title and Organization) _____, and must be submitted within 15 calendar days after receipt of this memorandum. If compelling reasons prevent you from submitting your reply within the time limit specified, you may request an extension of the time by submitting a written request to _____ (Name) _____ prior to the end of the 15-day period, stating your reasons for requesting an extension. Should you desire to reply to this proposal orally, you should contact _____ (Name) _____, Employee Relations Specialist, at (603) 225-2351, between the hours of 0730 and 1600 Monday through Friday, to make arrangements for a meeting with _____ (Name) _____.

8. A final determination concerning the proposed separation will not be made until any replies you make are carefully considered. Whether you reply or not, a written notice of decision will be given to you. The material relied upon to support this proposed separation is available for your review in the HRO.

9. A reasonable amount of official time will be allowed for you to review the material, prepare a written reply, secure affidavits, and make an oral reply if you desire to do so.

10. You will remain in a duty status until further notice.

(Signature Block)

Receipt Acknowledged _____ Date _____

NOTE: Acknowledgement does not indicate concurrence with the details listed, only that the employee has read and received the memorandum.

(Office Symbol)

(Date)

MEMORANDUM FOR

SUBJECT: Decision – Separation

1. Reference memorandum to you from _____ Name/Title _____, dated _____, in which he proposed that you be separated for medical disqualification.
2. _____ (Name) _____ explained the basis for his proposal and advised you, in referenced memorandum, of your right to submit both oral and written replies which would be considered before a decision was made in this matter. He also informed you of your right to review the material relied on to support his proposal, to have a representative present if you chose to submit an oral reply, and to submit affidavits and call witnesses in your behalf.
3. To date, you have not exercised the rights available to you to provide either an oral or written reply to the proposed separation. Therefore, my decision in this matter is based on information available as contained in the referenced memorandum. Since you are unable to perform the duties of your assigned position and efforts to place you in another position have been unsuccessful, this action is considered to promote the efficiency of the service. Therefore, you will be separated from your position effective _____ (Date) _____.
4. If you have not already done so, you need to contact the Human Resources Office at (603) 225-1251 and coordinate with the Employee Relations Specialist to process you for a disability retirement.

(Signature Block)

Receipt Acknowledged _____ Date _____

NOTE: Acknowledgement does not indicate concurrence with the details listed, only that the employee has read and received the memorandum.

Section D

JOB DISQUALIFICATION

JOB DISQUALIFICATION

Sometimes it will be necessary to separate an employee for job disqualification. Job disqualification occurs when an employee no longer meets all qualifications for the position held. Examples are loss of a security clearance or driver's license.

(Office Symbol)

(Date)

MEMORANDUM FOR

SUBJECT: Proposed Separation

1. This memorandum is to inform you that I am proposing that you be separated from your position of _____ (Name of Position) _____, not earlier than thirty (30) calendar days from the date you receive this memorandum. The basis for this proposal is job disqualification.
2. On _____ (Date) _____, you informed me that you did not have a valid state driver's license. You stated that you were scheduled for a court appearance on _____ (Date) _____, for driving under the influence of alcohol. You also said that if you were ruled guilty you would not be eligible for valid state driver's license for a long period of time but that if you were ruled not guilty that you would be able to immediately obtain a valid state driver's license. I informed you that your military license was valid only if you possessed a valid state driver's license. Consequently, on _____ (Date) _____, you were ordered to turn in your military license and DA Form 348, Equipment Operator's Qualification Record. A state license check revealed that your New Hampshire driver's license number _____ was revoked on _____ (Date) _____ for DUI/DWI with no indication that you would be eligible to reapply.
3. On _____ (Date) _____, you were given a memorandum stating that all employees whose job descriptions required driving duties must have a valid license in order to fulfill their job requirements. As a result, you were given 45 calendar days from the date of receipt of that memorandum to show proof of a valid driver's license. You were advised that if this requirement could not be met, appropriate action would be taken.
4. On _____ (Date) _____, we were given another opportunity to present a valid state driver's license. You could not present one to me. As a result, you were given a memorandum, dated _____, which advised you that you could not be utilized in your position of _____ (Job Title) _____ because a condition of employment required possession of a state driver's license. You were also advised verbally that an SF 52, Request for Personnel Action, was initiated to HRO on _____ (Date) _____, for reassignment to another position which did not require a driver's license. I also advised you that if there were no positions which you met qualification requirements to which you could be assigned, I would propose that you be separated from Federal Service.
5. On _____ (Date) _____, I received written notification from the Human Resource Office that there were no vacant positions to which you could be reassigned.

(Office Symbol)
(Subject)

(Date)

6. The duties of your position of _____ (Date) _____, require that you operate (Name of Equipment) _____ in order to _____. Specifically, you are unable to perform the following duties:

(Outline duties from employee's job description).

7. This proposal is based solely on your disqualification and is not a reflection of your conduct or efficiency.

8. You have the right to reply to this notice both orally and in writing and to submit any and all reasons why you believe the proposed separation is unjustified or inappropriate. You may also submit affidavits and call witnesses in your behalf. Should you choose to make an oral reply, you have a right to be accompanied by a representative of your own designation. Any replies you wish to make should be presented to _____ (Name, Title and Organization) _____, and must be submitted within 15 calendar days after receipt of this memorandum. If compelling reasons prevent you from submitting your reply within the time limit specified, you may request an extension of the time by submitting a written request to _____ (Name) _____ prior to the end of the 15-day period, stating your reasons for requesting an extension. Should you desire to reply to this proposal orally, you should contact _____ (Name) _____, Employee Relations Specialist, HRO, between the hours of 0730 and 1600, Monday through Friday, to make arrangements for a meeting with _____ (Name) _____.

9. A final determination concerning the proposed separation will not be made until any replies you make are carefully considered. Whether you reply or not, a written notice of decision will be given to you. The material relied upon to support this proposed separation is available for your review in the Human Resource Office.

10. A reasonable amount of official time will be allowed for you to review the material, prepare a written reply, secure affidavits, and make an oral reply if you desire to do so.

11. You will remain in a duty status until further notice.

(Signature Block)

Receipt Acknowledged _____ Date _____

NOTE: Acknowledgement does not indicate concurrence with the details listed, only that the employee has read and received the memorandum.

(Office Symbol)

(Date)

MEMORANDUM FOR

SUBJECT: Decision – Separation

1. Reference memorandum to you from _____ Name/Title _____, dated _____, in which he proposed that you be separated for job disqualification.
2. _____ (Name) _____ explained the basis for his proposal and advised you, in referenced memorandum, of your right to submit both oral and written replies which would be considered before a decision was made in this matter. He also informed you of your right to review the material relied on to support his proposal, to have a representative present if you chose to submit an oral reply, and to submit affidavits and call witnesses in your behalf.
3. You did not exercise your right to reply orally to me. On _____ (Date) _____, I met with you and your representative, _____ (Name) _____. During the meeting, you stated that you were unable to have your license reinstated because you had been found guilty for driving under the influence of alcohol. You said that your license would remain revoked for a period of one year. You also asked me to consider a temporary reassignment to another position pending reinstatement of your license.
4. I have carefully considered the information which you presented during our meeting as well as all the documentation available to me. Since you are unable to perform the duties of your assigned position and efforts to place you into another position have been unsuccessful, this action is considered to promote the efficiency of the service. Therefore, you will be separated from your position effective _____ (Date) _____.
5. If you elect to submit a grievance under the negotiated grievance procedure, it must be filed within 15 calendar days after the effective date of the action and in accordance with the procedures contained in the negotiated grievance procedure.
6. _____ (Name) _____, Employee Relations Specialist, HRO, at 225-1251, is available to advise you concerning the procedures to be followed in the event you choose to submit an appeal or file a grievance.

(Signature Block)

Receipt Acknowledged _____ Date _____

NOTE: Acknowledgement does not indicate concurrence with the details listed, only that the employee has read and received the memorandum.

Section E

PERFORMANCE MANAGEMENT

PERFORMANCE MANAGEMENT

Performance Management will be administered in accordance with NHNG TPR 430, and information located in the Guide for Supervisors.

UNACCEPTABLE PERFORMANCE

1. An employee may be reduced in grade or removed for unacceptable performance, ie., when an employee is not performing at an acceptable level in one or more critical elements of the job. You can take an action at any time in the performance appraisal cycle when you believe performance has become unacceptable. **DO NOT WAIT UNTIL YOU ARE NOTIFIED THAT THE EMPLOYEE'S ANNUAL APPRAISAL OR STEP INCREASE IS DUE!**
2. Opportunity to Demonstrate Acceptable Performance. An employee must be given an opportunity to demonstrate acceptable performance before an action is proposed. This opportunity period is called a Performance Improvement Plan (PIP) and must be in writing. The opportunity must include a reasonable time, commensurate with the duties and responsibilities of the employee's job, that will enable the employee to show that he or she can meet established minimum performance standard for the critical elements of the job. When the employee fails to show acceptable performance, an action may be proposed. Such action may be withholding of a grade increase, reassignment, change to lower grade, or removal from Federal Service.
3. Procedural Requirements. Once you have decided to propose an action for unacceptable performance, you must meet the procedural requirements of law and regulation if your action is to be sustained on appeal or in a grievance. Some points to remember when considering such actions are:
 - a. Performance standards must be in place which are reasonable, measurable, attainable, and relate to the major duties of your employee's position. A clear understanding by the employee of the standards required for acceptable performance is most important. A minimum of 180 days under valid standards is required.
 - b. All employees, particularly those with performance problems, should be counseled regularly.
 - c. Medical problems or personal problems (finances, family, etc.) may be adversely impacting on your employee's performance and these situations require special treatment.

(Office Symbol)

(Date)

MEMORANDUM FOR

SUBJECT: Performance Improvement Plan (PIP) (State Length of Time: 30, 60, 90, 120 days)

1. The purpose of this memorandum is to inform you that your performance as _____(Job Title)_____ is currently unacceptable. A (No.) calendar day period, commencing with your receipt of this memorandum, is being provided to afford you the opportunity to demonstrate performance at the acceptable level as delineated in your written performance standards which were discussed and provided to you on _____(Date)_____.

2. Incidents of your unacceptable performance are listed below by Critical Element and Performance Standard:

CRITICAL ELEMENT

PERFORMANCE STANDARD

a. yadda yadda yadda

a. -----(1) outline how employee failed this standard. Give specific incidents.

b. blah blah blah

c. yadda yadda yadda

3. If you have any questions concerning the contents of this memorandum, your performance standards, or my expectations during this PIP, please contact me immediately. During this opportunity period, I will be readily available to assist you with any problems you may encounter.

4. Your performance, prior to the incidents described above, has been _____ . The assignments which you have been given are of the same type that you have successfully completed in the past. I have no doubt that you are again capable of acceptable performance. If you believe that your current unacceptable performance is the result of a medical condition of which I am unaware, please discuss this matter with me immediately and provide any necessary medical documentation and requests for accommodation for my consideration. If there are other personal problems which you believe are affecting your performance, I strongly recommend that you avail yourself of the Employee Assistance Program by calling 271-4336 or 1-800-852-3345 Ext. 4336 to assist you with those problems.

5. At the completion of this (No.) calendar day period, I will provide you with my assessment of your performance. If you have elevated your performance to at least the minimally acceptable level in the critical element (s) cited above, I will not initiate any type of formal action. If your performance remains unacceptable on any of the elements described above, I will take some type of formal action.. This action may be the denial of a within grade increase, reassignment to a different position (if such exists), change to lower grade (if such exists), or removal from the Federal Service.

(Office Symbol)
(Subject)

(Date)

5. If your performance is elevated to the acceptable level during this PIP, I will inform you of such and no further action will be taken. However, you will be expected to maintain and sustain at least the minimally acceptable level of performance during the rating period. If, at any time during the rating period beginning with the date of this memorandum, your performance on any of the elements identified above again becomes unacceptable, I will propose remedial action without initiating another opportunity to improve similar to the one provided in this memorandum. It is my desire to have your performance elevated above the unacceptable level. Working together we can achieve this goal.

(Signature Block)

Receipt Acknowledged _____ Date _____

NOTE: Acknowledgement does not indicate concurrence with the details listed, only that the employee has read and received the memorandum.

WITHHOLDING WITHIN-GRADE INCREASES

Taking remedial action is a requirement when dealing with unacceptable performance. A second requirement is the denial of a within-grade increase should one be due at or during the period where unacceptable performance has been identified and corrective action planned or underway. The purpose for denying the within-grade increase is to implement the principle that pay increases are based on quality of performance, not on length of service. Since the minimum quality of performance is measured by the standard established for each critical element, below standard performance in one or more critical elements logically, and by law, indicates that no within-grade increase will be granted. If, as a result of remedial action, the employee's performance improves to the level of the standard, the within-grade increase may then be granted beginning with the first pay period following the determination of acceptable performance.

(Office Symbol)

(Date)

MEMORANDUM FOR

SUBJECT: Withhold of Within-Grade Increase

1. A determination has been made to withhold your within-grade increase due to the fact that your level of performance is not acceptable. On _____ (Date) _____, your written performance standards were discussed with you and you were provided a copy. Incidents of your unacceptable performance are listed below by Critical Element and Performance Standard:

CRITICAL ELEMENT

PERFORMANCE STANDARD

a. -----

(1) (Outline how employee failed this standard. Give specific incidents).

b. -----

c. -----

(Attach as supporting documentation counseling statements advising employee of errors on each incident. Also, attach "Performance Improvement Plan" memorandum to employee.)

2. You, or your representative, have a right to request reconsideration of the negative determination to withhold your step increase. You may request reconsideration by filing, not more than 15 calendar days after receipt of this memorandum, a written request to the negative determination setting forth the reasons the determination should be reconsidered. This written response should be addressed to _____ (Name/Address) _____. If you request reconsideration, a written final decision will be given you.

3. You can contact HRO by calling 225-1251 for assistance in this matter.

(Signature Block)

Receipt Acknowledged _____ Date _____

NOTE: Acknowledgement does not indicate concurrence with the details listed, only that the employee has read and received the memorandum.

Section F

MISCELLANEOUS

(Office Symbol)

(Date)

MEMORANDUM FOR

SUBJECT: Sick Leave

1. A recent review of your sick leave record revealed that absences totaling No. hours were charged to sick leave during the past No. months. The NH Army/Air average sick leave usage for this period of time is 62.3 hours or less per employee. Therefore, the amount of sick leave which you used is more than No. the average amount for this period and your sick leave account is almost depleted.
2. The majority of your sick leave absences were for sudden illness or emergency situations and no advance notice was given. Further, all of these unscheduled absences were of less than three days' duration. These absences have created a hardship of your superiors and fellow employees because in your absence, your duties had to be accomplished by other personnel.
3. Inasmuch as I consider your absences to be excessive, the following requirements are imposed upon you and are effective immediately:
 - a. Absences of any duration, for which you apply for sick leave, must be supported by a doctor's certificate.
 - b. Sick leave requests for scheduled medical, dental or optical examinations or treatment must be made two days in advance.
 - c. Emergency sick leave requests must be made no later than two hours after the beginning of your tour of duty on the first day of the absence.
 - d. All requests for sick leave will be made to me or to (Name) in the event I am absent. Sick leave requests made by you must state the general nature of your illness, the address or telephone number where you may be reached during your illness and the expected date of your return to duty. Failure to return to duty by the date specified or to obtain approval for additional leave may result in your being carried in an absent without leave status.
4. Failure to comply with these requirements may result in disciplinary action against you.
5. Your leave record will be reviewed periodically and after six months from the date of this memorandum, if sufficient improvement is shown, the restrictions listed above will be withdrawn.

(Signature Block)

Receipt Acknowledged _____ Date _____

NOTE: Acknowledgement does not indicate concurrence with the details listed, only that the employee has read and received the memorandum.

(NOTE: This memorandum is used in conjunction with Section B.)

(Office Symbol)

(Date)

MEMORANDUM FOR

SUBJECT: Unauthorized Absence

1. You did not report for duty at your regularly scheduled tour on _____ (Date) _____ .
2. You did not obtain prior approval for absence for this period nor have you contacted anyone in your supervisory chain at any time during this period to inform them of the reason for your unauthorized absence or to obtain approval for the absence. Therefore, you have placed yourself in an absent without leave status.
3. Your failure to obtain approval for your absence and the fact that you have been absent without leave since _____ (Time) _____, _____ (Date) _____ without notifying anyone in your supervisory chain of your reason for being absent or of your intention to return to duty, establishes beyond reasonable doubt that you have abandoned your position.
4. Therefore, I have no alternative but to inform you that unless you return to duty or provide me with a justifiable reason for your unauthorized absence by _____ (Date) _____, action will be initiated to separate you from your position.

(Signature Block)

Receipt Acknowledged _____ Date _____

NOTE: Acknowledgement does not indicate concurrence with the details listed, only that the employee has read and received the memorandum.

(Note: This memorandum is used in conjunction with Section B.)

(Office Symbol)

(Date)

MEMORANDUM FOR

SUBJECT: Suspension of Driving Privileges

1. On (Date) , you lost your (State/Installation) driver's license due to (Reason) which occurred on (Date) . Consequently, on (Date) , you were ordered to turn in your (State/Installation) license to (Place) .

2. You have repeatedly been told that possession of a valid driver's license is a condition of qualification for your position as (Job Title) . Accordingly, you have 30 calendar days from the date you receive this memorandum to show proof of reinstatement of your (State/Installation) driving privileges. Failure to provide such information at the end of the 45-day period will result in disqualification from your position as (Job Title) any may result in reassignment and/or removal from Federal Service.

(Signature Block)

Receipt Acknowledged _____ Date _____

NOTE: Acknowledgement does not indicate concurrence with the details listed, only that the employee has read and received the memorandum.

(Note: This memorandum is used in conjunction with Section D.)

SPECIAL CONSIDERATION

1. Offer of counseling. When you discuss either performance or conduct problems with your employee, he/she may tell you of a problem with alcohol or drugs, or a personal situation which is affecting his/her performance or conduct. As a supervisor, you should refer the employee to the Employee Assistance Program (EAP) at 271-4336 or 1-800-852-3345 Ext. 4336. If the employee's problem is one of alcohol or drug abuse, the employee should be apprised in writing of the opportunity to seek assistance through the EAP. A subsequent period of rehabilitation may serve as an alternative to possible disciplinary or adverse action you might be considering as a corrective measure.
2. Opportunity to bring up the problem(s). If you only suspect the existence of alcohol or drug abuse as the reason for a performance or conduct deficiency, you should ask the Employee Relations Specialist for advice on your next step. After you talk to a Labor Relations Specialist, you may wish to explore the matter further with a representative of the EAP and probably will want to have an informal discussion with the employee on the matter of his/her unsatisfactory performance or conduct, and the possibility of future actions, and then, if appropriate, refer him/her to the Employee Assistance Program.
3. Failure to Keep Agreement. If the employee agrees to participate in a rehabilitation program and then does not keep appointments, or the rehabilitative efforts do not result in performance or conduct which has improved to an acceptable level, then you should take appropriate action. Again, you must consult with the Employee Relations Specialist.

REASONABLE ACCOMMODATION

1. Possible Handicapping Conditions. In the case of alcohol and/or drug problems, you are required to offer rehabilitative assistance as "reasonable accommodation" of the employee's known handicap. Such assistance may include a "Last Chance Agreement."
2. The employee may offer a physical or mental disability as the reason for a performance or conduct problem. You should ask him/her for specific existence of the condition and its effects on the employee's job performance.
3. Ways of Providing Accommodation. If it is determined that the employee is indeed suffering from a handicapping condition, you will want to check with the HRO on what steps can or should be taken to accommodate the condition.
4. Disability Retirement. If reasonable accommodation is not feasible, consideration should be given for disability retirement.

THE BASIC DECISION

The employee has done something or failed to do something which adversely affects his/her work, the ability of other employees to do their jobs, or the mission of the organization. You, as a supervisor, are faced with decisions of how to handle the incident(s) in question. First, you must decide whether the incident involves the employee's poor performance on the job or involves an act of misconduct on the part of the employee. Next, you must decide what type of action is most appropriate to deal with the incident(s).

DECISION CHART FOR ADVERSE ACTIONS

