

INTRODUCTION

Presiding over a disciplinary case can be a daunting task for an Elected Officer at any level of the Auxiliary. The purpose of this article is to provide guidance for Elected Officers in the Northeast District- Southern Region. Your basic reference should be the Auxiliary Manual, COMDTINST M16790.1G, Chapter 3, Sections F through K (hereafter referred to as AuxMan 1G or simply Manual) with a secondary source being the Administrative Investigations Manual, COMDTINST M5830.1 (series) also referred to by me as AIM 1A.

Your objective in handling a disciplinary case should always be to assure that all parties to the case receive fundamental due process. Whenever you are tasked with a disciplinary matter think of how you would like to be treated if you were the subject of an investigation. AuxMan 1G Chapter 3, Section F.1 states that the membership should be provided "minimal due process" as provided for in the Manual. Having membership in the Auxiliary is not to be considered as a "constitutionally protected liberty". **AuxMan1G notes that membership is not an entitlement by reason of meeting certain basic criteria but rather requires the meeting of suitability for service and the willingness to adhere to the basic Coast Guard values of Honor, Respect and Devotion to Duty.**

What is meant by the term due process? There are numerous opinions, however, the basic one appears to be defined as "to be aware that a matter is pending, to make an informed choice whether to acquiesce or contest, the opportunity to be heard, and to assert before the appropriate decision-making body the reasons for such choice." "Aside from all else, 'due process' means fundamental fairness and substantial justice." With this object in mind, this essay seeks to place in prospective the requirements that AuxMan1G requires that one must adhere to.

But before one goes further it is important to understand the term "discipline". Black's Law Dictionary 6th Ed defines the term as: "Instruction, comprehending the communication of knowledge and training to observe and act in accordance with rules and orders." A secondary definition states "Correction, chastisement, punishment, penalty. To bring order upon or bring under control." Thus, the term may include advising a member how to correctly wear the uniform or when to salute all the way to disenrollment of a member for theft of Auxiliary property or the commission of a felony. The former is achieved with a quiet word with the member while the latter involves an extensive, perhaps adversarial procedure.

COUNSELING STAGE

Counseling Memorandum: There may be instances where more than a private word is needed. A situation may occur which requires a serious conversation between the Elected Officer and an Auxiliarist concerning certain unacceptable behavior by the Auxiliarist. AuxMan 1G notes that many minor situations, especially if they occur for the first time, "is most appropriately and effectively dealt with on-the-spot and in a non-

confrontational fashion.” The desired approach should be through a “Frank, mature, and respectful discussion of inappropriate or incorrect conduct, coupled with informal instruction on expected behavior and/or correct performance.”

The Elected Officer may want to prepare a memorandum which summarizes for the benefit of the Leader and the Auxiliarist for future reference the substance of the conversation between them. This can be done by through a non-punitive Counseling Memorandum to be retained in the files of the Elected Officer, with a copy being sent to the Director of Auxiliary to be placed in a separate file maintained by the Director for a period of time up to three years in accordance with Information and Life Cycle Management Manual, COMDTINST M5212.12(series) and referred to in the event that the Auxiliarist persists in engaging in unacceptable conduct of the nature for which counseling was held or engages in other forms of unacceptable conduct which may warrant a disciplinary proceeding. This memorandum or memoranda can be provided to the investigator to support the fact that the Auxiliarist has been counseled in respect to unacceptable, non-conforming or offensive behavior. A form guide for the preparation of a Counseling Memorandum can be found on this web page.

COMPLAINT/PRELIMINARY INVESTIGATION STAGE

Any action may be begun by a member of the Coast Guard Forces (active duty, Reserve, Auxiliary or civilian employee) making or receiving an allegation that a member of the Auxiliary has violated a policy prescribed by the Commandant of the Coast Guard as may be contained is AuxMan 1G or any other instruction, manual or directive that may apply to a member of the Auxiliary. Thus, a complaint cannot be made by an outsider unless it made to a member of the Coast Guard Forces and entertained by the recipient of the complaint.

It is important at the outset to differentiate whether the Complainant is expressing an annoyance with the actions of an Auxiliarist or whether the Complainant is expressing a serious allegation. This should be determined by the Elected Officer upon the receipt of an accusation. If the accusation expresses an annoyance then a counseling session may be appropriate.

Requests for a preliminary investigation, which should be based upon a written complaint, are addressed to the lowest appropriate level of the Auxiliary **who does not have a conflict of interest with the subject matter of the investigation, the individual being investigated or is a witness.** Below is a chart:

Level of the Auxiliary	Preferred Elected Officer
Flotilla Staff Officers or Members	Flotilla Commander (FC)
Division Staff Officers, committee members or flotilla Elected Officers	Division Commander (DCDR)
Division Elected Officers	District Captain (DCAPT)

District Staff Officers, Aids, Committee members or Chairs, Auxiliary Sector Coordinators, Auxiliary Unit Coordinators, District Captains, Immediate Past District Commodores, President of Past District Captain's Association	District Commodore (DCO)
District Chief of Staff or District Commodore	Area Deputy National Commodore (DNACO)
National Staff Members	Appropriate Directorate Chief (DIR)
Directorate Chiefs	Assistant National Commodore (ANACO)
Assistant National Commodore	Deputy National Commodore (DNACO) or Vice National Commodore (VNACO)
National Aids, National Commodore Staff Members, Deputy National Commodore, Vice National Commodore, President of National Commodore's Association, Immediate Past National Commodore	National Commodore (NACO)

If there is any question of who shall administer a request for preliminary investigation or complaint on the District Level, the District Legal Officer (DSO-L) or District Director of Auxiliary should be consulted.

TABLE OF TIME LIMITS – DISCIPLINARY ACTIONS

TIME LIMIT	REQUIRED ACTION	AUXMAN 1G SEC.		
All Calendar	Elected Officer (EO) also "Leader"	Ch.	Sec.	Para.
5 Days	DCO/Director determination that only informal action is warranted-package returned to submitting originating source	3	H	H.3.a(1)
7 Days	EO must determine propriety of request for investigation	3	F	F.3.
15 Days	EO must make preliminary determination whether a violation was committed	3	F	F.4.
20 Days	Auxiliarist who receives Director's notice of Temporary suspension can appeal to Director's supervisor	3	I	I.4.
30 Days	1 Auxiliarist may appeal a Letter of Caution from written date of letter	3	G	G.3.
	2 Auxiliarist may appeal Informal Disciplinary Action from written date of letter	3	J	J.1.

30 Days	3 Auxiliarist to be notified by DCO and/or Director of intended disciplinary action of receipt of investigation package 4 Auxiliarist's time to answer formal disciplinary charges from date of memo or letter 5 Auxiliarist time to appeal Letter of Reprimand with suspension or revocation of privileges 6 Auxiliarist may appeal formal disciplinary action 7 Auxiliarist time to appeal from disciplinary action taken by DCO to DNACO from notice of action 8 Appeal from formal disciplinary action taken by NACO from date of written notice to Chief Director 9 Appeal from formal disciplinary action taken by Director from written date of notice to Director's supervisor 10 Auxiliarist's written appeal from written date of disenrollment to District Commander 11 Appeal by Complainant objecting to degree of disciplinary action taken to appeal authority	3	H	H.3.a.
		3	H	H.3.a(2)
		3	H	H.4.a.
		3	J	J.2
		3	J	J.2.a.
		3	J	J.2.b.
		3	J	J.2.c
		3	J	J.2.e.
		3	J	J.3.b
60 Days	Maximum time that may be allowed to complete an investigation unless extended for good cause	3	F	F.3.b.

I The Complaint

(a) Form of a Complaint: Many requests for investigation or complaints are made orally.

(i) If the complaint against a member is made orally from a person outside the Auxiliary it should be reduced to writing in memorandum form by the person receiving it. Complaints may be made to Coast Guard stations which are required to record the communication in a log book. The Elected Officer who receives the oral complaint should obtain from the Complainant all of the pertinent facts surrounding the alleged activity being complained of. In order to assure accuracy of the information received by the Elected Officer, the Complainant should be requested to sign the memorandum prepared by the Elected Officer or provide a written statement setting forth specifically the allegations of the complaint.

(ii) If a complaint against a member is made by a person within the Auxiliary, it is preferable that the Elected Officer obtain the complaint in writing. An exception may be where the complaint involves a simple request to the Elected Officer to counsel another Auxiliarist to refrain from continuing some minor annoyance. In this instance, a Counseling Memorandum described above should be produced and filed as previously noted. For example: if a member is not wearing a uniform correctly or frequently interrupts at a meeting, a private word from an Elected Officer would be appropriate. Here the Elected Officer may contact the object of the complaint and informally request information in response to the allegation made by the Complainant. However, where the complaint is more serious, the Elected Officer receiving the complaint should request that the Complainant reduce the allegations to a writing, setting forth specifically and in detail the essential facts supporting the accusation and the Auxiliary or Coast Guard policy alleged to be violated.

(b) (i) The use of a written complaint is preferable to an oral complaint. It provides clarity of the accusation and commits the Complainant to signing a statement. If the Complainant is not willing to commit the allegation(s) to writing, perhaps the allegation should be considered to be grouching on the part of the Complainant. Written complaints can be submitted in the conventional form or by electronic means. The written complaint should contain, at a minimum, the following information:

- The name of object of the complaint;
- Statement setting forth the policy alleged to have been violated;
- Statement of when the alleged violation(s) took place;
- Statement of where the alleged violation(s) took place;
- Statement of names of person or persons, if any, who allegedly witnessed the violation being complained of;
- Statement of particular facts supporting the alleged complaint;
- Statement of the remedy sought, and
- Documentary evidence, if it exists, to support the allegations of the complaint.

(ii) If the Complaint is not complete when received, the Elected Officer receiving the Complaint should, before acting on the Complaint, request that the Complainant provide further facts or enlarge upon facts already provided or additional documentary evidence. This information should be received before any investigation is begun.

(d) In ascertaining the appropriate elected/appointed officer to entertain the Complaint it is important that this individual not be personally involved in the subject matter of the Complaint. **It is also important that the elected/appointed Auxiliary leader not be tainted and be free of the appearance of impropriety in order to inspire confidence in the disciplinary system.**

(e) If the Complaint involves an aviation related matter, due to the fact that aviation activities may require a certain level of knowledge and expertise not possessed

by individuals involved in surface operations, communications or in operations program at all, the following guideline should be complied with by the appointing Elected Officer:

When, in the opinion of the FC, DCDR, DCAP or DCO, a complaint involves a subject matter which requires a level of knowledge and expertise greater than that possessed by most auxiliarists, the appointing officer should select at least one individual with particular subject matter expertise. In doing so, assistance by the appointing officer should be elicited from the DSO-AV provided that the DSO-AV is not a subject matter of the investigation or a potential witness. If such is the case, advise should be obtained from the DCO. If more than one investigator is appointed, then the individual having subject matter expertise should be named as the presiding investigator. **Notwithstanding the forgoing, in the Chief Investigations Officer should be consulted in respect to the appointment of an investigator or investigating committee.**

(f) **Except for offering procedural advice to a lower level elected officer(s), the senior Elected Officer having potential involvement in the review process should scrupulously refrain from personal involvement with the case in order to not become tainted and not remain free of the appearance of impropriety.** Where procedural advice is needed, the DSO-L should be involved in the process as early as possible in order to avoid procedural or substantive errors being made. While AIM 1A does not pertain to the Auxiliary, it does require consultation with the legal department of the Coast Guard at the outset of an investigation. I suggest that the Auxiliary should adopt the procedure found in AIM 1A.

(g) **If a request for investigation or complaint is received from a member of the United States Coast Guard or any other branch of the military, it must be acted upon and followed through in an expeditious manner without any delay.**

II – The Preliminary Investigation:

(a) Upon receiving a request for investigation, the Elected Officer at the appropriate level of leadership should:

(i) request that the subject matter of the complaint be provided in writing (electronic means is acceptable) and request any additional information or documentation as may be required;

(ii) make a determination whether an investigation is warranted and, then

(iii) appoint an Auxiliarist or committee to gather and determine the facts by conducting a preliminary investigation.

(b) The receiving the Complaint and request for an investigation **shall** act upon this request within SEVEN (7) days of its receipt.

(c) If an investigator or an investigating committee is appointed, the Elected Officer MUST inform the Auxiliarist who is the subject of the complaint that a complaint has been made and that a preliminary investigation is being commenced. In doing so, fundamental fairness requires that the accused Auxiliarist should receive a written specification of the substance of the complaint and the pertinent facts surrounding the occurrence being complained of together with the names of the individual or individuals appointed to investigate the complaint. [See form of letter in the forms segment] The name of the Complainant may be withheld if it appears that discord in the organization will result. Since this is an administrative proceeding, an Auxiliarist does not enjoy the same due process safeguards as accorded to a person in a criminal proceeding.

(d) The Elected Officer shall establish the length of time for the appointed investigator to provide a report, but the time shall not be longer than **60 days**.

(e) The Auxiliarist who is the subject of the complaint must be given, if desired, the right to address, in writing, the appointed investigator or investigating committee **PRIOR TO ANY REPORT BEING MADE** to the Elected Officer. A respectable period of time should be allowed for response. I suggest fifteen (15) calendar days is a fair length of time. If more time is needed the subject of the Complaint should request such additional time of the investigator.

(f) AuxMan1G provides that the Elected Officer;

- (i) may appoint a single investigator or a three person committee
- (ii) (ii) appointees may belong to the same unit as the Auxiliarist who is the subject of the investigation provided that the appointees are free of any appearance of conflict with the subject
- (iii) (iii) appointees may be members of the Coast Guard Forces and
- (iv) work with the Director in respect to the making of appointments.

(g) In Northeast Division-Southern Region, the Commodore has designated a Chief Investigations Officer and designed a protocol for investigations in order to insure that there is an available a pool of individuals who have proven investigative talent and experience. The Chief Investigations Officer should be consulted by the Elected Officer prior to that appointment of an investigator to be provided with the names of experienced and knowledgeable investigators from which to make a choice.

(h) The appointed investigator or investigating committee should, in order to assure due process:

(i) Speak to all witness identified by the Complainant, by the subject of the Complaint or who may appear to possess knowledge or information about the subject matter of the investigation;

(ii) Interview the Auxiliarist who is the subject of the Complaint if that AUXILIARIST DESIRES TO BE INTERVIEWED;

(iii) Make voice, video, or written record of all statements taken from all witnesses. All testimony must be preserved until the entire proceeding is concluded and all appeal rights have been exhausted.

(iv) Catalogue all documents received and preserve any physical evidence to the extent possible or make photographs of physical evidence, places, objects or documents.

(i) Upon having completed the preliminary investigation as outlined above, the investigator or investigating committee must prepare a written report addressed to the appointing Elected Officer summarizing the facts of the investigation and the documents received and considered by the investigator(s). The investigator may provide the Elected Officer with observations made as a result of the investigation. [See the prototype of a report in the forms section.]

DISCIPLINARY DETERMINATION STAGE

I Action on report of investigation

(a) Upon receipt of the investigatory report and documents, the Elected Officer, in consultation with the DSO-L has fifteen (15) calendar days to make an initial determination of whether there has been a violation of Auxiliary policy or the guidelines as set forth in the AuxMan 1G.

(b) The following criteria should be employed in undertaking a review of the report of investigation:

(i) Determine whether the report complies with the Auxiliary Manual and otherwise adequately addresses the needs of the Auxiliary. If it does not the reviewer should return the report with comments for further investigation.

(ii) Determine whether the report sufficiently addresses the allegations of the complaint.

(iii) Determine whether the report is 'legally sufficient' that is, that the findings are supported by evidence, that all relevant issues have been adequately addressed, and that no inappropriate material or statements have been included.

(c) After having reviewed the investigatory report the Elected Officer has two courses of action:

(i) **First Course of Action:** If the preliminary investigation does not support a violation of Auxiliary policy or guidelines, or if there is insufficient evidence to support a violation, the elected leader will inform the Complainant that no action will be taken or that minor corrective action will be taken. The Complainant does not have any right to appeal this finding but may in writing file an objection to the determination made by the elected leader with the Elected Officer to whom an appeal can be made. That Elected Officer may, but is not required to make any review of the proceedings.

(ii) **Second Course of Action:** If the preliminary investigation indicates that a minor violation has been committed, the Auxiliarist being complained of shall be advised of the unacceptable conduct, specific deficiencies, and acceptable standards of performance by informal disciplinary action as further discussed under the Informal Disciplinary Procedure segment, or if the preliminary investigation discloses that formal disciplinary action is required, the Elected Officer will continue the proceeding under the formal disciplinary section of the Manual. The Elected Officer shall, within fifteen (15) days, in consultation with the DLO, make a preliminary determination whether there has occurred a violation of Coast Guard or Auxiliary policy by the Auxiliarist who is the subject of the investigation which requires further action.

(iii) **Notification:** If the Elected Officer determines that no violation has occurred by the Auxiliarist who is subject to investigation, then within **five (5) days** of having made that determination, the leader shall inform in writing (e-mail permitted) all those persons initially notified of the investigation of such determination. A similar notification shall be made if the said leader has determined that the matter should proceed on to an Informal or Formal Disciplinary investigative action.

II Informal Disciplinary action versus formal disciplinary action

At this juncture it is important to understand the difference between informal disciplinary action and formal disciplinary action. The Elected Officer receiving the preliminary report must make this determination. Aux Man 1G Chapter 3, Section G & H provide the guidance.

(a) Informal disciplinary action is the correcting of minor violations of Auxiliary policy made by an Auxiliarist This is addressed in Chapter 3, Section G.

(b) Formal disciplinary action is the correcting of serious violations of Coast Guard and/or Auxiliary directives, policies or procedures which may ultimately result in disenrollment of the accused Auxiliarist. This is addressed in Chapter 3, Section H.

The AuxMan1G, at page 3-45 provides a list of offences which may be the subject of informal disciplinary action and AuxMan1G, at page 3-49 offences which may be the subject of formal disciplinary action. The Manual suggests that each list is intended to be suggestive of primary areas of activity subject to disciplinary action but the lead-in sentence to each list states that the listed areas **could include offences not set forth on the particular list and further, that the list of formal disciplinary actions could result in only an informal disciplinary action being taken.** Thus, the list set forth under Section H could be added to the list under Section G. These two lists are not intended to list the only violations which may be subject to discipline but rather set forth some of the major violations. **Both of these lists are thus deemed to be non-inclusive.** There are many other policies set forth in the various directives, instructions, policy statements which may be the subject of a disciplinary proceeding, however, it is incumbent upon the Elected Officer and the investigator(s) to identify them as part of the investigation. Legal counsel should be requested assist in connection with this task.

(c) If the investigative report is complete in all respects no further augmentation of the report is required. Additional information can be requested by those who are charged with review of the investigative report in order to assist in determining the appropriate informal or formal discipline to be imposed. IT SHOULD BE NOTED THAT THE AUXILIARY DISCIPLINARY PROCESS DOES NOT INVOLVE THE UNDERTAKING OF ANY ADVERSARY HEARINGS BUT RATHER IS DONE BASED UPON REPORTS AND DOCUMENTATION. SINCE THE ACCUSED DOES NOT HAVE AVAILABLE THE OPPORTUNITY TO CONFRONT OR CROSS EXAMINE THE ACCUSORS THERE IS PROVIDED SEVERAL OCCASSIONS FOR THE ACCUSED AUXILIARIST TO RESPOND TO NOTICES SENT IN ORDER TO PERMIT THE RECORD TO ADEQUATELY REFLECT THE POSITION OF THE ACCUSED.

III Informal discipline:

As already noted, informal discipline seeks to correct minor violations. There are three disciplinary options available to the Elected Officer – Counseling Session; Denial of Web Privileges and Letter of Caution. The three forms of disciplinary action may be administered individually or in combination. **USE OF ANY OTHER METHOD IS NOT CALLED FOR AND BEYOND THE SCOPE OF AUTHORITY OF THE ELECTED OFFICER.**

(a) **Counseling Session:** A frank discussion between the Elected Officer, the Complainant (if other than the Elected Officer) and the subject Auxiliarist. This counseling session must be documented in writing and the memorandum retained by the Elected Officer. The Elected Officer may choose to file a copy of the counseling session memorandum with the Director and this would remain in the member's file for a period of two years to be automatically removed if the subject Auxiliarist does not incur any further disciplinary counseling sessions. **Upon removal of the counseling session memorandum from the member's file, it should be kept in a separate file for reference in respect to prior disciplinary actions taken against this member.** Retaining of this information can

prove useful if any subsequent disciplinary proceedings are taken against the Auxiliarist in determining the outcome of this later proceeding.

(b) **Denial of web privileges:** This is an additional option to the counseling session where the subject Auxiliarist must refrain from use of the web which includes e-mails, Twitter, Face Book or any other networking organization to communicate with other Auxiliarists as an Auxiliarist. This sanction is to correct misuse of the web, Coast Guard and Auxiliary policies.

(c) **Letter of Caution:** This is the most severe of the informal sanctions and has a record life of three (3) years in the member's file. This informal corrective letter

(i) shall advise the subject Auxiliarist of specific, improper action(s),

(ii) Any specific deficiencies on the part of the Auxiliarist,

(iii) that any statements made by the subject Auxiliarist during the preliminary investigative process were considered by the Elected Officer and

(iv) The expected and acceptable behavior,

(v) The effective period of the action which is not to exceed three years from the date of the letter,

(vi) **The subject Auxiliarist shall have the right within thirty (30) calendar days from the written date of the letter of caution to file a written reply which will be kept with the letter of caution. This advice to file a written statement MUST be contained in the Letter of Caution.**

IV Formal Discipline:

Formal disciplinary action is the correcting of serious violations of Coast Guard and/or Auxiliary directives, policies or procedures which may ultimately result in disenrollment. This procedure is found in Chapter 3, Section H of AuxMan 1G.

(a) If the Elected Officer who ordered the preliminary investigation determines that facts support a formal disciplinary action the leader must advise, in writing, the DCO and the Director by way of the chain of management recommending that formal disciplinary action be commenced.

(b) The letter or memorandum from the Elected Officer to the Director and DCO should address the following topics:

(i) The unacceptable conduct by the subject Auxiliarist,

- (ii) Any specific deficiencies on the part of the Auxiliarist,
- (iii) That any statements submitted by the Auxiliarist have been considered,
- (iv) The expected and acceptable behavior,
- (v) The recommended formal disciplinary action.

A COPY OF THE ABOVE LETTER OR MEMORANDUM, WITHOUT THE INVESTIGATIVE RECORD, IS TO BE SENT TO THE AUXILIARIST WHO IS THE SUBJECT OF THE INVESTIGATION.

(c) The DCO and Director, in consultation with the DSO-L will have the duty of determining whether formal disciplinary action is warranted. The DCO will have **thirty (30) calendar days** from when the latter of the two have received the investigation package to make this determinization. Since formal disciplinary action involves possible disenrollment and other severe sanctions only the higher echelon of the Auxiliary determines whether to proceed to this level of discipline. The Director and DCO, as the circumstances warrant, **can ISSUE A JOINT OR INDIVIDUAL Letter of Reprimand, HOWEVER, if the Letter of Reprimand is to be combined with any of the sanctions set forth in Auxiliary Manual 1G, Section H 2.b ONLY the Director issues the notice of intended formal discipline to be followed by the Letter of Reprimand.**

(d) **The task falls on the Director, in writing, to inform the subject Auxiliarist** of the allegations that prompted the initiation of a formal disciplinary proceeding. The Director's notice of intended discipline should contain the following information:

- (i) Summary of the allegations,
- (ii) A statement of facts, information, documents upon which the Director basis the proceeding;
- (iii) The processing of the investigation up to the point of notification,
- (iv) A clear notice that the subject Auxiliarist has thirty (30) calendar days from the date of the notice of discipline to provide a written response to the allegations and facts contained in the Director's notice.

Copies of the Director's notice to the Auxiliarist should be provided to all those initially notified of the investigation.

If the Director determines that formal disciplinary action is not warranted, the Director's notice to the Auxiliarist should so state and the matter be sent back for informal disciplinary action.

- (e) The subject Auxiliarist receiving the letter has four options:

- (i) Take no action – this tantamount to a default;
- (ii) Admit the charges;
- (iii) Deny the charges, but this must be done with integrity otherwise this act of false may result in additional disciplinary charges for lying;
- (iv) Admit the charges with an explanation. The subject Auxiliarist's written response will be made part of the formal record.

(f) Since the Auxiliary is a part of the Federal Government, its administrative investigative procedures are generally governed by those that apply to other Federal agencies. The "Substantial Evidence Rule" governs Federal administrative agencies. "Substantial Evidence" means such relative evidence as a reasonable mind might accept as adequate to support a conclusion. ref. Appalachia Electric Power Co. v. NLRB, 92 F2d 985, 989 (4th Cir.)

(g) Sanctions: There are now 8 possible sanctions which may be administered individually or combination: (AuxMan1G Page 3-50-3-51)

- (i) Suspension or revocation of any offer-for-use.
- (ii) Suspension of any qualification and/or certification.
- (iii) Suspension of any elected and/or appointed office together with the denial to wear any insignia or past officer pin for such office.
- (iv) Suspension of eligibility for elected office and/or availability for appointed office.
- (v) Suspension of certain membership privileges:
 - (1) Participation in any Coast Guard or Auxiliary training programs, including C-schools;
 - (2) Use of CGES facilities and services, pursuant to the restrictions contained in the CG Non-Appropriate Fund Instrumentalities Manual, COMDTINST M7010.5 (series) for all but uniform purchases;
 - (3) Authorized access to CG MWR program for its services as described in the CG Morale, Well-Being and Recreation Manual, COMDTINST M1710.13 (series)
- (vi) Loss of time toward Auxiliary longevity awards and retirement.
- (vii) Letter of Reprimand [without sanctions]
- (viii) Disenrollment.

(h) Letter of Reprimand [with admonition only]:

(i) On the District level the Letter of Reprimand [with admonition only] can be issued either by the DCO or Director or jointly signed;

(ii) Is a formal corrective letter;

(iii) Issued only after the DCO and Director have agreed on the appropriate wording for the letter;

(iv) Discusses the specific improper actions on the part of the Auxiliarist and acceptable standards;

(v) Must show that the record was considered together with any response provided by the Auxiliarist;

(vi) Make references to prior disciplinary actions – here is where the set aside file maintained by the Director of previous actions can be utilized;

(vii) **Auxiliarist MUST BE advised of the right to make a response to the Letter of Reprimand [with admonition] that will be retained with the Letter. The above notice must be contained in the body of the Letter.**

(viii) **If the letter consists solely of an admonishment WITHOUT suspension or revocation of any the enumerated privileges or qualifications, the Auxiliarist must be advised that the Letter is not subject to appeal but may be replied to in writing which reply will be retained with the letter.**

(ix) If the Letter of Reprimand, in addition to an admonishment **suspends or revokes any of the enumerated privileges or qualifications**, the Auxiliarist must be advised of the right to appeal as set forth in the appeals Section of the Manual.

(i) Duration of Letter:

(i) Remains in the Auxiliarist's file for three (3) years unless removed earlier upon a convincing showing that the Auxiliarist has reformed by concurrence of the Director and the DCO. Even after the Letter is removed it will be kept in a set aside file for future reference if the occasion arises.

(ii) An Auxiliarist who receives a Letter may be denied the right to hold elected or appointed offices, vacate current office held, have insignia forfeited, denied right to wear past officer's pin for forfeited office – to be determined by the DCO and Director., AuxMan 1G, Section H.4.b.

(iii) The Letter may be removed from the Auxiliarist's file before the end of the three year period at the discretion of the DCO and Director, as appropriate when they feel the situation has been corrected, however, the Letter shall be removed together with all associated documents the end of the three year period if there is not further

adverse action. This material shall be placed in the separate file for the sole purpose of documenting prior disciplinary action

OPTIONAL INTERIM SUSPENSION STAGE

Temporary Suspension of an Auxiliarist

(a) The Director has the authority to temporarily suspend an Auxiliarist during the pendency of formal disciplinary proceedings. Temporary suspension is not to be imposed if the outcome would involve informal discipline or a dismissal of the Complaint. Temporary suspension is utilized only if a serious violation may result in the disenrollment of the Auxiliarist. The letter of suspension must set forth the reason for the suspension and its length.

(b) Serious violations include the Auxiliarist being arrested, but not yet convicted for a misdemeanor or felony outside the scope of Auxiliary activities; serious breach of Coast Guard or Auxiliary policies such as theft of unit funds, Auxiliary or government property; commission of assault on another member of the Auxiliary; breach of security on a Coast Guard base; negligent actions in surface or aviation operations; deliberate destruction of government property or serious violations of human rights laws, rules or policies of the Coast Guard, to name but a few.

(c) During the period of temporary suspension the Director may suspend:

(i) holding of elected and/or appointed office duties including Elected Officer's duties;

(ii) extend the initial period of suspension if the investigation is not complete;

(iii) if a suspension may lead to disenrollment, the Auxiliarist is not entitled to any rights or privileges except as may be determined by the Director.

(d) An Auxiliarist has the right to appeal an initial suspension, extended suspension and the rights, offices or privileges suspended by a Director to the Director's supervisor, namely, the Chief of Prevention Northeast District in Boston.

(e) A Temporary Suspension should not be imposed where informal discipline is the likely sanction.

APPEALS STAGE

I Appeals of Disciplinary Actions

(a) Informal Disciplinary Actions:

(i) Must be in writing in form of a letter or memorandum.

(ii) Must be made within thirty (30) calendar days of written date of notice of the action.

(iii) Made from the determination of the Elected Officer having jurisdiction over the investigation to the senior Elected Officer in the chain of leadership and management within the district or region. Under AuxMan1G the DCAP is now part of the chain of leadership for appeals purposes.

(iv) From the decision of a DCO the appeal goes to the DNACO Atlantic Area East in the case of 1SR. (See page 3-61 of AuxMan1G for National Level Appeals)

(v) From a District Director's decision the appeal goes to the Director's Supervisor, namely Chief of Prevention, Northeast District CG Headquarters in Boston.

(vi) There is only one level of appeal of an informal disciplinary action. The decision of the reviewing Elected Officer or Chief Director (at National) is final.

(vii) Action on an appeal by reviewing authority:

(1) Make a complete review of the record with the assistance of Auxiliary or CG legal counsel.

(2) Make a determination that revokes, modifies or sustains the informal disciplinary action.

(3) Notify by letter or memorandum the Auxiliarist who is the subject of the disciplinary action of the determination.

(4) Send copy of notification to authority who issued the informal disciplinary action and Director or Chief Director (National), as appropriate.

(5) The standard of review is whether the prescribed procedures were followed in respect to the action.

(b) Formal Disciplinary Actions

(i) Must be made in the form of a letter or memorandum.

(ii) Must be made within thirty calendar (30) days of the making of a written date of notice of the action..

(iii) Appeal from the determination of the DCO goes to the DNACO.

(iv) Action by DNACO on an appeal:

(1) Make a complete review of the record with the assistance of Auxiliary legal counsel.

(2) Make a determination that revokes, modifies or sustains the formal disciplinary action.

(3) Notify by letter or memorandum the Auxiliarist who is the subject of the disciplinary action of the determination.

(4) Send copy of notification to DCO and Director.

(5) Standard of review: Where the prescribed disciplinary procedures followed.

(6) Determination of the DNACO is final – no further appeal.

Note: Appeals of actions on National Level – see AuxMan1G page 3-62-3-63

(v) Appeal of action taken by Director:

(1) Must be made in writing in the form of a letter or memorandum within thirty (30) days of the written date of notice of action.

(2) Must be made to the Director's Supervisor, namely Chief of Prevention, Northeast District CG Headquarters in Boston.

(3) Action on Appeal by taken by Director's supervisor:

(A) Make a complete review of the record with the assistance of Coast Guard legal counsel.

(B) Make a determination that revokes, modifies or sustains the formal disciplinary action.

(C) Notify by letter or memorandum the Auxiliarist who is the subject of the disciplinary action of the determination.

(D) Send copy of notification to Director and DCO.

(E) Standard of review: Where the prescribed disciplinary procedures followed?

(F) Determination of the Director's Supervisor, namely Chief of Prevention, Northeast District CG Headquarters in Boston is final – no further appeal.

(c) Disenrollment Appeals

(i) If the District Director has imposed the sanction of disenrollment of an Auxiliarist, within thirty (30) calendar days of the District Director's written date of the notice of disenrollment, an appeal must be made to the District Commander (one or two star admiral). In respect to Northeast District this goes to Headquarters in Boston through the Chief of Prevention to whom the Director reports.

(ii) The District Commander shall review the entire record of the disciplinary action or the PSI package if the appeal is from an unfavorable PSI report. Review is made with assistance of Coast Guard Legal Counsel.

(iii) District Commander makes a determination that revokes or sustains the determination of disenrollment.

(iv) As an alternative to revocation of the Director's determination of disenrollment the District Commander may make independent findings of facts and conclusions that warrant a lesser form of disciplinary action.

(v) When the Commander revokes a disenrollment action of the District Director several other alternatives are also available to the Director:

(A) Deduct the period of disenrollment from the Auxiliarist's longevity awards and retirement if no lesser form of discipline is imposed;

(B) If no lesser form of discipline is imposed there must be no deduction from Auxiliarist's longevity awards and retirement for any period of Temporary Suspension. The same shall apply if disenrollment as a result of an unfavorable PSI is reversed.

(vi) Upon having made a determination of the appeal, the District Commander shall notify, in writing the appealing Auxiliarist of such determination with a copy to the DCO and the Director.

(vii) The determination of the District Commander is final.

(d) Action common to all appeals:

(i) An appeal does not stay the imposition of any disciplinary action while the appeal is pending.

(ii) Only the Auxiliarist who is the subject of a disciplinary action may appeal.

(v) A Complainant whose complaint has been found lacking grounds for action or where the action taken appears to be insufficient, may make a written letter or memorandum objection of the action to the appeal authority whether or not an appeal is filed. The appeal authority is under no obligation to review any part of the record of the disciplinary action in response to the objection.

RECORDS RETENTION POLICY

(a) District Director is to retain all disciplinary records for up to three (3) years from THE DATE OF THE ACTION in accordance with the requirements of Information and Life Cycle Management Manual, COMDTINST M5212.12(series).

(b) Records are to be removed from an Auxiliarist's service file if no subsequent disciplinary action has been INITIATED OR FINALIZED during the period of retention of previous record.

(c) Removed records are to be placed in an independent file separate from the Auxiliarist's service record file for the sole purpose of documenting prior disciplinary actions should the need arise.

Hopefully this guide will provide you with a degree of comfort in carrying out your duties as the Elected Officer charged with undertaking a disciplinary case. In a separate module following this one are several forms in Word format for you to adapt in connection with any investigation you are tasked with. You should never be embarrassed to seek advice. Furthermore, you should always select the best qualified members of the Auxiliary to carry out your investigation. A thorough and objective, well documented investigation will permit you to expeditiously dispose of the matter. It is better to do the job right the first time than have to do it over.

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