

# Adverse Personnel Action Regulation (WIP)

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- Adverse personnel actions (APAs) are currently spread throughout 21 or so regulations. They include terms that are inconsistently used and terms and concepts that are ambiguous and impossible to define, There is no consistent standard of basic due process, no clear standard of review, and no clear preservation of “command” prerogatives.

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\*Maj. Corr is the chief author as well as scrivener of the work product to date. His contribution is invaluable. We are all in his debt.

# Objective

- The proposed regulation is intended (1) to eliminate inconsistencies and conflicting provisions, (2) to reduce or eliminate application of standards which are ambiguous or not susceptible to definition, and (3) to unify all adverse personnel actions from the simplest and most basic to termination of membership into one regulation.

# Policy Goals

- 1. Place APAs into the domain of the commander while preserving the IG process in appropriate circumstances;
- 2. Mandate adherence to the chain of command in the APA process and review process;
- 3. Apply the IG process and utilize trained IGs early and often to assist in sensitive matters;

# Policy Goals (continued)

- 4. Encourage participation by Legal Officers for guidance as well as preservation of confidentiality and privilege;
- 5. Provide a mechanism to insulate APA procedures, including the review process, from undue command influence;
- 6. Establish “progressive discipline” as an essential element of disciplinary action;

# Policy Goals (continued)

- 7. Incorporate common due process elements;
- 8. Keep processes simple and unburdened without inviting frivolous complaints; and
- 9 Honor CAP's core values throughout.

# Simplification

- The work product is massive. Its nature is technical.
- In order to make the new regulation user friendly, a “user’s manual” will be prepared to provide a simplified “how to” reference after the Regulation is completed and approved IAW CAPR 5-4.

# Matters under Consideration

- Clearly defining the “jurisdiction,” “scope,” and “process” of CAPR 123-2, *Complaint*
- Whether or which APA decisions by a commander should be subject to a review process and by whom and how review should be made
- If and when it is appropriate to notify “accused” of complaint and results of initial or preliminary inquiry or investigation
- The jurisdiction of the MARB

# REGULATIONS AFFECTED

- CAP Constitution
- CAP Bylaws
- CAPR 35-1 Assignment and Duty Status
- CAPR 35-3 Membership Termination
- CAPR 35-5 CAP Officer & Noncom Appointments/Promotions
- CAPR 35-7 Removal of NCC or NCV
- CAPR 35-8 Membership Action Review Board
- CAPR 36-2 Complaints Under the CAP Nondiscrimination Policy
- CAPR 39-2 Civil Air Patrol Membership
- CAPR 50-3 Cadet Protection Program Training
- CAPR 50-17 Senior Member Professional Development Program

# Regulations Affected (continued)

- CAPR 52-10 CAP Cadet Protection Policy
- CAPR 60-1 CAP Flight Management
- CAPR 62-2 Mishap Reporting and Investigation
- CAPR 67-1 CAP Supply Regulation
- CAPR 70-1 CAP Acquisition Regulation
- CAPR 77-1 Operation and Maintenance of CAP Vehicles
- CAPR 100-2 Communications Equipment Management
- CAPR 123-1 CAP IG Program
- CAPR 123-2 Complaints
- CAPR 123-3 CAP Compliance Assessment Program
- *Complaint Investigating Officer's Guide (2005)*