

EMPLOYEE/MANAGEMENT RELATIONS

- 1. REASON FOR ISSUE:** To revise Department of Veterans Affairs (VA) policy regarding employee/management relations.
- 2. SUMMARY OF CONTENTS/MAJOR CHANGES:** This directive contains VA policy on employee/management relations. The pages in this issuance replace the corresponding page numbers in VA Directive 5021. Revised text is contained in [brackets]. These changes will be incorporated into the electronic version of VA Directive 5021 that is maintained on the [Office of Human Resources Management Website](#). This revision provides clarification that a reduction in basic pay of a title 38 employee for cause (performance or conduct deficiencies), including a reduction due to a change to another annual salary table, is considered a major adverse action.
- 3. RESPONSIBLE OFFICE:** The Employee Relations and Performance Management Service (051), Office of the Deputy Assistant Secretary for Human Resources Management.
- 4. RELATED HANDBOOK:** VA Handbook 5021, Employee/Management Relations.
- 5. RESCISSIONS:** None

CERTIFIED BY:

/s/
Stephen W. Warren
Executive in Charge and Chief Information Officer
Office of Information and Technology

**BY DIRECTION OF THE SECRETARY
OF VETERANS AFFAIRS:**

/s/
Gina S. Farrissee
Assistant Secretary for
Human Resources and Administration

e. **Grade.** The established grades for the positions covered by this chapter will be as defined by 38 U.S.C. 7404, and the qualification standards issued pursuant to 38 U.S.C. 7402. (See part II of VA Handbook 5005, Staffing.)

f. **Major Adverse Actions.** These are suspension, transfer, reduction in grade, reduction in basic pay, and discharge based on conduct or performance. For purposes of this Directive, a reduction in basic pay includes a reduction in the market pay of a physician or dentist as a result of an involuntary reassignment or change in assignment taken for disciplinary reasons, i.e. conduct or performance reasons.

g. **Mixed Case.** This is a case that includes both (1) a major adverse action arising out of (or including) a question of professional conduct or competence, and (2) a major adverse action which does not arise out of a question of professional conduct or competence, or a disciplinary action.

h. **Professional Conduct or Competence.** A question of professional conduct or competence involves direct patient care and/or clinical competence. The term clinical competence includes issues of professional judgment.

i. **Reduction in Basic Pay.** The involuntary reduction, based on conduct or performance, of the annual rate of basic pay to which an employee is entitled under 38 U.S.C. 7404, including above minimum entrance rates and special salary rates authorized under 38 U.S.C. 7455. This includes a reduction in the market pay of a physician or dentist as a result of an involuntary reassignment or change in assignment when taken for disciplinary reasons. However, this does not apply to reductions in pay other than basic pay, such as the loss of or reduction in physician or dentist performance pay, nurse executive special pay, head nurse differential, other differentials, allowances or premium pay such as standby, on-call, shift, overtime, Sunday, holiday, night work, hazardous duty, and interim geographic adjustment. A reduction in market pay for a physician or dentist is considered a reduction in basic pay for purposes of this appendix only when the reduction results from an involuntary reassignment or change in assignment for conduct or performance reasons. [The loss of head nurse differential (two steps) due to the reassignment of a head nurse to another position that does not allow for this differential is not considered a major adverse action even when the reassignment is for cause. However, a major adverse action has occurred if the facility has established a specialty schedule for head nurses under the Locality Pay System and the reassignment for cause results in a change to a nurse pay schedule with a lower annual salary rate. This is also applicable if other employees in title 38 occupations, excluding physicians and dentists, are reassigned for cause from one annual salary rate table to a lower annual salary rate table (e.g., from a special rate authorized under 38 U.S.C. 7455 to a lower special rate table; from a special rate authorized under 38 U.S.C. 7455 to a regular rate.)] A change in assignment refers to a permanent change in official duty station, change in duty basis (i.e. to/from full-time, part-time or intermittent), change in tier, or a significant change in the duties of the position as determined by an appropriate management official.

j. **Reduction in Grade.** The involuntary assignment to a lower grade on the same pay schedule based on conduct or performance.

k. **Reprimand.** An official letter of censure to an employee for an act of misconduct or deficiency in competence. A reprimand is a more severe disciplinary action than an admonishment. This letter normally remains in the employee's personnel folder for three years.

l. **Suspension.** The involuntary placement of an employee, for disciplinary reasons, in a non-duty, non-pay status for a temporary period of time.

m. **Transfer.** The involuntary movement of an employee from one VA facility to another (under separate managerial authority) based on conduct or performance and without a break in service.

(Authority: 38 U.S.C. 501(a), 7421.)

4. RESPONSIBILITIES AND AUTHORITIES. The Under Secretary for Health or designee will appoint Disciplinary Appeals Boards to hear appeals of major adverse actions and will review and take appropriate action on all decisions rendered by Disciplinary Appeals Boards.

(Authority: 38 U.S.C. 501(a), 7421, 7461, 7462, and 7464.)

5. DISCIPLINARY ACTIONS

a. **Types of Disciplinary Actions.** This paragraph applies to adverse actions, other than major adverse actions, which include admonishment and reprimand based on conduct or performance (refer to paragraph 3 of this section for definitions).

b. Procedural Entitlements

(1) Prior to taking disciplinary action, employees must be given: