

Section D

Counseling the 3%

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Management Resources

The Human Resources Office can support you in developing best practices to proactively avoid (or at least minimize) the need to address employee issues and/or concerns. With that said, there are times when questions and/or concerns arise and referencing other resources is helpful.

Union Articles

Understanding the union contract can help you respond to a variety of questions and situations. Keep in mind that contract interpretation and application can vary depending on the person's knowledge and understanding of the intent of the contract articles, past practices and results of past grievances and arbitrations. HR can provide valuable assistance in determining contract applicability and parameters.

DAS/OMD Policies

In addition to the collective bargaining agreement, being aware of and ensuring adherence to multiple key policies is an expectation and responsibility of all OMD Management employees.

Notes: _____

TAG Guidelines and Office Protocol

There are also Agency Memorandums and Policies from The Adjutant General that you should be aware of and follow. Establishing specific guidelines and/or office protocol related to how you manage your unit is a very effective tool for proactively addressing and counseling the 3%. By communicating your expectations and standards up-front and having employees sign that they have received and understand them, you have not only shared information critical to your employee's success; you have also put employees on notice regarding what is expected of them. This provides you an important reference point to address an issue or concern with an employee.

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Gathering the Facts

Nothing is more awkward than meeting with an employee to discuss a concern, issue or incident, only to discover that information you were operating from was either incomplete or inaccurate. In addition to creating an awkward situation, you have potentially damaged your working relationship with your employee. Taking the time up front to assess the issue or concern and gather relevant information demonstrates that you are interested in understanding the complete picture and developing the most effective remedies. Steps to consider when gathering the facts include:

1. Be timely – do not delay in following up on a concern. It is important to address issues at the lowest level possible.
2. Identify the issue or concern – check for underlying problems, what happened, when, what was the impact, how did you become aware of the concern, who was involved. Note: HR is a resource in determining the scope/impact of the concern.
3. Gather supporting evidence – **be objective**. Get the specifics, review history, gather supporting documents, reports, interview witnesses, etc. When gathering information from witnesses, do so in a confidential manner and remind employees you have interviewed to treat the matter confidentially (no visiting with co-workers). Make notes on the facts you have gathered to ensure that all areas of concern are addressed with the employee.
4. Meet with the employee – in a private manner, let the employee know you want to meet with him/her. Set up a time and location that allows as much confidentiality with the employee as possible. Explain your concern, provide examples and allow the employee to respond. Ask “Big-Picture” questions:
 - a. Was there something that prevented you from/caused you to _____?
_____?
 - b. Is there anything that is going to get in your way of being able to accomplish _____?
_____?

LISTEN. Generally, this is considered a one-on-one coaching and gathering information meeting and union representation is not warranted.

5. Determine how best to proceed – based on all information gathered and the employee’s response(s), consider the best course of action to remedy the issue or concern. Consider what historical steps have been taken to help the employee succeed, if any, when deciding how to proceed. At this level you may reach an agreement verbally with the employee, or if the situation warrants it, you may want to follow-up with the employee in writing.

If at any point of your information gathering process you believe a formal corrective action may be warranted, contact HR to discuss how to best proceed.

Notes: _____

Counseling Tools

Clarification of Job Performance Expectations

When expectations have not been met, you may need to review (clarify) them with the employee. You can do so verbally (verbal warning) or you can put them in writing (creating a Letter of Expectation (LOE)). Putting concerns and/or expectations in writing for an employee is a very useful tool in addressing job performance and behavior concerns. For most employees getting something in writing feels very serious; some may need time to digest the information; others may become angry or react defensively. It is important to draft the LOE in first person and write the LOE in a positive, supportive manner. List what the expectations are and specify how the employee can meet them.

Verbal Warnings

Verbal warnings are generally used to address an immediate concern that needs to be corrected, but is not an issue that would rise to the level of needing to be addressed in writing. To be effective verbal warnings need to be:

Immediate – if not immediate – employees may question the importance of what you are telling them.

Based on fact – be sure you have all of the facts – complete and truthful – you want to avoid “he said/she said” situations if possible.

Documented in your working file in detail – may need to show efforts made with the employee if formal discipline becomes necessary.

Written Warnings / Letters of Expectation

Written warnings are used when previous coaching efforts have failed to produce the desired results. Written warnings would not be appropriate for remedying situations where an employee didn't know or understand his or her performance expectations. However, if you have provided previous coaching, expectations and other tools to help the employee succeed and

the employee doesn't seem to get it, a written warning can be an effective tool. A written warning:

1. Needs to address the area(s) of concern.
2. Does not list history.
3. Does not list specific facts.
4. Should cover what is expected in the future.
5. Does include a general statement that improvement is needed to avoid progressive discipline.
6. Does not include a specific jeopardy statement (e.g. further ...will lead to progressive discipline up to and including dismissal).
7. Does not require an employee signature.

When considering issuing a written warning consult Human Resources as they are used only in very limited circumstances.

Remember how you write the document determines if it is a formal disciplinary action, not how it is titled or where it is kept.

Written Warning / Letter of Expectation

When expectations have not been met, you have coached the employee and have not seen measurable changes, the next step is to put your expectations in writing. Putting concerns or expectations in writing for an employee is a very useful tool in addressing job performance and behavior concerns.

A letter of expectation is a tool designed to help the employee succeed. Keep in mind coaching and feedback is critical to the employee's success. A manager must provide ongoing coaching and feedback to an employee on their performance as it relates to the items addressed in the Letter of Expectation.

To ensure that a Letter of Expectation (LOE) is an effective tool in supporting employee success and adheres to recommendations from the Department of Justice regarding content language, the OMD Human Resources recommends the use of LOE Guidelines:

- 1) A LOE is used to help the employee be successful in complying with OMD's policy and management expectations in the performance of their assigned duties.
- 2) A LOE is not a written disciplinary document and does not require the employee's signature of receipt. A LOE is a tool to be used to lay the foundation of what is expected of an employee in the future.
- 3) While the purpose and reason (issue or concern) should be identified, the focus of an LOE is to support positive change, not to charge the employee with substandard performance and/or behavior. An LOE should not be a written record of specific misbehavior or substandard performance that would support subsequent steps of progressive discipline (that would turn it into a reprimand).
- 4) Depending on the specific reason for the LOE, it is important to clarify:
 - a) What the employee must do to succeed (i.e. the unit expectations and performance standards needing to be met).

- b) How long does the employee need to improve the behavior.
 - c) If the severity of the issue requires the employee to correct job performance on an immediate and permanent basis, contact HR before any action is taken.
- 5) Supervisors/managers are required to schedule follow-up discussions with the employee to review progress in meeting the expectations.
- a) Documentation of the employee's progress should be attached to the LOE for the remainder of time that the LOE is in the supervisor's file. The employee may also provide a written response in addition to the progress update resulting from follow-up discussion(s).
- 6) It is important to note the LOE and supporting documentation is to be maintained in the supervisor file, not in the employee's official personnel file.
- 7) Retention for a LOE and supporting documentation is generally 2 years. Supervisors/managers may remove a LOE and supporting documents earlier based on the employee's progress in addressing the original concerns. When considering early removal of an LOE, managers and supervisors should contact HR for guidance.
- a) An employee may request in writing that the LOE and supporting documentation be removed from the supervisor/manager employee working file. However, a decision to grant the employee's request will be made based on the individual facts related to each request with the earliest possible removal date being 6 months from the date of resolution of the original concern. An employee request for early removal, managers and supervisors should always contact HR for guidance.
- 8) If an employee feels the foundation of the LOE is not accurate, he/she should work it through with their supervisor. It is important to remember that the LOE is an informal document, and a written opportunity for management to reaffirm performance standards and work-related expectations. It is recommended that the LOE summarize concerns already verbally expressed to the employee and formalize those expectations and standards related to concerns previously discussed (no surprises).

Individual Development Plan Guidelines

**Please note:
When considering the use of a development plan, please consult
with Human Resources.**

An IDP is developed to help an employee succeed. It is a tool used to address specific job performance concerns and is **never** used to address behavioral concerns. Support plans are used on a limited basis and may support a written letter of expectations (LOE). In those cases the LOE establishes the expectations (goals) and the support plan establishes the steps (objectives) needed to accomplish the (goals) expectations. Like the LOE, the plan should be written in first person from the supervisor to the employee.

An IDP has a beginning and ending date and defines specific timeframes tied to specific steps needing to be accomplished while the support plan is in place. IDP's cannot be open ended; they must have an end date, but may include provisions to be extended and/or modified as needed based on the employee's progress in meeting job performance expectations.

An IDP is not disciplinary in nature. It involves employee input to put steps in place to help meet their job performance expectations. Like an LOE, it would not include any type of progressive discipline language.

When using a plan to assist an employee in meeting job performance expectations, a partnership is being established between the supervisor and the employee. The employee is committing to carrying out the defined steps within the established time frame. The supervisor is committing to providing identified resources, training, review, feedback, etc. as defined within the support plan. Both parties are establishing an equal commitment to support positive change.

During the plan period, supervisors are to conduct check-in meetings to provide feedback to the employee. The supervisor should document the employee's progress during the plan and conduct a closure meeting at the conclusion of the plan period. If a plan is developed in support of a LOE,

the plan and any other supporting documentation should be attached to the employee's LOE for the remainder of time that the LOE is in the supervisor's file.