

Adverse Membership Actions

Lesson Objective:

Lesson Objective: Comprehend the Civil Air Patrol Adverse Membership Actions program.

Desired Learning Outcomes:

1. Define “Adverse Membership Actions”.
2. Discuss common disciplinary problems.
3. List resources you may use to help you correctly apply adverse membership actions.
4. Explain adverse membership action options and the progressive approach to application.
5. Discuss nondiscrimination as it pertains to adverse membership actions.
6. Explain why documentation is necessary to the adverse membership actions process.

Lesson:

Overview:

As a unit commander, you have great volunteers to help you accomplish the mission. They are here to do the right thing and for the right reasons. But they make mistakes – we all do. Sometimes though, a member begins to go sour. What do you do with the member who has made a serious mistake? What do you do with a problem member? What happens if they don't respond to your counsel? How far do you go?

Adverse Membership Actions Defined:

Adverse Membership Actions are measures that encompass disciplinary actions to members for improper conduct and include counseling, suspensions, demotions, and membership termination. Adverse membership actions are designed to be *progressive tools* and resources for the commander in handling problem CAP members. They are designed:

1. To correct or eliminate disruptive behavior.
2. To uphold standards.
3. To prevent detrimental behavior from spreading.
4. To demonstrate a resolve to maintain order and discipline.

Common Disciplinary Problems:

Let's take a look at some of the problems that you may face as a commander. We can't tell you what specific steps to take because every case is different. But we can highlight some of the more serious problems you may encounter (highlighted in **bold face**).

- Repeated uniform violations
- Short-cutting training requirements
- Consistently late on paperwork deadlines & substandard work quality
- Argumentative, insubordinate, or disruptive behavior
- Fraudulent information on application
- Jumping the chain of command inappropriately
- Bad checks/financial irresponsibility
- Cadet Protection violations
- **Defective skills (safety hazard)**
- **Illegal behavior (reported or actual)**

The option you choose to deal with these issues depends on the severity, frequency, inherent nature, and sometimes the level of remorse displayed. Generally, ask the wing to help you in choosing the appropriate action.

Resources:

There is no cookie-cutter answer or checklist to tell you what to do for every particular situation. The best we can do in the context of this discussion is to list the resources you have available to you when dealing with adverse personnel actions.

Your first resource of choice will be CAP Regulations & Manuals: CAP Regulation 35-1 *Assignment and Duty Status*, CAP Regulation 35-3 *Termination*, CAP Regulation 35-5 *CAP Officer and NCO Appointment and Promotions*, CAP Regulation 35-10 *Ethics Policy*, CAP Regulation 39-2 *CAP Membership*, CAP Regulation 52-10 *CAP Cadet Protection Policy*, and CAP Regulation 60-1 *CAP Flight Management*, and CAPR 60-3, *CAP ES Training and Operational Missions*. These regulations fully define the actions available and detail specific guidance on the options available, including initiation and appeals procedures. But don't wait for a problem to arise to get familiar with the process, have the applicable publications on hand and read them before problems occur, so you'll be better prepared to deal with a problem when it does occur.

Resources Available

- CAP Directives:
 - CAPR 35-1 CAPR 35-8
 - CAPR 35-3 CAPR 39-2
 - CAPR 35-5 CAPR 52-10
 - CAPR 35-8 CAPR 60-1
 - CAPR 60-3
- CAP Chaplain
- Wing Commander
- Wing Legal Officer
- Director of Personnel

A second resource is the CAP chaplain. A chaplain may be able to assist you by counseling the problem member. Sometimes the CAP chaplain can uncover the issues that lie behind a member's improper behavior. Then, the chaplain, member, and you can work together to address the issues that underlie the poor conduct. You may be able to "save" the member and prevent more severe action from being taken.

In instances where this is unsuccessful or inappropriate, your next resource set includes the wing commander, wing legal officer, and the wing director of personnel. These people are well versed in adverse membership actions and can help you identify the level of action to be taken and guide you step-by-step through the process. **Do not take severe action without consulting and coordinating with your wing staff.** They can protect you from making serious mistakes during the process.

Who are your three primary groups of resources for assistance within the wing if counseling the member through the CAP chaplain is unsuccessful?

Adverse Membership Actions Options and the Progressive Approach:

Adverse Membership Actions should be progressive and consistent. To achieve the best results pertaining to adverse membership actions, commanders should strive to:

- Create and sustain a sense of fairness and justice in your unit that applies to all.
- Recognize when it is appropriate to use Adverse Membership Actions.
- Conduct Adverse Membership Actions in a non-discriminative manner.
- Have and show respect for members all along the way.
- Listen carefully to the member in question.
- Use Adverse Membership Actions progressively with increasing consequences.
- Provide corrective guidance with each progressive step.
- Accentuate the positive while identifying and correcting the negative.
- Know when a member needs to be removed from the organization.

The Mistake:

Consider this hypothetical situation: You are the unit commander, and you learn that Captain Taylor, one of your best members, is playing in a touch football game at the squadron picnic. The group is playing next to the squadron building. Captain Taylor steps back to pass the football, misses his target and breaks a window on the building. What do you do? How severe should the punishment be?

First, you need to ask yourself some questions: *Was it malicious?* No, he didn't intend to break the window. *Was it careless?* Maybe, you don't really know from what we gave you, but let's assume so. *Does he care and feel remorse about what he did?* Let's assume yes.

Now, would you harshly punish Taylor? Probably *not*, for two reasons: first, he really made a *mistake*. The punishment must fit the crime. Now, you may make him pay for the window or have a talk with all members about it, as a safety incident. Perhaps you may even examine your own actions leading up to the event. Perhaps there was a way *you* could have helped prevent the event.

Second, remember he *is* a volunteer; if you treat him overly harsh without justification, you'll lose him. Remember, you might *need* him, but he *doesn't* necessarily need CAP.

Captain Taylor's broken window is an example of a fairly minor incident that must be resolved. It is not, in disciplinary terms, a major issue. Contrast this to a truly serious issue, one that perhaps created a severe safety problem, or one that was a flagrant violation of CAP directives, perhaps even illegal. What do you do, how far do you go?

There are a variety of disciplinary actions available to you. You'll find that the actions are set on a progressive and escalating scale, reflecting the escalating seriousness of member misconduct. This provides you with a great amount of flexibility in taking punitive action against a member. What follows is a brief description of the options available to you. Adverse Membership Actions are designed to be applied in such a manner that provides corrective guidance and consequences while providing corrective opportunities for the problematic or disruptive member; at the same time minimizing the negative impact on the remainder of the unit.

A. Counseling: Counseling is usually done one-on-one (with or without a chaplain present) and is the most mild of actions that can be taken against a member. An example of counseling would be giving a verbal reprimand to a cadet who missed a meeting without calling or a letter of counseling to a senior who left the squadron vehicle unlocked.

B. Letters of reprimand: A letter of reprimand is an official written admonishment of the member in response to poor conduct or sustained nonperformance and is a flexible resource to punish a member for relatively mild offenses. The letter can be written mildly or harshly, depending on the seriousness of the incident and your own judgment. The letter may have an expiration date on it, meaning that it can be removed from the member's personnel file after a period of time, or may remain there throughout the member's career. All disciplinary counseling letters must contain the following information:

- A description of what the member did, or failed to do, including date, time, and location.
- Language that admonishes or reprimands the member.
- A statement of what improvement is expected.
- A warning that further deviation may result in more severe action.
- A statement telling the member to acknowledge receipt of the counseling and to return a response (if any) within a fixed number of days.

C. Suspension of membership: Suspension of membership is a serious yet temporary measure taken against a member who has committed a serious (or repeated) regulatory infraction or who has engaged in misconduct. A suspension is documented on a CAP Form 2a, Request for and Approval of Personnel Actions in the "Transfer" section of the form (From: Active To: Suspended) and may be approved by the wing commander. A member can be suspended for up to 60 days under normal conditions, and up to 180 days with subsequent commander approval. It is important to note at this time that documentation of the infraction or misconduct must accompany the CAP Form 2a and be provided to National HQ. See suspension procedures in CAPR 35-1.

D. Demotion: Demotions may be given to both cadets and seniors for misconduct and is also a serious action. Cadets may be demoted up to three earned grades for infractions or misconduct, and are evaluated every two months during the demotion period. During this time, the cadet must "earn" back one grade every two months, or face nonrenewal or termination. See demotions CAPR 52-16.

Senior members who fail to perform their duties satisfactorily or engage in conduct unbecoming their grade may also be demoted. This is accomplished on a CAP Form 2 and is approved by the same promoting authority that granted their highest grade (ex. The wing commander demotes a major). See senior member demotion CAPR 35-5.

E. Suspension of flying privileges: this may be temporary or permanent, depending on the type and severity of infraction. Members may be required to retrain and recertify as a condition of reinstatement of flying privileges. See CAPR 60-1.

F. Termination of Membership: This is the most serious of all adverse personnel actions. Members who are terminated for cause from Civil Air Patrol may be prohibited from rejoining the organization. As such, this is considered the final step when dealing with a problem member. See CAPR 35-3.

Terminations are initiated on a CAP Form 2b, Membership Termination by the unit commander. The next higher echelon of command is the approving authority. The member must be notified **in writing** within 10 days of the commander's decision to terminate and be given 30 days (after postmark on the letter of termination notification) to appeal the termination action. If (when) the member appeals, the next higher echelon will convene an appeals board and hold a hearing to determine the justification for termination. After, the board makes its recommendation to the approving authority. This action may take several months to complete.

Remember that these actions (especially the more serious ones) may result in the member taking legal action against Civil Air Patrol. For this reason you must **be sure** that you are taking the appropriate step, and that you have everything you need to proceed. Documentation and **absolute** regulatory compliance is key.

Who approves member suspensions lasting from between 60 – 180 days?
Who is the demoting authority for a major?

How many days does a member have to appeal a termination action?

Nondiscrimination:

Civil Air Patrol must comply with *Title VI of the Civil Rights Act of 1964*. Commanders are responsible for ensuring that no adverse membership action is (or is perceived as) being done for discriminatory reasons.

Please review CAP Regulation 36-1 *CAP Nondiscrimination Program* and remember that **all** reports of alleged discrimination or discriminatory practices must be reported in accordance with guidance provided in CAPR 36-2 *Complaints under the CAP Nondiscrimination Policy*.

Documentation:

Documentation is your responsibility, and is as important as coordination in ensuring that you handle sensitive personnel issues correctly. Documentation charts the process, preserves due process for the member, and protects you and CAP.

The types of documentation vary – letters of reprimand or counseling, memos for record, reports, desk logs, letters to superiors, standardized forms, etc. These are used together to paint a **picture** of the events for those who are not familiar and provide the foundation of evidence to support your decision. Reliance on memory and the spoken word – especially when dealing with the more serious disciplinary actions – **is not enough!** You must establish a data trail.

Types of Documentation

- LOCs
- LORs
- Memorandums for record
- Letters
- Reports
- Historical Logs
- Forms, etc.

Failure to document could leave you embarrassed by the wing and unable to take appropriate adverse actions against a member who needs to change their behavior or duty performance.

What are three examples of acceptable documentation?

- _____
- _____
- _____

About Membership Action Review Boards:

The Membership Action Review Board (MARB) is independent from the CAP chain of command and was created to ensure compliance with CAP regulations and practices by adjudicating member appeals of final adverse membership actions. The MARB will accept an appeal only if there is credible evidence and documentation that the action may have been motivated by retaliation, reached without due process, or involved a material failure to follow applicable CAP regulations. Complete details on the MARB, its authority, and procedures are covered in CAPR 35-8, Membership Action Review Board.

Final Thoughts:

Conducting adverse membership actions is not a substitute for leadership, nor is it a quick fix concerning a problem. They are among the most serious actions in CAP and can result in legal liability for the CAP Corporation and you personally if not handled correctly. Simply stated, membership termination should be your last resort and not your first choice.