

NOAA CORPS AMENDMENTS ACT

Newsletter – Q1 FY23

Whistleblower Protections

WHAT'S NEW: NOAA published the final rule governing whistleblower protections for NOAA Corps officers at [15 C.F.R. Part 998, Subpart D \(§§ 998.40 to 998.45\)](#) on October 3, which became effective on November 2. Please take the time to familiarize yourself with these rules.

Under these regulations, NOAA Corps officers are protected from reprisal for making, preparing, or being perceived as making or preparing protected communications, which means disclosing information to Members of Congress, the Inspector General, law enforcement, their chain of command, or others that they believe evidences a violation of law or regulation, gross mismanagement, waste, abuse, or danger to health or safety. Reprisal can mean 1) taking or threatening to take an unfavorable personnel action or 2) withholding or threatening to withhold a favorable personnel action.

- Officers who believe that they have been retaliated against for making a protected communication may file a complaint with the DOC Office of Inspector General (OIG). If the OIG determines that an investigation is warranted, they have 180 days to complete an investigation and report back to the officer and NOAA and OMAO leadership.
- If the investigation report concludes that the officer was retaliated against, the officer has 20 days to request that the Director, NOAA Corps convene a records examination board (REB) to review and make recommendations to correct the officer's personnel records.
- An REB then has 90 days to review the investigation report and provide their findings and recommendations to the officer and to the Director, NOAA Corps.
- The Director then has 60 days to make a decision regarding corrections to the officer's personnel records. The officer may provide a written disagreement with the REB's recommendations to the Director within the first 20 days of the REB's issuance of recommendations.
- If the officer disagrees with the Director's final decision, the officer has 20 days to request a second review by the Deputy Under Secretary for Operations (DUSO). After the DUSO makes a final decision, or fails to make a decision within 90 days, the officer will have exhausted their administrative remedies. A failure of the DUSO

Newsletter Archives

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The OMAO Intranet contains a valuable collection of resources and links for most topics any OMAO employee may have questions about. Bookmark it and refer it first when you find yourself asking, "What do I need to do to...?"

to issue a decision means that the Director's decision constitutes the final agency action.

NOAA Corps Directive Revisions

OMA's Strategic Management Division (SMD) and CPC have made great strides in drafting revisions to NOAA Corps Directives, several of which are undergoing review by Department of Commerce Office of General Counsel (OGC) and the NOAA Office of Human Capital Services (OHCS). Because OGC must also balance their time with a demanding litigation schedule, and that the cost of making a drafting error in the Directives can be damaging to both officers and the agency, this is necessarily a careful and slow process, and it is difficult to provide reliable timelines.

Most updates will not affect officers' day to day lives, but instead are updates to the organization, legibility, and searchability of the text, as well as updates to statutory references that Congress has changed since the last revision. However, some updates, while seeming small, will have significant impacts on personnel actions (accession, promotion, and separation).

In process right now:

- **Chapter 1 – Administration:** Changes reflect new authorities provided by the NCAA, including officer grade distribution, officer candidates, and increase in authorized force from 321 to 500, as well as revisions to Officer Personnel Folder and Officer Medical Folder organization. We expect to send this updated draft to OHCS and OGC within the month.
- **Chapter 2 – Entitlements:** CPC has written a new chapter from the ground up to serve as a summary resource for all matters related to pay, which is governed by Title 37 of the U.S. Code, Joint Travel Regulations, and Department of Defense Financial Management Regulations, each of which is vast and complex.
- **Chapter 4 – Career Development and Promotion:** Changes to this chapter reflect active duty service obligations for certain training events required by the NCAA and governed by our new regulations at 15 C.F.R. Part 998, Subpart C, as well as authorization for officers to request to opt out of promotion consideration under specific conditions. We expect to send this updated draft to OHCS and OGC for review within the month.
- **Chapter 5 – Assignments:** This chapter does not require many substantive changes beyond updating references, but it will further clarify officers' rights and responsibilities relating to assignments during pregnancy and post-partum in line with other services. We expect to send this updated draft to OHCS and OGC within the month.
- **Chapter 7 – Discipline:** This chapter requires significant revisions to assist the workforce and the agency in navigating disciplinary actions.
- **Chapter 8 – Termination of Active Service:** This chapter has received many important updates, including a complete overhaul of the medical board process to incorporate the Disability Evaluation System, new authorities to defer involuntary separations and retirements in specific cases of medical need, ineligibility for separation pay for officers who do not make an effort to meet the minimum training requirements for promotion, procedures for determination of grade and characterization of service upon separation (i.e. honorable, general under honorable conditions, and other than honorable). This chapter is under review with OHCS and we expect to send to OGC for final review within the month.
- **Chapter 12 – Uniforms and Awards:** This chapter has undergone a significant overhaul for organization, clarity, and addition of some uniform accessories. This chapter will also include a tattoo policy similar to the U.S. Coast Guard, and exceptions to uniform requirements to accommodate for officers' religious requirements (e.g. turbans, hijabs, kippahs, among others). We expect to send this to OGC for final review early in the New Year.

- **Chapter 16 – Physical Fitness *NEW***: This new chapter will prescribe physical fitness and body composition requirements for officers and is summarized in previous newsletters. This chapter is under final review with OGC. Upon publication, this chapter will not become effective for at least six months, and is dependent upon selection of a fitness program manager.