

Appendix E

DISCIPLINARY ACTION

[Refer to Article 15 - on page A-24]

Any member of USPS may be suspended (temporarily deprived of membership privileges) from membership, or may be expelled from membership or otherwise disciplined appropriately for violation of any governing provision of USPS or for conduct found detrimental or prejudicial to USPS.

E.1 Violations. Some violations may be:

- 1) Failure to discharge an obligation to USPS;
- 2) Action contrary to USPS Bylaws;
- 3) Misconduct in office;
- 4) Failure to perform duties of an office, elected or appointed;
- 5) Habitual intemperance;
- 6) Conviction of a felony;
- 7) Failure to follow policies of USPS; and
- 8) Deliberate failure to abide by USPS Pledge.

E.2 Procedure. Any member may bring a charge of violation or misconduct against another member. This charge in writing, must be complete, specific and detailed. This charge must be sworn by the complainant (member who files the charge) under penalties of perjury and signed by a notary public.

The charge is filed by certified mail, return receipt requested, with the national secretary within 180 days of the complainant's knowledge of the offense or within 365 days of the date of the offense, provided a respondent (member against whom a charge is filed) allowed membership to lapse by not paying dues during the period and then later reinstating, the deadline for bringing such charge is 90 days after reinstatement.

Headquarters manager will acknowledge the receipt to the complainant, retain the original document and send a copy to the national secretary. After reviewing the charge the national secretary will send a copy to the respondent and the squadron commander. If the respondent is the squadron commander, the copy will be sent to the district commander.

The national secretary will appoint a USPS officer, neutral to the issues, residing in the respondent's district, but not a member of the respondent's squadron, to serve as an investigator. This officer conducts an investigation, including interviews with complainant, respondent, witnesses and a review of any records. Reconciliation will be attempted.

Within 30 days of receiving the assignment, the officer will report to the national secretary the results of the investigation and the efforts to resolve the problem. The complainant, respondent and appropriate commander will all receive reports on the investigation.

E.3 Squadron. If the complainant or the respondent is an elected squadron officer or a squadron committee member, the charge is heard at the district level; if the complainant or the respondent is an elected district officer, a district committee member, an elected national officer, or a national committee member, the charge is heard at the national level. Charges by or against any unattached member is heard at the national level.

E.4 National. If the respondent is the chief commander, the national secretary will request the most immediate past chief commander available to conduct the preliminary investigation. This past chief will attempt a resolution and report to the Operating Committee.

If the respondent is the national secretary, the charge will be filed with the chief commander who will assume duties of the national secretary. The chief may appoint a representative or may conduct the investigation himself, attempt resolution and report to the Operating Committee.

If the investigator's report indicates that the matter has been resolved (charges withdrawn) or if the national secretary determines from a review of the investigator's report that no facts exist to authorize disciplinary action, the national secretary notifies all interested parties of these finding and seals all records pertaining to the charge, and the case is closed. If the investigator's report indicates that the matter has not been resolved, the national secretary determines, as directed or by other judgment, USPS level (squadron, district or national) at which the charge is heard.

E.5 Hearings. Upon receipt of the report of the preliminary investigation, and having determined the need to proceed, the national secretary acts, within 30 days:

1) If the charge is to be heard at the squadron level, advises the respondent's squadron commander, including a copy of the investigative report and instructions to notify the members of the squadron's executive committee and to return notice to the national secretary of the date upon which such notification was given;

2) If the charge is to be heard at the district level, advises the respondent's district commander, including a copy of the investigative report and instructions to notify the members of the district council and to return notice to the national secretary of the date upon which such notification was given;

3) If the charge is to be heard on the national level, advises the members of the Operating Committee and sends each a copy of the charge and the investigation report;

4) If the charge is made against a members of a squadron or district other than that of the complainant, provides the appropriate commanders with copies of the charge and the investigative report;

5) Forwards a copy of the charge and the report of the preliminary investigation to the respondent, along with a copy of the Disciplinary Action in order to explain all rights and the procedures which will be forwarded. The respondent has the privilege of filing a written answer to the charge within 20 days of receiving notice by sending such answer to each member of the squadron executive committee, district council or Operating Committee (as the case may be) charged with

authorizing the appointment of a hearing committee as provided in this article;

6) The respondent's failure to file an answer within 20 days constitutes a general denial of all allegations in the charge.

Within 45 days after the expiration of the 20 day period during which the respondent had the right to file an answer, the squadron executive committee, district council or Operating Committee (as the case may be) considers the matter, in executive session, at any regular or special meeting. At that meeting, or within 30 days, the committee or council either (1) dismisses the charge on the grounds it is not substantial enough to warrant further action, or (2) authorizes the appointment of a hearing committee.

E.6 Hearing committee. The hearing committee includes, where possible, only senior members of USPS and is comprised as follows:

1) At the squadron level, the hearing committee consists of five members including the chair (unless respondent or complainant) of the squadron rules committee who will serve as the presiding officer. The other four members include at least two of the squadron's past commanders and one member of the squadron who is without office or committee chair. If no member is available in one or more of the specified categories, the squadron commander makes appropriate appointments;

2) At the district level, the hearing committee consists of five members and includes the chair (unless respondent or complainant) of the district rules committee who will serve as the presiding officer. The other four members include at least one of the district's past commanders and one member of the squadron of which the respondent is a member. If no member is available in one or more of the specified categories, the district commander makes appropriate appointments;

3) At the national level, the hearing committee consists of five members and includes the chair (unless respondent or complainant in which case the assistant chair) of the Committee on Rules as presiding officer. The other four members include at least one past chief commander, one past district commander and one general member of the Governing Board.

No interested party or witness may be a member of any hearing committee.

Hearing committee appointments are made at the sole discretion of the squadron, district or chief commander respectively, and such appointments are binding upon both the complainant and the respondent. Substitutions may be made by such commander in the event of a conflict of interest, lack of availability, illness or otherwise.

The hearing committee with no undue delay, conducts an investigation into the charge.

If investigation discloses that the charge is unfounded, it may dismiss the charge without a hearing. Otherwise, it orders a hearing, fixing a time, date and place which is reasonably convenient for all parties and which takes place not earlier than 30 days nor later than 90 days after the respondent and the complainant have been sent notice of the hearing, unless a continuance for good cause is granted.

Notice of the dismissal of the charge or of the order hearing is sent to the respondent and the complainant by the chair of the hearing committee using certified mail, return receipt requested.

At the hearing at the squadron or district level, the squadron law officer or the district law officer represents the respective squadron or district. In the event that the squadron or district involved does not have a law officer or the law officer is complainant or respondent, the squadron or district commander appoints an attorney. At the national level, USPS law officer (unless complainant or respondent in which case the chief commander appoints another attorney) represents USPS.

The respondent is entitled to testify and to employ and be represented by counsel of choice at the hearing. The complainant may also employ counsel of choice and may testify or rest on the complaint as filed. Expense of counsel is borne by those employing same.

Witnesses may be heard. Testimony at hearings at any level is taken under oath or affirmation. At squadron and district level hearings, testimony is

recorded at the request of either party, provided said party furnishes and pays for the recording and provides the other party and hearing committee with a copy of the transcript, in which case the transcript is part of the hearing record filed at USPS headquarters. At national level hearing, testimony is recorded.

The rules of evidence in use in the United States District Court for the district in which such hearing is held apply.

E.7 Conclusions. The hearing committee, after reviewing the evidence, may:

- 1) dismiss the charges;
- 2) censure the respondent;
- 3) suspend the respondent for not more than six months;
- 4) remove the respondent from office;
- 5) expel the respondent from squadron membership;
- 6) recommend to the Operating Committee that the respondent be expelled from membership in USPS.

In the case of censure, suspension, removal from office, or expulsion from squadron membership, the respondent has no right of appeal, and the decision of the hearing committee is final, conclusive and binding on all parties. A respondent expelled from a squadron, but not from membership in USPS, becomes an unattached member of USPS and may seek membership in another squadron.

E.8 Expulsion. In the event the hearing committee recommends expulsion from USPS, the report to the national secretary required contains a copy of the complete file in the matter including a copy of the transcript of the hearing, if any. If a transcript is not available, the hearing committee prepares, as a part of its findings, a statement of the facts upon which it based its recommendation to expel the respondent from USPS. Upon receipt of the report, the national secretary notifies the Operating Committee of the recommendation and provides a copy of the report to each member. Within 120 days of such notice, the Operating Committee acts upon the recommendation in executive session and notifies the complainant, the

respondent, and appropriate commanders of its action. Expulsion from USPS requires a two-thirds vote of the Operating Committee.

E.9 Resignation. In the case of expulsion from USPS, the respondent has the right of appeal to the Governing Board by delivery of a written notice of such appeal to the national secretary within 30 days from the date of receipt by the respondent of the notice of expulsion. The appeal is placed on the agenda and in the call for the next Governing Board meeting following at least 45 days after date of receipt by the national secretary of the notice of appeal. Fifteen minutes are allowed to present the respondent's position to the Governing Board. Such presentation may be made by the respondent or a selected representative. A representative of USPS is allowed 10 minutes to present the findings and recommendations of the hearing committee in rebuttal. At the conclusion of both presentations the chair causes a vote to be taken upon the proposition, "Shall the expulsion of (name) be sustained?" The vote is taken by voice to determine a simple majority and the decision, so determined, is final, conclusive and binding upon all parties. If the result of the vote is uncertain, division of the house follows.

If at any time in the proceedings the respondent offers to resign from USPS, such resignation is immediately accepted and all proceedings are terminated.

E.10 Written apology. If at any time in the proceedings prior to the appointment of a hearing committee the respondent makes written apology to the national secretary, such apology is immediately communicated to the commander of the squadron, district or national body involved, and if that body agrees to accept the apology in conclusion of the matter, the disciplinary proceeding is terminated and the complainant, respondent and national secretary is so notified by the commander.

If at any point in the proceedings the complainant withdraws the charge by notice to the national secretary, the disciplinary proceeding terminates and the respondent is so notified by the national secretary.

All action taken by any squadron executive committee, district council, hearing committee or by the Operating Committee is reported in writing to the national secretary within 15 days of action using certified mail, receipt requested.