

NIH Policy Manual

2300-752-2 - Official Reprimands

Issuing Office: OD/OM/OHR/WRD/ELRB **Phone:** [\(301\) 402-9203](tel:3014029203)

Approving Official(s): OHR Director

Release Date: 9/21/2023 ?

Transmittal Notice

1. **Explanation of Material Transmitted:** This Instruction outlines NIH procedures to be used in issuing Official Reprimands. This official reprimand revision includes updated email addresses, division name change (EEO to EDI) and division responsibilities changes. i.e., OMS, EAP.
2. **Filing Instructions:**

Remove: NIH Manual 2300-752-2 dated 06/24/11

Insert: NIH Manual 2300-752-2 dated 09/21/23

PLEASE NOTE: For information on:

- Content regarding this chapter, contact the issuing office listed above.
- NIH Policy Manual, contact the Division of Compliance Management, OMA on 301-496-2832, or enter this URL: <https://oma.od.nih.gov/DMS/Pages/Manual-Chapters.aspx>.

A. Purpose

The purpose of this chapter is to provide guidance on issuing Official Reprimands to NIH employees and ensure that all NIH Institutes, Centers and Offices (ICOs) are procedurally and substantively congruent when reprimands are given to employees.

B. Scope

The policy in this chapter applies to all NIH Institutes, Centers and Offices (ICOs) and any personnel involved in the development, issuance, use, and maintenance of NIH's Official Reprimands.

C. Background

The authority to issue Official Reprimands derives from Section 301 of Title 5, United States Code, which authorizes Executive Department heads to prescribe regulations for the conduct of their employees. The authority to develop procedures to issue Official Reprimands has been conferred by the Department to the NIH. Written reprimands as a form of disciplinary action are referenced in the HHS Standards of Conduct Regulations, Title 45 Code of Federal Regulations (CFR) Part 73 Subpart L and HHS Instruction 752-1-70 B.3.

(<https://www.hhs.gov/about/agencies/asa/ohr/hr-library/752/index.html#guidelines>, and may be issued to address instances of employee misconduct.

An Official Reprimand is a formal disciplinary action, taken to correct improper conduct, and is the least severe formal disciplinary actions that can be taken. Official Reprimands are documented in writing as a matter of record and placed in an employee's electronic Official Personnel Folder ([eOPF](#)) for a specified period of time, not to exceed two (2) years.

D. Policy

NIH-wide policy published in NIH Manual 2300-752 dated 09/21/2023 establishes when official reprimands are needed to correct improper behaviors that negatively affect any component within the NIH, including any unit, department, division or ICO of the agency.

This policy will not communicate information regarding reprimands for use by external audiences (i.e., grantees, the public) and reprimands will not conflict with any law or statute.

E. Responsibilities

1. Issuing Officials are responsible for:
 - a. Consultation: Prior to issuing an Official Reprimand, supervisors should always consult with their servicing Human Resources (HR) Specialist for review of the written document and supporting documentation, and to confirm the appropriateness of the action.
 - b. Considerations: Officials who issue Official Reprimands should take into consideration not only the nature and seriousness of the misconduct and its relation to the employee's position, but also any appropriate mitigating and aggravating factors such as the employee's job level, past disciplinary and work records, job performance, notoriety of the offense, unusual job tensions and/or any known medical condition. **NIH Delegations of Authority No. 03, HR: Employee/Labor Relations, Official Reprimands:** <https://delegations.nih.gov/DOADetails.aspx?id=4811>. Officials should also take into consideration alternative disciplinary options to correct the misconduct

(see HHS Instruction 752, Appendix 752-1-D, Guide for Implementing Alternative Discipline Program <https://www.hhs.gov/about/agencies/asa/ohr/hr-library/752/index.html> and HHS Exhibit 752-2-A, Personnel Manual, HHS Transmittal 93.3, A Recommended First Step – Alternative Discipline, <https://www.hhs.gov/about/agencies/asa/ohr/hr-library/752/index.html>).

2. Workforce Relations Division (WRD) – The Employee and Labor Relations Branch (ELRB) of the WRD, Office of Human Resources (OHR), is responsible for providing advice and assistance to officials authorized to issue Official Reprimands and for ensuring that Official Reprimands are both filed in the eOPF and then removed from the eOPF upon their expiration. It is essential that Official Reprimands are only issued after consultation with and technical review by the servicing HR Specialist from the ELRB.

F. Procedures

An Official Reprimand, at a minimum must:

1. Be in writing and state the specific reasons for the Official Reprimand, together with sufficient details for the employee to understand what misconduct serves as the basis for the Official Reprimand and why that misconduct is inappropriate;
2. Be based on available supporting evidence of misconduct;
3. Inform the employee that more severe disciplinary action may be taken in the event of further misconduct;
4. Either enclose a copy of any evidence relied upon in support of the Official Reprimand or advise the employee where he or she may review the evidence;
5. Inform the employee of the right to have the Official Reprimand reviewed under applicable grievance procedures (HHS Grievance Procedures, or a Negotiated Grievance Procedures or a negotiated grievance procedure under a bargaining unit agreement), including the relevant time limits for filing a grievance. (See HHS Instruction 771-1, Administrative Grievance Procedure <https://www.hhs.gov/sites/default/files/asa/ohr/manual/files/771-1.pdf>)
6. Inform the employee that the Official Reprimand will be made a part of the employee's eOPF for a specified period of time, not to exceed two (2) years; and
7. Advise the employee of the available NIH resources to assist employees who may be experiencing personal and work-related difficulties. “If you have not already been in contact with a consultant from one or more of these resources, you are encouraged to do so. Consults are free and completely confidential. No information will be released to me or anyone else without your written consent. Among, the resources are, the Employee Assistance Program” <https://ors.od.nih.gov/sr/dohs/HealthAndWellness/EAP/Pages/index.aspx> (301) 496-3164 which offers confidential consultation services to help address difficult situations that may be affecting work, personal or family interactions; and the Center for Cooperative Resolution <http://ombudsman.nih.gov/> (301) 594-7231, which extends confidential and informal assistance in resolving work related conflicts or concerns;

and the NIH Civil Program <https://hr.nih.gov/working-nih/civil> (301) 402-4845, which works to foster civility throughout the NIH community.

G. Records Retention and Disposal

All federal records pertaining to this manual chapter must be retained and disposed of under the authority of NIH Manual 1743, “Managing Federal Records,” Appendix 4, Records Management Resources. These records must be maintained in accordance with current NIH Records Management and federal guidelines.

NIH email messages, including attachments created on NIH information systems or transmitted over NIH networks, are evidence of the agency's activities with informational value and are considered federal records. All federal records must be maintained in accordance with current HHS / NIH Records Management guidelines.

Records, including but not limited to Email, Social Media, and Voice Mail messages, are considered federal government property and, if requested for a legitimate government purpose, i.e., Litigation, Freedom of Information Act (FOIA) requests, etc., must be provided to the

requester, employees' supervisor, NIH personnel conducting official reviews or investigations, and the Office of Inspector General (OIG) who may request access to or copies of records.

Regardless of media, records must be provided to Congressional oversight committees if requested and are subject to Freedom of Information Act (FOIA) requests. All copies, including backup files, are subject to the exact information requests as original messages and documents.

The following record schedule items are relevant to the Official Reprimands of NIH employees under this policy;

- Administrative grievance, disciplinary, performance-based, and adverse action case files; and
- Official Personnel Folder (OPF)/electronic OPF (eOPF) – Short-term records.

All relevant record schedule descriptions and instructions are located in the NIH Record Schedule System (RSS), an online repository that is the authoritative source for all NIH Record Schedules. The RSS incorporates the National Archives and Records Administration

(NARA) General Records Schedule (GRS): [2.3 – Employee Relations Records](#) and [GRS 2.2 – Employee Management Records](#).

Each GRS schedule item has been cross-walked to associate with a current NIH Records Schedule. The NIH RSS can be located at the following link: <https://records.nih.gov/home>. Please note that authenticated identity via a VPN connection is required to access the system.

The following listing includes record schedule items that are related to this policy:

Contact the appropriate NIH Institute, Center, Office (ICO) Records Liaison, or the NIH Records Officer for additional information.

H. References

1. Report Allegations of Fraud, Abuse and Waste to the NIH:
<https://oma.od.nih.gov/DPI/Pages/Home.aspx>
2. NIH Delegations of Authority No. 03, HR: Employee/Labor Relations, Official Reprimands: <https://delegations.nih.gov/DOADetails.aspx?id=2014>
3. HHS Standards of Conduct Regulations, 45 CFR Part 73 Subpart L--Disciplinary Action: <https://ecfr.federalregister.gov/current/title-45/subtitle-A/subchapter-A/part-73>
4. HHS Instruction 752-1-70 B. 3: <https://www.hhs.gov/about/agencies/asa/ohr/hr-library/752/index.html>
5. HHS Instruction 752, Appendix 752-1-D, Guide for Implementing Alternative Discipline Program: <https://www.hhs.gov/about/agencies/asa/ohr/hr-library/752/index.html#appendix-d>
6. HHS Instruction 771-1, Administrative Grievance Procedure, dated
7. 6/5/2008: <https://www.hhs.gov/sites/default/files/asa/ohr/manual/files/771-1.pdf>
8. Employee Assistance Program:
<https://www.ors.od.nih.gov/sr/dohs/HealthAndWellness/EAP/Pages/index.aspx>
9. Center for Cooperative Resolution: <http://ombudsman.nih.gov/>
10. Manual Chapter 1743 - Managing Federal Records <https://policymanual.nih.gov/1743>.