

CPCSA OPM

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PART III

NON-COMMISSIONED MEMBERS

ADMINISTRATIVE PROCEDURES GOVERNING
HOMOSEXUALITY AND SEXUAL ABNORMALITY (INTERIM)

Purpose

1. To establish interim administrative procedures for dealing with cases of Homosexuality and Sexual Abnormality during the period that CFAO 19-20 is under review.

CPCSA Policy

2. During the review of CFAO 19-20, the authority for the release of a member to whom this order applies shall be ADM(Per).

3. If an individual who is suspected of being involved in homosexual activities or sexual abnormality applies for voluntary release, such release shall be delayed until the individual is cleared or the allegation substantiated in accordance with para 4 and the release effected as per CFAO 19-20 para 8. Approval of a voluntary release shall not be granted as an easy solution to the problem in view of the fact that the sexual abnormality concerned may give rise to criminal charges.

Procedures

4. DPCAOR(Adm) shall co-ordinate the administration of all NDHQ activities concerning the possible release of a person to whom CFAO 19-20 applies. The career manager shall, upon receipt of Commanding Officer's report and recommendation, and Command HQ comments, take the following action:

- a. Prepare a case file containing the following:
 - (1) Confidential Personal File (CPF),
 - (2) PER file,
 - (3) all pertinent information concerning the case.
- b. Pass the case file to DPCAOR 5-2

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5. DPCAOR 5-2 shall on receipt of the case file from the career manager take the following action:

- a. request D Secur File (SIU Report) (See Note);
- b. review all pertinent information and pass the case file to DPCAOR(Adm)

6. DPCAOR(Adm) will review the file, and pass it to DPCAOR with a recommendation for release under item 2(a), 5(f), or 5(d) as appropriate.

7. DPCAOR prepares a recommendation, and passes the case file to:

- a. DMTS for a medical opinion; and
- b. DPLS for a legal opinion.

Once the file is returned to DPCAOR, it is then passed to DGPCOR for disposition.

8. DGPCOR reviews the case file, and takes the following action:

- a. convenes a committee, composed of himself as chairman, and DPLS and DMTS as members;
- b. determines if there is reasonable certainty that the member whose file is under review has committed a sexual act against the Criminal Code of Canada, or an act of an homosexual nature; and
- c. where indicated, recommend retention of the member if the conduct is considered an isolated incident, out of character, does not include criminal or disciplinary proceedings, did not involve willing participation of the member.

9. If the committee concludes the member has:

- a. committed a sexual act against the Criminal Code of Canada, DGPCOR will forward the case, and the recommendation for an item 2(a) or 5(f) release to ADM(Per) for approval; or

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- b. committed an act of a homosexual nature, and the circumstances justify release, DGPCOR will:

(1) request DPCAOR(Adm) dispatch a message to applicable unit to make the member an offer of release under item 5(d) and to advise him that the restrictions of para 10 below will be applied; and

(2) forward those members files, who request a 5(d) release to ADM(Per) for final approval.

10. If the member objects to a 5(d) release, the following restrictions are approved and will remain in effect until a final policy decision is made by an appropriate authority (MND/CDS):

- a. no promotion;
- b. no career courses;
- c. will not enter the protected window;
- d. will not be re-engaged, granted an IE, IPS, CE or an extension;
- e. will not advance in QL; and
- f. will not be posted other than within the same geographical area, involving no move of DF and E, after negotiations between losing/gaining units/formations and NDHQ/DPCOR. This restriction does not apply to those serving in a fixed tour unit as per CFAO 20-6.

11. Once release has been approved, DPCAOR 5-2 issues warning msg. Then passes the case file (minus SIU report & PER File) to D Pers A 3-2 who shall issue Terminal Leave/Release Instructions and return the file to the CM.

12. The CM shall, upon receipt of the case file from D Pers A 3-2 incorporate the originals of the CO's report, Command HQ's comments, medical opinion and legal opinion from the case file into the CPF and forward to D Pers A 5 in accordance with OPM 112-3.

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13. If as a result of the action at paras 5, 6, 7, 8 and 9, it is considered that the provisions of CFAO 19-20 do NOT apply, DPCAOR 5-2 shall dismantle the case file and dispose of the contents as follows:

- a. return the PER and CPF to the CM ensuring that nil reference to the matter remains on the member's CPF;
- b. return the confidential report to the applicable unit for destruction should it be determined there is not reasonable certainty that the member has been involved in inappropriate sexual conduct; and
- c. pass the originals of the CO's report, Command HQ's report, medical opinion, legal opinion and any other pertinent data to D Secur who shall reassess the individual's security clearance. Should D Secur consider that a reinstatement is in order or a change in security clearance is necessary, he shall inform DPCOR.

NOTE: The copying of SIU reports is prohibited.

14. It is the responsibility of DPCAOR(Adm) to collate and publish statistics as required.

References:
CFAO 19-20
CFAO 15-2
CPCSA OPM 112-3
CPCSA OPM 114-1

Item Date:

Reviewed Date:

OPI: DGPCOR

Sponsor: DPCAOR 5-2

OCI: DMTS
DPLS

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