DEPARTMENT OF THE NAVY
U.S. NAVAL SUPPORT ACTIVITY
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NAVSUPPACT NAPLES INST 5800.3A
N01J
4 MAY 2010

NAVSUPPACT NAPLES INSTRUCTION 5800.3A

From: Commanding Officer, U.S. Naval Support Activity, Naples, Italy

Subj: CIVILIAN MISCONDUCT

Ref: (a) North Atlantic Treaty Organization Status of Forces Agreement of 19 Jun 51 (NATO SOFA)
(b) U.S. Navy Regulations, 1990
(c) SECNAVINST 1752.3 (series)
(d) OPNAVINST 1752.2 (series)
(e) Joint Federal Travel Regulations (Part J)

1. Purpose. To establish policy and disciplinary procedures in response to incidents of misconduct by civilian persons who are permitted access and/or use of U.S. Naval Support Activity (NAVSUPPACT), Naples, Italy installations and programs. It is neither a substitute for action under the Uniform Code of Military Justice with regard to active duty personnel, nor for applicable personnel actions against Department of Defense civilian employees.

2. Cancellation. NAVSUPPACT NAPLES INST 5800.3.

3. Scope. This instruction applies to all civilian personnel permitted access to or use of any NAVSUPPACT Naples facility or program, including non-command sponsored civilians.

4. Responsibilities

a. Commanders, Commanding Officers, and Officers in Charge of Tenant and Supported Activities. Per reference (a), Commanders, Commanding Officers (COs), and Officers-in-Charge (OICs) are responsible for the general readiness, security, health, welfare and safety of the members of their commands as well as for ensuring that military and civilian members of their commands and their family members respect the laws of Italy and abide by reference (b). Accordingly, the NAVSUPPACT Naples

Office of the Staff Judge Advocate (SJA) will forward to Commanders, COs and OICs any initial notification and reports of incidents involving alleged misconduct by civilian personnel under their command authority as well as action taken by the NAVSUPPACT Naples Commanding Officer.

b. Commanding Officer, NAVSUPPACT Naples. Per reference (a), the NAVSUPPACT Naples Commanding Officer is responsible for preserving the security and safety of NAVSUPPACT Naples facilities as well as the welfare of persons living and working on the installation, regardless of whether under his direct authority and control. He/she will:

(1) Receive and review the initial reports of the alleged misconduct. If sufficient cause exists, he/she may take immediate action in the form of a written warning or base privilege suspension or barment;

(2) Review the follow-up investigation of the alleged misconduct, determine whether the misconduct occurred, and communicate to the appropriate department or tenant the requested action to be taken in response.

c. Sponsors. Sponsors are responsible for ensuring their command-sponsored dependents and guests are aware of and abiding by all installation regulations.

5. Policy

a. NAVSUPPACT Naples will resolve each incident of misconduct as expeditiously and informally as possible. In all cases, the NAVSUPPACT Naples Commanding Officer will aim to prevent recurrence of misconduct and protect NAVSUPPACT Naples facilities, programs and personnel. A secondary aim of the NAVSUPPACT Naples Commanding Officer will be to maintain positive Host Nation relations.

b. Once the NAVSUPPACT Naples Commanding Officer determines that misconduct has in fact occurred, the NAVSUPPACT Naples SJA will review the investigation, provide guidance and recommendations to the NAVSUPPACT Commanding Officer. If so directed, the SJA will schedule a civilian misconduct hearing as soon as practical.

6. Theft at the Navy Exchange and Defense Commissary Agency

a. In cases of clear and convincing evidence of theft at the Navy Exchange (NEX) facilities, the Defense Commissary Agency or any other commercial activity onboard the installation, NAVSUPPACT Naples will take the following actions as determined by the age of the offender:

(1) First offense, ages seven and below: The NAVSUPPACT Naples Commanding Officer will normally issue a letter of warning to the sponsor via the sponsor's command;

(2) First offense, ages eight through 17: The NAVSUPPACT Naples Commanding Officer will normally suspend the offender's shopping privileges at the store at which the theft occurred for six months from the date of the incident. If the theft occurred at the NEX, the offender will normally be suspended from all NAVSUPPACT Naples area Navy Exchanges, outlets, mini-marts, and concessionaires, but will retain access, with parental supervision, to all NAVSUPPACT Naples dining facilities and food outlets during the six month suspension; and

(3) First offense, ages 18 and above: The NAVSUPPACT Naples Commanding Officer will normally suspend the offender's privileges to all Naples area Navy Exchanges, outlets, mini-marts, and concessionaires for one year from the date of the incident with the following exception: the offender will retain access to all NAVSUPPACT Naples dining facilities and food outlets during the one year suspension;

(4) All subsequent offenses: The NAVSUPPACT Naples Commanding Officer will order the offender, his/her sponsor, and a representative from the sponsor's command to attend a Civilian Misconduct Hearing as detailed in reference (c).

(b) The NAVSUPPACT Naples Commanding Officer always reserves the right to deviate from the above general guidelines if he/she deems appropriate.

7. Civilian Misconduct Hearing Procedure

a. The Staff Judge Advocate will:

(1) Advise the civilian of the date, time, and location of the misconduct hearing, through the sponsor and the sponsor's command; and

(2) Provide a copy of all investigative reports concerning the alleged misconduct to the sponsor's Commanding Officer. These reports may be shown to the sponsor and dependent civilian, but copies of the reports may not be given to the sponsor or dependent. In order to obtain a copy of a federal report or investigation, the sponsor must file a Freedom of Information Act (FOIA) request with the NAVSUPPACT Naples SJA.

b. The civilian and/or sponsor will attend the hearing. They may present matters in extenuation and mitigation. The civilian being accused will also be permitted to present witnesses and other matters for consideration at the hearing at no expense to the government.

c. The sponsor's Command will send a command representative to accompany the sponsor and/or civilian offender to the civilian misconduct hearing.

d. The NAVSUPPACT Naples Commanding Officer will:

(1) Review the matters presented and determine whether misconduct has occurred;

(2) Take official action, which may include one or more of the following appropriate responses:

(a) Recommend counseling per references (c) and (d);

(b) Issue a letter of warning to the offender via the sponsor and the sponsor's Commanding Officer, Department Head or supervisor;

(c) Provide a report of the incident(s) to the civilian personnel office having cognizance over the employee for such action as may be appropriate under applicable civilian regulations;

(d) Bar the offender from any and all areas under the jurisdiction of the NAVSUPPACT Naples Commanding Officer, including all facilities leased by NAVSUPPACT Naples; or

(e) Suspend and/or revoke all logistical support privileges extended by the NAVSUPPACT Naples Commanding Officer except medical and dental benefits, to include:

(1) Navy Exchange shopping privileges
(2) Commissary shopping privileges
(3) Club privileges
(4) Non-appropriated fund activity access
(5) Check cashing privileges
(6) Use of government leased housing
(7) Ration privileges

8. Early Return of Dependent. The NAVSUPPACT Naples Commanding Officer reserves the right to direct an Early Return of Dependent per reference (e) for matters of civilian misconduct. This action should be used only for the most egregious of civilian misconduct matters and only as a last resort to preserve the safety, security and well-being of members of the NAVSUPPACT Naples community.

R. B. RABUSE

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