

MEMORANDUM OF UNDERSTANDING

The following constitutes an agreement between the Department of Veterans Affairs (VA) and the National Association of Government Employees (NAGE/SEIU) concerning ***VA Handbook 5021, Part VIII: Notation of Adverse Findings in Official Personnel Folder After Resignation (Handbook)***.

1. The provisions in the Handbook *only* applies when the employee resigned during a personnel investigation that resulted in an adverse finding. The term *personnel investigation* includes:

(a) A proposed adverse personnel action.

(b) An administrative investigation conducted by the following entities in which the former employee was the subject of the personnel investigation and the investigation focused on alleged or potential performance or conduct deficiencies:

- i. Office of the Inspector General;
- ii. Office of Accountability and Whistleblower Protection;
- iii. Administrative Investigation Boards, as defined in VA Handbook 0700;
- iv. Office of Resolution Management, Diversity and Inclusion;
- v. Equal Employment Opportunity Commission;
- vi. Office of Employment Discrimination Complaint Adjudication (OEDCA); or
- vii. Office of Medical Inspector.

2. Consistent with 5 U.S.C. § 3322, if an employee resigns after a personnel investigation has been initiated and the VA subsequently upholds its adverse finding, the VA must include a permanent notation on the permanent side of the former employee's eOPF. This notation is only made after the employee is given an opportunity to reply to the adverse finding. The application of this policy will be consistent with Article 36 - *Investigations* and Article 37 - *Discipline and Adverse Actions* of the NAGE Master Agreement, VA Directive/Handbook 0700, and the MOU entitled, VA Directive/Handbook 0700, AIB and Fact-findings, dated 3/6/2024.

3. The procedures in the Handbook apply to former employees who served in the:

- a. Competitive service at the time of resignation.
- b. Excepted service at the time of resignation, including those appointed under 38 U.S.C. Chapters 73 and 74.

4. The former employee will receive a written memorandum which states, the decision of the deciding official in response to the initial notification; the basis and specific reasons for the decision; and the right to appeal to MSPB under 5 U.S.C. § 7701.
5. A signed copy of the MOU shall be provided to NAGE at the National level.
6. NAGE Local union presidents or their designee will be provided a copy of this MOU within 10 days of Local Management receiving a signed copy.
7. A copy of this signed MOU will be placed on the VA Central Office Labor Management Relations website within 14 calendar days from when the MOU is made 508 compliant.
8. This MOU will expire at the issuance of a successor MOU. Parties agree if there is a change to the Handbook that triggers a duty to bargain, the Agency will meet its bargaining obligations prior to implementation.

6/12/2024

X 

LTosha Condah
Labor Relations Specialist, VACO LMR
Signed by: Department of Veterans Affairs

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Jacquelyn Rose, RN MSN
on Behalf of M. Bailey, NAGE Deputy Director