

11. Disciplinary Defense Fund

This section establishes procedures for using the NAPS Disciplinary Defense Fund (DDF). NAPS established the DDF because it is committed to representing its membership in all areas, including adverse actions. The DDF provides professional representation for eligible members for the actions set forth in Section 12.1.

11.1. DDF Criteria

DDF representation is available for:

- appealing a reduction in grade or removal under ELM Section 650 or MSPB procedures,
- appealing a Notice of Involuntary Administrative Salary Offset under ELM Section 450 procedures, and
- appealing a Reduction in Force (RIF).

The member must have been a NAPS member: 1) No fewer than ninety days prior to the proposed action or incident resulting in discipline, or 2) Have signed a NAPS membership application within thirty days from the effective date of promotion from the crafts.

11.2. Authorized DDF Provider

The DDF provides representation only through the NAPS provider. NAPS' DDF provider is:

Scialla Associates
Post Office Box 167
Totowa, NJ 07511-0167

The DDF will pay to the provider, and only to the provider, all approved fees and expenses up to \$3,000 per case, plus all approved transportation expenses. Should a member decide to hire a lawyer or other representative, neither NAPS nor the DDF is responsible for any fees or expenses incurred.

The representative assigned by the provider may or may not be a lawyer. Representation extends to the best possible settlement at the discretion of the provider, in consultation with the member.

If fees and expenses for a member's defense are expected to exceed the authorized limit of the DDF, the provider must notify the member in advance. No additional fees or expenses are incurred without the member's authorization. If the member does authorize additional expenditures, the member is personally liable to the provider for those additional fees and expenses.

If legal fees are awarded by the MSPB, the member must reimburse the DDF for all amounts disbursed from the fund to the extent possible under the award.

11.3. Reviewing Appeal Procedures

Appeal rights under ELM Section 650 are found in Section 9. Appeal rights under the MSPB are also found in Section 9. Appeal rights under ELM Section 450 are found in Section 10.

11.4. DDF Procedures

Upon receiving a Notice of Proposed Adverse Action (ELM Section 650 or MSPB appeals) or a Notice of Debt Determination (ELM Section 450 appeal), a member requesting representation under the DDF must provide a copy of the Notice to the branch president.

The branch president or designee is responsible for assisting the member in responding to the Notice of Proposed Adverse Action or the Notice of Debt Determination.

The branch president needs to/must *immediately* notify:

- NAPS area vice president.
- NAPS regional vice president.

The branch president or designee must also mail a copy of the notice to:

- Scialla Associates.

If the Notice of Proposed Adverse Action or Notice of Debt Determination is withdrawn and the issue is resolved, the branch president or designee must so inform Scialla Associates and the branch's area vice president.

If the member receives a Letter of Decision imposing a reduction in grade or removal, the member must decide whether to appeal under:

- (1) ELM Section 650 or
- (2) MSPB procedures and comply with the procedures set forth in Section 11.4.1 or 11.4.2, as applicable. Upon receipt of a Notice of Involuntary Offset the member must comply with the procedures set forth in Section 11.4.3.

11.4.1. ELM Section 650 Appeal of the Letter of Decision

Upon receiving a Letter of Decision imposing either a reduction in grade or removal, the member may appeal under ELM Section 650. If the member chooses to use the DDF, the member names the NAPS DDF provider as representative (see Section 9), and IMMEDIATELY by Priority Mail sends following materials to Scialla Associates, the area vice president and regional vice president:

- copies of the request for a hearing,
- the Notice of Proposed Adverse Action and response,
- the Letter of Decision, including all supporting documents, and
- a completed Disciplinary Defense Fund Representation Request Form signed by the member and the branch president.

NOTE: The written request for a hearing must be submitted by Scialla Associates within 15 days of receipt of the letter of decision. See Section 9 for details on the Section 650 process.

11.4.2. MSPB Appeal of the Letter of Decision

Upon receiving a Letter of Decision imposing either a reduction in grade or removal, a member choosing to appeal the action to the MSPB must complete the following sections of the MSPB Appeal Form 283. The member then sends the following to Scialla Associates, the area vice president and regional vice president:

- completed Form 283,
- copies of the Notice of Proposed Adverse Action and response,
- the Letter of Decision, including all supporting documents, and
- a completed Disciplinary Defense Fund Representation Request Form signed by the member and the branch president.

There are five forms 283 being used, and all are still current. Only the following information is required, and *the form must be signed by the member*:

Information Required

Name

Social Security Number

Present address

Home phone

Name and address of agency

Supervisor's position, title, and duty station at time of action

Grade at time of action

Salary at time of action

Check Veteran status

Length of government service

Date written proposed action received

Date final decision notice received

Effective date of action

Indicate if you have filed a formal discrimination complaint (EEO)

The DDF provider completes the balance of the appeal form.

NOTE: Original signatures (no photocopies) are required on Form 283 and the Disciplinary Defense Fund Representation Request Form. It is imperative that all parties realize the importance of processing and mailing all case documents *within the time limits established for the submission of appeals*. The time limit under MSPB is 30 days after the effective date of the decision Use Express Mail to expedite handling if necessary—not a fax machine. See Section 10 for more information on the MSPB process.

11.4.3. ELM Section 450 Appeal of the Notice of Involuntary Administrative Salary Offset

If after submitting a response to the Notice of Debt Determination the member receives a Notice of Involuntary Offset, the member may appeal the action under ELM Section 450 procedures. If the member chooses to use the DDF, the member names the NAPS DDF provider as representative (see Section 11), and IMMEDIATELY sends the following to Scialla Associates, the branch's area vice president and regional vice president:

- copies of the Notice of Debt Determination and the response,
- the Notice of Involuntary Offset, including all supporting documents, and
- a completed Disciplinary Defense Fund Representation Request Form signed by the member and the branch president.

NOTE: The written request for a hearing must be submitted by Scialla Associates within 15 days of receipt of the notice of Involuntary Administrative Salary Offset. See Section 10 for details on the Section 450 process.

NAPS Disciplinary Defense Fund Representation Request Form

DDF Applicant Name: _____

SS#: _____

Office: _____

Branch: _____

Work Phone: _____

() _____

Home Phone: _____

() _____

Date of Notice of Proposed Action
or Notice of Debt Determination: _____

Date of Letter of Decision or
Notice of Involuntary Offset: _____

I request representation from the NAPS Disciplinary Defense Fund (DDF). Representation will be provided by Scialla Associates. The representative provided may not be an attorney. The DDF covers fees and expenses up to \$3,000 and approved travel costs.

If fees or expenses incurred for my defense are expected to exceed the \$3,000 limit, Scialla Associates will notify me, in advance. No additional fees or expenses will be incurred for my representation without my authorization. If I do authorize additional fees and expenses, I will be personally liable to the provider for these additional expenses.

In the event the MSPB should award any payment for my legal fees, it is understood that the monies will be used to reimburse the NAPS DDF for monies expended for my representation by Scialla Associates to the extent possible under the award.

NOTE: I have been a member of NAPS since: Month _____ Year _____
If you have been a NAPS member less than 90 days from the date of the proposed action, you should supply a statement that you signed a NAPS membership application within 30 days of your promotion from the craft.

I understand that should I seek representation through any means other than the NAPS DDF at any time, I will, in effect, discharge the National Association of Postal Supervisors and Scialla Associates of any further obligation regarding my case. Furthermore, I understand that I will have to bear the cost and consequence of any outcome resulting from this action.

Signature of Member

Signature of Branch President

Date

Date

Send this signed form and a copy of the adverse action file by **Express Mail** to:

SCIALLA ASSOCIATES
POST OFFICE BOX 167
TOTOWA NJ 07511-0167

Send copies of this form and file by **First-Class mail** to your area and regional vice presidents.