



UNITED STATES MARINE CORPS
MARINE CORPS COMMUNITY SERVICES
MARINE AIR GROUND TASK FORCE TRAINING COMMAND
MARINE CORPS AIR GROUND COMBAT CENTER
BOX 788150
TWENTYNINE PALMS, CALIFORNIA 92278-8150

MCCSINST 12550.2A
MCCS

MAY 31 2011

MARINE CORPS COMMUNITY SERVICES INSTRUCTION 12550.2A

From: Director
To: Distribution List

Subj: COLLECTION OF INDEBTEDNESS TO MARINE CORPS COMMUNITY SERVICES (MCCS)
NONAPPROPRIATED FUND (NAF) ACTIVITIES FROM MCCS NAF EMPLOYEES
INVOLUNTARY

Ref: (a) CCO 1610.1H

Encl: (1) NAF Employee Notification
(2) Due Process Procedures

1. Situation. This instruction implements policy for dealing with indebtedness by NAF employees to MCCS NAF activities.
2. Cancellation. MCCSINST 12500.1
3. Mission. The policies and procedures to be used in addressing NAF employee indebtedness to a NAF activity through involuntary pay withholding are based in the common law right of set-off.
4. Execution. Primary execution of this instruction will be by the Finance Division utilizing enclosures (1) and (2). Procedures for liquidation of indebtedness of NAF employees may be different from those for other individuals, as presented in reference (a). This instruction provides Division Heads, Managers and Supervisors guidance on proper procedures for involuntary collection from MCCS employees.

(a) Indebted NAF Employees

(1) Employees who tendered a dishonored check to any MCCS activity will be placed immediately on the dishonored checklist.

(2) An employee who becomes indebted by reason of alleged criminal conduct shall be handled in accordance with the instructions of the Staff Judge Advocate, or the Federal District Attorney.

(3) An employee who becomes indebted to NAF other than criminal activity shall be afforded the opportunity to liquidate the debt by redemption of the dishonored check, or by direct payment of the debt.

(4) Employees shall, except for cases involving termination for cause or resignation be provided an opportunity to enter into a written agreement to establish a schedule for debt repayment.

(b) Chief Financial Officer

(1) Provide indebted employees with a copy of enclosures (1) and (2).

(2) Provide an opportunity for an informal hearing on the validity of the debt and the terms of an involuntary repayment schedule.

(3) Provide Supervisor and Personnel Office a copy of enclosure (2), if a second request is required.

(4) Ensure that all administrative remedies have been exhausted before taking action to withhold employees' pay.

(5) Deductions from employees' pay are limited to fifteen percent (15%) of disposable pay unless the employee will soon separate from employment. In the latter case, MCCS is authorized to withhold the remaining balance of the debt against any pay due.

(6) Provide the Director with information on the number of indebted employees, the cause(s) of the indebtedness and the gross amount of indebtedness to MCCS.

(c) Division Heads

(1) Ensure that employees who become indebted to MCCS are treated per the provisions of this instruction.

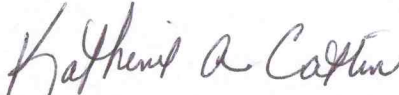
(2) Counsel indebted employees on the implications of the enclosures.

5. Administration and Logistics. Distribution Statement A Instructions issued by the Director are published electronically. This instruction can be viewed at <http://www.mccs29palms.com/pages/mccsEmployees/mccsInstructions.html>.

6. Command and Signal.

a. Command. This Instruction is applicable to Divisions, Branches and Departments within the Marine Corps Community Services.

b. Signal. This Instruction is effective the date signed.


KATHERINE A. CATLIN

Distribution A:

DUE PROCESS PROCEDURE
FOR INVOLUNTARY
PAY OFFSET FROM MCCS NAF EMPLOYEES
TO SATISFY DEBTS OWED THE NAF ACTIVITY

The following due process guidelines have been patterned after those contained in 5 U.S.C. Sec. 5511 and 5514. Although those statutes do not apply to debts owed to MCCS NAF by NAF employees, the procedures therein contain reasonable guidelines that may be used. Changes should be discussed with MCCS Counsel.

1. The MCCS Director, his or her designee, or other official appointed by the installation commander must make a determination that the MCCS NAF employee is indebted to the MCCS NAF activity.
2. If the debt resulted from alleged criminal activity on the part of the employee, MCCS should coordinate with the Staff Judge Advocate prior to collection. Collection through involuntary pay withholding does not preclude criminal prosecution of the employee. A criminal conviction is not necessary to sustain an offset provided there is satisfactory evidence of the theft and resultant debt to the NAF activity.
3. The indebtedness may be collected through deductions from the pay account of the NAF employee; such deductions are limited to fifteen percent (15%) of disposable pay; except, if the individual's employment ends or will end before collection of the total amount of the indebtedness, MCCS is authorized to offset the remaining balance of the debt against any final pay due the employee. Any balance still owing may be processed through federal statutory debt collection procedures, such as the Treasury Offset Program. Court ordered restitutions are also available in criminal cases.
4. Prior to initiating action to offset the pay of a NAF employee, MCCS will provide the individual with:
 - a. A minimum of thirty (30) days written notice informing the individual of the nature and amount of the indebtedness, the intention of the MCCS activity to initiate proceedings to collect the debt through deductions from pay and an explanation of the individual's rights in regard to this action. In the case of an employee in whose case it is waiting the recommended period after notice would prejudice the ability of MCCS activity to fully collect, the MCCS Director may authorize a shorter notice period.
 - b. An opportunity to inspect evidence in the possession of MCCS that relates to the debt. In a criminal case, coordinate first with the Staff Judge Advocate before disclosing any evidence.
 - c. Except for cases involving termination for cause of resignation an opportunity to enter into a written agreement with the MCCS activity, under terms acceptable to the MCCS Director or his or her designee and to establish a schedule for the repayment for the debt.
 - d. An opportunity for an informal hearing on the validity of the debt and on the terms of an involuntary repayment schedule. A hearing shall be provided if the individual provides a written request within fifteen (15) days of the notification letter. If the notice period in 4c has been shortened, then shortening the hearing request period is also appropriate. The hearing officer should be from outside MCCS and at the commander's discretion, may be the Installation Inspector. Except when employment is

being terminated for cause of resignation, collection of the debt should be stayed until the requested hearing conducted. The employee does not have the right to have an attorney present at the hearing. The employee may present written evidence and/or appear in person.

5. Contact your regional MCCS counsel if you need assistance in regard to the implementation of these procedures.



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CERTIFIED MAIL

DATE:

From: MCCS Director or Designee
To: NAF Employee Liable to MCCS NAF Activity
Address

Subj: INVOLUNTARY PAY WITHHOLDING TO SATISFY DEBT OWED TO MCCS NAF ACTIVITY

1. It has been determined that you are indebted to the MCCS Nonappropriated Fund activity in the amount of \$_____. This debt is the result of _____ (theft, dishonored checks, DPP and etc..).

2. The MCCS activity intends to collect this indebtedness through deductions from your regular NAF pay as common law right of set-off. The amount of this deduction will be limited to fifteen percent (15%) of your disposable pay. If your NAF employment ends or will end before collection of the total amount of the indebtedness, MCCS is authorized to set-off the remaining balance of the debt against any final pay due you. Any amount still outstanding may be collected through federal statutory debt collection procedures, such as the Treasury Offset Program. If criminal activity was involved, a court may also order restitution.

3. The following rights are provided to you in regard to the collection of this debt through pay withholding:

a. An opportunity to inspect evidence in the possession of MCCS that related to the debt. If criminal activity was involved, however, an opportunity to inspect evidence will be determined by the Staff Judge Advocate's Office.

b. Except in cases involving termination for cause or resignation, an opportunity to enter into a written agreement with the MCCS activity, under terms acceptable to the MCCS Director or his or her designee and to establish a schedule for the repayment of the debt.

c. An opportunity for an informal hearing on the validity of the debt and on the terms of an involuntary repayment schedule. A hearing shall be provided to you if you provide a written request within _____ days of this notification letter to the Director, MCCS at the letterhead address. Unless your employment is being terminated for cause or dues to resignation, collection of the debt will be stayed until the requested hearing is conducted. You do not have the right to have an attorney present at the hearing. You may present written evidence and/or appear in person.

4. The foregoing collection in no way prevents criminal prosecution for alleged criminal conduct associated with this debt.

5. If you have any questions in regard to this proposed action, please contact _____ at _____.

Sincerely,

Enclosure (2)