

**BY ORDER OF THE COMMANDER  
AVIANO AIR BASE**

**AVIANO AIR BASE INSTRUCTION 51-203**

**22 APRIL 2013**



**Law**

**FAMILY MEMBER MISCONDUCT  
PROGRAM (FMMP)**

**COMPLIANCE WITH THIS PUBLICATION IS MANDATORY**

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(Col Brian D. Pukall)

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This instruction implements Air Force Policy Directive (AFPD) 51-9, *Civil Law for Individuals* and AFPD 31-1, *Integrated Defense*. This instruction establishes a program for dealing with cases of family member misconduct on Aviano Air Base. It applies to all active duty service members, Department of Defense (DoD) civilian employees, contractor personnel, and persons employed by the North Atlantic Treaty Organization (NATO) units who use the facilities on Aviano Air Base, as well as their family members. This instruction is affected by the Privacy Act of 1974. Records generated by this regulation are authorized by U.S.C. & 8012. No independent system of records will be maintained in the Family Member Misconduct Program. Authorities: Public Law 94-415, *Juvenile Justice and Delinquency Prevention Act of 1974* (18 U.S.C. & 5031-5042); USFKR 600-52, *Family Member Misconduct*; AFPD 51-9, *Civil Law for Individuals*. Ensure that all records created as a result of processes prescribed in this publication are maintained IAW Air Force Manual (AFMAN) 33-363, *Management of Records*, and disposed of IAW Air Force Records Information Management System (AFRIMS) Records Disposition Schedule (RDS). Refer recommended changes and questions about this publication to the Office of Primary Responsibility (OPR) using the AF Form 847, *Recommendation for Change of Publication*; route AF Form 847s from the field through the appropriate functional chain of command.

**SUMMARY OF CHANGES**

The below changes to AVIANOABI51-203 are effective immediately.

1. Minor administrative corrections and office symbol changes.
2. Information on where to send boards command action and a template reinstatement of Army and Air Force Exchange Service (AAFES), Commissary, and Morale, Welfare and Recreation (MWR) retail facilities privileges letter was added.
3. The following has been deleted: 3.5.7.7 and 3.5.5.9.

**1. POLICY.** Acts of misconduct committed by family members may threaten the security and safety of persons and property of Aviano Air Base. Family members who have engaged in misconduct shall appear before the Family Member Misconduct Board (FMMB) at the direction of and at the discretion of 31 MSG/CC. In lieu of convening the FMMB, 31 MSG/CC or Mission Support Group Deputy Commander (31 MSG/CD) may take or recommend the Fighter Wing Commander (31 FW/CC) take direct action against family members who have engaged in misconduct, as provided by this instruction. Actions of 31 MSG/CC and the FMMB will be directed toward ensuring good order and discipline on Aviano Air Base and, when possible, rehabilitating the offender.

## **2. RESPONSIBILITIES.**

2.1. Military members and Department of Defense (DoD) employees have primary responsibility for ensuring their family members comply with all laws, regulations and applicable standards of behavior. Failure to do so may result in adverse administrative action against the offender, the sponsor or both.

2.2. 31 FW/CC is ultimately responsible for ensuring good order and discipline at Aviano Air Base and may regulate the conduct of all active duty service members, retired members, DoD civilian employees, contractor personnel, persons employed by North Atlantic Treaty Organization (NATO) units and their family members thereon. 31 FW/CC has delegated the authority to resolve family member misconduct cases to 31 MSG/CC and 31 MSG/CD.

2.3. The Area Superintendent, Department of Defense Dependent Schools (DoDDS), and other school administrators have primary responsibility for addressing disciplinary problems that occur on school buses, on school grounds during the school day and at school sponsored activities. Individual school principals are primarily responsible for sanctioning students who are involved in misconduct, and for making determinations regarding suspension or expulsion from school. However, 31 MSG/CC and 31 MSG/CD may also initiate corrective action, as consistent with this instruction, in cases where an act of misconduct disrupts the good order of the installation or otherwise threatens the security and safety of persons assigned to Aviano Air Base and/or their dependents.

## **3. THE FAMILY MEMBER MISCONDUCT BOARD (FMMB).**

3.1. **Purpose.** The purpose of the FMMB is to provide a method and framework for resolving cases of family member misconduct arising on Aviano Air Base, or involving a dependent of any person stationed at Aviano Air Base.

3.2. **Policy.** The recommendations of the FMMB for corrective action shall promote the protection of life and property at Aviano Air Base, the rehabilitation of the offender, the

preservation of good order and discipline and the deterrence of the offender and others from engaging in acts of misconduct.

**3.3. Administrative Process.** The process of resolving civilian misconduct issues is administrative, not judicial. Alleged offenders are not entitled to have legal counsel present during the hearing. Military attorneys from the Office of the Staff Judge Advocate and from the Office of Area Defense Counsel are not available to assist alleged offenders in preparing for hearings. Individuals may, however, retain civilian counsel at their own expense to assist in their preparation.

**3.4. Composition.** The board is composed of the following persons or their designated representatives:

**3.4.1. Voting Members:**

3.4.1.1. Chairperson, 31 MSG/CD or designee.

3.4.1.2. Law Enforcement Advisor, 31 SFS/CC or designee.

3.4.1.3. Legal Advisor, 31 FW/JA.

3.4.1.4. Mental Health Advisor, 31 MDOS/SGOW/CC or designee (as needed).

3.4.1.5. Command Chief Master Sergeant (31 FW/CCC), in cases involving family members of military personnel.

3.4.1.6. School Liaison Officer (31 MSG/SLO), in cases involving students.

**3.4.2. Nonvoting Members:**

3.4.2.1. Recorder, 31 MSG/CCA.

3.4.2.2. DoDDS principal, in cases involving students.

3.4.2.3. Special Nonvoting members. 31 MSG/CC or 31 MSG/CD may select additional nonvoting representatives as required.

**3.5. Procedures.**

**3.5.1. Reporting Misconduct.**

3.5.1.1. The 31st Security Forces Squadron (31 SFS) or the Air Force Office of Special Investigations (AFOSI) normally investigates cases of serious misconduct on Aviano Air Base. All reports of investigation disclosing misconduct committed by family members will be forwarded to the Office of the Staff Judge Advocate (31 FW/JA) and 31 MSG/CD.

3.5.1.2. Other cases of misconduct are reported to 31 SFS through the law enforcement desk and are documented in the daily blotter.

3.5.1.3. 31 FW/JA shall receive all reports of investigation and daily blotter entries involving family member misconduct and may forward these to 31 MSG/CD with a recommendation on the appropriateness of referring the case to the FMMB for disposition.

3.5.1.4. Unit commander and interested staff agency chiefs may report incidents of misconduct to 31 MSG/CD for consideration of a board hearing.

### 3.5.2. Disposition of Misconduct Cases.

3.5.2.1. 31 MSG/CD has several options in deciding how to dispose of a misconduct case:

3.5.2.1.1. Refer the case to the sponsor's immediate commander for appropriate action.

3.5.2.1.2. Impose any corrective actions, including those contained in this instruction, that are within his or her discretionary authority.

3.5.2.1.3. Refer the case to the FMMB. A FMMB is required for any case where the misconduct may warrant corrective action that involves a revocation of base or retail shopping privileges. However, if the family member does not wish to come before the FMMB to request leniency or a re-instatement of privileges, then the family member is not required to meet the FMMB.

3.5.2.1.4. Recommend that 31 MSG/CC take corrective action. In no way is the scope of authority of 31 MSG/CC limited by a decision not to convene a board.

3.5.2.1.5. Take any other action appropriate to the circumstances of the case.

3.5.2.2. If 31 MSG/CD is unavailable to review a case, or if 31 MSG/CD has referred the case to 31 MSG/CC for disposition, 31 MSG/CC may take any action that he or she deems appropriate. Such actions include, but are not limited to the following:

3.5.2.2.1. Any action that 31 MSG/CD could have taken.

3.5.2.2.2. Meeting with the sponsor, sponsor's commander and the family member who is the subject of the misconduct.

3.5.2.2.3. Convening the FMMB.

3.5.2.3. If the act of misconduct involves a violation of host nation law that may result in confinement, 31 MSG/CC or 31 MSG/CD shall consult 31 FW/JA prior to initiating action against the family member.

### 3.5.3. Convening the Board.

3.5.3.1. The board will meet at the direction of 31 MSG/CC or 31 MSG/CD to hear misconduct cases and provide recommendations on corrective action.

3.5.3.2. 31 MSG/CD may decide to convene all members of the board or only selected members to review any case.

3.5.3.3. Board member will not sit in judgment on a case involving their own dependents.

3.5.3.4. 31 MSG/CD shall notify the family member's sponsor and the sponsor's commander/supervisor of the time and place of the hearing and the nature of the alleged misconduct. Active duty sponsors and a representative from their command shall appear at the board hearing. Family members are encouraged to attend. The board may conduct in absentia hearings and may consider a family member's willful refusal to appear as a matter in aggravation in deciding upon its recommendation.

3.5.3.5. 31 MSG/CD is the decision authority for all requests for delays of a scheduled hearing. Requests for a delay shall be delivered to 31 MSG/CD in writing and shall be no later than 10 calendar days from the day of notification. Delays will be granted only in extraordinary cases, or when the sponsor is TDY or otherwise unavailable.

#### 3.5.4. Board Hearings.

3.5.4.1. The FMMB is an administrative hearing, not a criminal court proceeding. Formal rules of evidence do not apply. The Legal Advisor shall determine what evidence is relevant. The board shall consider all relevant evidence that is available for review.

3.5.4.2. Persons appearing before the board are not entitled to counsel.

3.5.4.3. Board hearings are closed to all persons except as designated by 31 MSG/CD.

3.5.4.4. 31 MSG/CD will assemble the board's evidence and distribute it or provide a summary.

3.5.4.5. Mission Support Group Command Section (31 MSG/CCA) will serve as the recorder.

3.5.4.6. Upon convening the hearing, the Chairperson will ensure a thorough development of the facts. The Chairperson may permit the family member or sponsor to call witnesses and/or to submit written statements. The board shall solicit and consider the sponsor's recommendation for corrective action.

3.5.4.7. The Chairperson shall devise informal procedures to ensure all members of the board are heard in the deliberations and consensus is reflected in its recommendation.

3.5.4.8. After all evidence is presented, the board shall excuse all nonmembers from the hearing room prior to making its recommendation to 31 MSG/CC.

3.5.4.9. 31 MSG/CC may accept the recommendation of the board, take any other appropriate action or return the case to the board for further action. Dissenting recommendations are appropriate and may be forwarded to 31 MSG/CC.

#### 3.5.5. Corrective Action. The board may recommend any one or more of the following corrective actions:

3.5.5.1. An oral or written admonition or reprimand of the family member, the sponsor or both.

3.5.5.2. Referral of the family member and/or the sponsor to the chaplain, Mental Health Clinic or other base services.

3.5.5.3. Withdrawal of specified privileges, such as Base Exchange, Commissary, recreation center, gyms, bowling center, theater and youth programs.

3.5.5.4. Restriction from entering certain areas of the base, to include the MTF. Medical and dental care are entitlements, but there is no entitlement to receive care at a specific location and a member may be restricted from accessing the MTF.

However, if there are legitimate medical or dental care needs that cannot reasonably be satisfied off base, then the member may petition the MSG/CD for a modification to their imposed restriction to allow MTF access.

3.5.5.5. A curfew.

3.5.5.6. Suspension or revocation of Armed Forces Italy (AFI) drivers' license and/or base driving privileges in cases of misconduct involving the use of a motor vehicle.

3.5.5.7. Restitution for damages or injuries, including physical labor to repair damage.

3.5.5.8. Community service (e.g., base appearance detail, washing government vehicles, etc.).

3.5.5.9. **(DELETED)**

3.5.5.10. Restriction from school or withdrawal of privilege to ride a school bus. **Note:** In accordance with DoD Instruction 1342.6-M, *Administrative and Logistic Responsibilities for DoD Dependents School*, Ch. 1 (D)(3)(h), the installation commander may withdraw a student's privilege to attend school in response to serious or repeated misconduct, including truancy and criminal acts.

3.5.5.11. Termination of sponsor's Government Family Housing privileges.

3.5.5.12. Requesting that sponsor return family member to the Continental United States (CONUS) under Early Return of Dependents program.

3.5.5.13. Curtailment of sponsor's overseas tour. This is appropriate in cases where the sponsor does not cooperate, where circumstances prevent the expeditious early return of the family member, where rehabilitative measures have failed or where unusual hardship to the family will result from separation of one or more of its members from the sponsor. Such action will be considered to be in the best interest of the government.

3.5.5.14. Referral of case to Italian authorities for prosecution.

3.5.6. Nature of Corrective Action. The nature of the corrective action imposed should be evaluated in light of such factors as the individual's age and prior disciplinary record, seriousness of the misconduct, deliberateness of the misconduct, defiance of authority, presence or absence of adult guidance and discipline, sanctions administered in like cases, adverse impact on Air Force or base community, impact of the misconduct on the victim and the rehabilitative potential of the offender.

3.5.7. Decision.

3.5.7.1. 31 MSG/CD shall make a decision after considering the recommendation of the board.

3.5.7.2. 31 MSG/CD shall serve notice of the decision to the sponsor, who will acknowledge receipt.

3.5.7.3. 31 MSG/CD shall record the command action on memorandum for record. A copy of the command action memorandum for record will be sent to the 31 SFS/S5R, Reports and Analysis section.

- 3.5.7.4. If the sponsor or family member refuses to consent to any corrective action, 31 MSG/CC or 31 MSG/CD may reconsider the matter, taking the refusal into account.
- 3.5.7.5. 31 FW/CC is the approval authority for all recommendations for restrictions. This authority is not delegable.
- 3.5.7.6. **(DELETED)**
- 3.5.7.7. 31 MSG/CD shall notify appropriate DoD hiring authorities of incidents involving family members when such incidents reflect upon employment qualifications.
- 3.5.8. Appeals.
- 3.5.8.1. A sponsor or a family member may appeal corrective actions imposed under the provisions of this instruction within seven (7) calendar days of receipt of the notice of commander's decision. 31 MSG/CD may grant an exception to this deadline for good cause.
- 3.5.8.2. Appeals shall be in writing and shall be endorsed by the sponsor. No personal appearances are permitted in conjunction with an appeal.
- 3.5.8.3. Appeals may be based only on these grounds:
- 3.5.8.3.1. Newly discovered evidence proves that the family member is innocent.
  - 3.5.8.3.2. Information showing mitigating circumstances was not available and therefore was not considered at the time of the initial action.
  - 3.5.8.3.3. Circumstances of personal or family hardship were not considered at the time of the initial action.
  - 3.5.8.3.4. Appeal shall be submitted to 31 MSG/CD for concurrence or non-concurrence.
- 3.5.9. Reinstatement of Privileges.
- 3.5.9.1. Reinstatement of AAFES privileges is not automatic upon the expiration of the suspension period. Family members must contact their sponsor's first sergeant and submit a memorandum for record to 31 MSG/CD 10 calendar days before restriction ends. The memorandum must have concurrent agreement from the first sergeant and the unit commander on reinstatement of AAFES, Commissary, and MWR Retail facilities privileges. See Attachment 3 for a reinstatement letter template.

SCOTT J. ZOBRIST Brigadier General, USAF  
Commander

**Attachment 1****GLOSSARY OF REFERENCES AND SUPPORTING INFORMATION*****References***

AFPD 51-9, *Civil Law for Individuals*, 5 November 1993

AFPD 31-1, *Integrated Defense*, 7 July 2007

***Prescribed Forms***

None

***Adopted Forms***

AF Form 847, *Recommendation for Change of Publication*

***Abbreviations and Acronyms***

**AAFES**—Army and Air Force Exchange Service

**AFOSI**—Air Force Office of Special Investigations

**CONUS**—Continental United States

**DOD**—Department of Defense

**DODDS**—Department of Defense Dependent Schools

**FMMB**—Family Member Misconduct Board

**FMMP**—Family Member Misconduct Program

**MWR**—Morale, Welfare and Recreation

**NATO**—North Atlantic Treaty Organization

***Terms***

**Accused**—One charged with an offense.

**Family Member**—Any person who is entitled to installation access by virtue of his or her blood, marital or other legal affiliation with an active duty service member, reserve or guard, retired member, DoD civilian employee, civilian contractor or person employed by a NATO unit.

**First-time Offender**—For the purposes of this instruction, a first-time offender is a juvenile and/or family member etc., who has not appeared previously before the FMMB. The fact that a juvenile and/or family member has faced disciplinary action from the DoDDS for the same or another offense shall not preclude the juvenile and/or family member from being considered a first-time offender for the FMMB.

**Sponsor**—Any active duty service member, retired member, DoD civilian employee, civilian contractor or person employed by a NATO unit from whom family member derive their status.

**Juvenile**—A person who has not yet attained the age of eighteen (18) years old at the time of the misconduct.

**Misconduct**—Any act or omission that violates a written rule, instruction, policy, base directive, Air Force directive, federal statute or local law, or that otherwise disrupts the good order of the installation or threatens the security and safety of persons assigned to Aviano Air Base and/or their dependents.

**Family Member Misconduct Board**—A board established at Aviano Air Base to review cases of family member misconduct and to make appropriate recommendations for corrective actions to 31 MSG/CC.

**Attachment 2****RECIPROCAL SUSPENSION OF PRIVILEGES PROCEDURES**

**A2.1.** This attachment defines the procedures to properly document and ensure that Base Exchange and Commissary privileges suspended by the FMMB, or any similar program created to manage cases of family member misconduct, are forwarded from the family member's losing base and are assigned to the family member's gaining base. Suspensions and revocations of privileges will be tracked through the Security Forces Management Information System (SFMIS). SFMIS is a world-wide Security Forces database connected to the Defense Enrollment Eligibility Reporting System (DEERS).

**A2.2.** Base Exchange and Commissary privileges for inbound family members, which are suspended or revoked, will remain suspended or revoked as specified by the family member's losing base. 31 SFS/S5R will receive notice of the suspension through SFMIS and forward the suspension notification to the sponsor's gaining commander at Aviano Air Base. The sponsor's gaining commander will prepare a new suspension recommendation letter to be signed by the 31 MSG/CD to ensure the family member's suspension continues until the predetermined expiration date.

**A2.3.** Base Exchange and Commissary privileges for family members, which are suspended or revoked, will remain suspended or revoked and be assigned to the family member's gaining base as specified by the FMMB. The 31 MSG/CD will issue a written memorandum to the family member identifying the nature and duration of the suspended privileges. A copy of the memorandum will be forwarded from the 31 MSG/CCA to 31 SFS/S5R. 31 SFS/S5R will annotate the suspension in SFMIS and notify the sponsor's gaining commander of the nature and duration of the suspension. The sponsor's gaining commander will enforce the suspension.

**Attachment 3**

**REINSTATEMENT OF AAFES, COMMISSARY, AND MWR RETAIL FACILITIES  
PRIVILEGES TEMPLATE LETTER**

MEMORANDUM FOR 31 MSG/CD

FROM: (NAME OF PERSON)

SUBJECT: Reinstatement of BX, Commissary, and MWR Retail Facilities Privileges

1. (Please state reason family member is requesting reinstatement of privileges.)

SIGNATURE BLOCK FAMILY MEMBER

1st Ind, 31 UNIT/CCF

MEMORANDUM FOR 31 UNIT/CC

I concur / do not concur with (NAME) request.

SIGNATURE BLOCK FIRST SERGEANT

2d Ind, 31 UNIT/CC

MEMORANDUM FOR 31 MSG/CD

1. Sir, I have carefully considered this case and recommend / do not recommend reinstatement of privileges at base facilities for (NAME OF INDIVIDUAL).
2. Please contact xxx at 632-xxxx with any questions or concerns you may have.

SIGNATURE BLOCK COMMANDER