

Civilian Personnel
SUPERVISOR'S GUIDE TO TAKING DISCIPLINARY ACTIONS

History. This is a revised publication in electronic format.

Summary. The purpose of this pamphlet is to provide general guidance to managers and supervisors on taking disciplinary actions. It is intended to aid managers and supervisors in carrying out their responsibilities, to prevent prohibited activities, and to ensure that employee job performance and personal conduct conform to established performance objectives and responsibilities and acceptable standards of conduct.

Applicability. The pamphlet applies to all managers and supervisors who supervise employees paid from appropriated funds serviced by the Civilian Personnel Advisory Center (CPAC), except probationary employees and those serving trial periods.

Proponent and Exception Authority. The proponent of this pamphlet CPAC. The proponent has the authority to approve exceptions to this pamphlet that are consistent with controlling law and regulation.

Supplementation. Supplementation of this pamphlet and establishment of command and local forms are prohibited without prior approval from Directorate of Information Management, Administrative Services

Division, AFZX-IM-AS, 1820 Corps Road, Fort Polk, Louisiana 71459-3908.

Suggested Improvements. Users of this pamphlet are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) directly to Directorate of Civilian Personnel, AFZX-CP-LMERT, Fort Polk, Louisiana 71459-5341.

FOR THE COMMANDER:

OFFICIAL: B. R. FITZGERALD
Colonel, GS
Deputy Commander

/s/
PAUL JACKSON
Director, Information
Management

Distribution. Distribution of this pamphlet is intended for Command Level J; and DOIM Home Page Address: doimnt1.

Contents (listed by paragraph)

Chapter 1

Introduction

Purpose 1-1

References 1-2

Supervisory Responsibility for Discipline 1-3

Chapter 2

How to Begin

Poor Performance or Misconduct 2-1

Disciplinary Actions 2-2

Constructive Discipline 2-3

Burden of Proof 2-4

Just Cause - Seven Key Tests 2-5

Selecting Appropriate Action 2-6

Chapter 3

Choosing Among Disciplinary Actions

Categories of Disciplinary 3-1

Actions

Disciplinary Action Options 3-2

Chapter 4

Informal Disciplinary Actions

General 4-1

Oral Admonishment 4-2

Written Warning 4-3

Preparing an MFR for Oral

Admonishment, Figure 4-1

Preparing a Letter of Warning, 4-4

Figure 4-2

Chapter 5 Formal Disciplinary Actions

Section I - Letters Of Reprimand 5-1
General 5-1

Supervisory Procedures Before 5-2
Initiation of Reprimand
Preparation of Formal Written 5-3
Reprimands
Follow-Up Actions 5-4
Preparing a Letter of Reprimand,
Figure 5-1

Section II - Suspensions 5-8
General 5-5
Suspension for 14 Days or Less 5-6
Suspension for More Than 14 Days 5-7
Supervisory Procedures to 5-8
Initiate a Suspension
Action by the Second-Line 5-9
Supervisor
Action by Directorate of Civilian 5-10
Personnel, Labor/Management-
Employee Relations and Training
Division
Role of the Deciding Official 5-11

Section III - Removals
General 5-12
Prerequisites 5-13
Employee Entitlements 5-14
Supervisory Procedures to Initiate 5-15
a Removal
Action by the Second-Line 5-16
Supervisor; Directorate of
Civilian Personnel,
Labor/Management-Employee
Relations and Training Division;
and Deciding Official

Section IV - Reduction-In-Grade And/Or Pay 5-16
(Demotion)
General 5-17
Supervisory Procedures 5-18

**Appendix A, Table Of Penalties For Various
Offenses A-1
(Extracted From AR 690-700, Chapter 751)**

Introduction

1-1. References.

- a. Army Regulation 690-700, Personnel Relations and Services (General).
- b. JRTC and Fort Polk Regulation 690-22, Employee Alcohol and Drug Abuse Prevention and Control Program.

1-2. Supervisory Responsibility for Discipline.

The broad objective of discipline is to prevent prohibited activities, and to motivate employees to conform to acceptable standards of conduct. Discipline is a part of the daily responsibility of supervisors, not merely the action taken at times when an employee deviates from acceptable forms of conduct. The supervisor's most effective means of maintaining discipline is through the promotion of cooperation, sustained good working relationships, and the self-discipline and responsible performance expected of mature employees.

Chapter 2 How to Begin

2-1. Poor Performance or Misconduct.

- a. The employee has done something or failed to do something which adversely affects his work, the ability of others to do their work, or the agency's mission. Management is faced with decisions on how to handle the incident or series of incidents. First, the supervisor must decide whether the incident involves the employee's poor job performance, or an act of misconduct or delinquency. Normally, it is one or the other; but in some cases it could be both. Next, the supervisor must decide what type of management action will best deal with the incident(s).
- b. There are many possible causes for an employee's performance and/or conduct problem (i.e., illness, disability, drug or alcohol abuse, personality conflict, family problems, lack of training, low job morale, et cetera (etc.)). The nature of the problem will determine the course of action to be taken. Perhaps the employee should be referred to Civilian Counseling Services for substance abuse counseling; or a fitness-for-duty medical examination may be needed to determine physical or mental capability to do the job.
- c. If the problem is failure to meet responsibilities or objectives that have been established on Senior System Civilian Evaluation Report Support Form,

7223-1, then appropriate action may be taken under the Performance Management Program.

d. If it is misconduct or delinquency, such as tardiness, failure to properly request leave, insubordination, misappropriation of government property, etc., then management has the option to take disciplinary action. The supervisor has a variety of ways to deal with these, depending on the severity of the misconduct ranging from lesser disciplinary actions, such as oral admonishments/written warnings (counseling) and reprimands, to more severe penalties, such as suspensions and removals.

e. There may be instances where the problems are both performance and conduct. In these cases, action may be taken under either program, or both simultaneously.

2-2. Disciplinary Actions.

a. Maintaining discipline usually is not a problem within a work environment where reasonable rules and standards of conduct and performance are clearly communicated and consistently and equitably enforced. There are situations of misconduct or delinquency, however, where there is no alternative but to discipline. In these instances, management's options, in order of least severe to most severe, include the following informal actions:

- (1) Oral admonishments and written warnings (counseling);
- (2) Reprimands;
- (3) Suspensions for less than 14 days;
- (4) Reductions in grade and/or pay (in some cases); and
- (5) Removals.

b. Formal disciplinary actions, which are also considered adverse actions, include suspensions for more than 14 days, reductions in grade and/or pay, and removals. These formal adverse actions may be appealed to the Merit System Protection Board.

2-3. Constructive Discipline. Constructive discipline is preventive in nature, taken only when necessary, and then, promptly and equitably. Its objectives are to develop, correct, and rehabilitate employees and to encourage their acceptance of appropriate responsibility and standards of conduct. Penalties must not be disproportionate to offenses and should be applied as consistently as possible, considering the particular circumstances of the cause(s) for disciplinary action.

JRTC & FP Pam 690-4

2-4. Burden Of Proof. Preponderance of evidence is evidence which is of greater weight or more convincing than the evidence which is offered in

opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. Styled differently, preponderance of the evidence implies that the employee, more likely than not, is guilty of the misconduct as charged. Management must be prepared to support by a preponderance of the evidence the following:

- a. The reason(s) for the action taken and that the alleged misconduct actually occurred, and
- b. That the disciplinary or adverse action logically may be expected to promote the efficiency of the service, and as such was taken for just cause.

2-5. Just Cause - Seven Key Tests.

a. A basic principle underlying most disciplinary procedures is that management must have "just cause" for imposing the discipline. This standard is set forth in the applicable negotiated agreement. It does not conflict with 5 United States Code (U.S.C.) 7503(a), which provides a "for such cause as will promote the efficiency of the service" standard. "Just cause" was labor and management's capsulation of the statutory standard.

b. The basic elements of just cause which different arbitrators have emphasized have been identified below. These tests, in the form of questions, represent the most specifically articulated analysis of the just cause standard as well as an extremely practical approach.

c. A "no" answer to one or more of the questions means that just cause either was not satisfied or at least was seriously weakened in that some arbitrary, capricious, or discriminatory element was present.

(1) Notice: Did the employer give to the employee forewarning or foreknowledge of the possible or probable consequences of the employee's misconduct?

(2) Reasonable Rule or Order: Was the employer's rule or managerial order reasonably related to the following:

(a) The orderly, efficient, and safe operation of the employer's business; and

(b) The performance that the employer might properly expect of the employee?

(3) Investigation: Did the employer, before administering the discipline to an employee, make an effort to discover whether the employee did in fact violate or disobey a rule or order of management?

(4) Fair Investigation: Was the employer's investigation conducted fairly and objectively?

(5) Proof: At the investigation, did the "judge" obtain substantial evidence or proof that the employee was guilty as charged?

JRTC & FP Pam 690-4

(6) Equal Treatment: Has the employer applied its rules, orders, and penalties evenhandedly and without discrimination to all employees?

(7) Penalty: Was the degree of discipline administered by the employer in a particular case reasonable in relation to the following:

(a) The seriousness of the employee's proven offense; and

(b) The record of the employee in his service with the employer?

2-6. Selecting Appropriate Action.

a. Penalty Selection and Governing Criteria: The determination of which penalty to impose in a particular situation requires the application of responsible judgment. (See the Table of Penalties for Various Offenses at Appendix A.) Disciplinary action taken is based on the terms of the circumstances which prompted it and on the conclusions that there is sufficient evidence available to support the reason(s) for action and that the disciplinary action is warranted and reasonable.

b. In determining the appropriate penalty, management must observe the principle of "like penalties for like offenses in like circumstances." This means that penalties will be applied as consistently as possible.

c. The critical factors, often referred to as the 12 Douglas Factors, which should be considered in selecting the appropriate penalty, are set forth below. Management should consider each factor that applies, as follows:

(1) The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities to include whether the offense was intentional, technical, or inadvertent or was committed maliciously, for gain, or frequently repeated.

(2) The employee's job level and type of employment, to include supervisory or fiduciary role, contacts with the public, and prominence of the position.

(3) The employee's past disciplinary record.

(4) The employee's past work record, to include length of service, performance on the job, ability to get along with fellow workers, and dependability.

(5) The effect of the offense upon the employee's ability to perform at a satisfactory level and upon the supervisors' confidence in the employee's ability to perform assigned duties.

4

(6) The consistency of the penalty with those imposed upon other employees for the same or similar offenses.

(7) The consistency of the penalty with any applicable agency table of penalties.

(8) The notoriety of the offense or its impact upon the reputation of the agency.

(9) The clarity with which the employee was on notice of any rules that were violated in committing the offense, or had been warned about the conduct in question.

(10) The potential for the employee's rehabilitation.

(11) Mitigating circumstances surrounding the offense such as unusual job tensions; personality problems; mental impairment; harassment; or bad faith, malice, or provocation on the part of others involved in the matter.

(12) The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

Chapter 3

Choosing Among Disciplinary Actions

3-1. Categories of Disciplinary Actions.

a. Disciplinary actions fall into two categories: informal and formal. Informal disciplinary actions include oral admonishments and written warnings (counseling). Formal disciplinary actions are letters of reprimand, suspensions, demotions, and removals.

b. Similarly, employee conduct requiring discipline falls into two categories: behavioral offenses for which progressive discipline aimed at correcting the behavior is appropriate and offenses relating to violation of regulations or laws for which punitive sanctions are required.

3-2. Disciplinary Action Options.

a. Once management has reviewed the circumstances surrounding the employee's conduct, and determined that it involves some form of misconduct or delinquency (such as tardiness, failure to properly request leave, insubordination, misappropriation of government property, etc.), management has the option to take disciplinary action.

b. Management has a variety of ways to deal with the situation, depending on the severity of the misconduct. They may decide to impose a lesser disciplinary action, such as oral admonishment or reprimand, or decide to proceed with a more severe penalty, such as suspension, demotion, or removal.

Chapter 4

Informal Disciplinary Actions

4-1. General. Informal disciplinary actions are taken by the supervisor on his own initiative in situations of a minor nature involving unacceptable behavior. They are normally the first steps in progressive discipline for behavioral offenses.

4-2. Oral Admonishment.

a. An oral admonishment is a disciplinary discussion between a supervisor or management official who has authority to take disciplinary action and his employee in which the employee is informed that he has been disciplined by receipt of an oral admonishment. It is a disciplinary action, not an adverse action. It is informal and among the least severe of the Army's penalties.

b. The oral admonishment is used to correct misconduct or delinquency or to motivate employees to improve their work habits, work methods, or behavior. Because of its adaptability to a variety of situations, the oral admonishment is often adequate to effect the required correction or improvement, particularly when the employee has no previous history of violations.

c. In admonishing the employee orally, the supervisor will take action as follows:

(1) Advise the employee of the specific infraction or breach of conduct and exactly when and where it occurred. The employee should be allowed to explain his side of the incident. The supervisor will then advise the employee that continued violations may result in formal disciplinary action.

(2) Prepare a Memorandum for Record (MFR) documenting the admonishment (see sample at Figure 4-1, page 4-3). A copy should be given to, and receipt acknowledged by, the employee. If the employee refuses to acknowledge receipt, the supervisor should annotate on the record copy that the employee refused to acknowledge receipt, indicate the date it was given to the employee, and affix his signature. The supervisor's copy of the MFR should be maintained in the same file as other employee records.

4-3. Written Warning.

a. A written warning is a letter issued to an employee by a supervisor or management official who has the authority to take a disciplinary action. It is a disciplinary action, not an adverse action. It is also informal and among the least severe of the Army's penalties.

b. A written warning is used for the same reasons as the oral admonishment and provides the same information in writing as given orally in an admonishment.

(1) The written warning should advise the employee of the specific infraction or breach of conduct and exactly when and where it occurred. It should also warn the employee that continued violations may result in formal disciplinary action (see sample at Figure 4-2).

(2) A copy should be given to, and receipt acknowledged by, the employee. Acknowledgement of receipt does not indicate agreement with its contents, only that it was received. However, if the employee refuses to acknowledge receipt, the supervisor should annotate on the record copy that the employee refused to acknowledge receipt, indicate the date it was given to the employee, and affix his signature. The supervisor's copy of the written warning should be maintained in the same file as other employee records.

SUBJECT: Oral Admonishment of (Employee's Name, Job Title, Series, and Grade)

1. On (date), (name of employee) was orally admonished by the undersigned for (provide brief but specific details of the offense to include specific incidents, names, dates, times, words stated, rules, regulations, instructions violated, etc.).
2. The purpose of this oral admonishment was to assist the employee in correcting his/her behavior and to inform him/her that the type of conduct demonstrated was unacceptable and should not occur again. The employee was informed that continued conduct of this nature may result in the initiation of formal disciplinary action.
3. Further, the employee was advised of the availability of the Civilian Counseling Services in accordance with JRTC & FP Regulation 690-22.
4. Finally, the employee was requested to acknowledge receipt of this memorandum by signing and dating the record copies and informed that acknowledgement of receipt did not signify agreement with the contents of this memorandum.

(Supervisor's Signature Block)

Acknowledgement of Receipt

This is to certify that I received a copy of this memorandum for record on _____.

(Employee's Name)

Figure 4-1. Preparing an MFR for Oral Admonishment.

6

DEPARTMENT OF THE ARMY

(FIVE LINES FROM TOP OF PAGE)

**HEADQUARTERS, JOINT READINESS TRAINING
CENTER AND FORT POLK
FORT POLK, LOUISIANA 71459-5000**



Reply to
Attention Of

(Office Title)

(Date)

SUBJECT: Letter of Warning

(Employee's Name)
(Job Title, Series, and Grade)
(Organizational Address)
Fort Polk, LA 71459

Dear Mr./Ms. _____:

You are hereby warned for (give the reasons for the letter of warning; describe the delinquency or misconduct).

To support and explain this letter of warning, the following information is provided:

- a. (Provide brief but specific details. Include specific incidents, names, dates, times, words stated, rules, regulations, instructions violated, etc.)
- b. (Use as many subparagraphs as necessary.)

The purpose of this warning is to assist you in correcting your behavior and to inform you that this type of conduct is not to occur again.

If I may be of assistance to you, please contact me. This is extremely important, because continued conduct of this nature may result in the initiation of formal disciplinary action against you which may include your removal from Federal Service. This document will **not** be forwarded for inclusion in your Official Personnel Folder, but it will be maintained in your organizational employee record folder. It will be used to support future actions prompted by any recurrence of behavior referenced herein.

If you believe that a personal problem may be affecting your conduct and/or performance, with your concurrence, I will arrange for an appointment with Civilian Counseling Services in accordance with JRTC & FP Regulation 690-22.

Figure 4-2. Preparing a Letter of Warning.

-2-

(FIVE LINES BEFORE BODY OF TEXT)

It is requested that you acknowledge receipt of this memorandum by signing and dating the record copies. Acknowledgement of receipt does not signify agreement with the contents of this memorandum.

(Supervisor's signature block)

Acknowledgement of Receipt

This is to certify that I received the original of this letter on _____.

Figure 4-2 (Continued). Preparing a Letter of Warning.

JRTC & FP Pam 690-4

**Chapter 5
Formal Disciplinary Actions**

Section I. Letters Of Reprimand

5-1. General.

a. A Letter of Reprimand (LOR) is a formal disciplinary letter issued to an employee by a management official who has the authority to discipline the employee. It is the least severe formal penalty. It is a disciplinary action, not an adverse action, because the causes are due to delinquency or misconduct personally attributable to the employee.

b. The LOR is used to correct significant misconduct, delinquency, and/or repeated minor offenses in order to maintain efficiency, discipline, and morale in the civilian workforce. It is a disciplinary action that should be adequate for situations which require an action more severe than an oral admonishment or written warning and for which the circumstances justify the inclusion of a record of the action in the employee's Official Personnel Folder.

5-2. Supervisory Procedures Before Initiation of Reprimand. When a supervisor is considering a written reprimand to correct misconduct on the part of an employee, he will first conduct an inquiry to obtain all available information concerning the alleged misconduct.

a. The supervisor may elect to discuss the incident with the employee to ensure he knows all of the relevant facts and to give the employee an opportunity to explain the basis for his actions. When a supervisor elects to interview the employee, he has the option of discontinuing the examination at any time and obtaining the information through other sources.

b. Since disciplinary action could result from this interview, the supervisor should remember that some employees may have a legal entitlement to union representation during the interview. The "Weingarten" provision of the controlling negotiated agreement and the Civilian Personnel Advisory Center, Labor/Management-Employee Relations and Training Division are sources for guidance concerning the right to representation during investigatory interviews.

c. If, during the interview, the employee presents an acceptable explanation for his conduct and the supervisor decides that discipline is not warranted, he will consider the matter closed and so advise the employee.

JRTC & FP Pam 690-4

d. If the supervisor decides to discipline the employee, an MFR of the meeting should be prepared. He may also provide the employee the opportunity to submit a written statement.

e. When all necessary information is otherwise available, and discussing the misconduct with the

employee would be unproductive, the supervisor may initiate discipline without an interview.

5-3. Preparation of Formal Written Reprimands.

a. When a supervisor determines that a formal written reprimand is necessary, he must:

(1) Prepare a draft of the LOR and submit it in written format (with an accompanying 3½-inch, high density diskette or as an attachment to an e-mail message to Malletd@POLK-EMH2.ARMY.MIL) to the Civilian Personnel Advisory Center, Labor/Management-Employee Relations and Training Division, for a technical review.

(2) Transmit the LOR by a memorandum detailing the facts and circumstances. Include *all* pertinent documents and evidence (MFRs, witness statements, investigative reports, time and attendance cards, etc.) used to support the reprimand. Requests for reprimands which are not accompanied by adequate documentation or evidence will be returned without action.

(3) Indicate in the memorandum if the misconduct or performance problem is believed to be drug- or alcohol-related. The supervisor should also prepare a statement as to whether or not he has advised the employee of, and offered referral to, Civilian Counseling Services.

b. In the format provided in Figure 5-1, page 5-4, the draft LOR must contain the following:

(1) A description of the offenses in sufficient detail to enable the employee to fully understand the violation, infraction, misconduct, or offense for which he is being censured. Specifics such as time, place, individuals involved, and dates and events leading to the disciplinary action should be included. If the supervisor believes *or has reason to believe* the misconduct or performance problem is drug- or alcohol-related, this should be indicated, along with a statement as to whether the supervisor has advised the employee of, and offered him referral to, Civilian Counseling Services. The supervisor should include documentation of any such offer (i.e., the MFR) and indicate whether the employee accepted or declined the offer.

8

(2) A statement that the reprimand will be made a matter of record and put in the employee's Official Personnel Folder. The statement will specify the period (not less than 1 or more than 3 years, but normally 2 years) the disciplinary action will remain a matter of record.

(3) In the event the reprimand is a follow-up of previous offenses and the action is considered as a continuation of constructive discipline, the former incidents and disciplinary action involved will be restated. Additionally, if the employee failed to take any remedial action to which he previously agreed, that fact should be included.

(4) A warning that future misconduct may result in considering a more severe disciplinary measure.

(5) If appropriate, advice regarding assistance (such as Civilian Counseling Services) available to the employee for remedial purposes or as a means to help overcome the deficiency and prevent recurrences. Additionally, the employee will be informed regarding any specific action required. Advice about the employee's grievance rights or rights to official time to prepare a grievance should not be included. The CPAC, Labor/Management-Employee Relations and Training Division, will include this information in the final version of the letter. See Figure 5-1, page 10, for further instructions.

c. Upon receipt, the CPAC, Labor/Management-Employee Relations and Training Division, will assure that the proposed LOR is consistent with governing regulations and local disciplinary policy and practices, coordinate the action with the Labor Counselor, and finalize the LOR for the supervisor's signature and issuance.

5-4. Follow-Up Actions.

a. After the supervisor (or his designee) delivers the reprimand to the employee, he will give a receipted copy to the CPAC, Labor/Management-Employee Relations and Training Division, and suspend a reminder (for the date the reprimand expires) to review his records and files and remove all references to the reprimand. The Civilian Personnel Advisory Center will take action to cause the removal of the reprimand from the employee's Official Personnel Folder as follows:

- (1) When the reprimand expires; or
- (2) When the employee leaves the rolls of the employing activity; or

(3) Upon determination through an appropriate adjudicatory procedure, or by an appropriate management official of the involved activity, that the reprimand is unwarranted and must be withdrawn; or

(4) Upon a determination by the issuing
REPLY TO
ATTENTION OF: supervisor that the employee has sufficiently corrected his behavior and that the LOR has served its purpose.

b. When the reprimand is withdrawn from the Official Personnel Folder, the supervisor must remove all references to the reprimand in his personnel records unless the reprimand has been cited or relied upon in another disciplinary action. In that case, a copy of the LOR will be kept in the adverse action file in the CPAC, Labor/Management-Employee Relations and Training Division, to document the employee's disciplinary record.

(Office Title)

(Date)

SUBJECT: Letter of Reprimand



(Employee's Name)

(Job Title, Series and Grade)

(Organizational Address)

Fort Polk, Louisiana 71459

Dear Mr./Ms. _____:

You are hereby officially reprimanded for (give the reasons for the LOR and describe the specific delinquency or misconduct).

To support and explain this letter of reprimand, the following information is provided:

a. (Provide brief but specific details. Include specific incidents, names, dates, times, words stated, rules, regulations, instructions violated, etc.)

b. (Use as many subparagraphs as necessary.)

In reaching this decision I have carefully considered (any previous disciplinary record, including formal and informal actions. Any informal actions listed must be documented and should show that the employee reviewed, received, or acknowledged receipt of the documentation; actions for which this is not evident should not be considered. Justification for corrective action outside the parameters of the Table of Penalties may be addressed as well. Also list any other considerations, e.g., Douglas Factors. If appropriate, considerations that affect the severity of the penalty may be addressed.)

As a Federal employee, you have the responsibility to observe and maintain a high standard of conduct. However, by your actions you have demonstrated a

Figure 5-1. Preparing a Letter of Reprimand.

9

JRTC & FP Pam 690-4

(describe the negative impact of the conduct) which cannot be condoned or tolerated. Moreover, your unacceptable behavior handicaps the efficiency of this organization and the Federal Service. Therefore, this letter of reprimand is for just cause. It is designed to promote the efficiency of this organization and the Federal Service by assisting you in correcting your behavior to prevent a recurrence of the incident(s) described above. This type of conduct is not to occur again.

JRTC & FP Pam 690-4

**DEPARTMENT OF THE ARMY
HEADQUARTERS, JOINT READINESS TRAINING
CENTER AND FORT POLK
FORT POLK, LOUISIANA 71459-5000**

If you need assistance, please contact me. This is extremely important because continued conduct of this nature may result in a more severe disciplinary action being initiated against you, which may include suspension or removal from the Federal Service.

This letter will become part of your Official Personnel Folder for a period of 2 years from the date of your receipt of this letter, unless determined through the grievance procedure to be unwarranted or removed under other conditions outlined in AR 690-700, Chapter 751.

(Grievance rights and representational rights will be included here by the CPAC, Labor/ Management-Employee Relations and Training Division.)

You may review any material used or relied upon to support this action at the CPAC, Labor/ Management-Employee Relations and Training Division, Building 412. Mr./Ms. (Management-Employee Relations Specialist), telephone 531-4431/2804, is available to assist you in any appropriate way.

If you believe that a personal problem may be affecting your conduct and/or performance, with your concurrence, I will arrange for an appointment with Civilian Counseling Services in accordance with JRTC & FP Regulation 690-22.

You are asked to acknowledge receipt of this letter by signing and dating the record copies. Acknowledgement of receipt does not signify

Figure 5-1 (Continued). Preparing a Letter of Reprimand.

10

agreement with the contents of this letter.

Respectfully,

(Supervisor's signature block)

Acknowledgement of Receipt

This is to certify that I received the original of this letter on _____.

(Employee's name)

Figure 5-1 (Continued). Preparing a Letter of Reprimand.

Section II. Suspensions

5-5. General.

a. A suspension is an action which places the employee in a temporary status without duties and pay for disciplinary reasons. A suspension, regardless of duration, is an adverse action and considered a severe disciplinary action. Ordinarily, it is the final step in the disciplinary process before removal action and is accompanied by a warning to the employee that further violation of rules could result in removal.

b. A suspension prevents an employee from performing work and denies salary for the suspension period. Therefore, a suspension may not be imposed for indebtedness or for performance-related factors in nondisciplinary situations.

c. The period of suspension is normally expressed in calendar days and seldom exceeds 30 days. An employee's adverse action protection differs between a suspension for 14 calendar days or less and a suspension for more than 14 calendar days. The term "workdays" is used in lieu of "calendar days" when the number of days suspended is equivalent to or less than the number of duty days in the employee's work week.

d. A proposed suspension may be lessened or mitigated to a suspension of a lesser number of days or to a lesser penalty, such as a reprimand or oral admonishment, after taking into consideration the

employee's answer, the totality of the evidence, the potential for the employee's rehabilitation, and other factors. The decision letter would reference the original disciplinary action proposed and then indicate that the action has been mitigated to a lesser penalty.

5-6. Suspension for 14 Days or Less. An employee against whom a suspension for 14 days or less is proposed is entitled to the following:

- a. An advance written notice stating the specific reason(s) for the proposed action.
- b. A reasonable time to answer orally, in writing, or both and to furnish affidavits and other documentary evidence in support of the answer. The employee must be given not less than 24 hours; however, this period is normally not less than 5 calendar days.
- c. Representation by an attorney or other representative .
- d. A written decision and the specific reason(s) for the decision at the earliest practicable date.

5-7. Suspension for More Than 14 Days . An employee against whom a suspension for more than 14 days is proposed is entitled to the following:

- a. At least 30 days' advance written notice.
- b. A reasonable time, but not less than 10 calendar days, to answer orally, in writing, or both and to furnish affidavits and other documentary evidence in support of the answer.
- c. Representation by an attorney or other representative.
- d. A reasonable amount of official time to review the material relied upon to support the proposed action, to prepare an answer, and to secure affidavits, if the employee requests time and is otherwise in an active duty status. However, if the employee is covered by a negotiated agreement (union contract), the provisions of that agreement must be followed.
- e. A written decision and the specific reason(s) for the decision at the earliest practicable date.

5-8. Supervisory Procedures to Initiate a Suspension. When, after having conducted an inquiry to determine the facts, the supervisor concludes that a suspension is necessary, he should prepare a memorandum through his supervisor to the CPAC, Labor/Management-Employee Relations and Training Division, requesting assistance. He should refer to the Weingarten provision of the controlling

JRTC & FP Pam 690-4

negotiated agreement or contact the CPAC, Labor/Management-Employee Relations and Training Division, for guidance concerning the right to representation regarding investigatory interviews. At a minimum, the memorandum must contain the following information :

- a. A description of the offense in sufficient detail to enable the employee to fully understand the violation, infraction, misconduct, or offense for which he or she is being disciplined.
- b. The proposed duration of the suspension. If the proposed penalty exceeds the Table of Penalties, the

supervisor must justify, in detail, the more harsh penalty.

c. The specific incident(s) which serve as the basis for the suspension. This will include names, dates, times, words stated, and the rules, regulations, and/or instructions that were violated.

d. Considerations made that affect the severity of the proposed suspension.

(1) Previous disciplinary record including formal and informal actions. Any informal actions listed must be documented and should show that the employee reviewed, received, or acknowledged receipt of the documentation. Actions for which this is not evident should normally not be considered.

(2) Any other considerations (e.g., Douglas Factors).

e. If the suspension is a follow-up to previous discipline and action is considered as a continuation of constructive discipline, a restatement of the former incidents and disciplinary action involved. If the employee failed to take any remedial action to which he previously agreed, a statement to that effect will be included.

f. If the supervisor believes *or has reason to believe* the misconduct or performance problem is drug- or alcohol-related, this should be indicated, along with a statement as to whether the supervisor has advised the employee of, and offered him referral to, Civilian Counseling Services. Documentation of any such offer (i.e., the MFR) should be included, along with an indication as to whether the employee accepted or declined the offer.

g. Information regarding any assistance provided the employee (e.g., the Civilian Counseling Services Program, added training, and counseling) for remedial purposes or as a means to help overcome the deficiency or to avoid recurrence.

h. Nexus. That is, the connection between the offense committed and its effect on either the job or the organization.

JRTC & FP Pam 690-4

i. *All* documentary evidence which supports the proposed suspension including but not limited to reports of investigations, statements of witnesses, time cards, log books, etc.

5-9. Action by the Second-Line Supervisor. Upon receipt of the memorandum requesting assistance, the second-line supervisor will conduct a review to determine that the information set forth in paragraph 5-8 above has been provided. His initials on the "THRU" line will indicate that the review was conducted.

5-10. Action By The Directorate Of Civilian Personnel, Labor/ Management-Employee Relations And Training Division. Upon receipt of a memorandum requesting assistance in effecting a suspension, the CPAC, Labor/ Management-Employee Relations and Training Division, will conduct a technical review of the proposal to ensure that it is procedurally sound. If it is determined that the request is lacking, it will be returned without action, along with an explanation of the reason for its return. If the request can be acted upon, the CPAC, Labor/Management-Employee Relations and Training Division, will prepare a notice of proposed suspension and will coordinate with the Labor Counselor. The Labor Counselor will determine whether the proposal is legally supportable.

5-11. Role of the Deciding Official.

a. The Deciding Official, normally a Division Chief or higher, will be designated to make the final decision to impose, not impose, or reduce the severity of the suspension.

b. In any proposed suspension, employees are given the right to reply orally and/or in writing, stating "any and all" reasons why the proposed action should not be taken. In the proposal letter, the employee is instructed that such replies must be made only to the designated Deciding Official; replies made or delivered to anyone else need not be accepted or considered. Replies must also be made within a certain time frame as specified in the proposal letter; employees may request an extension of the time period allowed to reply, in writing, and must state the reasons why more time is needed.

c. The Deciding Official must impartially review all the evidence of record, give full and impartial consideration to any reply the employee makes, and determine the validity of the proposed action. Some important procedural concerns which, if violated,

employee was not informed of or which the employee was not allowed to review.

d. If the employee decides to reply, he may reply orally, in writing, or both.

(1) The oral and written replies may be presented at different times, and there may be more than one written and more than one oral reply.

(a) The Deciding Official should control the time, place, and setting of the oral reply.

(b) In hearing the oral reply, the Deciding Official should make notes of the points presented and summarize them in an MFR of the meeting. The employee and his representative must be given a copy of this MFR. It is good practice to have the employee sign indicating that the MFR represents the substance of his oral reply.

(2) At no time during the pre-decision stage may the Deciding Official make comments, commitments, or observations which would indicate either that he has made a decision or is predisposed in either direction.

(3) The Deciding Official should not argue with the employee about the merits of the proposed action. He should remain calm, neutral, attentive, and open-minded.

(4) Additionally, the Deciding Official should not say anything which indicates that he has anything less than full authority to make a decision or that a higher level supervisor or the Commander will be making the final decision. If the Deciding Official has not been given full authority to make a decision in the matter, he should notify the servicing Management-Employee Relations (MER) Specialist.

e. In spite of the controls imposed regarding the employee's right to reply, employees often ignore them. For example, the employee may submit a reply late without having obtained an extension, or the employee may try to reply to someone other than the designated official.

12

could result in the action being overturned on appeal are as follows:

(1) No decision should be made until full and impartial consideration has been given to any and all replies made by the employee. The Deciding Official should be careful not to give the appearance of having made up his mind prematurely.

(2) The employee has the right to be informed of, and reply to, all charges which influence the Deciding Official's decision. The employee has a right to review all material relied upon in proposing the action. Management should ensure that there is no material which influences the decision that the

(1) If the employee fails to follow instructions in presenting a reply, there are grounds for ignoring the reply. Unless there is a very good reason for disallowing the reply, however, it is always best to be liberal in accepting and giving full consideration to any reply the employee makes.

(2) The Deciding Official should be careful to consider all replies the employee makes. Should the employee stop in the hall and say something about the proposed action, the Deciding Official should caution the employee that the reply is to be made at a certain time and place. Treat any comments made as a reply. In any event, the Deciding Official

should write an MFR, give the employee a copy, and reference the reply in the decision letter.

f. If the employee raises a question of health, either physical or mental, as an excuse, explanation, or mitigating circumstance, the Deciding Official is obligated to inform the employee of his responsibility to provide medical documentation; to articulate a reasonable accommodation, if any; to explain how the medical condition caused or is related to the misconduct in question; and to explain how the accommodation requested will enable the employee to provide useful and efficient service. An exception to these documentation requirements is a situation where an employee offers dependence on alcohol or drugs as an excuse or mitigating circumstance. *In either situation, the Deciding Official should call the servicing MER for additional guidance on what can be a complicated issue.*

g. Once the reply period (plus any extension granted) has expired, the Deciding Official is ready to start the decision process. In addition to the notice of proposed action, the MFR(s) of any oral reply, and any written reply, there are a number of other factors the Deciding Official will need to consider in making a decision. The Douglas Factors are not all-inclusive; there may be other mitigating circumstances which are pertinent. After considering all the information available, the decision will be one of the following:

(1) The proposed action is sustained. The employee either did not reply or failed to offer any valid/acceptable reasons for his actions, and the record shows that the proposed action is warranted.

(2) The penalty is reduced. The employee is guilty of the infraction. However, there are relevant, extenuating circumstances which warrant a less severe penalty within the range provided by the Department of the Army Table of Penalties for Various Offenses.

JRTC & FP Pam 690-4

(3) The proposed action is canceled. The employee's response clearly justifies his action, and the penalty is unwarranted.

h. The Deciding Official cannot impose a more severe penalty than the one proposed. If for some reason additional facts come to light, or it is strongly felt that a more severe penalty is warranted, the employee must be issued a new proposal letter and **JRTC & FP Pam 690-4**

reviewed to ensure that they support the conclusion that the employee has demonstrated unwillingness or refusal to conform to the rules of conduct or has breached the employee-employer relationship, that other rehabilitation is not appropriate, and that

given additional time to reply. A decision must then be made by a higher level official.

i. In order to meet regulatory requirements that disciplinary action be taken in a timely manner, the decision should be rendered as soon as possible after expiration of the reply period. The following information should be submitted to the CPAC, Labor/Management-Employee Relations and Training Division:

(1) The employee's written reply, if any.

(2) The MFR (signed by the employee) documenting the substance of any oral reply.

(3) For suspension actions, a Standard Form 52, Request for Personnel Action, suspending the employee. Dates should be coordinated with the servicing MER.

j. Based upon the above-listed material, a formal notice of decision will be prepared by the MER for the Deciding Official's signature which will inform the employee of the decision and inform the employee of any rights he may have to grieve or appeal the action. A copy of the Standard Form 50, Notification of Personnel Action, will also be forwarded to the employee.

k. If management has any questions or needs assistance at any time during these proceedings, they should call the CPAC, Labor/Management-Employee Relations and Training Division.

Section III. Removals

5-12. General. A removal is the involuntary separation of an employee from Army employment. It terminates the employee's status as an Army employee and, in some cases, may bar the individual from future Army or Federal employment. A disciplinary removal is the most severe disciplinary action. It is considered rehabilitative even though it severs the Army employee-employer relationship.

5-13. Prerequisites.

a. Before a removal is initiated, the facts and circumstances in the case must be carefully

removal is warranted for the offense(s). A removal for misconduct may be based upon the employee's actions on or off the job.

b. Normally, a progression of disciplinary measures is taken in an effort to rehabilitate the employee before management decides to remove the individual. Removal for misconduct is preceded by

such a progression, unless the misconduct is so serious or the violation of rules and regulations so flagrant that discharge for a first or second offense is clearly warranted.

5-14. Employee Entitlements. An employee against whom a removal is proposed is entitled to the following:

- a. At least 30 days' advance written notice.
- b. A reasonable time, but not less than 10 calendar days, to answer orally, in writing, or both and to furnish affidavits and other documentary evidence in support of the answer.
- c. Representation by an attorney or other representative.
- d. A reasonable amount of official time to review the material relied upon to support the proposed action, to prepare an answer, and to secure affidavits, if the employee requests time and is otherwise in an active duty status. However, if the employee is covered by a negotiated agreement (union contract), the provisions of that agreement must be followed.
- e. A written decision and the specific reason(s) for the decision at the earliest practicable date.

5-15. Supervisory Procedures to Initiate a Removal. The procedures set forth in paragraph 5-8 of this pamphlet are equally applicable to initiating a removal. That is, the same procedures should be followed when requesting assistance to initiate a removal.

5-16. Action by the Second-Line Supervisor; the Civilian Personnel Advisory Center, Labor/Management-Employee Relations and Training Division; and the Deciding Official. Actions required by the second-line supervisor; the Civilian Personnel Advisory Center, Labor/Management-Employee Relations and Training Division; and the Deciding Official in effecting a removal

14

are the same as those required for suspensions. See paragraphs 5-9, 5-10, and 5-11 of this pamphlet.

Section IV. Reduction in Grade and/or Pay (Demotion)

5-17. General.

- a. The normal options for penalties in response to an employee's misconduct or delinquency are oral admonishment, reprimand, suspension, and removal. However, before a decision is made to remove, another disciplinary option may be a more

appropriate response to an employee's misconduct, reducing him in grade and/or pay.

b. In effect, management would demote the employee either by redesigning his current position to a lower grade or by moving him to a different, lower-graded position. The change to lower grade may be within the employee's current work center, or it may be to another position elsewhere on the installation. It must be to a position that is available to fill, for which the employee qualifies, and in which management has agreed to place the employee knowing the reasons for the placement action.

5-18. Supervisory Procedures. In addition to the information required in paragraph 5-8 of this pamphlet, supervisors should notify the Civilian Personnel Advisory Center, Labor/Management-Employee Relations and Training Division, of the position to which the employee may be demoted; provide information that appropriate levels of management in the gaining organization are aware of the circumstances and willing to accept the employee, if he qualifies. Upon receipt, the Civilian Personnel Advisory Center, Labor/Management-Employee Relations and Training Division, will take appropriate action to provide the requested assistance.

Appendix A

Table Of Penalties For Various Offenses (Extracted from AR 690-700, Chapter 751)

A. Behavioral Offenses For Which Progressive Discipline Is Appropriate

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
1. Insubordination	Refusal to obey orders, defiance of authority	Written reprimand to removal	5-day suspension to removal	Removal	
2. Fighting/creating a disturbance*	a. Creating a disturbance resulting in an adverse effect on morale, production, or maintenance of proper discipline.	Written reprimand to 5-day suspension	5- to 10- day suspension	10-day suspension to removal	*Penalty may be exceeded if work is severely disrupted.
	b. Threatening or attempting to inflict bodily harm without bodily contact.	Written reprimand to 14-day suspension	14-day suspension to removal	30-day suspension to removal	*Penalty may be exceeded based on such factors as type of threat, provocation, extent of injuries, whether actions were defensive or aggressive in nature, or whether actions were directed at a supervisor.

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
	c. Hitting, pushing or other acts against another without causing injury.	Written reprimand to 30-day suspension	30-day suspension to removal	Removal	
	d. Hitting, pushing or other acts against another causing injury.	Written reprimand to removal	Removal		
3. Sleeping on duty	a. Where safety of personnel or property is not endangered.	Written reprimand to 1-day suspension	1- to 5- day suspension	5-day suspension to removal	
	b. Where safety of personnel or property is endangered.	1-day suspension to removal	Removal		
4. Loafing; delay in carrying out instructions	a. Idleness or failure to work on assigned duties.	Written reprimand to 3-day suspension	1- to 5- day suspension	5-day suspension to removal	
	b. Delay in carrying out or failure to carry out instructions within the time required.	Written reprimand to 3-day suspension	1- to 5- day suspension	5-day suspension to removal	

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
5. Attendance related offenses	a. Any absence from the regularly scheduled tour of duty which has not been authorized and/or for which pay must be denied (AWOL) or any absence from management directed additional hours of duty (Unauthorized Absence). Includes leaving the work site without permission.	Written reprimand to 5-day suspension	1- to 14- day suspension	5-day suspension to removal	Penalty depends on length of absences. Removal may be appropriate for 1st or 2nd offense if the absence is prolonged.
	b. Failure to follow established leave procedures.	Written reprimand to 5-day suspension	1- to 5- day suspension	5-day suspension to removal	
	c. Unexcused tardiness.	Written reprimand to 1-day suspension	1- to 3- day suspension	1- to 5- day suspension. Habitual tardiness warrants removal.	Includes delay in reporting at the scheduled starting time, returning from lunch or break periods, and returning after leaving workstation on official business. Penalty depends on length and frequency of tardiness.



OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
6. Unauthorized use of alcohol, drugs or controlled substances	a. Unauthorized possession or transfer of alcoholic beverages while on Government premises or in a duty status.	Written reprimand to 5-day suspension	5- to 14- day sus-pension	14-day suspension to removal	Penalty may be exceeded when aggravating circumstances are present. See AR 600-85.
	b. Unauthorized use of alcoholic beverages while on government premises or in a duty status.	Written reprimand to 14-day suspension	14- to 30-day suspension	30-day suspension to removal	
	c. Reporting to work or being on duty while under the influence of alcohol, a drug, or a controlled substance to a degree which would interfere with proper performance of duty, would be a menace to safety, or would be prejudicial to the maintenance of discipline.	Written reprimand to 30-day suspension. Removal may be warranted if the safety of personnel or property is endangered.	14-day suspension to removal	Removal	
	See para 13 for other drug-related offenses.				

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
7. Discourtesy	a. Discourtesy, e.g., rude, unmannerly, impolite acts or remarks (non-discriminatory).	Written reprimand to 1-day suspension	1- to 5- day suspension	3- to 10- day suspension	Penalty for a fourth offense within 1 year may be 14-day suspension to removal. Penalty may be exceeded if discourtesy or similar conduct was directed at a supervisor.
	b. Use of abusive or offensive language, gestures or similar conduct (non-discriminatory).	Written reprimand to 10-day suspension	5-day suspension to removal	30-day suspension to removal	
8. Gambling	a. Participating in an unauthorized gambling activity while on government premises or in a duty status.	Written reprimand to 1-day suspension	1- to 5- day suspension	5- to 30- day suspension	See AR 600-50.
	b. Operating, assisting or promoting an unauthorized gambling activity while on Government premises or in a duty status or while others involved are in a duty status.	14-day suspension to removal	Removal		

B. OFFENSES WARRANTING PUNITIVE DISCIPLINE

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
9. Indebtedness	Failure to honor valid debts where agency mission or employee performance are affected.	Written reprimand	Written reprimand to 1-day suspension	Written reprimand to 5-day suspension	See AR 690-700, Chap 735, App E. There must be a clear nexus between efficiency of the service and the debt complaint.
10. False statements	a. False statements, misrepresentation, or fraud in entitlements; includes falsifying information on a time card, leave form, travel voucher, or other document pertaining to entitlements.	Written reprimand to removal	30-day suspension to removal	Removal	See AR 690-700, Chapter 751, para 2-1. Removal is warranted for a first offense.
	b. False statements or misrepresentations on an SF 171, or other documents pertaining to qualifications, or on any official record not otherwise enumerated.	Written reprimand to removal	14-day suspension to removal	30-day suspension to removal	See AR 690-700, Chapter 751, para 2-1. Removal is warranted when selection was based on a falsified SF 171 where falsification was intentional (i.e., not an omission or where intent can be proven), or where the employee occupies a fiduciary position.

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
	c. Knowingly making false or malicious statements against co-workers, supervisors, subordinates, or government officials with the effect of harming or destroying the reputation, authority, or official standing of that individual or an organization.	Written reprimand to removal	Removal		
	d. Deliberate misrepresentation, exaggeration, concealment, or withholding of a material fact. Includes perjury, making false sworn statements, and lying to a supervisor.	Written reprimand to removal	5-day suspension to removal	10-day suspension to removal	
11. Stealing	Stealing, actual or attempted; unauthorized possession of government property or property of others; or collusion with others to commit such acts.	14-day suspension to removal	Removal		See para 2-1. Penalty depends on the value of property involved and the nature of the position held by offending employee; either or both of which may dictate a higher standard of conduct.

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
12. Misuse or abuse of Government property	a. Using Government property or Federal employees in a duty status for other than official purposes.	Written reprimand to removal	1-day suspension to removal	14-day suspension to removal	Ref AR 600-50. Penalty depends on the value of the property, amount of employee time involved, and the nature of the position held by the offending employee; any of which may dictate a higher standard of conduct.
	b. Loss of or damage to government property, records, or information when an employee is entrusted in safeguarding Government property as an absolute requirement of the job (e.g., cashier, warehouse worker, property book officer).	Written reprimand to 14-day suspension	Written reprimand to removal	14-day suspension to removal	
	c. Willfully using or authorizing the use of a government passenger motor vehicle or aircraft for other than official purposes.	30-day suspension to removal	Removal		See 31 USC 1349. Penalty cannot be mitigated to less than 30 days.

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
13. Unauthorized use or possession of a controlled substance	d. Misuse of Government credentials.	Written reprimand to removal	5-day suspension to removal	14-day suspension to removal	
	e. Intentionally mutilating or destroying a public record.	Removal			18 USC 2071
	a. Introduction of controlled substance to a work area or government installation for personal use.	3-day suspension to removal	Removal		
14. Failure to observe written regulations, orders, rules, or procedures	b. Introduction of a controlled substance to a work area or government installation in amounts sufficient for distribution or distribution of a controlled substance on a government installation.	Removal			
	a. Violation of administrative rules or regulations where safety to persons or property is not endangered.	Written reprimand to 1-day suspension	1- to 14- day suspension	5-day suspension to removal	

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
	b. Violation of administrative rules or regulations where safety to persons or property is endangered.	Written reprimand to removal	30-day suspension to removal	Removal	
	c. Violations of official security regulations. Action against National Security.				
	(1) Where restricted information is not compromised and breach is unintentional.	Written reprimand to 5-day suspension	1- to 14- day suspension	5-day suspension to removal	See AR 604-5 and 5 USC 7532.
	(2) Where restricted information is compromised and breach is unintentional.	Written reprimand to removal	30-day suspension to removal	Removal	
	(3) Deliberate violation.	30-day suspension to removal	Removal		

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
15. Discrimination because of race, color, religion, age, sex, national origin, political affiliation, handicap, or marital status.	Prohibited discriminatory practice in any aspect of employment (e.g., employment, appraisal, development, advancement, or treatment of employees). Includes failure to prevent or curtail discrimination of a subordinate when the supervisor knew or should have known of the discrimination.	Written reprimand to removal			Appropriate penalty depends on the facts in a given case weighed against DA policy that discrimination is prohibited
	a. Involving a subordinate.	1-day suspension to removal	10-day suspension to removal	30-day suspension to removal	Appropriate penalty depends on the facts in a given case weighed against DA Policy that sexual harassment will not be tolerated.
	b. Not involving a subordinate.	Written reprimand to 30-day suspension	5-day suspension to removal	10-day suspension to removal	Where conduct created a hostile or offensive work environment, removal is warranted for a first offense.

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
17. Constitutional violation	Violation of employee's constitutional rights (i.e., freedom of speech/association/religion).	Written reprimand to removal	5-day suspension to removal	30-day suspension to removal	
18. Conduct unbecoming a Federal employee	a. Immoral, indecent, or disgraceful conduct.	1-day suspension to removal	Removal		Includes off-duty conduct if nexus is established.
	b. Solicitation of or accepting anything of monetary value from person who is seeking contracts or other business or financial gain.	10-day suspension to removal	Removal		
19. Refusal to testify; interference or obstruction	a. Refusal to testify or cooperate in a properly authorized inquiry or investigation.	1-day suspension to removal	5-day suspension to removal	Removal	Witness shall be assured freedom from restraint, interference, coercion, discrimination, or reprisal in their testimony.
	b. Interference with, attempting to influence, or attempting to alter testimony of witnesses or participants.	5-day suspension to removal	10-day suspension to removal	Removal	

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
	c. Attempting to impede investigation or to influence investigating officials.	10-day suspension to removal	30-day suspension to removal	Removal	
20. Political activity	a. Violation of prohibition against soliciting political contributions.	Removal			5 USC 7323, 7324, and 7325
	b. Violations of prohibition against campaigning or influencing elections.	30-day suspension to removal	Removal		
21. Misappropriation	a. Directing, expecting, or rendering services not covered by appropriations.	Removal			5 USC 3103
	b. Failure to deposit into the Treasury money accruing from lapsed salaries or from unused appropriations from salaries.	Removal			5 USC 5501
22. Job actions	Participating in or promoting a strike, work stoppage, slow down, sick out, or other job actions.	Removal			

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
23. Reprisal	a. Intentional interference with an employee's exercise of, or reprisal against an employee for exercising a right to grieve, appeal, or file a complaint through established procedures.	Written reprimand to removal	5-day suspension to removal	30-day suspension to removal	
	b. Reprisal against an employee for providing information to an Inspector General, MSPB Office of Special Counsel, EEOC or USACARA investigator, or for testifying in an official proceeding.	Written reprimand to removal	5-day suspension to removal	30-day suspension to removal	
	c. Intentional interference with an employee's exercise of, or reprisal against an employee for exercising a right provided under 5 USC 7101 <u>et seq</u> (governing Federal Labor-Management Relations).	Written reprimand to removal	5-day suspension to removal	30-day suspension to removal	

OFFENSE	NATURE OF OFFENSE	FIRST OFFENSE	SECOND OFFENSE	THIRD OFFENSE	REMARKS
	d. Finding by MSPB of refusal to comply with MSPB order or finding of intentional violation of statute causing issuance of a special counsel complaint.	Written reprimand to removal	Removal		5 USC 1206 (g) (1) and 1207 (b)