

ARS □ CSREES □ ERS □ NASS

Policies and Procedures

Title: Misconduct, Discipline, and Adverse Action

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Labor and Employee Relations Branch

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Distribution: Headquarters, Areas and Locations
(Provide copies to supervisors and managers)

This DIRECTIVE:

- Assigns responsibilities for the ARS disciplinary program;
- Prescribes procedures for reporting misconduct and effecting disciplinary action;
- Lists delegations of authority to take disciplinary and adverse actions.

Table of Contents

1.	REFERENCES.....	4
2.	ABBREVIATIONS	4
3.	FORM.....	4
4.	AUTHORITIES	4
5.	POLICY	5
6.	DELEGATIONS OF AUTHORITY	5
7.	RESPONSIBILITIES	5
	Administrator and Area Directors	5
	Employees	5
	Supervisors	6
	LERB.....	6
	Deciding Officials in Disciplinary and Adverse Action Cases	7
8.	DISCIPLINARY SITUATIONS	7
	Misconduct	7
	Safety, Health, and Environmental Violations	7
	AWOL.....	7
	Sexual Harassment.....	8
8.	INVESTIGATION OF MISCONDUCT BY OIG	9
9.	REPORTING MISCONDUCT.....	9
	Reporting Known or Suspected Violations	9
	Maintaining Investigative Information in Confidence--OIG "HOTLINE.....	10
	Prohibited Personnel Practices and Prohibited Political Activity.....	11
	Certain Motor Vehicle Accidents	11
	Written Reports of Misconduct	11
	Oral Reports.....	11
11.	MISCONDUCT RELATED TO THE USE OF ALCOHOL OR DRUGS.....	12
12.	MEANS OF HANDLING MISCONDUCT	12
	Counseling or Verbal Warnings.....	12

A Letter of Admonishment, Caution, or Warning	12
A Letter or Reprimand.....	13
A Suspension of 14 Calendar Days or Less.....	13
A Suspension of More Than 14 Calendar Days	14
Reduction in Grade and Pay	14
Removal.....	15
Status During Notice Period	15
Nonduty, Pay Status	15
Enforced Leave	15
 13. CRITERIA FOR DETERMINATION OF APPROPRIATE PENALTY	 15
 EXHIBIT 1	 18
 Exhibit 2	 19
 Exhibit 3	 29

1. REFERENCES

For information on reporting accidents see DIRECTIVE 231.1

For information on the Employee Assistance Program, see DIRECTIVE 235.4

For information on Leave, see DIRECTIVE 402.6

For information on Employee Grievances, see DIRECTIVE 463.2

2. ABBREVIATIONS

- AWOL - Absent Without Leave
- EAP - Employee Assistance Program
- FTS - Federal Telecommunications System
- GM - Pay Plan for Performance Management and Recognition Systems Employees
- GS - General Schedule
- LERB - Labor and Employee Relations Branch
- MSPB - Merit Systems Protection Board
- OIG - Office of Inspector General
- OP - Office of Personnel
- OPM - Office of Personnel Management
- PD - Personnel Division
- POB - Personnel Operations Branch
- U.S.C. - United States Code

3. FORM

SF-52 - Request for Personnel Action

4. AUTHORITIES

- Federal Personnel Manual, Chapters 751 and 752
- Department Personnel Manual, Chapters 751 and 752
- United States Code, Chapter 75
- Code of Federal Regulations, Part 752
- 31 U.S.C. 1344 and 1349

5. POLICY

ARS will take prompt, fair, and effective disciplinary action against employees who violate laws, regulations, or instructions. Officials will exercise sound judgment so that an employee will not be penalized out of proportion to the character of the offense. At the same time, however, effective disciplinary measures must be applied to protect the interests of the Agency and to serve as a deterrent to the employee involved as well as to other employees. Action may not be taken under this DIRECTIVE for partisan political reasons nor may actions under this DIRECTIVE be based on discrimination because of marital status, sex, race, creed, color, national origin, age, religion, or physical or mental handicap.

No demand will be made of an employee to resign or retire to keep from being discharged. A resignation or retirement obtained in this manner or obtained by means of duress, time pressure, intimidation, or deception is improper. However, if an employee raises questions or initiates discussions concerning the effect of voluntary resignation or retirement on a proposed adverse action, information will be provided after consultation with the LERB.

6. DELEGATIONS OF AUTHORITY

See Exhibit 1 of this DIRECTIVE

7. RESPONSIBILITIES

Administrator and Area Directors: The Administrator and Area Directors (or designated officials) are responsible for actions that will ensure the enforcement of laws, Department regulations and Agency instructions and will:

- Instruct employees that they are required to report known or suspected violations of laws or regulations except when furnishing such information would tend to incriminate them if they are not granted "use immunity" on the information.
- Inform all employees of the existence of the OIG Hotline (1-800-424-9121) which they can use to report violations of laws and regulations directly to OIG if they believe the normal supervisory channels are not appropriate.

Employees will refrain from activity which is contrary to or in violation of the requirements of laws, rules, or regulations and report to his/her immediate supervisor (to other authority when appropriate) acts of misconduct by other U.S. Government employees.

Supervisors will:

- Orient new employees in general conduct requirements as provided by the Employee Responsibilities and Conduct Handbook, Appendix I, and orient employees in the specific conduct requirements of their positions. New employees should also be provided with a copy of Appendix I.
- Counsel subordinate employees in a timely manner concerning questionable conduct, pointing out specific areas of deficiency, specific improvements required, and the possible consequences of continued conduct deficiencies. Supervisory counseling should include an offer to assist the employee in improving his/her conduct and to be available, within reasonable limitations, for any further consultation that the employee may request. Advise the employee of the availability of the EAP for assistance in handling any alcohol, drug, or any other personal problem including stress, financial, marital, family, legal or emotional difficulties. Refrain from making a determination as to whether or not the employee actually has a problem, diagnosing a suspected problem, and assuming the role of an EAP Counselor in dealing directly with the employee's problem. Counseling sessions should be documented and a copy of the record should be provided to the employee.
- Consult with an EAP Counselor in accordance with DIRECTIVE 235.4 to obtain assistance in the process of referring an employee to EAP.
- Promptly report instances of improper conduct to the LERB through appropriate channels.

Any supervisor or management official who fails to report known or suspected misconduct may be subject to disciplinary action. The supervisor must report misconduct even though he/she may believe that disciplinary action is not warranted based upon circumstances of the case.

LERB will:

- Assist supervisors in interpreting and applying conduct requirements and standards.
- Assist supervisors in documenting specific instances of misconduct.
- Advise OP of misconduct and prepare recommendation for appropriate disciplinary or adverse action in all cases in which action cannot be taken under delegated authority; i.e., against employees who are in the following positions:
 - Schedule C, Senior Executive Service, and Public Law 313 positions.
 - GS or GM-14, equivalent, or higher positions.

- Process actions of a disciplinary nature such as suspensions, reassignments, demotions, and removals, in accordance with the applicable ARS, USDA, and OPM guidelines.
- Ensure that all disciplinary penalties are consistent and defensible.

Deciding Officials in Disciplinary and Adverse Action Cases will:

- Receive written and oral replies from employees against whom action has been proposed. Oral replies may be received by a designee.
- Make further inquiries as necessary to resolve any questions or discrepancies that exist after receipt of an employee's reply.
- Consider any medical documentation submitted by the employee, which attributes the conduct in question to an existing medical condition.
- Consider pertinent factors listed in Section 11.
- Make and issue decisions on suspensions, reassignments, demotions, and removals.

8. DISCIPLINARY SITUATIONS

- **Misconduct.** Exhibit 2, Table of Disciplinary Penalties, contains specific examples of delinquency and misconduct for which disciplinary action is appropriate. The Table also prescribes the appropriate range of penalties to be imposed for the first and subsequent offenses. An act of misconduct which did not result in a formal disciplinary action letter or reprimand, suspension of 14 calendar days or less, or an adverse action may not be considered a "first offense" for purposes of applying the Table of Disciplinary Penalties for a subsequent act of misconduct. (It should be noted that 31 U.S.C. 1344 and 1349 imposes a **mandatory** penalty of suspension for at least 30 calendar days for instances of willful misuse of U.S. Government passenger vehicles.)
- **Safety, Health, and Environmental Violations.** Employees are expected to perform their duties in such a way as to prevent damage to property, the environment, or injury/illness to themselves or others. Aggressive and continuing accident/illness prevention and environmental management program efforts are required at all levels of ARS in accordance with applicable Agency, Federal, State, and local rules, regulations, statutes, laws, and codes. Employees who violate any of these regulations, instructions, or requirements, will be subject to disciplinary action.

- **AWOL.** When an employee fails to report for duty or return from leave or furlough, and fails to request and receive approved leave, or if the supervisor is otherwise unaware of a bona fide reason for the employee's absence, the supervisor will show the employee AWOL on the Time and Attendance Log. The employee will not be paid for hours indicated AWOL. The supervisor should attempt to ascertain the employee's status and intentions through telephone calls, written correspondence, and/or personal visits. The supervisor will direct the employee orally, or in writing, if necessary, to report for duty, if no acceptable reason for his/her absence is evident. All such attempts should be documented for future reference.

If an employee charged AWOL on the Time and Attendance Log later submits acceptable evidence of emergency or illness, the AWOL charge should be retroactively corrected to appropriate leave. This does not preclude taking disciplinary action if the employee has failed to follow his/her supervisor's instructions or Agency procedures for requesting leave.

If the employee does not intend to return to work and indicates a desire to resign, the supervisor should request the employee to document this in writing by submitting a completed SF-52.

If the employee requests additional leave, consideration should be given to the request in accordance with guidelines in DIRECTIVE 402.6; however, approval of additional leave is not mandatory. If additional leave is not granted, the employee will be notified that he/she is being carried in an AWOL status and that formal disciplinary action based on this AWOL will be considered.

When an employee is carried in an AWOL status the supervisor must contact LERB for consideration of disciplinary action.

- **Sexual Harassment.** Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitutes sexual harassment when:
 - Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment.
 - Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or
 - Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment is a prohibited personnel practice which violates merit principles. Such harassment results in discrimination for or against an employee on the basis of conduct not related to performance. This includes taking, or refusing to take, a personnel action,

including promoting employees who submit to sexual advances or refusing to promote employees who resist sexual overtures. Sexual harassment can also result in other forms of prohibited economic retaliation, such as the issuance of unsatisfactory or unacceptable performance appraisals, leading to the denial of a within-grade increase, demotion or removal, or the initiation of unwarranted disciplinary action.

Sexual harassment is a form of employee misconduct which engenders fear, anger, and loss of self-esteem. Such misconduct creates a physiologically harmful condition of employment, and violates laws and regulations which guarantee a working environment free of intimidation.

Any employee who engages in sexual harassment will be subject to prompt disciplinary action, up to and including removal from the Federal service.

Managers and supervisors are required to contact the LERB to discuss the appropriate action after receiving a complaint of harassment. Managers or supervisors who fail to take appropriate action on such complaints will also be subject to disciplinary action, for failure to perform their managerial or supervisory responsibilities.

8. INVESTIGATION OF MISCONDUCT BY OIG

Authority for requesting investigations of misconduct by OIG is vested in the Agency Head; Deputy Director, Administrative Management; Director, PD; Chief, LERB, PD; and those acting in the above positions.

OIG will review all requests for employee misconduct investigations and will cause an investigation to be made where the employee's alleged misconduct may be considered an official matter **and where the requesting authority has advised that it is prepared to take formal action if investigation findings established the alleged misconduct.**

9. REPORTING MISCONDUCT

Reporting Known or Suspected Violations.

- Each employee shall promptly report through supervisory channels, to the Agency officials identified in Section H, or to the appropriate OIG Regional Office (See Exhibit 3) any known or suspected violations or irregularities in USDA programs, and misconduct or irregular activities by a USDA employee. The Agency official will, in turn, refer appropriate matters to OIG for investigation. The following are examples of matters which should be promptly reported and referred for investigation:

- Submission of false claims or false or fraudulent statements by employees, producers, vendors, contractors, borrowers, cooperators, permittees, or others.
 - Conspiracy to defraud the United States.
 - Theft, damage, or conversion of Government commodities or other property.
 - Concealment, removal, obliteration, falsification, forgery, alteration, or destruction of official documents.
 - Misappropriation or embezzlement of Government funds.
 - Bribery or attempted bribery, including bribes offered or solicited by another employee.
 - Forging, counterfeiting, or altering U.S. Treasury checks, food stamp coupons, Commodity Credit Corporation (CCC) sight drafts, or CCC Certificates.
 - Imprest fund irregularities or shortages, regardless of amount of funds involved.
 - Violations of Food Stamp Act or other statutes and Acts pertaining to USDA nutritional programs.
 - Breaches of contract, including violation of agreements, where the case is complex and needs investigation to determine what happened, or a program principle is involved.
 - Negligence by warehouse operators, contractors, carriers, or others resulting in a loss or damage to the Government.
 - Violation of an agricultural program involving contractors, permittees, producers, borrowers, cooperators, vendors, or others, and requiring professional fact-finding assistance, including conversion of collateral pledged to USDA.
 - Conflicts of interest.
- **Maintaining Investigative Information in Confidence--OIG "HOTLINE."** When complainants request that their identity be maintained in confidence, Department policy requires that their requests be honored if practicable. USDA employees are required to furnish any information indicating violations and irregularities except when furnishing such information would tend to incriminate them unless they are given "use immunity" on the information. Also, Section 7 of the OIG Act permits the OIG to receive and investigate employee complaints or information concerning possible violations of law, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority or a substantial

and specific danger to the public health and safety, and unless it is avoidable, prohibits the OIG from disclosing the identity of the employee without consent, unless the complaint or information is knowingly false or made with willful disregard of its truth or falsity. The Act prohibits reprisals against employees for making bona fide complaints or furnishing information on the subjects set forth in the Act. OIG maintains a confidential telephone "Hotline" for reports of possible violations of law and irregularities. In the Washington, D.C., metropolitan area the number is (202) 690-1622, outside D.C. (toll free) 1-800-424-9121.

- Suspected acts of misconduct that fall within the following categories should be reported as described below:
 - **Prohibited Personnel Practices and Prohibited Political Activity.** The Office of Special Counsel has exclusive jurisdiction in cases of alleged or suspected prohibited personnel practices or political activity on the part of employees. Reports of prohibited personnel practices or political activity on the part of employees will be made to the LERB for referral to OP and OIG.
 - **Certain Motor Vehicle Accidents.** DIRECTIVE 231.1 gives reporting requirements for certain cases involving motor vehicle accidents.

Written Reports of Misconduct. Reports of misconduct that are submitted to the LERB or the OIG Hotline should relate the following if known:

- Who committed the offense.
- What offense was committed.
- Where it was committed.

When, why, and how it was committed. The report should include statements by any persons immediately available who have knowledge of the misconduct, relevant documents and other information, and a reference to any known previous misconduct or performance deficiencies on the part of the employee involved.

Oral Reports. Where speed is essential, the report of misconduct should be made by telephone, but confirmed with a subsequent written report.

11. MISCONDUCT RELATED TO THE USE OF ALCOHOL OR DRUGS

It is ARS policy to offer rehabilitative assistance to those employees whose use of alcohol or drugs or other personal problems interfere with their conduct. Guidelines for this program are contained in DIRECTIVE 235.4. Supervisors who become aware of misconduct resulting from the use of alcohol, drugs, or other personal problems, must consult with the EAP Coordinator, in addition to their responsibility for reporting the misconduct under Section I above.

An employee will be held accountable for misconduct resulting from use of alcohol or drugs; however, willingness to participate in a rehabilitation program will be considered in determining appropriate action. If the employee refuses to accept ARS' offer of rehabilitative assistance and/or there is inadequate or no improvement in conduct, disciplinary actions should be initiated as warranted. Such actions will be based solely on the grounds of the misconduct.

12. MEANS OF HANDLING MISCONDUCT

- **Counseling or Verbal Warnings** should be used by the supervisor when:
 - Infractions are minor and infrequent; and
 - The supervisor determines that counseling and/or verbal warnings will likely preclude a recurrence of the misconduct.
- **A Letter of Admonishment, Caution, or Warning** issued by the supervisor:
 - Serves as a written notice, and/or confirmation of counseling, and/or verbal warning that conduct is unacceptable.
 - Warns that disciplinary action may result if the unacceptable conduct continues.
 - Is not a formal disciplinary action.
 - Is not maintained in the employee's Official Personnel Folder.
 - That he/she may grieve the issuance of the letter of admonishment, caution or warning, by following the grievance procedures in Directive 463.2 or a negotiated grievance procedure, whichever is applicable.

NOTE: A copy of the supervisor's letter of admonishment, caution, or warning will be furnished to the LERB prior to issuance to enable the LERB to provide guidance to the supervisor in dealing with the situation.

- **A Letter or Reprimand:**

- Is a formal disciplinary action.
- May be issued without formal notice or proposal.
- Will inform the employee:
 - Of the specific acts for which he/she is being reprimanded.
 - That a copy will be maintained in his/her Official Personnel Folder for a determined length of time not to exceed 2 years.
 - That he/she may grieve the issuance of the letter of reprimand, by following the grievance procedures in DIRECTIVE 463.2, or a negotiated grievance procedure, whichever is applicable.
 - That a repetition of the offense or other improper conduct may lead to more severe disciplinary action, up to and including removal from the Federal service.
- **A Suspension of 14 Calendar Days or Less** places an employee in an involuntary, nonduty, nonpay status through formal procedures. When the Agency proposes to suspend an employee for 14 calendar days or less, the employee is entitled to:
 - A written notice which states the reason(s) for the proposed suspension specifically and in detail.
 - Be represented by an attorney or other eligible representative.
 - A reasonable amount of time in which to secure affidavits and submit a written and/or oral answer.
 - The opportunity to review all material relied upon to support the reason(s) for the proposal.
 - The opportunity to submit a written and/or oral reply to the proposal and consideration of the reply before a decision is made.
 - A written decision before the effective date of the suspension (and at the earliest practicable date) which provides the reason(s) for the suspension, and the right to file a grievance.
- **A Suspension of More Than 14 Calendar Days** places an employee in an involuntary, nonduty, nonpay status, but only after affording the employee greater procedural protection

than is called for in 12 paragraph, **A Suspension of 14 Calendar Days or Less**, above. The employee is entitled to:

- A written notice stating any and all reasons for the proposed suspension at least 30 calendar days in advance of any action taken.
 - Be represented by an attorney or other eligible representative.
 - The opportunity to review all materials relied upon to support the reason(s) for the proposal.
 - A reasonable amount of official time to prepare an answer to the proposal.
 - The opportunity to submit a written and/or oral reply to the proposal and consideration of the reply before a decision is made.
 - A written decision before the suspension is effective (and at the earliest practicable date) stating which of the reasons in the advance notice have been sustained, and which have not been sustained.
 - The right to appeal a decision to suspend for more than 14 calendar days to the MSPB or to grieve the matter through a negotiated grievance procedure when applicable.
- **Reduction in Grade and Pay** may be warranted as a result of misconduct:
 - When the employee cannot be continued in his/her present position;
 - Reassignment at his/her present grade is not possible or practical; and
 - When it is known that the misconduct will not or cannot continue at a lower grade level.

NOTE: The procedural requirements explained in 12 under paragraph, **A Suspens of More Than 14 Calendar Days**, above apply in processing a demotion as a result of misconduct. (These procedures do not apply to a demotion which is a result of a reclassification of a position.)
- **Removal** action is taken only:
 - Where removal is specified by law; or
 - As warranted by the misconduct in question.

- Removal action is taken by following the procedures described in 12 paragraph, **A Suspension of More Than 14 Calendar Days**, above.

NOTE: The above actions are taken only to promote the efficiency of ARS.

- **Status During Notice Period.** An employee will remain in an active duty status during the notice period provided he/she reports for duty to his/her assigned post of duty or requests leave in accordance with standard procedures.
- **Nonduty, Pay Status.** When there is a reasonable cause to believe an employee has committed a crime for which sentence of imprisonment may be imposed, the Agency may place an employee in a nonduty status with pay for a time not to exceed 10 calendar days and provide the employee a reasonable time, but not less than 7 calendar days, to respond to a proposed action. Upon being informed of such a crime, the supervisor should consult with the LERB.

There may be other situations, such as where there is no threat to employees or property, when placing an employee in a nonduty, pay status is appropriate. In such cases, LERB should be consulted.

- **Enforced Leave.** Placing an employee on leave without his/her consent usually constitutes a disciplinary action subject to the notice requirements described above. There are few exceptions. No supervisor should impose leave without first consulting the LERB.

13. CRITERIA FOR DETERMINATION OF APPROPRIATE PENALTY

The MSPB has determined that mitigation of an agency-imposed adverse action (removal, suspension of more than 14 calendar days, reduction in grade or pay, and furlough of less than 30 calendar days), is appropriate when the penalty is determined by the MSPB to be excessive, disproportionate to sustained charges, or arbitrary, capricious, or unreasonable. The MSPB has specified factors to be considered for that determination. For all formal disciplinary actions, but especially adverse actions, ARS should be prepared to demonstrate that the following were considered:

- Nature and seriousness of offense and relationship to employee's position and duties:
 - Intentional, technical, or inadvertent.
 - Committed maliciously or for gain.
 - Frequently repeated.

- Employee's job level and type of appointment:
 - Supervisory or fiduciary role; i.e., a position of confidence or trust.
 - Contacts with the public.
 - Prominence of the position.
- Past disciplinary record.
- Past work record:
 - Length of service.
 - Performance on the job.
 - Ability to get along with fellow workers.
 - Dependability.
- Effect of offense on employee's ability to perform at a satisfactory level and on supervisor's confidence in the employee's ability.
- Consistency of penalty with those imposed on other employees for the same or similar [not like] offenses.
- Consistency of penalty with any applicable table of penalties.
- Notoriety of offense and its impact on the reputation of the Agency.
- Clarity with which employee was on notice of rules violated and was warned about the conduct in question.
- Potential for rehabilitation.
- Mitigating circumstances:
 - Unusual job tensions.
 - Personality problems.
 - Mental impairment.
 - Harassment.
 - Bad faith, malice, or provocation on the part of others involved in the matter.
- Adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee.

JANE L. GILES
Deputy Administrator
Administrative Management

Exhibits

- 1 Delegation of Authority
- 2 Table of Disciplinary Penalties
- 3 Office of the Inspector General Offices - Addresses and Territories Served

EXHIBIT 1

DELEGATIONS

Individuals occupying or who have been designated to act in the positions listed are delegated authority to take the following actions concerning employees (except Schedule C, SES, Public Law 313 positions, GS or GM-14, equivalent or higher positions) in accordance with the table below. The authority may not be redelegated without approval of the Administrator, Agricultural Research Service.

Title of Position	Type of Action				
	Suspension for 14 Calendar Days or Less and Formal Letters of Reprimand		Suspension for More Than 14 Calendar Days, Removal, Reduction in Grade		Separation of Temporary or Probationary Employees
	Proposal	Decision	Proposal	Decision	Decision
Administrator	X	X	X	X	X
Deputy Administrator, Administrative Management	X	X	X	X	X
Director, PD	X	X	X	X	X
Chief, Labor and Employee Relations Branch	X		X		X

TABLE OF DISCIPLINARY PENALTIES

TYPES OF DELINQUENCY OR MISCONDUCT	PENALTY FOR FIRST OFFENSE	PENALTY FOR SUBSEQUENT OFFENSE
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1. Fiscal Irregularities:

a. Unauthorized and/or improper use of U.S. Government funds or of other funds which came into an employee's possession by reason of employment.	Suspension for 1 pay period to Removal.	Removal.
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b. Submission of, or causing or allowing the submission of falsely stated travel, payroll, loan or purchase vouchers or their supporting documents (e.g., application for leave).	Removal if it results in personal benefit.	
	Suspension for 1 pay period if it results in personal benefit to another.	Removal.

Reprimand to Removal if for administrative convenience or to avoid following required procedures.

c. Failure to properly account for or make proper distribution of any money, property, or other thing of value received by or coming into employee's custody as result of employment.	Reprimand to Removal.	Removal.
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2. Falsification of Records:

a. Falsification of application for employment, or other personal history record statement by omission or making a false entry which would have adversely affected selection for appointment or promotion.	Removal.	
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TABLE OF DISCIPLINARY PENALTIES

TYPES OF DELINQUENCY OR MISCONDUCT	PENALTY FOR FIRST OFFENSE	PENALTY FOR SUBSEQUENT OFFENSE
b. Falsification of application for employment or other personal history record statement by omission or making a false entry which would not have adversely affected selection for appointment or promotion.	Reprimand to 5 workdays Suspension. (If it is decided that the false statement was unintentional, no action other than a letter of caution need be taken).	5 workdays Suspension to 1 pay period Suspension.
c. Other falsification of material facts in any official documents or records when property or funds are not misused.	Reprimand to Removal.	Suspension of 1 pay period to Removal.
d. Making false statements to an official of USDA with respect to an official matter.	Reprimand to Removal	Suspension of 1 pay period to Removal.
3. Conduct Prejudicial to the Best Interests of the Service:		
a. Conduct which causes the employee to be convicted of a criminal charge which relates directly to the duties of the employee's position or the mission of ARS.	Removal.	
b. Infamous or notoriously disgraceful conduct.	Removal.	
c. Concealing, removing, improperly disposing of, mutilating, altering, or destroying U.S. Government records or materials.	Reprimand to Removal.	Removal.

TABLE OF DISCIPLINARY PENALTIES

TYPES OF DELINQUENCY OR MISCONDUCT	PENALTY FOR FIRST OFFENSE	PENALTY FOR SUBSEQUENT OFFENSE
<p>d. Soliciting or accepting, directly or indirectly, any gift, gratuity, favor, entertainment, loan, unusual discount, or any other thing of monetary value, from a person, firm, corporation, or individual acting in behalf thereof, which has, or is seeking, business or financial relations with USDA, or which conducts operations or activities regulated by USDA, or which has interests that may be affected by the employee's performance or nonperformance.</p>	<p>Suspension of 5 work-days to Removal.</p>	<p>Removal.</p>
<p>e. Soliciting a contribution from another employee for a gift to an official superior, making a donation as a gift to an official superior, or accepting a gift from an employee receiving less pay than employee. (Exceptions: Nominal gifts on special occasions such as marriage, illness, transfer, or retirement.)</p>	<p>Suspension of 2 pay periods to Removal.</p>	<p>Removal.</p>
<p>f. Borrowing money from a subordinate employee, securing employee's endorsement on a loan, or otherwise having the subordinate assume the financial responsibility of a superior.</p>	<p>Suspension for 1 pay period to Removal.</p>	<p>Removal.</p>

TABLE OF DISCIPLINARY PENALTIES

TYPES OF DELINQUENCY OR MISCONDUCT	PENALTY FOR FIRST OFFENSE	PENALTY FOR SUBSEQUENT OFFENSE
g. Willful use of, or authorizing use of, any U.S. Government-owned or leased passenger vehicles or aircraft for other than official business.	1 month Suspension to Removal. (Unofficial use of Government passenger carrying vehicles or aircraft carries a mandatory penalty of 1 month Suspension. 31 U.S.C. 1344 and 1349.)	Removal.
h. Use of, or authorizing use of other U.S. Government-owned or leased vehicles, such as trucks, aircraft, boats, or other motor vehicles for other than official purposes.	Suspension of 1 month to Removal.	Removal.
I. Carrying of unauthorized passengers in U.S. Government-owned or leased vehicles, such as aircraft, boats, and trucks.	Reprimand to 1 pay period Suspension.	1 pay period Suspension to Removal.
j. Personal use of, or authorizing use of, other U.S. Government property, facilities or services for other than official purposes.	Reprimand to Removal.	Suspension of 5 workdays to Removal.
k. Unauthorized removal of thing of value from a location where the employee performs official duty.	1 pay period Suspension to Removal.	Removal.
l. Unauthorized removal of U.S. Government-owned or leased property over which Governmental custody is exercised.	1 pay period Suspension to Removal.	Removal.

TABLE OF DISCIPLINARY PENALTIES

TYPES OF DELINQUENCY OR MISCONDUCT	PENALTY FOR FIRST OFFENSE	PENALTY FOR SUBSEQUENT OFFENSE
m. Fighting, threatening, inflicting bodily harm, using abusive language, creating or causing a disturbance at place of assignment, Government premises or in other situations where the circumstances are job related.	Reprimand to Removal.	Suspension of 5 workdays to Removal.
n. Participating in gambling on duty, or on premises where assigned to duty, or while in a duty status.	Reprimand to Removal.	Removal.
o. Operating, or promoting gambling activity while on Government premises, or in a duty status, or while others are in a duty status.	Suspension for 1 pay period to Removal.	Removal.
p. Engaging in "horseplay" during working hours (acting in a manner, often at hazard of personal injury to participant or spectator.)	Reprimand to Removal.	Suspension of 5 workdays to Removal.
q. Failure to honor valid debts or legal obligations in a timely and proper manner.	Reprimand.	Second offense - Reprimand to 5 workdays Suspension. Third Offense - 5 workdays Suspension to Removal.
r. Discourteous conduct to the public, confirmed by an immediate supervisor's report of four such	Suspension for 1 workday to 14 workdays.	Second offense - Suspension for 1 pay period to 2 pay periods.

TABLE OF DISCIPLINARY PENALTIES

TYPES OF PENALTY FOR PENALTY FOR

DELINQUENCY OR MISCONDUCT	FIRST OFFENSE	SUBSEQUENT OFFENSE
instances within a 1-year period, or any other pattern of discourteous conduct.		Third offense - Suspension for 2 pay periods to Removal.
4. Insubordination/Failure to Follow	Instructions:	
a. Refusal to comply with instructions.	Suspension for 5 work-days to Removal.	Suspension for 2 pay periods to Removal.
b. Failure to follow instructions.	Reprimand to Suspension for 5 workdays.	Suspension for 1 pay period to Removal.
c. Failure to report for duty as detailed, transferred, or reassigned.	Removal.	
d. Refusing to provide information to authorized representatives of USDA and/or other U.S. Government agencies when called upon, if the inquiry relates to official matters and the information is obtained in the course of employment or as the result of relationship incident to such employment.	Suspension for 5 workdays to Removal.	Suspension of 1 pay period to Removal.
5. Neglect in the performance of duties:		
a. Negligence where waste or other cost is insubstantial.	Reprimand.	Reprimand to Suspension for 1 pay period.
b. Negligence where waste or other cost is substantial.	Suspension for 5 work-days to 1 pay period. (Single acts of gross negligence can warrant	Suspension for 1 pay period to Removal.

TABLE OF DISCIPLINARY PENALTIES

TYPES OF DELINQUENCY OR MISCONDUCT	PENALTY FOR FIRST OFFENSE	PENALTY FOR SUBSEQUENT OFFENSE
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up to Removal).

6. Unauthorized absence:

a. Unauthorized absence from duty. (Absence must be carried on the Time and Attendance reports as absence without leave.)	Reprimand to Removal.	Suspension for 1 pay period to Removal.
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b. Failure to follow established leave procedures.	Reprimand to 5 workdays Suspension.	Suspension for 1 pay period to Removal.
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7. Improper Use of Intoxicants or drugs following rehabilitative efforts.

SEE GUIDELINES ON ALCOHOL AND DRUG ABUSE (DIRECTIVE 235.4).

a. Using or being under the influence of intoxicants or drugs while on official duty, or reporting for duty under the influence of intoxicants or drugs.	Reprimand to Removal.	Suspensions of 5 workdays to Removal.
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b. Operating U.S. Government-owned or leased vehicle or conveyance (or privately owned vehicles on official business) while under the influence of intoxicants or drugs.	Removal.
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8. Prohibited Political Activity:

Engaging in types of political activities prohibited by law or by Office of Personnel Management Regulations.	Removal.
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TABLE OF DISCIPLINARY PENALTIES

TYPES OF DELINQUENCY OR MISCONDUCT	PENALTY FOR FIRST OFFENSE	PENALTY FOR SUBSEQUENT OFFENSE
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9. Safety, Health and Environmental Violations:

a. Failure to report accidents and/or injuries as required by ARS Policy and/or regulations.	Reprimand to Suspension for 1 pay period.	Suspension for 1 pay period to Removal.
b. Failure or refusal to wear/use protective equipment/devices when provided and/or when required by ARS Policy and/or regulations.	Reprimand to Suspension.	Removal.
c. Operation of a U.S. Government-owned or leased vehicle without appropriate state driver's license.	Reprimand to Removal.	Suspension of 5 workdays to Removal.
d. Requiring or allowing subordinates to perform work activities in a manner or where conditions are unsafe and/or unhealthy.	Reprimand to Removal.	Suspension of 5 workdays to Removal.
e. Engaging in an unsafe act.	Reprimand to Removal.	Suspension of 5 workdays to Removal.
f. Damaging a natural, historical, or cultural resource; endangered/threatened species; or a critical habitat, as defined by Federal, State, and/or local law or Executive Order.	Reprimand to Removal.	Removal.
g. Negligently releasing/spilling of hazardous materials, substances, and wastes, particularly when failing to	Reprimand to Removal.	Removal.

TABLE OF DISCIPLINARY PENALTIES

TYPES OF DELINQUENCY OR MISCONDUCT	PENALTY FOR FIRST OFFENSE	PENALTY FOR SUBSEQUENT OFFENSE
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report the incident to

supervisors subsequently.

h.	Violating the conditions of a Federal, State, and/or local construction/operating permit.	Reprimand to Removal.	Removal.
I.	Violating the provisions of applicable Federal, State, and/or local environmental management rules, regulations, codes and laws, etc.	Reprimand to Removal.	Removal.
10. Discriminatory Practices:			
a.	Acting or failing to act on an official matter in a manner which improperly takes into consideration an individual's race, color, religion, age, sex, national origin, or physical or mental handicap.	Suspension of 5 workdays to Removal.	Removal.
b.	Use of critical, demeaning, slanderous, inflammatory, defamatory, or degrading remarks or comments, which relate to an individual's race, color, religion, age, sex, national origin, or physical or mental handicap.	Reprimand to Removal.	5 workdays Suspension to Removal.
11. Scientific misconduct:			
a.	Allowing or causing the unauthorized disclosure of any material related to research without the consent of the Agency.	Reprimand to Removal.	Removal.

TABLE OF DISCIPLINARY PENALTIES

TYPES OF DELINQUENCY OR MISCONDUCT	PENALTY FOR FIRST OFFENSE	PENALTY FOR SUBSEQUENT OFFENSE
b. Allowing or causing the sub- mission of plagiarized	Reprimand to Removal.	Removal.

material for publication, research, or for any other purpose.

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|------------------------|---|---|-----------------------------------|
| c. | Allowing or causing false or inaccurate data to be used in support of research. | Reprimand to Removal. | Removal. |
| 12. Sexual Misconduct: | | | |
| a. | Most severe--actual or attempted rape or sexual assault. | Removal. | |
| b. | Severe--such as pressure for sexual favors. | Suspension for 1 pay period to Removal. | Removal. |
| c. | Less severe--such as un-invited teasing, jokes, remarks, or questions of a sexual nature. | Reprimand to 5 workdays Suspension. | 5 workdays Suspension to Removal. |

Exhibit 3

OFFICE OF THE INSPECTOR GENERAL REGIONAL OFFICES

The following Regional Offices perform investigative operations in the territorial areas indicated. Each Regional Office is headed by a Regional Director who reports to the Assistant Inspector General - Investigations, Office of Investigation. Address communications to the Regional Inspector General, Office of Investigation, Office of the Inspector General, U.S. Department of Agriculture, at the applicable location listed below:

Region	Address and Territory	Telephone #
North Atlantic (NAR)	Room 1707, 26 Federal Plaza New York, New York 10278 (Territory: Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Puerto Rico, Rhode Island, Vermont and the Virgin Islands)	(COMM) 212-264-8400
Northeast (NER)	Room 432A, Federal Building Hyattsville, Maryland 20782 (Territory: Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia)	(COMM) 301-436-8850
Southeast (SER)	401 W. Peachtree St., NW, Suite 2329, Atlanta, Georgia 30365 (Territory: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee)	(COMM) 404-730-3170
Midwest (MWR)	111 N. Canal Street, Suite 1130 Chicago, Illinois 60606 (Territory: Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin)	(COMM) 312-353-1358
Region Southwest	Address and Territory Room 311, Federal Office Building	Telephone # (COMM) 817-774-1351

(SWR)

101 South Main Street
Temple, Texas 76501

(Territory: Arkansas, Louisiana,
New Mexico, Oklahoma, and Texas)

Great Plains
(GPR)

9435 Holmes, Rm. 210, P.O. Box 293
Kansas City, Missouri 64131

(COMM) 816-926-7606

(Territory: Colorado, Iowa,
Kansas, Missouri, Nebraska,
Montana, North Dakota, South Dakota,
Utah, and Wyoming)

Western
(WR)

Room 511, 555 Battery Street
San Francisco, California 94111

(COMM) 415-705-2255

(Territory: Alaska, Arizona,
California, Guam, Hawaii, Idaho,
Nevada, Oregon, Washington, and
Trust Territories of the Pacific)