

UNITED STATES DEPARTMENT OF AGRICULTURE  
WASHINGTON, D.C. 20250

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DEPARTMENT PERSONNEL MANUAL

AMENDMENT NO. 230

BASIC DEPARTMENT  
PERSONNEL MANUAL  
CHAPTER 751

**SUBJECT: Appendix A - USDA Guide for Disciplinary Penalties**

Attached is a copy of Department Personnel Manual (DPM) Chapter 751, Appendix A, USDA Guide for Disciplinary Penalties.

| Remove Pages       | Amend. No. | Dated    | Insert Pages        | Amend No. | Dated |
|--------------------|------------|----------|---------------------|-----------|-------|
| A-1 through<br>A-6 | 172        | 11/17/81 | A-1 through<br>A-10 | 230       | 5/94  |

Evelyn M. White  
Director of Personnel

Attachment

“An Equal Opportunity Employer”

## CHAPTER 751 - DISCIPLINE

### APPENDIX A - USDA Guide for Disciplinary Penalties

The purpose of this Guide is to assist those responsible for disciplining employees in selecting appropriate penalties. While the Guide does not cover every possible offense, it does provide the more common types of offenses and the penalties usually assessed. Opportunities for the appropriate use of *alternative discipline* (see DPM Chapter 751 - Subchapter 4) may also be considered. Consistent with DPM Chapter 751 Subchapter 4, alternative discipline is available in appropriate circumstances in all cases, except when the penalty to be proposed is removal from the service or dictated by statute. Alternative discipline may also be considered when mitigating circumstances serve to reduce a proposed penalty of removal to a lesser penalty, including a suspension or letter of reprimand.

Although each case must be evaluated on its own merits, the Guide does provide a framework to assure consistent application of disciplinary penalties throughout the Department.

Before proposing or deciding on a particular penalty, agency officials should consider all the pertinent factors, including:

1. The nature and seriousness of the offense, and its relation to the employee's duties, position, and responsibilities, including whether the offense was intentional or technical or inadvertent, or was committed maliciously or for gain, or was frequently repeated;
2. The employee's job level and type of employment, including 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, including 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 its effect upon supervisors' confidence in the employee's ability to perform assigned duties;
6. Consistency of the penalty with those imposed upon other employees for the same or similar offenses;
7. Consistency of the penalty with the USDA Guide for Disciplinary 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. 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; and
12. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

Not all of these factors will be pertinent in every case, and frequently in the individual case some of the pertinent factors will weigh in the employee's favor while others may not or may even constitute aggravating circumstances. Selection of an appropriate penalty must thus involve a responsible balancing of the relevant factors in the individual case.

| <b>USDA GUIDE FOR DISCIPLINARY PENALTIES</b>  |   |                                |
|---|---|--------------------------------|
| TYPE OF MISCONDUCT  | PENALTY FOR FIRST OFFENSE   | PENALTY FOR SUBSEQUENT OFFENSE |
| <b>1. FISCAL IRREGULARITIES</b> (Penalty depends on the monetary value, position held, personal benefit, and/or other pertinent factors.)   |   |                                |
| a. Submission of (or causing or allowing the submission of) falsely stated time logs, leave forms, travel or purchase vouchers, payroll, loan, or other fiscal document(s).   | Letter of Reprimand to Removal, if for administrative convenience or to avoid following required procedures.              | Removal                        |
|   | 14-Day Suspension, if it results in personal benefit to another.  | Removal                        |
|   | Removal, if it results in personal benefit.   |                                |
| b. Unauthorized and/or improper use of property, Government or other funds, or any other thing of value coming into an employee's custody as a result of employment.  | 14-Day Suspension to Removal  | Removal                        |
| c. Failure to properly account for or make proper distribution of any property, Government or other funds, or any other thing of value coming into an employee's custody as a result of employment.   | Letter of Reprimand to Removal  | Removal                        |
| d. Concealment of (or failing to report) missing, lost, or misappropriated funds, or other fiscal irregularities.   | Letter of Reprimand to Removal  | 14-Day Suspension to Removal   |
| <b>2. FALSE STATEMENT(S)/INCORRECT OFFICIAL DOCUMENTS</b> (False statements or entries in connection with fiscal matters and documents are covered in 1. above.)  |   |                                |
| a. Deliberate falsification of an application for employment (SF-171), or other personal history record by omission or by making a false entry.<br><br>Note: If an incorrect or inaccurate entry or statement is determined to be unintentional, other (non-disciplinary) action should be taken. | Removal, if it would have adversely affected selection for appointment or promotion.                                      |                                |
|   | Letter of Reprimand to 14-Day Suspension, if it would not have adversely affected selection for appointment or promotion. | 14-Day Suspension to Removal   |

**USDA GUIDE FOR DISCIPLINARY PENALTIES**

| TYPE OF MISCONDUCT  | PENALTY FOR FIRST OFFENSE   | PENALTY FOR SUBSEQUENT OFFENSE |
|---|---|--------------------------------|
| b. Misrepresentation, falsification, or concealment of material facts or documents in connection with an official matter, including an investigation.   | Letter of Reprimand to Removal  | Removal                        |
| c. Knowingly and willfully making an incorrect entry on an official document or approving an incorrect official document.   | Letter of Reprimand to Removal  | 14-Day Suspension to Removal   |
| <b>3. CONDUCT PREJUDICIAL TO THE BEST INTERESTS OF THE SERVICE</b>  |   |                                |
| a. Conduct which causes the employee to be indicted or charged with a criminal offense which is related directly to the duties of the employee's position or the mission of the Agency and for which a sentence of imprisonment may be imposed. | Indefinite Suspension (Unit the outcome of the legal action is known and/or until the completion of appropriate administrative action.) |                                |
| b. Conduct which causes the employee to be convicted of a criminal charge which is related directly to the duties of the employee's position or the mission of the Agency.  | Removal   |                                |
| c. Off duty conduct which adversely affects the employee's job performance or trustworthiness, or adversely affects the ability of the Agency to accomplish its mission.  | Letter of Reprimand to Removal  | Removal                        |
| d. Infamous or notoriously disgraceful conduct.   | Removal   |                                |
| e. Concealing, removing, mutilating, altering or destroying Government records.   | Letter of Reprimand to Removal  | 14-Day Suspension to Removal   |
| f. Malicious or intentional damage or loss of Government-owned or Government-leased property.   | Letter of Reprimand to Removal  | 14-Day Suspension to Removal   |
| g. Using public office for private gain.  | 14-Day Suspension to Removal  | Removal                        |
| h. Unethical or improper use of official authority or credentials.  | Letter of Reprimand to Removal  | Removal                        |
| i. Unauthorized disclosure or use of (or failure to safeguard) information protected by the Privacy Act or other official, sensitive, or confidential information.  | Letter of Reprimand to Removal  | Removal                        |

**USDA GUIDE FOR DISCIPLINARY PENALTIES**

| TYPE OF MISCONDUCT   | PENALTY FOR FIRST OFFENSE  | PENALTY FOR SUBSEQUENT OFFENSE |
|--|--|--------------------------------|
| j. Having a direct or indirect financial interest that an employee could reasonably expect to be in conflict or appear to be in conflict with his or her official duties and responsibilities. (When a conflict of financial interest occurs that is inadvertent and that could not be reasonably anticipated by the employee, the situation would normally be handled by divestiture or recusal rather than disciplinary action.) | Letter of Reprimand to Removal   | Removal                        |
| k. Engaging in outside employment or other activities without required prior approval.   | Letter of Reprimand to 5-Day Suspension  | 14-Day Suspension to Removal   |
| l. Improperly soliciting or accepting, directly or indirectly, a gift from any individual or establishment seeking or having a contractual or business relationship with the Department.   | 5-Day Suspension to Removal  | Removal                        |
| m. Improperly soliciting a contribution from another employee for a gift to a official superior, making a donation as a gift to an official superior, or accepting a gift from an employee receiving less pay.   | Letter of Reprimand to Removal   | Removal                        |
| n. Borrowing money from a subordinate employee, securing a subordinate's endorsement on a loan, or otherwise having a subordinate assume the financial responsibility of a superior.   | Letter of Reprimand to Removal   | Removal                        |
| o. Use of (or authorizing the use of) employees, or Government owned, leased or provided property, facilities, services or credit cards, for inappropriate or non-official purposes.   | Letter of Reprimand to Removal   | 5-Day Suspension to Removal    |
| p. Willful use of (or authorizing the use of) any Government-owned or Government-leased passenger vehicles or aircraft for other than official purposes.   | 30-Day Suspension to Removal [31 U.S.C. 1349(b) mandates a <u>minimum</u> penalty of a one month suspension for unofficial use of Government passenger carrying vehicles or aircraft.] | Removal                        |

| <b>USDA GUIDE FOR DISCIPLINARY PENALTIES</b>  |  |                                       |
|---|--|---------------------------------------|
| <b>TYPE OF MISCONDUCT</b>   | <b>PENALTY FOR FIRST OFFENSE</b>         | <b>PENALTY FOR SUBSEQUENT OFFENSE</b> |
| q. Use of (or authorizing the use of) other Government-owned or Government-leased vehicles such as trucks, aircraft, boats or other motor vehicles for other than official purposes.    | 30-Day Suspension to Removal             | Removal                               |
| r. Carrying of unauthorized passengers in Government-owned or Government-leased vehicles such as trucks, aircraft, boats or other motor vehicles for other than official purposes.      | Letter of Reprimand to 14-Day Suspension | 14-Day Suspension to Removal          |
| s. Unauthorized use, removal or possession of a thing of value belonging to another employee or private citizen.  | Letter of Reprimand to Removal           | Removal                               |
| t. Fighting, threatening, attempting to inflict or inflicting bodily harm while on Government premises and/or when in a duty status.  | 5-Day Suspension to Removal              | 14-Day Suspension to Removal          |
| u. Use of abusive, offensive, unprofessional, distracting, or incitory (goading) language, gestures, or other conduct; quarreling,; creating a disturbance or disruption; or horseplay. | Letter of Reprimand to 14-Day Suspension | 5-Day Suspension to Removal           |
| v. Use of slanderous, malicious, derogatory, discourteous, or otherwise inappropriate language, gestures, or other conduct toward employees, supervisors, or the public.                | Letter of Reprimand to Removal           | 5-Day Suspension to Removal           |
| w. Failure to pay just debts in a timely and proper manner.   | Letter of Reprimand to 14-Day Suspension | 1-Day Suspension to Removal           |
| x. Gambling on duty or in work areas.   | Letter of Reprimand to Removal           | Removal                               |
| y. Participating in a strike, work stoppage, slowdown, sickout, or similar activity.  | Removal                                  |                                       |
| <b>4. FAILURE/REFUSAL TO FOLLOW INSTRUCTION</b>   |  |                                       |
| a. Negligence, including the careless failure to comply with rules, regulations, written procedures, or proper supervisory instructions.  | Letter of Reprimand to 14-Day Suspension | 5-Day Suspension to Removal           |
| b. Deliberate or malicious refusal to comply with rules, regulations, written procedures, or proper supervisory instructions.   | Letter of Reprimand to Removal           | 14-Day Suspension to Removal          |

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|--|--|---------------------------------------|
| <b>TYPE OF MISCONDUCT</b>  | <b>PENALTY FOR FIRST OFFENSE</b>                       | <b>PENALTY FOR SUBSEQUENT OFFENSE</b> |
| c. Refusal to provide information to authorized representatives of the Department or other Government Agencies when called upon, when the inquiry relates to official matters and the information is obtained in the course of employment or as the result of relationships incident to such employment.   | Letter of Reprimand to Removal                         | Removal                               |
| d. Failure to report for duty as detailed, transferred, or reassigned.   | Removal  |                                       |
| e. Failure to submit required statements of financial interests and outside employment.  | Letter of Reprimand to 3-Day Suspension                | 5-Day Suspension to Removal           |
| <b>5. NEGLECT OF DUTY</b>  |  |                                       |
| Careless/negligent work, loafing, sleeping on duty, wasting time, conducting personal business while on duty.  | Letter of Reprimand to Removal                         | 5-Day Suspension to Removal           |
| <b>6. ATTENDANCE-RELATED OFFENSES</b> (Penalty will depend on the circumstances, including length, frequency, and nature of position. To support disciplinary action, tardiness and unauthorized absences from the work place must be charged to AWOL on the employee's Time and Attendance Report.)   |  |                                       |
| a. Unexcused tardiness, including delay in: (1) reporting at the scheduled starting time, (2) returning from lunch or break periods, and (3) returning from an authorized absence from the work station.   | Letter of Reprimand to 1-Day Suspension                | 5-Day Suspension to Removal           |
| b. Unauthorized absence, including leaving the workstation without permission or before the end of the workday. [Time periods at right refer to the accumulated total amount of AWOL for each offense (i.e., disciplinary action proposed) rather than for each instance or occurrence of unauthorized absence. For example, if an employee is AWOL on three separate occasions and the total amount of AWOL shown on the T&As is more than 8 hours but less than 5 workdays, the proposed penalty for a first offense would normally be a suspension of from 1 to 14 days.] | Absences of 8 Hours or Less                            |                                       |
|  | Letter of Reprimand to 5-Day Suspension                | 5-Day Suspension to Removal           |
|  | Absences of More Than 8 Hours But Less Than 5 Workdays |                                       |
|  | 1-Day Suspension to 14-Day Suspension                  | 14-Day Suspension to Removal          |
|  | Absences of 5 Workdays or More                         |                                       |
|  | 14-Day Suspension to Removal                           | Removal                               |

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|--|---|--------------------------------|
| TYPE OF MISCONDUCT   | PENALTY FOR FIRST OFFENSE   | PENALTY FOR SUBSEQUENT OFFENSE |
| <b>7. INTOXICANTS - Alcohol and Spirits</b> (Agencies must assure the requirements of alcohol abuse programs are met before taking action.)  |   |                                |
| a. Unauthorized use of intoxicants while on duty, on Government property or Government-controlled property or premises where official duties are performed.  | Letter of Reprimand to 14-Day Suspension  | 30-Day Suspension to Removal   |
| b. Reporting to or being on duty while under the influence of intoxicants.   | Letter of Reprimand to 30-Day Suspension  | 30-Day Suspension to Removal   |
| c. Operating a Government-owned or Government-leased vehicle (or privately-owned vehicle on official business) while under the influence of intoxicants.   | Removal<br>[If a penalty of less than removal is determined to be appropriate, agencies should (at a minimum) suspend the employee's official driving privileges for a period of one year.] |                                |
| <b>8. ILLEGAL DRUGS/DRUG PARAPHERNALIA/CONTROLLED SUBSTANCES</b> [See DPM Supplement 792-3, Subchapter 8. USDA will <u>not</u> initiate disciplinary action when an employee – (1) Voluntarily admits drug use to appropriate supervisors or management officials before being identified through other means. (2) Obtains and completes counseling and rehabilitation through Employee Counseling Services Program (ECSP). (3) Thereafter refrains from illegal drug use. In <u>all</u> other circumstances, agencies must make appropriate referrals to the ECSP <u>and</u> initiate appropriate disciplinary action.] |   |                                |
| a. Possession of an illegal drug, drug paraphernalia, or unauthorized controlled substance while on duty, on Government property or Government-controlled property, or on premises where official duties are performed.  | 5-Day Suspension to Removal   | Removal                        |
| b. Use of an illegal drug or unauthorized controlled substance while on duty, on Government property or Government-controlled property, or on premises where official duties are performed.  | 14-Day Suspension to Removal  | Removal                        |
| c. Reporting to or being on duty while under the influence of an illegal drug or unauthorized controlled substance.  | 14-Day Suspension to Removal  | Removal                        |
| d. Sale or distribution of an illegal drug or controlled substance.  | Removal   |                                |



| <b>USDA GUIDE FOR DISCIPLINARY PENALTIES</b>   |                                  |                                       |
|--|----------------------------------|---------------------------------------|
| <b>TYPE FOR MISCONDUCT</b>   | <b>PENALTY FOR FIRST OFFENSE</b> | <b>PENALTY FOR SUBSEQUENT OFFENSE</b> |
| e. Operating a Government-owned or Government-leased vehicle (or privately-owned vehicle on official business) while under the influence of an illegal drug.                           | Removal                          |                                       |
| f. Interfering with, or refusing or failing to submit to a properly ordered or authorized drug test, including substituting, adulterating, or otherwise tampering with a urine sample. | Removal                          |                                       |
| g. Use of an illegal drug or unauthorized controlled substance during non-duty hours and on non-work premises.   | Letter of Reprimand to Removal   | Removal                               |

**9. PROHIBITED POLITICAL ACTIVITY**

|   |                                |                              |
|---|--------------------------------|------------------------------|
| Engaging in the types of political activity prohibited by law or by Office of Personnel Management regulations. | Letter of Reprimand to Removal | 14-Day Suspension to Removal |
|---|--------------------------------|------------------------------|

**10. SAFETY AND HEALTH VIOLATIONS** (Penalty should take into consideration whether danger to persons or property is involved.)

|  |  |                              |
|--|--|------------------------------|
| a. Failure to report an accident and/or injury as required.  | Letter of Reprimand to 14-Day Suspension | 14-Day Suspension to Removal |
| b. Failure or refusal to wear/use required protective equipment (e.g., seat belts, earplugs, eye protection, etc.).  | Letter of Reprimand to 14-Day Suspension | 14-Day Suspension to Removal |
| c. Operation of a Government-owned or Government-leased vehicle (or privately-owned vehicle while on official business) without an appropriate State driver's license. | 5-Day Suspension to Removal              | Removal                      |
| d. Failure or refusal to observe and/or enforce Safety and Health regulations or to perform duties in a safe manner.   | Letter of Reprimand to Removal           | 5-Day Suspension to Removal  |

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|--|--|--------------------------------|
| TYPE FOR MISCONDUCT  | PENALTY FOR FIRST OFFENSE                | PENALTY FOR SUBSEQUENT OFFENSE |
| <b>11. DISCRIMINATORY PRACTICES</b> (Penalty should take into consideration whether violation is willful/deliberate, or careless/negligent.)   |  |                                |
| a. Acting or failing to act on an official matter (including a personnel action) in a manner which improperly takes into consideration an individual's political affiliation, race, color, religion, national origin, sex, marital status, age, or handicapping condition. [This includes discrimination for or against any employee or applicant for employment prohibited by 42 U.S.C. 2000e-16; 29 U.S.C. 631 or 633a; 29 U.S.C. 206(d); 29 U.S.C. 791; or any other law, rule, or regulation.] | 5-Day Suspension to Removal              | Removal                        |
| b. Any reprisal or retaliation action against an individual involved in the EEO complaint process.   | 5-Day Suspension to Removal              | Removal                        |
| c. Use of remarks which relate to and insult or denigrate an individual's race, color, religion, national origin, sex, marital status, age, or handicapping condition.   | Letter of Reprimand to 30-Day Suspension | 14-Day Suspension to Removal   |
| d. Negligence or insensitivity to an individual's race, color, religion, national origin, sex, marital status, age, or handicapping condition which is determined to be discriminatory and where there is no other finding of overt discrimination.  | Letter of Reprimand to 5-Day Suspension  | 5-Day Suspension to Removal    |
| e. Failure to take appropriate action regarding allegations or findings of discriminatory practices.   | 5-Day Suspension to Removal              | Removal                        |
| <b>12. SEXUAL MISCONDUCT</b>   |  |                                |
| a. Actual or attempted sexual assault (e.g., rape)   | Removal                                  |                                |
| b. Inappropriate and/or unwelcome touching or other physical contact.  | 14-Day Suspension to Removal             | 30-Day Suspension to Removal   |
| c. Pressure for (or official action based on) sexual favors, including taking action favorable to an employee because of the granting of a sexual favor or denying an action favorable to an employee because of the withholding of a sexual favor.  | 30-Day Suspension to Removal             | Removal                        |
| d. Inappropriate and/or unwelcome teasing, jokes, actions, gestures, display of visual material of a sexual nature or remarks of a sexual nature.  | Letter of Reprimand to 30-Day Suspension | 14-Day Suspension to Removal   |

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|--|----------------------------------|---------------------------------------|
| <b>TYPE FOR MISCONDUCT</b>   | <b>PENALTY FOR FIRST OFFENSE</b> | <b>PENALTY FOR SUBSEQUENT OFFENSE</b> |
| <b>13. PROHIBITED PERSONNEL PRACTICES</b> (Not elsewhere covered.)                             |                                  |                                       |
| Abuse of authority and commission of a prohibited personnel practice covered by 5 U.S.C. 2302. | Letter of Reprimand to Removal   | Removal                               |