

National Aeronautics and Space Administration



NASA DESK GUIDE
FOR
TABLE OF DISCIPLINARY OFFENSES AND PENALTIES
Version 3

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SECTION 1 – INTRODUCTION

This section provides an overview of the document content, as well as a description of how the information is arranged.

1.1 Purpose

The purpose of this desk guide is to provide guidance to National Aeronautics and Space Administration (NASA) Human Resources Offices (HROs) when determining whether and/or to what extent formal disciplinary action is necessary in dealing with issues of employee misconduct.

1.2 Applicability

This desk guide is applicable to NASA Headquarters and NASA Centers, including Component Facilities, the NASA Shared Services Center (NSSC), and the Office of the Inspector General (OIG). Unless otherwise stated, the use of the word Center(s) in the text of this desk guide includes NASA Headquarters and the NSSC, and any reference to Center Director(s) includes the Assistant Administrator for Infrastructure and Administration and the Executive Director, NSSC.

This desk guide is for use by NASA Center HROs. While other departments may be mentioned, the instructions and procedures are specifically meant for Human Resources (HR) personnel.

1.3 About This Document

This document contains a table of disciplinary offenses and penalties, as well as references to applicable regulations and policies. For brevity and readability, the full regulation titles are not included in the body of the document. Please refer to Section 2, References, for a full listing of the referenced documents, including document numbers and titles.

All acronyms are spelled out on first reference (unless in a table) and thereafter, the acronym is used. Appendix A, Acronyms and Abbreviations, contains a list of acronyms used in this guide and the applicable meanings.

SECTION 2 – REFERENCES

Various regulations govern disciplinary offenses and penalties. The following references were used in the preparation of this desk guide:

- a. 5 Code of Federal Regulations (CFR) 432, Performance Based Reduction in Grade and Removal Actions.
- b. 5 CFR 735.201, What are the restrictions on gambling?
- c. 5 CFR 2635.101, Basic obligation of public service.
- d. 5 United States Code (USC) 7501, Definitions.
- e. 5 USC 7326, Penalties.
- f. 5 USC 7351, Gifts to superiors.
- g. 5 USC 7511, Definitions; application.
- h. 31 USC 1349, Adverse personnel actions.
- i. Curtis Douglas vs. Veterans Administration, 5 Merit Systems Protection Board Reporter (MSPR) 280 (1981).
- j. NASA Procedural Requirements (NPR) 3792.1B, NASA Plan for a Drug-Free Workplace.

SECTION 3 – DEFINITIONS

- a. **Formal Discipline:** Formal disciplinary actions include written reprimands, suspensions, reductions in grade or pay, and removals. The term “reprimand” means a written reprimand, which is filed in the employee’s Official Personnel Folder (OPF), for a period of up to 2 years. The term “removal” has the meaning assigned in 5 CFR 432 and the terms “suspension,” “grade,” and “pay” have the meanings assigned in 5 USC 7501 and 5 USC 7511.
- b. **Informal Discipline:** Informal disciplinary actions are oral or written admonishments and are not made a matter of record in the employee’s OPF. However, such discipline, along with other relevant information such as memoranda for the record, the supervisor’s notes, and letters of instruction, may be considered when determining an appropriate penalty for a current offense.
- c. **Days:** As listed in the NASA Table of Disciplinary Offenses and Penalties, “days” means calendar days.
- d. **Table:** In this guide, “Table” refers to the NASA Table of Disciplinary Offenses and Penalties found in Section 5 of this document.

SECTION 4 – GUIDANCE

4.1 Identifying and Describing Offenses

The Table is not intended to cover every possible type of offense or to provide a series of prescriptions to be matched. For example, if a particular offense listed in the Table is not appropriate as a description of the offense committed, do not try to “force fit” the description to a match with the Table, but describe it in terms appropriate to the situation. (However, the description of the offense, once decided upon, should remain the same for all subsequent written references to the offense.) Some of the items listed in the Table combine several offenses, separated by semicolons or connected by the word “or” in one statement. When describing charges against a particular employee, use only the applicable part of a listed offense. Write charges to the standards of specificity required by the Merit Systems Protection Board (MSPB). Supervisors should be advised to seek assistance from their Center’s HR staff to ensure adherence to these standards.

4.2 Determining Penalties

1. The ranges of penalties shown in the Table are those that are considered to be most typical for offenses of the nature indicated. The Table provides for more serious penalties for second and subsequent incidents of employee misconduct. This is in keeping with progressive discipline, with the focus being on rehabilitating employees by taking the least serious corrective action necessary to ensure that further offenses are not committed. In considering the time frame for determining whether an offense is a second or subsequent offense, the usual “reckoning period” is within 4 years preceding the date of the current offense. Nevertheless, if previous offenses were serious in nature or represent a pattern of misconduct, a longer period of time may be considered. Note that a subsequent offense does not have to be a repeat of the first offense (e.g., if an employee is disciplined for being Absent Without Leave (AWOL) and then faces charges of insubordination, the latter penalty can be considered as a second offense). The first action could include a statement such as “Future incidents of this or other misconduct may result in more severe disciplinary action possibly including removal from the Federal Service.”
2. The penalty for a given offense may be less than the minimum penalty shown, or greater than the maximum penalty shown in the Table. This depends largely on whether, and to what extent, the “Douglas” factors come into play or how egregious the act was. In the case of *Douglas vs. Veterans Administration*, 5 MSPR 280 (1981), the following factors may influence the decision as to whether any formal disciplinary action should be imposed at all, or whether such action might be less severe (mitigating) or more severe (aggravating) than the typical range shown in the Table. There is no requirement to address all of these factors; consider only those which apply:
 - a. The nature and seriousness of the offense and its relation to the employee’s duties, position, or responsibilities, including whether the offense was intentional, technically inadvertent, committed maliciously or for gain, and how frequently it was repeated;
 - b. The employee’s job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position;
 - c. The employee’s past disciplinary record;

- d. The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;
- e. The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisor's confidence in the employee's ability to perform assigned duties;
- f. The consistency of the penalty with those imposed upon other employees for the same or similar offenses;
- g. The consistency of the penalty with any applicable Agency table of penalties;
- h. The notoriety of the offense or its impact upon the reputation of the Agency;
- i. 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;
- j. The potential for the employee's rehabilitation;
- k. 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
- l. The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

4.3 Penalties

Penalties for offenses are listed in Section 5, NASA Table of Disciplinary Offenses and Penalties. Penalties for offenses not listed should be determined by the supervisor in consultation with the Center's HR staff. Generally, such penalties should be consistent with the range of penalties shown for comparable offenses listed in the Table, unless application of the Douglas factors supports a penalty outside that range or if a statutory penalty applies such as willful misuse of a Government vehicle. In addition, actions taken on the basis of off-duty misconduct must show a nexus between the offense(s) and the efficiency of the Government service. Consider, also, the need for reasonable accommodation and/or firm choice when there are health or related factors.

4.4 Alternative Discipline

There may be other actions taken in lieu of formal discipline which are the equivalent of formal discipline and are part of the disciplinary process. Examples include, but are not limited to, settlement agreements or letters that state they are in lieu of whatever formal discipline that would normally be imposed.

SECTION 5 – NASA TABLE OF DISCIPLINARY OFFENSES AND PENALTIES

NASA TABLE OF DISCIPLINARY OFFENSES AND PENALTIES				
#	Category/Offense	Penalties		
		First Offense	Second Offense	Third Offense
Attendance and Leave				
1	Failure to follow established leave procedures.	Written reprimand to 14-day suspension	3-30 day suspension	Removal
2	Failure to follow established work schedule.	Written reprimand to 14-day suspension	3-30 day suspension	Removal
3	Unexcused or unauthorized absence from the job during working hours or any scheduled day of work (AWOL), including tardiness.	Written reprimand to 14-day suspension	3-30 day suspension	Removal
Conduct on the Job				
4	Borrowing money from, obtaining co-signature of, or coercing subordinates to lend money or co-sign for financial obligations.	Written reprimand to removal	3-day suspension to removal	7-day suspension to removal
5	Discourteous conduct to the public.	Written reprimand	1-7 day suspension to removal	7-day suspension to removal
6	Disrespectful conduct; creating a disturbance; use of abusive or obscene language to or about others; or making slanderous, defamatory, disparaging or knowingly false statements to or about others.	Written reprimand to removal	3-day suspension to removal	7-day suspension to removal
7	Engaging in dangerous horseplay; threatening or attempting to inflict bodily injury to another; fighting; negligent or intentional injury to person or property of others.	3-day suspension to removal	7-day suspension to removal	Removal
8	Failure or delay(s) in carrying out official assignments or orders.	Written reprimand to 3-day suspension	3-14 day suspension	7-day suspension to removal
9	Gambling or unlawful betting or promotion of gambling or lotteries on Government premises or while on duty [5 CFR 735.201].	Written reprimand to 3-day suspension	3-day suspension to removal	7-day suspension to removal
10	Prohibited gifts for official superiors. This includes soliciting contributions for a gift or present to someone in a official superior position; accepting a prohibited gift or present from a Government employee receiving a lower salary, or making a prohibited donation as a gift or present to an official supervisor [5 USC 7351].	Written reprimand to 14-day suspension	7-day suspension to removal	Removal
11	Insubordination/disobedience to authorities or refusal to carry out any proper order.	Written reprimand to removal	3-day suspension to removal	Removal
12	Loafing, willful idleness, wasting time, or sleeping on duty when safety of persons or property not endangered. See #35.	Written reprimand to 5-day suspension	3-day suspension to removal	7-day suspension to removal

NASA TABLE OF DISCIPLINARY OFFENSES AND PENALTIES				
#	Category/Offense	Penalties		
		First Offense	Second Offense	Third Offense
13	Negligence or careless workmanship in performance of duty resulting in waste of public funds, inefficiency, or delay in production; covering or attempting to conceal defective work; removing or destroying same without permission.	Written reprimand to 7-day suspension	3-14 day suspension	7-day suspension to removal
14	Possession, use, or being under the influence of drugs.	Removal (See NPR 3792.1B, NASA Plan for a Drug-Free Workplace.)		
15	Refusal to cooperate in an investigation.	Written reprimand to removal	1-day suspension to removal	7-day suspension to removal
16	Requiring/allowing a subordinate to perform non-official work.	Written reprimand to removal	3-day suspension to removal	7-day suspension to removal
17	Solicitation or acceptance of a gift or gratuity which might reasonably be interpreted as tending to influence the performance of official duties.	Written reprimand to removal	7-day suspension to removal	Removal
18	Striking or other work stoppage or slowdown.	Removal		
19	Unauthorized possession of a gun or other weapon on Government premises.	Written reprimand to removal	Removal	
20	Unauthorized possession or being under the influence of alcohol while on duty.	Written reprimand	3-day suspension to removal	7-day suspension to removal
Hostile Work Environment/Discrimination-related Issues				
21	Harassing, threatening, or taking reprisal against an employee as a result of or in anticipation of a grievance, appeal, complaint, or other exercise of legal rights.	1-day suspension to removal	3-day suspension to removal	Removal
22	Discrimination or harassment against one or more individuals on the basis of sex, race, religion, color, age, national origin, handicapping condition, marital or parental status, sexual orientation, or political affiliation.	1-day suspension to removal	3-day suspension to removal	Removal
Outside Employment and Interests				
23	Conducting unauthorized personal business or other affairs while on duty status; unauthorized canvassing, soliciting, or peddling.	Written reprimand to 3-day suspension	3-14 day suspension	7-day suspension to removal
24	Engaging, directly or indirectly, in financial transactions which create a real or apparent conflict of interest.	Written reprimand to removal	3-day suspension to removal	Removal
25	Failure to obtain required clearance of an official speech or article.	Written reprimand to 3-day suspension	3-14 day suspension	7-day suspension to removal
26	Failure to pay just financial obligation, such as Federal, State, or local taxes, without sufficient cause [5 CFR 2635.101(12)].	Written reprimand to 3-day suspension	3-7 day suspension	7-day suspension to removal
27	Improper political activities [5 USC 7326].	Removal (On appeal, MSPB may mitigate to 30-day suspension by unanimous vote [5 USC 7326].)		
28	Performing unauthorized employment or engaging in private business activities of a prohibited nature.	Written reprimand to 3-day suspension	3-14 day suspension	7-day suspension to removal

NASA TABLE OF DISCIPLINARY OFFENSES AND PENALTIES				
#	Category/Offense	Penalties		
		First Offense	Second Offense	Third Offense
Personal Conduct or Character				
29	Conduct demonstrating untrustworthiness or unreliability.	Written reprimand to 3-day suspension	3-14 day suspension	7-day suspension to removal
30	Falsification, misstatement, exaggeration, or concealment of fact in connection with employment, promotion, attendance, or any record, investigation, or other proper proceeding.	Written reprimand to removal	3-day suspension to removal	Removal
31	Immoral, indecent, unethical, criminal, infamous, dishonest, or notoriously disgraceful conduct.	Written reprimand to removal	3-day suspension to removal	7-day suspension to removal
32	Use or attempted use of influence or pressure to secure favor in the appointment, transfer, advancement, or retention of a relative in NASA.	1-day suspension to removal	3-day suspension to removal	Removal
33	Violation of one or more of the merit system principles.	1-day suspension to removal	3-day suspension to removal	7-day suspension to removal
Safety and Health				
34	Requiring/allowing a subordinate to perform work in an unsafe/unhealthy condition.	Written reprimand to removal	3-day suspension to removal	7-day suspension to removal
35	Sleeping on duty when safety of persons or property is endangered. See #12.	1-day suspension to removal	3-day suspension to removal	Removal
36	Unauthorized smoking.	Written reprimand to 3-day suspension	3-10 day suspension	7-day suspension to removal
37	Violation of a traffic law, safety regulation, instruction for safe driving or other prescribed safe practice; failure to report accident or injury; failure to use protective clothing/equipment.	Written reprimand to removal	3-day suspension to removal	7-day suspension to removal
Security				
38	Violation of an information technology security requirement or policy.	Written reprimand to removal	1-day suspension to removal	7-day suspension to removal
39	Violation of a security regulation including failure to comply with instructions of security personnel, or to safeguard classified material.	Written reprimand to removal	3-day suspension to removal	7-day suspension to removal
Use of Government Property				
40	Failure to follow an established policy regarding the personal use of Government office equipment including information technology.	Written reprimand to removal	3-day suspension to removal	7-day suspension to removal
41	Loss, damage, destruction or theft of or misconduct, willful negligence, or wanton/reckless disregard for Government property.	Written reprimand to removal	3-day suspension to removal	7-day suspension to removal
42	Improper use of official identification/credential card or badge, official information, or official authority without official authorization.	Written reprimand to removal	1-day suspension to removal	7-day suspension to removal

NASA TABLE OF DISCIPLINARY OFFENSES AND PENALTIES				
#	Category/Offense	Penalties		
		First Offense	Second Offense	Third Offense
43	Operation of Government-owned or leased vehicle without valid license.	Written reprimand to 14-day suspension	3-day suspension to removal	Removal
44	Possession, downloading, or transmission of pornographic/sexually explicit material by computer or other means.	Written reprimand to removal	3-day suspension to removal	Removal
45	Unauthorized possession of Government property or the property of others.	Written reprimand to removal	3-day suspension to removal	Removal
46	Use of or allowing use of Government funds or property, credit cards, personnel, or other resources for unauthorized purposes.	Written reprimand to 14-day suspension	3-day suspension to removal	7-day suspension to removal
47	Use of or allowing use of a Government motor vehicle, aircraft, etc., including the unauthorized transportation of passengers for other than official purposes.	Written reprimand to 14-day suspension	3-day suspension to removal	Removal
48	Willful misuse of a Government vehicle [31 USC 1349(b)].	30-day suspension to removal	Removal	

APPENDIX A – ACRONYMS AND ABBREVIATIONS

Acronyms that are used in this desk guide are identified upon first use in this document. Thereafter, the acronym is used. In cases where the first or only instance of the use of an acronym is in a table or graphic, it may not be spelled out on first reference. Since many acronyms and abbreviations have multiple meanings, the following list includes those used in this guide and the applicable meaning:

ACRONYM/ ABBREVIATION	MEANING
AWOL	Absent Without Leave
CFR	Code of Federal Regulations
HR	Human Resources
HRO	Human Resources Office
MSPB	Merit Systems Protection Board
MSPR	Merit Systems Protection Board Reporter
NASA	National Aeronautics and Space Administration
NPR	NASA Procedural Requirements
NSSC	NASA Shared Services Center
OIG	Office of the Inspector General
OPF	Official Personnel Folder
USC	United States Code