

APPENDIX A. TITLE 5 - TABLE OF EXAMPLES OF OFFENSES AND PENALTIES

1. INSTRUCTIONS FOR USE OF TABLE

a. The range of penalties indicated in this table is to be used as a guide in administering discipline to help assure that like disciplinary action is taken for like offense.

b. The suspension penalties listed in the table are applicable to workdays only.

(Caution: In title 5, U.S. Code, chapter 75, "Suspended for More than 14 days" is interpreted to express calendar days)

c. In using this table, consideration will be given to the following:

(1) The table is designed to be sufficiently broad to include most types of offenses, but is not intended to be an exhaustive listing of all offenses. For other offenses, appropriate penalties may be prescribed by disciplinary officials for application within their jurisdiction, consistent with the range of penalties for comparable offenses listed in the table.

(2) This guide does not cover all offenses for which disciplinary penalties are expressly provided by law or Civil Service regulation.

(3) Offenses need not be identical in order to support progressively more severe disciplinary/ adverse action against an employee. For example, an employee who has received an admonishment for AWOL can receive a reprimand for sleeping on duty, and possibly be suspended or removed for a third offense unrelated to the two previous infractions.

(4) When an employee has committed a combination or series of offenses, a greater penalty than is listed for a single offense is appropriate.

(5) Where appropriate, demotion may be used in place of removal as provided in this chapter, except for the offense described in item 27 of the table.

(6) Disciplinary penalties will generally fall between the ranges indicated in the guide, but in unusual circumstances greater or lesser penalties may be imposed. In determining disciplinary action to be taken in a specific case, the following factors that will be considered as cited in Douglas v. VA, 5M.S.P.R.280 (1981). Remember that any of the Douglas factors may be either mitigating or aggravating. Each relevant factor must be addressed.

(7) The following are the twelve (12) Douglas factors:

(a) 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;

(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 the supervisor's confidence in the employee's ability to perform assigned duties;

(f) Consistency of the penalty with those imposed upon other employees for the same or similar offenses;

(g) 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) Potential for the employee's rehabilitation;

(k) Mitigating circumstances surrounding the offense such as unusual job tension, 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.

(7) Removal action will be taken whenever required by law or regulation or whenever warranted by the facts in the individual case. Normally, progressively more severe penalties will be administered before removal action is initiated, unless the offense is so serious that it warrants removal action. The severity of the penalty will be that which is required in order to correct the attitude or conduct of the employee or to correct the situation.

(8) Although oral or written counselings of employees are not considered disciplinary actions, such counselings may be considered when assessing the appropriate penalty for a particular offense.

(9) The "Douglas" factors are not applicable in those instances where a specific penalty (e.g., 30 day suspension for misuse of a Government vehicle) is required by statute.

2. RANGE OF PENALTIES FOR STATED OFFENSES

NOTE: 'Days' specified in this table refer to suspension.

NATURE OF OFFENSE	1ST OFFENSE	2ND OFFENSE	3RD OFFENSE
	Minimum/ Maximum	Minimum/ Maximum	Minimum/ Maximum
1. Unexcused tardiness.	Admonishment Reprimand	5 days Reprimand	5 days Removal
2. Unexcused or unauthorized absence.	Admonishment Reprimand	Reprimand 10 days	10 days Removal
3. Leaving job to which assigned or VA premises, during working hours, without proper permission	Admonishment Reprimand	5 days Reprimand	10 days Removal
4. Loafing, willful idleness, or waste of time.	Admonishment Reprimand	Reprimand 10 days	10 days Removal
5. Careless or negligent workmanship resulting in waste or delay.	Admonishment Reprimand	Reprimand 10 days	10 days Removal
6. Violating traffic regulations or reckless driving on VA premises; or improper operation of a motor vehicle.	Admonishment 10 days	Reprimand Removal	10 days Removal
7. Failure to observe precaution for personal safety, posted rules, signs, written or oral safety instructions, or to use protective clothing or equipment.	Admonishment 10 days	Reprimand Removal	10 days Removal
8. Smoking in unauthorized places or carrying of matches in explosive areas	Admonishment Reprimand	Reprimand 10 days	10 days Removal
9. Endangering the safety of or causing injury to anyone on VA premises through carelessness or negligence.	Admonishment Removal	10 days Removal	Removal
10. Failure to report personal injury or accident.	Admonishment Reprimand	Reprimand 10 days	5 days 15 days
11. Failure to safeguard confidential matter.	Admonishment Reprimand	Reprimand 10 days	10 days Removal
12. Deliberate failure or unreasonable delay in carrying out instructions.	Admonishment Reprimand	3 days 10 days	10 days Removal

NATURE OF OFFENSE	1ST OFFENSE	2ND OFFENSE	3RD OFFENSE
	Minimum/ Maximum	Minimum/ Maximum	Minimum/ Maximum
13. Sleeping on duty. a. Where safety of patients, beneficiaries, members, employees or property is not endangered.	Admonishment Reprimand	Reprimand 10 days	10 days Removal
b. Where safety of patients, beneficiaries, members, employees, or property may be endangered.	5 days Removal	Removal	
14. Abuse of patients or beneficiaries	Reprimand Removal	10 days Removal	Removal
15. Fighting, threatening, attempting or inflicting bodily injury to another; engaging in dangerous horseplay. (Penalty depends on such factors as provocation, extent of any injuries, and whether actions were defensive or offensive in nature)	Reprimand Removal	10 days Removal	Removal
16. Disrespectful conduct, use of insulting, abusive, or obscene language to or about other personnel, patients, or visitors.	Reprimand Removal	10 days Removal	Removal
17. Deliberate refusal to carry out any proper order from, or insolent, abusive, or obscene language toward immediate or other supervisor having responsibility for the work of the employee; willful resistance to same	Reprimand Removal	10 days Removal	Removal
18. Offenses related to intoxicants. Actions involving these offenses should be reviewed to ensure the requirements of drug and alcohol abuse program are met. a. Alcohol-related:			
(1) Unauthorized possession of alcoholic beverages while on VA premises or in duty status.	Reprimand 5 days	10 days Removal	15 days Removal

NATURE OF OFFENSE	1ST OFFENSE	2ND OFFENSE	3RD OFFENSE
	Minimum/ Maximum	Minimum/ Maximum	Minimum/ Maximum
18.a. (Continued)			
(2) Unauthorized use of alcoholic beverages while on VA premises or in duty status.	Reprimand 10 days	15 days Removal	Removal
(3) Reporting to or being on duty while under the influence of alcohol.	Reprimand 10 days	15 days Removal	Removal
(4) Sale or transfer of an alcoholic beverage while on VA premises or in a duty status or while any person involved is in a duty status.	10 days Removal	Removal	
b. Drug-related:			
(1) Unauthorized possession of an illegal drug or controlled substance while on VA premises or in a duty status.	5 days 10 days	15 days Removal	Removal
(2) Unauthorized use of a drug or controlled substance while on VA premises or in a duty status.	10 days Removal	15 days Removal	Removal
(3) Reporting to or being on duty while under the influence of a drug or controlled substance.	15 days Removal	Removal	
(4) Sale or transfer of a drug or controlled substance while on VA premises or in a duty status or while any person involved is in a duty status.	15 days Removal	Removal	
(5) Refusal to take drug test, as required	Admonishment Removal	15 days Removal	Removal

NATURE OF OFFENSE	1ST OFFENSE	2ND OFFENSE	3RD OFFENSE
	Minimum/ Maximum	Minimum/ Maximum	Minimum/ Maximum
19. Gambling, unlawful betting; on VA premises.	Reprimand 10 days	10 days Removal	Removal
20.Promotion of gambling on VA premises.	Reprimand 10 days	10 days Removal	Removal
21. Indebtedness-lack of good faith in paying just financial obligations; such as failure without good cause to make or live up to arrangements to pay a debt that the employee admits he owes or that is supported by court judgment, or that represents a tax or other financial obligation to the U.S. Government or to State and local government.	Admonishment	Admonishment Reprimand	Reprimand Removal
22. Actual or attempted theft of Government property, or of personal property. on VA. premises.	Reprimand Removal	10 days Removal	Removal
23. Making false or unfounded statements, which are slanderous or defamatory, about other VA personnel or officials.	Reprimand Removal	10 days Removal	Removal
24. Falsifying attendance record for self or another employee.	Reprimand Removal	10 days Removal	Removal
25.Intentional falsification, misstatement, or concealment of material fact in connection with employment or any investigation, inquiry or proper proceeding; refusal to cooperate in same; or willfully forgoing or falsifying official Government records or documents	Reprimand Removal	10 days Removal	Removal

NATURE OF OFFENSE	1ST OFFENSE	2ND OFFENSE	3RD OFFENSE
	Minimum/ Maximum	Minimum/ Maximum	Minimum/ Maximum
<p>26. Loss of, damage to, or unauthorized use of Government property:</p> <p>a. Through carelessness or negligence</p> <p>b. Through maliciousness or intent</p> <p>NOTE: <i>For willful use or authorization of the use of any Government vehicle for other than official purposes, the prescribed penalty is suspension for not less than 30 days or removal (31 U.S.C. 1349(b); see number 49.</i></p>	<p>Admonishment 15 days</p> <p>Reprimand Removal</p>	<p>10 days Removal</p> <p>10 days Removal</p>	<p>Removal</p> <p>Removal</p>
27. Owning any interest in, or receiving any wages, salary dividends, profits, gratuities, or services from any educational institution operated for profit in which an eligible veteran, or person, is pursuing a course of education or training under 38 U.S.C. 34 and 35 where it is determined that detriment will result to the United States or to eligible veterans, or persons, by reason or such interest or connection	Removal		
28. Participation in any type of outside activities, of relationships with contractors lenders, builders, or others engaged in business with VA or relationships with those seeking contracts, which would be contrary to the best interests of VA and the veterans it serves. Penalty action will be determined on the basis of whether the activities, or relationships, might result in a conflict between the private interest of the employee and his/her duty and obligation to or tend to create in the minds of others a suspicion of prejudice or favoritism that would be of embarrassment to VA.	<p>Admonishment Removal</p>	<p>10 days Removal</p>	Removal

NATURE OF OFFENSE	1ST OFFENSE	2ND OFFENSE	3RD OFFENSE
	Minimum/ Maximum	Minimum/ Maximum	Minimum/ Maximum
29. Except as specifically authorized, disclosing or using directly or indirectly information obtained as a result of employment in VA, which is of a confidential nature or which represents a matter of trust; or any other information so obtained of such character that its disclosure or use would be contrary to the best interests of the Government, VA, or the veterans being served by it.	Reprimand Removal	Removal	
30. Borrowing from, or lending money to, any beneficiary or claimant of VA; or borrowing from, or lending money to, another VA employee (or non-VA employee) for the purpose of monetary gain while on duty or on VA property.	Reprimand Removal	Removal	
31. Soliciting contributions for, or otherwise promoting, on premises occupied by VA, any national or local welfare or other type of campaign which has not had appropriate VA endorsement	Reprimand Removal	10 days Removal	Removal
32. Selling tickets, stocks, articles, or commodities or services on VA premises. This prohibition is not to be construed as prohibiting employees from engaging in bonafide activities on premises occupied by VA or organized employee union, group, organization, or association, as provided in other chapter of this manual.	Reprimand Removal	10 days Removal	Removal
33. Accepting gifts or gratuities (whether in the form of goods, money, services, purchases at discount, entertainment, or similar favors) from claimants or beneficiaries of VA, or individuals or firms doing business with or having contractual relations with VA.	Reprimand Removal	Removal	

NATURE OF OFFENSE	1ST OFFENSE	2ND OFFENSE	3RD OFFENSE
	Minimum/ Maximum	Minimum/ Maximum	Minimum/ Maximum
34. Violation of the Privacy Act.	Reprimand 10 days	10 days Removal	Removal
35. Prohibited personnel practice (Reference 5 U.S.C. 2302.)	Reprimand Removal	10 days Removal	Removal
36. Participating in a strike, work stoppage, sick-out, slowdown, or other job action.	Reprimand Removal	Removal	Removal
37. Sexual harassment.	Reprimand Removal	5 days Removal	10 days Removal
38. Discrimination based on race, color, sex, religion, national origin, age, marital status, political affiliation, or disability.	Reprimand Removal	5 days Removal	10 days Removal
39. 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.	Reprimand Removal	5 days Removal	Removal
40. Reprisal against an employee for providing information to an Office of Inspector General (or equivalent) or Office of Special Counsel, or to an EEO investigator, or for testifying in an official proceeding.	10 days Removal	Removal	
41. Reprisal against an employee for exercising a right provided under 5 U.S.C. 71(Federal Labor Management Relations Statute).	Reprimand Removal	5 days Removal	10 days Removal
42. Violation of an employee's constitutional rights (i.e., freedom of speech, association, religion).	Reprimand Removal	5 days Removal	10 days Removal

NATURE OF OFFENSE	1ST OFFENSE	2ND OFFENSE	3RD OFFENSE
	Minimum/ Maximum	Minimum/ Maximum	Minimum/ Maximum
Offenses Prescribed in Statute:			
43. Finding by MSPB of refusal to comply with MSPB order or of violation of statute causing issuance of Special Counsel complaint ((5 U.S.C. 1204(a)(2) and 1212(a)). NOTE: <i>Penalty may need to be coordinated with Office of Special Counsel.</i>	Reprimand Removal	Reprimand Removal	Reprimand Removal
44. Directing, expecting, or rendering services not covered by appropriations (5 U.S.C. 3103).	Removal		
45. Prohibited Political Activity:*			
a. Violation of prohibition against the solicitation of political contributions (5 U.S.C. 7323).	Removal		
b. Violation of prohibition against influencing elections (5 U.S.C. 7324).	30 days Removal	Removal	
46. Failure to deposit into the Treasury money accruing from lapsed salaries or from unused appropriations for salaries (5U.S.C. 5501).	Removal		
47. Soliciting contributions for a gift for a superior; making a donation as a gift to a superior; accepting a gift from an employee receiving less pay (5 U.S.C. 735 1).	Reprimand Removal	10 days Removal	Removal
48. Action against national security (5 U.S.C. 7532).	30 days Removal	Removal	
49. Willfully using or authorizing the use of government passenger motor vehicle or aircraft for other than official purposes (31 U.S.C. 1349(b)). NOTE: <i>30 days for this offense means calendar days.</i>	30 days Removal	Removal	
50. Mutilating or destroying a public record (18 U.S.C. 207 1).	Removal		

*Actions based on Hatch Act violations will be initiated by the Office of Special Counsel