
Disciplinary/Adverse Actions – Selecting the Appropriate Penalty

Conduct problems involve the breaking of a rule, regulation, policy or direction. Although not completely avoidable, taking the time to care and communicate with employees can help in preventing conduct problems. Also, take time to reward or correct an employee when needed. Discipline is meant to correct an employee's conduct while maintaining high productivity, discipline, and morale among all employees. When discipline becomes necessary, the goal is to impose the minimum remedy that can reasonably be expected to meet this objective.

- Before deciding on an appropriate penalty, management has the burden of showing reasonableness of the remedy by demonstrating that appropriate consideration was given to each of the applicable factors within the 12 Douglas Factors. Some of the factors to consider when selecting a penalty:
 - Seriousness of the offense
 - Prior disciplinary record
 - Table of offenses and Range of Remedies
 - Medical issues
 - Consistency of the action
 - Other factors
- Disciplinary actions include:
 - Letters of Reprimand
 - Suspensions
 - Demotions
 - Removals
- These actions are usually progressive; however, there may be incidents of misconduct which are so serious that they warrant severe action, including removal from employment, for the first offense.
- Remedies for offenses may vary. Greater or lesser penalties than set out in the Table of Penalties may be imposed depending on mitigating or aggravating factors.
- In considering past offenses, oral counseling sessions and written admonishments may not be counted as prior offenses in determining a remedy. These may be cited, however, to show that the employee was informed of acceptable level of conduct and performance.

Disciplinary/Adverse Actions – Selecting the Appropriate Penalty

- Letters of reprimand may be counted as prior offenses provided the reckoning period for the letter has not expired.
- Suspensions or reduction in grade or pay for disciplinary reasons may be counted as prior offenses.
- Disciplinary actions become a matter of record in an employee's official personnel folder (OPF). However, Reprimands only remain in an employee's OPF for up to 2 years.
- There are several useful tools that can be used instead of or in addition to disciplinary actions to assist you with correcting conduct problems. These tools should be considered during the early stages of conduct issues.
 - Document oral counseling.
 - Letters of counseling, cautions, warnings and letters of requirement that are not placed in the OPF.
 - Placing employees on Letters of Requirement for leave abuse are an effective tool.
 - Training (team building, interpersonal skills, etc.) or closer supervision may assist in correcting misconduct.
- Employee Assistance Program – free, confidential, counseling service provided to employees experiencing personal problems that might impact their performance/conduct on the job. Bargaining Unit employees covered by negotiated agreements may have special requirements involving some of the tools mentioned above. Refer to the Negotiated Agreement before taking any actions.
- The supervisor and HR Specialist have different roles during this process:
 - Supervisor:
 - Contact the HR Specialist
 - Assess the situation
 - Gather facts
 - Decide what action to take

Disciplinary/Adverse Actions – Selecting the Appropriate Penalty

- HR Specialist:
 - Research case law
 - Analyze case & reviews case file
 - Recommends range of remedies
 - Writes all letters and maintains files
 - Offers advice & guidance throughout the process
- Job relatedness is important in actions. As the supervisor, you have a right to expect good conduct, performance, and attendance. When problems in these areas arise, remember to DOCUMENT. Your actions are subject to internal and/or external review and must be supported with good documentation.

<u>RELATED TOPICS</u>	<u>REFERENCES</u>
Performance v. Conduct Douglas Factors Employee Discussions (Formal) Counseling Employees	5 CFR 752