

U.S. Department of Energy
Washington, D.C.

ORDER

DRAFT
DOE O 333.1

Approved: XX-XX-XX

SUBJECT: ADMINISTERING WORKFORCE DISCIPLINE

1. PURPOSE. To provide requirements and responsibilities for administering workforce discipline that includes disciplinary, adverse, and alternative corrective actions (hereinafter referred to as “corrective actions”) in the Department of Energy (DOE).
- ~~2.~~ CANCELLATION. DOE 3750.1, *WORKFORCE DISCIPLINE*, DATED 03-23-83.
3. APPLICABILITY.
 - a. Departmental Applicability. This Order applies to all Departmental elements, including the Bonneville Power Administration, but excludes the following types of appointments
 - (1) Presidential;
 - (2) Noncareer Senior Executive Service (SES); and
 - (3) Schedule C.

The Administrator of National Nuclear Security Administration (NNSA) must assure that NNSA employees comply with their respective responsibilities under this directive. Nothing in this Order will be construed to interfere with the NNSA Administrator’s authority under section 3212(d) of P.L. 106-65 to establish Administration-specific policies, unless disapproved by the Secretary.

In accordance with the responsibilities and authorities assigned by Executive Order 12344, codified at 50 U.S.C. sections 2406 and 2511 and to ensure consistency through the joint Navy/DOE Naval Nuclear Propulsion Program, the Deputy Administrator for Naval Reactors (Director) will implement and oversee requirements and practices pertaining to this directive for activities under the Director’s cognizance, as deemed appropriate.
 - b. DOE Contractors. This Order does not apply to DOE contractors.
 - c. Equivalencies/Exemptions. None.

4. REQUIREMENTS.

a. Corrective Actions.

- (1) Disciplinary, adverse, and alternative corrective actions must be taken for
 - (a) the purpose of correcting unacceptable conduct at work;
 - (b) behavior that adversely affects job performance;
 - (c) violations of laws, rules, or regulations; or
 - (d) off-duty misconduct when there is a nexus between the misconduct and employment with DOE.
- (2) Any corrective action must promote the efficiency of the service.
- (3) Corrective action must be administered as soon as practicable after a supervisor becomes aware of an employee's misconduct in order to have the maximum corrective effect.
- (4) The following must be considered when administering formal disciplinary or adverse actions:
 - (a) Proper investigation of the issue(s) involved;
 - (b) The Table of Offenses and Penalties (see Appendix A); and
 - (c) The "Douglas Factors" (see Appendix B).

c. Letters of Reprimand and Notices of Proposed Disciplinary or Adverse Actions and Decisions.

- (1) Whenever a prior offense(s) is used to support a more severe penalty, the offense(s) must be cited in the notice of proposed action.
- (2) Absent an unusual circumstance, a reasonable attempt must be made to personally deliver and explain a letter of reprimand or notice of a proposed disciplinary or adverse action or decision to the employee. In cases where it is impossible or difficult to meet with or reach the employee in person, the notice must be transmitted by certified or registered mail, return receipt requested, or by other means which provide proof or confirmation of delivery with a copy sent via regular mail. In addition to mailing, when possible, an email and/or FAX copy may also be sent.
- (3) A reasonable attempt must be made to have the employee acknowledge receipt of a letter of reprimand or notice of a proposed disciplinary or

adverse action or decision. In cases where the employee refuses to sign the document acknowledging its receipt, the supervisor must annotate the document and include the date presented with a notation that the employee refused to sign acknowledging receipt of the document.

- d. Recordkeeping. All documentation related to any actions taken under this Order must be sent to the servicing Human Resources Office (HRO) for retention including, but not be limited to,
- (1) a copy of the notice or letter of proposed action;
 - (2) the employee's written response to the proposed action;
 - (3) the decision notice;
 - (4) a complete record of all relevant information about the case, including the date of delivery of notices and the sequence of any pertinent events; and
 - (5) any other supporting material.

5. RESPONSIBILITIES.

- a. Secretary/Deputy Secretary, or their Designee(s) serves as both the proposing and deciding official for all final decisions related to corrective actions of employees who report directly to the Office of the Secretary and serves as the deciding official for all corrective actions subject to review by the Departmental Executive Resources Board (ERB).
- b. NNSA Administrator, Principal Deputy Administrator, or their Designee serves as the deciding official on final decisions related to disciplinary and/or adverse actions involving NNSA employees who report directly to them except those decided under paragraph 5a above.
- c. Heads of Departmental Elements.
- (1) Administer the corrective actions throughout their respective elements.
 - (2) Ensure that supervisors and management officials consider the Table of Offenses and Penalties at Appendix A and Douglas Factors at Appendix B, and consult with their servicing HRO when initiating corrective actions.
- d. Director, Office of Human Capital Management.
- (1) Develops the policy and guidance on administering corrective actions in the Department and provides staff assistance, advice, and oversight on such matters.

- (2) Coordinates Departmental reporting requirements and compiles Departmental data on corrective actions as needed.
 - (3) Provides recommendations to servicing HROs on legal staff determinations as to whether or not to seek review of initial decisions rendered by the MSPB.
- e. Office of the General Counsel.
- (1) Provides legal advice and assistance to the Office of the Chief Human Capital Officer (CHCO), other legal staffs, and to management officials; keeps the Office of the CHCO informed of relevant decisions.
 - (2) Represents DOE before the MSPB and the Equal Employment Opportunity Commission (EEOC); assists other legal staffs in representing their organizations before the MSPB and EEOC.
 - (3) Reviews and concurs on all petitions for payment of attorney's fees for compliance with statutory and regulatory requirements.
- f. General Counsel, NNSA and Chief Counsels of Field Elements.
- (1) Provide legal advice and assistance to the applicable servicing HRO and management officials; in coordination with the servicing HRO, represent or participate in the preparation for representation of DOE before the MSPB and EEOC.
 - (2) In coordination with the Office of the General Counsel, determine whether or not to appeal initial third-party decisions (such as a petition for review of an initial MSPB or EEOC decision, or appeal of a decision on such requests); keep the applicable servicing HRO informed of relevant decisions.
 - (3) Consult with the Office of the General Counsel when an action involves a nonNNSA Headquarters Deciding Official.
- g. Servicing Human Resources Offices.
- (1) Advise, assist, and ensure consistency in the drafting and reviewing of proposed corrective actions and decisions.
 - (2) Seek advice from or inform the respective legal staff on all disciplinary matters, including but not limited to,
 - (a) actions appealable to the MSPB, including whether to request OPM to seek judicial review of MSPB decisions;
 - (b) actions resulting from a prohibited personnel practice(s);

- (c) violations of statutes, regulations, policies, or other legal requirements; and
 - (d) Office of Special Counsel (OSC) investigations.
- (3) Keep the respective legal staff informed of developing corrective actions.
 - (4) Respond to questions from employees regarding the disciplinary process and relevant employee rights and responsibilities.
 - (5) Implement actions directed by OPM and other outside authorities, such as the MSPB or EEOC, in coordination with the respective legal staff.
 - (6) Retain records of actions as described in paragraph 4d and respond to Departmental reporting requirements.
 - (7) Ensure that documented workplace requirements and other conditions of employment can be made readily available upon request by all employees.
- h. Supervisors and Managers.
- (1) Consult with the servicing HRO before initiating alternative corrective actions, letters of reprimand, notices of proposed disciplinary or adverse actions, and decisions.
 - (2) Consider the Table of Offenses and Penalties at Appendix A along with the relevant Douglas Factors at Appendix B in determining the appropriateness of a penalty when deciding disciplinary or adverse actions.
 - (3) Consider an employee's rights and any requirements established by law, regulation, policy, and/or the applicable collective bargaining agreement when administering corrective actions.
 - (4) Approve or disapprove requests to extend the time to answer notices of proposed action.
 - (5) Approve or disapprove requests to extend the effective date of a decision notice.
 - (6) Issue notices of decision on adverse actions proposed by subordinate officials in a timely manner.

6. REFERENCES.

- a. P.L. 112-194 Government Charge Card Abuse Prevention Act of 2012, which is available at <http://www.gpo.gov/fdsys/pkg/PLAW-112publ194/pdf/PLAW-112publ194.pdf>.

- b. Title 5, United States Code (5 U.S.C.), Chapter 43(Performance Appraisal), 75 (Adverse Actions), and 77 (Appeals), which are available at <http://uscode.house.gov/search/criteria.shtml>.
- c. 42 U.S.C. 2011 et seq., which is available at <http://uscode.house.gov/search/criteria.shtm>.
- d. Title 5 Code of Federal Regulations (5 CFR) Parts 432 (Performance Based Reduction in Grade and Removal Actions), 735 (Employee Responsibilities and Conduct), 752 (Adverse Actions), and 1201 (Merit Systems Protection Board Practices and Procedures), which are available at <http://www.gpo.gov/fdsys/search/submitcitation.action?publication=CFR>.
- e. 10 CFR, Parts 710 (Eligibility for Access to Classified Information), 712 (Human Reliability Program), 1017 (Identification and Protection of Unclassified Controlled Nuclear Information), and 1045 (Identifying Classified Information), which are available at <http://www.gpo.gov/fdsys/search/submitcitation.action?publication=CFR>.
- f. Office of Personnel Management (OPM) *Guide to Personnel Recordkeeping*, which is available at <http://www.opm.gov/feddata/recguide2011.pdf>.
- g. DOE O 203.1, *Limited Personal Use of Government Office Equipment Including Information Technology*, which is available at <https://www.directives.doe.gov/directives/0203.1-BOrder/view>.
- h. DOE O 331.1, *Employee Performance Management and Recognition Program*, which is available at <https://www.directives.doe.gov/directives/0331.1-BOrder-cadm1/view> , and the supplemental *Supervisory/Nonsupervisory Employee Performance Management and Recognition Program Desk Reference*, which is available at http://humancapital.doe.gov/resources_perf_mgmt_dept.htm (note: the latter URL is in the process of changing as the web site migrates to DOE's updated web site).
- i. DOE O 342.1, *Grievance Policy And Procedures*, which is available at <https://www.directives.doe.gov/directives/0342.1-BOrder/view>.
- j. DOE O 471.1, *Identification and Protection of Unclassified Controlled Nuclear Information*, which is available at <https://www.directives.doe.gov/directives/current-directives/directives-current-400-series> .
- k. DOE O 471.3, *Identifying and Protecting Official Use Only Information*, and DOE M 471.3-1, *Manual for Identifying and Protecting Official Use Only Information*, which are available at

<https://www.directives.doe.gov/directives/current-directives/directives-current-400-series>.

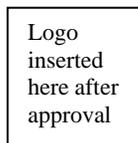
- l. DOE O 475.2, *Identifying Classified Information*, which is available at <https://www.directives.doe.gov/directives/current-directives/directives-current-400-series>.
- m. DOE 3792.3, *Drug-Free Federal Workplace Testing Implementation Program*, which is available at <https://www.directives.doe.gov/directives/current-directives/directives-current-3700-series> (note: this directive is being updated in the 300 series).
- n. Local collective bargaining agreements that contain the sole procedure for bargaining unit employees to grieve disciplinary actions and, if negotiated, actions covered by the MSPB.

7. DEFINITIONS.

- a. Abeyance Agreement. A written and signed agreement in which a Deciding Official (see paragraph 7h below) agrees to hold implementation of a decision on a disciplinary action in abeyance for a specific period of time and the employee agrees to waive all rights to appeal the discipline resulting from the action held in abeyance.
- b. Adverse Action. A suspension of more than 14 days, reduction in grade, reduction in pay, or removal.
- c. Alternative corrective action. Non-traditional informal and formal corrective action that could include, but is not limited to, the following: counseling; oral admonishment (see paragraph k below); training; a disciplinary action that is prepared, but not served, i.e., it is held in abeyance; an Abeyance Agreement (see paragraph 7a above); or a Last Chance Agreement (see paragraph 7i below).
- d. Breach or Offense. A violation of DOE rules or policies, a failure to observe the terms of employment, or a criminal or civil offense or infraction.
- e. Conflict of Interest. See 18 U.S.C. 208 and 5 CFR Part 2640.
- f. Charge. A description of the offense in a disciplinary action, as stated in the proposed action and final decision.
- g. Corrective Action. A disciplinary, adverse, or alternative corrective action (see paragraphs 7i, 7b, and 7c, respectively).
- h. Deciding Official. The official who issues the notice of final decision on a disciplinary or adverse action.

- i. Formal Disciplinary Action. For non-SES employees, a formal disciplinary action, i.e., a reprimand or suspension of 14 days or less, taken by a management official to address/correct employee misconduct, and for such cause as will promote the efficiency of the service.
 - j. Last Chance Agreement. A written agreement an employee signs in which the employee agrees that the next instance of misconduct will result in removal and waives all rights to appeal the removal.
 - k. Oral Admonishment. Informal corrective action in which a supervisor verbally addresses the employee's minor misconduct.
 - l. Progressive Discipline. The process of imposing increasingly severe disciplinary penalties when earlier actions have been unsuccessful in correcting misconduct.
 - m. Proposing Official. The official who issues a notice of proposed action to an employee (normally, but not exclusively, the first-line supervisor).
 - n. Reprimand. A formal memorandum issued to an employee by a supervisor having authority with respect to that employee to address the employee's misconduct; reprimand is the least severe formal disciplinary action.
8. CONTACT. Questions concerning this Order should be addressed to the Office of Strategic Planning and Policy, Office of Human Capital Management, at 202-586-9239.

BY ORDER OF THE SECRETARY OF ENERGY:



DANIEL B. PONEMAN
Deputy Secretary

DOE O XXX.X
DRAFT XX-XX-05

APPENDIX A
TABLE OF OFFENSES AND PENALTIES

GENERAL.

This table is to be used to select the appropriate penalty for formal disciplinary or adverse, but not performance-based, actions attributed to misconduct. It is not intended to replace supervisory judgment or discretion or dictate the selection of corrective action. *Mechanical use of the guide must be avoided.*

The table includes the “traditional” formal disciplinary options of reprimand, suspension, and removal. However, in determining how to best maintain the efficiency of the service, supervisors may use alternative corrective actions, such as counseling or oral admonishments, which the manager believes will deter future behaviors and effect permanent change in employee conduct.

OFFENSE COLUMN.

The OFFENSE column is not exhaustive and does not list all potential situations requiring corrective action. Notices need not exactly replicate the language from the OFFENSE column.

ACTION (PENALTY) COLUMNS.

The ACTION section establishes a range of penalties from minimum to maximum for a specific OFFENSE and is divided into columns for FIRST OFFENSE, SECOND OFFENSE, and THIRD OFFENSE. *A penalty may be less than the minimum or more than the maximum shown in the table.* Penalties for offenses not listed in the table are determined by the supervisor in consultation with the servicing Human Resources staff. Note that certain offenses, such as misuse of a Government vehicle, have penalties that are set forth in law or regulation.

TABLE OF OFFENSES AND PENALTIES

OFFENSE	ACTION		
	First Offense	Second Offense	Third Offense
1. Delay, failure, or refusal to comply with or to carry out orders, directions, assigned work, or instructions in a reasonable period of time; noncompliance with policies, procedures, or rules; insubordination.	Reprimand to Removal	Suspension to Removal	Removal
2. Defiance of authority or wanton disregard of or disrespectful response to directions, insolence, or impertinence.	Reprimand to Removal	Suspension To Removal	Removal
3. Unexcused tardiness.	Reprimand	Suspension	Suspension to Removal
4. Unauthorized absence of (a) up to 1 work day, i.e., the employee’s tour of duty; (b) more than 1 work day NOTE: When an employee fails to report for duty and fails to notify management of his or her intentions, management has been unable to ascertain the employee’s intentions concerning reporting to duty, and the employee has been documented as absent without approved leave (AWOL), a removal may be initiated in accordance with merit and procedural requirements after the passage of a reasonable time.	(a) Reprimand to Suspension (b) Reprimand to Removal	Suspension to Removal	Suspension to Removal
5. Failure to request leave according to established procedures or failure to honor a valid denial of leave request.	Reprimand	Suspension To Removal	Removal
6. Avoidance of work including, but not limited to, loafing, sleeping, watching television, “surfing” the Internet, reading non-work-related material while on duty.	Reprimand	Suspension	Suspension to Removal
7. Carelessness, inattention to duty, or negligence. NOTE: Consider whether these actions/inactions resulted in a hazard to personnel or property; injury or loss and the extent of the injury or loss; disruption of mission; or created an environment where one’s credibility, competence, or effectiveness is questioned.	Reprimand to Removal	Suspension to Removal	Removal

8. Failure to work in a safe manner and/or to use required safety equipment.	Reprimand to Removal	Suspension to Removal	Removal
9. Failure to carry out environmental or safety responsibility or failure to obey environmental or safety law, rule, regulation, or policy. NOTE: Consider whether there is possible or actual danger to the environment or public health or safety and whether an attempt is made to conceal the violation.	Suspension to Removal	Removal	
10. An attempt is made to conceal defective work or negligence in performing work, or there is an unauthorized attempt to remove or destroy work.	Suspension to Removal	Removal	
11. Loss, damage, misuse, endangerment, unauthorized use of or removal, alteration, or destruction of Government property, equipment, records, or information; misuse of Government time, personnel, funds, resources, or services.	Reprimand to Removal	Suspension to Removal	Removal
12. Actual or attempted theft or unauthorized taking and/or possession of Government property or the property of others or colluding with others to commit such acts; giving control of Government property to others for unofficial use.	Suspension to Removal	Removal	
13. Misrepresentation, falsification, lack of candor, forgery, exaggeration, plagiarism, data manipulation, or concealment of a material fact in connection with any Government document, database, process, or information system; submitting a false claim; withholding of material facts in connection with matters under official investigation; or refusal to testify or cooperate in an inquiry, investigation, or other official proceeding.	Reprimand to Removal	Suspension to Removal	Removal
14. Rude or boisterous play or other improper behavior which adversely affects mission accomplishment or morale; use of abusive or offensive language; or quarreling or interfering with the production of others.	Reprimand to Suspension	Suspension to Removal	Suspension to Removal
15. Fighting, acting aggressively, intimidating, baiting, harassing, threatening, hitting, pushing, kicking or other acts which may or may not inflict bodily harm on another.	Suspension to Removal	Removal	
16. Inappropriate teasing, remarks, jokes, gestures, communications, and touching including, but not limited to, those of a sexual nature.	Reprimand to Removal	Suspension to Removal	Suspension to Removal

17. Discourteous or inappropriate conduct involving a co-worker, subordinate, or the public, including, but not limited to, domestic violence, sexual assault, or stalking.	Reprimand to Removal	Suspension to Removal	Suspension to Removal
18. Inappropriate conduct of a Federal employee. NOTE: This offense should not be used if #14 - 17 provide a more specific description of an inappropriate conduct situation.	Reprimand to Removal	Suspension to Removal	Removal
19. Gambling during working hours.	Reprimand to Suspension	Suspension to Removal	Suspension to Removal
20. Promotion of or assisting in a gambling operation on duty or on Government premises.	Reprimand to Removal	Removal	
21. Providing a prescription drug to a co-worker while on duty or on Government property.	Reprimand to Suspension	Suspension to Removal	
22. Possessing or using any illegal drug or misusing a prescription drug while on duty or on Government property.	Suspension to Removal	Removal	
23. Selling or providing any illegal drug or selling a prescription drug while on duty or on Government property.	Suspension to Removal	Removal	
24. Drinking, possessing, transferring, or selling alcoholic beverages on duty or on Government premises without authorization; or reporting for duty under the influence of alcohol.	Suspension to Removal	Removal	
25. Being on duty so impaired by alcohol or drugs as to be unable to properly perform assigned duties, or to be a hazard to self or others.	Reprimand to Removal	Suspension to Removal	Removal
26. A verified positive result to any test for use of illegal drugs or an admission of recent illegal drug use during a personnel security interview or on a personnel security form. NOTE: This offense pertains to employees who are in or applicants for Testing Designated Positions (TDPs) and employees who are not in TDPs who are tested for reasonable suspicion, as a result of a post-accident or an occurrence, or volunteer to be tested. An employee having a verified positive test result for use of an illegal drug must be relieved of sensitive duties until cleared for return by appropriate authorities. Such employees may be issued a notice of removal from employment if he/she cannot be retained in his/her position because of a specific job requirement to	Removal	Removal	

<p>perform such sensitive duties and there is no alternate work assignment available.</p> <p>Because of the serious nature that illegal drug activity can have on the Department's mission and its employees, supervisors should strongly consider taking the most firm action believed necessary to prevent further misconduct.</p>			
<p>27. Making false, unfounded, malicious, disparaging, or highly irresponsible statements against others or DOE; making disparaging references or expressing stereotypical views that have a detrimental effect or impact.</p>	<p>Reprimand to Removal</p>	<p>Suspension to Removal</p>	<p>Removal</p>
<p>28. Any action or failure to take action that violates antidiscrimination laws, or is in retaliation against an employee for engaging in protected activity.</p> <p>NOTE: If the Office of Special Counsel (OSC) has initiated an investigation, according to 5 U.S.C. 1214(f), agencies must seek approval from the Special Counsel to discipline employees. HR staffs must consult their legal staffs.</p>	<p>Suspension to Removal</p>	<p>Removal</p>	
<p>29. Engaging in a prohibited personnel practice (see 5 U.S.C. 2302).</p> <p>NOTE: OSC has the authority to investigate and, prosecute claims of prohibited personnel practices, including reprisal for whistle blowing. HR staffs must consult their legal staffs.</p>	<p>Suspension to Removal</p>	<p>Removal</p>	
<p>30. Violations of the Standards of Conduct under 5 CFR 2635 and 3301, or violations of Federal ethics laws pertaining, but not limited to, conflicts of interest, the Ethics in Government Act of 1978, the Hatch Act, gifts and travel, and outside employment.</p> <p>NOTE: HR staffs must consult with their respective legal staffs.</p>	<p>Reprimand to Removal</p>	<p>Suspension to Removal</p>	<p>Removal</p>
<p>31. Baiting or otherwise inciting a subordinate to violate rules or regulations; coercion in deprivation of an employee's rights; or reprisal for employment of appellate procedures.</p>	<p>Suspension to Removal</p>	<p>Removal</p>	
<p>32. Compromise or discrediting of examination materials or a selection process due to a discussion of a specific question(s) or available information with another employee(s) or applicant(s).</p>	<p>Suspension to Removal</p>	<p>Removal</p>	

<p>33. Compromise of an examination through unauthorized possession, use, manipulation of data, or furnishing to others examination information or materials.</p>	<p>Suspension to Removal</p>	<p>Removal</p>	
<p>34. Unauthorized use, removal, possession, disclosure or failure to safeguard Government information, documents, or materials, including classified or controlled information, i.e., Unclassified Controlled Information (UNCI) and Official Use Only (OUO) (which includes, but is not limited to, Personally Identifiable Information (PII), Privacy Act information, Export Controlled information, and commercial/proprietary information); or infraction(s) of security regulations, which includes, but is not limited to, the following occurrences:</p> <ul style="list-style-type: none"> (a) improper storage of classified or controlled documents or materials; (b) failure to secure a classified container (safe or vault); (c) transmission of classified documents or materials to a non-approved facility; (d) failure to observe procedures for handling of classified or controlled documents or materials; (e) failure to transmit classified documents via a classified network or to encrypt controlled documents when required; (f) removal of classified documents or materials to private residences or otherwise endangering the security of classified information within a 12-month period of the occurrence; and (g) unauthorized release or compromise of security information. <p>NOTE: Actions involving classified or UNCI that are contrary to the requirements found in DOE and national directives may result in additional civil or criminal penalties, depending on the nature and severity of the action.</p>	<p>Reprimand to Removal</p>	<p>Suspension to Removal</p>	<p>Removal</p>
<p>35. Misuse of Government issued equipment, i.e., computers, laptops, cellular telephones, blackberries, copiers, and printers, including downloading unauthorized software.</p>	<p>Reprimand to Removal</p>	<p>Suspension to Removal</p>	<p>Suspension to Removal</p>
<p>36. Attempt to bypass cyber security protections or violation of established cyber security procedures.</p>	<p>Reprimand to Removal</p>	<p>Suspension to Removal</p>	<p>Removal</p>

<p>NOTE: Consider whether the violation results in damage or a compromise to security.</p>			
<p>37. Failure to report or address intentional cyber security infractions.</p>	<p>Reprimand to Suspension</p>	<p>Suspension to Removal</p>	<p>Removal</p>
<p>38. Accessing pornographic or offensive websites; viewing or storing offensive, pornographic or sexually explicit material on Government-issued equipment (i.e., computers, laptops, cellular telephones, blackberries, and printers) and/or on non-Government equipment during work hours.</p>	<p>Suspension to Removal</p>	<p>Removal</p>	
<p>39. Circulation of non-mission-related email which contains a virus or results in loss or damage to system integrity or availability.</p>	<p>Reprimand to Removal</p>	<p>Suspension to Removal</p>	<p>Suspension to Removal</p>
<p>40. Loss of security clearance/access authorization.</p> <p>NOTE: An employee who has had their clearance suspended may need to be assigned or detailed to other duties while an appeal is pending.</p>	<p>Removal</p>		
<p>41. Misuse of a Government issued Travel Card, including the delay or failure to pay the balance on time.</p>	<p>Reprimand to Removal.</p>	<p>Suspension to Removal</p>	<p>Removal</p>
<p>42. Misuse of a Government Purchase Card.</p>	<p>Reprimand to Removal</p>	<p>Suspension to Removal</p>	<p>Removal</p>
<p>43. Violation of traffic regulations or failure to operate a motor vehicle in a safe manner resulting in possible or actual damage to property when (a) driving a Government-owned, Government-leased, or Government-rented vehicle; or when driving a privately owned vehicle while on official Government business; and/or (b) when using Government-owned electronic equipment or devices while driving a privately owned vehicle during the performance of official Government business.</p>	<p>Reprimand to Removal</p>	<p>Suspension to Removal</p>	<p>Removal</p>
<p>44. Entering into an unauthorized procurement commitment (FAR 1.602-3) or personal services contract (FAR 37.104); or unauthorized disclosure of proprietary source selection information (FAR 2.101 and 3.104).</p> <p>NOTE: HR staffs must consult their legal staffs.</p>	<p>Reprimand to Removal</p>	<p>Suspension to Removal</p>	<p>Removal</p>

APPENDIX B
DOUGLAS FACTORS

The Douglas Factors listed below must be considered when taking an adverse action and may be considered for a disciplinary action. The Douglas Factors were established by the MSPB in *Douglas v Veterans Administration*, [81 FMSR 7037](#), [5 MSPR 280](#) (MSPB 1981).

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 the supervisor's 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 Table of Offenses and Penalties at Appendix A;
8. The notoriety of the offense or its impact upon the reputation of the Department;
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 tension, 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.