

DEA Guide for Disciplinary Offenses and Penalties

Appendix TR 20-05, 4/10/20

The purpose of discipline is to be corrective, not punitive. In furtherance of this goal, it is the policy of the DEA that discipline be administered in a constructive, progressive, and consistent manner. All disciplinary actions must be supported by facts and evidence, the preponderance of which supports the disciplinary action to be taken.

This **Guide to Disciplinary Offenses and Penalties** is intended to provide information and guidance concerning the type of penalty that may result from a particular act of misconduct. Personnel involved in DEA's disciplinary system evaluate each incident on a case-by-case basis; however, and consider a number of factors in determining the appropriateness of a penalty. This Guide is but one factor to be considered. Accordingly, depending upon the circumstances of a particular case, the actual penalty imposed for an act of misconduct may be greater or lesser than that stated in this Guide.

This **Guide** is to be used to assist the Board of Professional Conduct and Division/Office Proposing Officials in proposing the appropriate penalties. It is also to be used by the Deciding Officials in determining the appropriateness of a particular penalty. While this guide does not cover every possible offense, it does cover those offenses that commonly occur within the DEA.

The Guide lists offenses by category for formal disciplinary actions which become a matter of record in the employee's official personnel folder. For each offense, it indicates the range of suggested penalties for a first, second, or subsequent offense. The Guide does not address oral warnings, counseling letters, cautions, etc. as they are forms of pre-disciplinary actions.

F. The Guide is divided into 11 sections:

- I. Attendance Issues
- II. Fiscal Issues
- III. False Statements or Incorrect Official Documents
- IV. Harassment/Discrimination
- V. Law Enforcement Specific Offenses
- VI. Failure to Follow
- VII. Negligent Work
- VIII. Health & Safety Issues
- IX. Security Issues
- X. Supervisory Misconduct
- XI. Conduct Prejudicial to the DEA/DOJ

All management proposals must be reviewed by the HR Employee Relations Office prior to issuance. All proposals for actions that can be appealed must be reviewed by Chief Counsel prior to issuance.

I. Attendance Issues

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Unexcused or unauthorized absence on scheduled day of work (AWOL in increments of 15 minutes or more)	To include absences of 8 hours or less to absences of 8 hours or more of AWOL. (Note: This absence does not have to be consecutive.) Also includes tardiness relating to reporting for duty, returning from lunch or break, and returning from an authorized absence from the workstation.	Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day Suspension to Removal
b. Recurring excessive unexcused or unauthorized absence	To include absences of five consecutive days or more	14-day Suspension to Removal	Removal	
c. Violation of leave restrictions	A violation of properly imposed leave restrictions can be charged in addition to AWOL	Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day to Removal
d. Improper use of sick leave for any reason other than permitted under DEA Personnel Manual 2630	Involves an employees' use of sick leave for reasons other than that which is authorized. For example: for a family vacation.	Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day to Removal
e. Failure to report for duty as detailed, transferred, or reassigned	This is not limited to employees who are under a mobility agreement. [<i>Ramos v. Federal Aviation Administration</i> , 4 M.S.P.R. 388, 4 M.S.B.P. 446 (1980); <i>Boykin v. United States Postal Service</i> , 1995 U.S. App. LEXIS 2183 (Fed. Cir. 1995) (nonprecedential decision)]	Removal		

II. Fiscal Issues

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Submission of falsely stated travel vouchers time and attendance, or other fiscal documents or their supporting documentation	Falsification occurs when an employee knowingly or in reckless disregard for the truth or with a conscious purpose to avoid learning the truth provides false information or withholds information with the intent to deceive or defraud. These elements can be established by direct or circumstantial evidence.	Reprimand to Removal	Removal	
b. Failure to properly review the submission of travel vouchers, time and attendance, credit card statements, or other fiscal documents and their supporting documentation	To include those who are responsible for the review and approval of fiscal documents (including: acting supervisor).	Reprimand to 30-day Suspension	30-day Suspension to Removal	Removal
c. Failure to properly expend allocated resources		Reprimand to 14-day Suspension	14-day Suspension to Removal	Removal
d. Expenditure of allocated funds in excess of funds available		14-day Suspension to Removal	Removal	
e. Unauthorized and/or improper use of property, government funds, or any other thing of value coming into an employee's custody as a result of employment		Official reprimand to 10-day suspension	10-day suspension to removal	15-day suspension to removal
f. Misuse of government issued credit card for other than authorized purposes	To include using the card for personal purchases while in a travel status, extending authorized stay at hotel. An extensive list of prohibitions is listed in the credit card policy	Reprimand to 14-day Suspension	14-day Suspension to Removal	Removal

III. False Statements or Incorrect Official Documents

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Falsification, misrepresentation, or concealment of information or fact(s) in connection with an official government document or in any other official statement, oral or written	To include: employment document or other matters under official investigation. Falsification occurs when an employee knowingly or in reckless disregard for the truth or with a conscious purpose to avoid learning the truth provides false information or withholds information with the intent to deceive or defraud. These elements can be established by direct or circumstantial evidence.	Reprimand to Removal	Removal	
b. **Lack of Candor**	**Omission or concealment of information, that under the circumstances, should have been disclosed in order to make a written or oral statement accurate and complete. Knowing failure to be forthright. This charge includes, but is not limited to: omission or concealment of information in employment actions, official documents or statements, or matters under official investigation. **	**Reprimand to Removal**	**Removal**	

IV. Harassment/Discrimination

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Sexual Harassment	Making unwelcome or unwanted sexual advances, requesting sexual favors, or engaging in other verbal or physical conduct of a sexual nature.	5-day Suspension to Removal*	14-day Suspension to Removal	Removal

b. Unprofessional or inappropriate conduct of a sexual nature	To include: teasing, jokes, actions, gestures, display of materials or remarks of a sexual nature	Reprimand to Removal	14-day to Removal	Removal
c. Retaliation against an employee resulting from or in connection with an allegation of sexual harassment	Any person who has been found to have engaged in the act of retaliation	Removal		
d. Creating and/or fostering a hostile working environment by any discriminatory activity	To include: intimidating employees by speech, behavior, gestures, etc. A hostile environment is created when the conduct is sufficiently severe or pervasive as to affect a term, condition or privilege of employment.	5-day Suspension to Removal	14-day Suspension to Removal	Removal
e. Discrimination against an employee or applicant for employment because of race, color, sex, religion, national origin, age, disability, or sexual orientation. Retaliation against an employee having engaged in a protected activity or in reprisal for the exercise of an appeal right granted by any law, rule or regulation or for engaging in whistle blowing	Discrimination in the Federal government is prohibited by, among other laws and regulations, Title VII of the Civil Rights Act of 1964, which prohibits employment discrimination based on race, color, religion, sex, or national origin; the Equal Pay Act of 1963, which protects men and women who perform substantially equal work in the same establishment from sex-based wage discrimination; the Age Discrimination in Employment Act of 1967, which protects individuals who are 40 years of age or older; Title I and Title V of the Americans with Disabilities Act of 1990, which prohibit employment	Removal		

V. Law Enforcement Specific Offenses

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Improper association with a convicted felon, confidential source and/or persons connected with criminal activity.	All DEA employees are held accountable for this type of behavior.	Reprimand to Removal	Removal	
b. Unintentional and improper discharge of a firearm		Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day Suspension to Removal
c. Intentional and improper discharge of a firearm		14-day Suspension to Removal	Removal	
d. Improper or unauthorized use or possession of a firearm or other weapon	To include accidentally or unintentionally bringing a weapon into the building ,in vehicle, purse, brief case, etc.	1-day Suspension to Removal	Removal	
e. Loss of a DEA issued badge or credential		Reprimand to 2-day Suspension	2- to 7-day Suspension	7- to 14-day Suspension
f. Loss of a DEA issued firearm	For example: a firearm that is stolen from an employee's OGV	Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day to Removal

g. Intentional, reckless or negligent violation of rules governing searches and seizures	For example: A violation is 'intentional' when the act is foreseen and desired, and this foresight and desire resulted in the act through the operation of the doer's will. This can be proven by direct or circumstantial evidence. A violation is in 'reckless disregard of the rules' when the act was undertaken with conscious indifference to its possible consequences. This is a lesser included offense of a charge of intentional violation of rules governing searches and seizures. A violation is 'negligent' when it occurs because the person committing the violation failed to exercise the standard of care that a reasonably prudent person would have exercised in a similar situation. This is a lesser included offense of a charge of intentional violation of rules governing searches and seizures and of a charge of reckless disregard of rules governing searches and seizures	Reprimand to Removal		
h. Failure to secure or process evidence	For example: leaving evidence samples out overnight on lab work bench	Reprimand to 3-day Suspension	3- to 7-day Suspension	7- to 14-day Suspension
i. Failure to report integrity related issues through the Chain of Command or to the Office of Professional Responsibility in a timely fashion	All employees are required to report integrity related issues, to include: theft, unauthorized use of an Official Government Vehicle, falsifying documents, etc.	Reprimand to 3-day Suspension	3- to 7-day Suspension	7- to 14-day Suspension
j. Unauthorized interference with, refusing, or failing to submit to a properly ordered or authorized drug test	Including substituting, altering otherwise tampering with a urine sample	Removal		

k. Unauthorized failure or refusal to submit to a properly ordered physical examination or psychological examination	Only applies to those employees who are under medical standards as a condition of continued employment	Removal		
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VI. Failure to Follow

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Failure to follow supervisory instructions	An employee's refusal or noncompliance with a supervisor's instruction to complete a task	Reprimand to 7-day Suspension	7- to 14-day Suspension	14-day Suspension to Removal
b. Failure to follow written or oral instructions	An employees noncompliance with agency rules, regulations, and/or policies	Reprimand to Removal	7- to Removal	14-day Suspension to Removal
c. **Failure to report integrity related issues through the Chain of Command or to the Office of Professional Responsibility in a timely fashion**	**All employees are required to report integrity related issues, to include: theft, falsifying documents.**	**Reprimand to 3-day Suspension**	**3- to 7-day Suspension**	**7- to 14-day Suspension**

VII. Negligent Work

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Sleeping while on duty		Reprimand to 3-day Suspension	3- to 14-day Suspension	14-day Suspension to Removal
b. Inattention to duty	For example: an employee that has failed to pay attention to some detail of an assignment that has therefore caused some sort of problems or issue	Reprimand to 7-day Suspension	7- to 14-day Suspension	14-day Suspension to Removal

VIII. Health & Safety Issues

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Failure to follow proper safety procedures, posted rules, signs, protective clothing and equipment procedures	For example: failing to wear the protective clothing as required for clan labs	Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day Suspension to Removal
b. Failure to exercise proper hygiene in the workplace		Reprimand to 5-day Suspension	5- to 14-day Suspension	14 day Suspension to Removal

IX. Security Issues

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Unauthorized disclosure of and/or failure to safeguard information protected by the Privacy Act, other official, sensitive, or classified (NSI) information	Including: Disclosure of and/or failure to prevent access to NSI or DEA Sensitive information to uncleared personnel or to persons not having a need-to-know; transmitting or transporting NSI or sensitive information improperly; failure to properly secure, store, or dispose of classified or DEA Sensitive information; discussing or transmitting NSI or DEA Sensitive information over non-encrypted systems	Reprimand to Removal	2-day Suspension to Removal	5-day Suspension to Removal
b. Failure to submit required reinvestigation forms within prescribed timeframe or to attend scheduled security briefing	Including: Failure or refusal to properly complete or submit the SF-86 in a timely manner; failure to respond to attempts by the Personnel Security Section or authorized investigators to obtain missing personal background information	Reprimand to 7-day Suspension	7- to 14-day Suspension	14-day Suspension to Removal

c. Inability to meet the requirements of your position/ maintaining a clearance	Including: Failure or refusal to properly complete or submit the SF-86 in a timely manner; failure to respond to attempts by the Personnel Security Section or authorized investigators to obtain missing personal background information	Removal		
d. Failure to follow COMSEC regulations, safeguard COMSEC equipment, and/or exercise reasonable security precautions in the execution of COMSEC responsibilities	Including: Failure to report loss of COMSEC equipment; failure to use COMSEC equipment when required; borrowing or loaning of COMSEC equipment without proper authorization; leaving a Crypto key or other COMSEC labeled materials in areas accessible to non-authorized users.	Reprimand to Removal	2-day Suspension to Removal	5-day Suspension to Removal
e. Sharing of or failure to protect passwords, failure to follow IT security policy, and/or exploitation of DEA's IT systems in a manner which undermines established system security protocols	Including: Sharing or fraudulent use of another user's password; improperly safeguarding passwords; processing classified information on unclassified systems; hacking into IT systems; attempting to access system information without proper authorization; tampering with the integrity of IT system security configurations or data; adding peripheral devices or unauthorized software/hardware to DEA's IT systems.	Reprimand to Removal	2-day Suspension to Removal	5-day Suspension to Removal
f. Failure to follow, attempts to bypass, or careless disregard for established physical and/or facilities security measures	Including: Failure to escort uncleared visitors or allowing them improper access to DEA controlled Open Storage Area (OSA) or a Controlled Access Area (CAA); disclosing secure combinations or access codes to unauthorized personnel; failure to display or fraudulent use of building pass.	Reprimand to Removal	2-day Suspension to Removal	5-day Suspension to Removal

X. Supervisory Misconduct

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Failure to properly supervise employees		Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day Suspension to Removal
b. Failure to enforce DEA policies/ regulations		Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day Suspension to Removal

XI. Conduct Prejudicial to the DEA/DOJ

Type of Misconduct	Explanation of Offense	Penalty for First Offense	Penalty for Second Offense	Penalty for Third Offense
a. Failure to honor just debts without good cause	To include: personal credit debt as well as failing to pay the full account balance on a government issued credit card within the allotted timeframe	Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day Suspension to Removal
b. Damaging government property or the property of others		Reprimand to 14-day Suspension	14-day to Removal	Removal
c. Willful use or authorizing the use of any government owned or leased passenger vehicles, aircraft, or vessels for other than official purposes	Offense carries a mandatory penalty of *a 30 day* suspension as defined in 31 USC 1349(b), to include any use that is not authorized under DEA policy as permissible use of an OGV. *Under the influence is defined in the Standards of Conduct. See PM, section 2735.20. Use of alcohol and/or drugs will be considered an aggravating factor in the penalty imposed.*	30-day Suspension to Removal	60-day to Removal	Removal
d. Misuse of any government owned or leased passenger vehicles, aircraft, or vessels for other than official purposes.	Offense based on minor personal use of an OGV incidental to an authorized use	Reprimand to 5-day Suspension	5- to 10-day Suspension	15-day Suspension to Removal

e. Disrespectful or unprofessional conduct	To include: use of insulting, abusive or obscene language, angry outbursts, disrespectful comments, provoking quarrels, or inappropriate remarks	Reprimand to 7-day Suspension	7- to 14-day Suspension	14-day Suspension to Removal
f. Unauthorized refusal to cooperate in an official U.S. Government inquiry or investigation	Including refusal to answer work-related questions or attempting to influence others involved in the inquiry	Reprimand to Removal	Removal	
g. Refusal to cooperate in an administrative investigation	Including refusal to answer questions of Office of Professional Responsibility investigators or attempting to influence other involved in the inquiry	Removal		
h. Reporting for duty under the influence of *alcohol and/or drugs*	Under the influence is defined in the Standards of Conduct. See Personnel Manual, section 2735.20*	5-day Suspension to Removal	Removal	
i. Unauthorized possession of *alcohol and/or drugs* on government owned or leased property	(This does not include being in possession of an unopened gift or bottle of wine or alcoholic beverage)	5-day Suspension to Removal	Removal	
j. Engaging in unauthorized outside employment	Outside employment must be approved prior to its start	Reprimand to 3-day Suspension	3- to 7-day Suspension	7-day Suspension to Removal
k. Improper operation of an official vehicle	To include violating traffic regulations	Reprimand to 14-day Suspension	7- to 14-day Suspension	14-day Suspension to Removal
l. Misuse of position/ office	For example: the use of DEA systems to which you have access in connection with your position, to gain information for personal use. Obstructing an official investigation or inquiry by destroying or deleting information requested by investigators.	Reprimand to Removal	7-day Suspension to Removal	14-day Suspension to Removal
m. Improper use of official authority or credentials	To include the use of your official credentials in an attempt to be provided preferential treatment because of your position with the DEA	Reprimand to 7-day Suspension	7- to 14-day Suspension	14-day Suspension to Removal

n. Conduct unbecoming a DEA employee		Reprimand to Removal	7-day Suspension to Removal	14-day Suspension to Removal
o. Disorderly conduct, fighting, threatening or attempting to inflict bodily injury to another		Reprimand to 14-day Suspension	14-day to Removal	Removal
p. Gambling or unlawful betting on government owned or leased property	For example: placing bets on football pools, playing cards for profit on government owned or leased property	Reprimand to 5-day Suspension	5- to 14-day Suspension	14-day Suspension to Removal
q. Taking or attempting to take government property or the property of others without permission		14-day Suspension to Removal	Removal	
r. Unauthorized receiving of soliciting gifts or favors or bribes in connection with official duty		14-day Suspension to Removal	Removal	
s. Criminal, dishonest, infamous, or notoriously disgraceful misconduct		14-day Suspension to Removal	Removal	
t. Failure to report possible conflict of interests which relates to employee's position or duties	For example: having a financial interest in a company in which DEA is doing business and the employee stands to profit from his/her connection with the business	Reprimand to Removal	Removal	
u. Conduct which creates a reasonable belief that the employee has committed a crime for which a sentence of imprisonment may be imposed.		Indefinite Suspension to Removal	Removal	

v. Unauthorized use or possession of narcotics, dangerous drugs or marijuana		Removal		
w. Soliciting or engaging in prostitution, even in foreign countries or other jurisdictions where it is not criminalized		Removal		
x. Consensual Sexual Misconduct	Engaging in any sexual activity with a willing partner(s) in an inappropriate location (such as government spaces, government vehicles) or while on duty.	5-day Suspension to Removal	14-day Suspension to Removal	Removal
y. **Poor Judgment**	**To include any conduct that indicates that an employee failed to exercise good judgment either on or off duty.**	**Reprimand to 5-day Suspension*	**5 to 14-day Suspension*	**14-day Suspension to Removal**
z. **Making an Allegation of Misconduct Without a Reasonable Basis**	**Making an allegation of misconduct or misfeasance against another DEA employee or any other individual, without a reasonable basis.**	**Reprimand to Removal**	**7-day Suspension to Removal**	**14-day Suspension to Removal**
aa. **Unauthorized recording of a DEA employee's conversation**	**Recording conversation of another individual without the mutual consent of all parties, except in the conduct of bona fide official investigations under the auspices of the Office of Professional Responsibility (OPR) or other appropriate organization.**	**Reprimand to Removal**	**7-day Suspension to Removal**	**14-day Suspension to Removal**

**Addition

*Revision