

PROHIBITIONS AND PENALTIES

NEVADA DEPARTMENT OF AGRICULTURE

APPROVED BY THE PERSONNEL COMMISSION, MARCH 21, 2008

The Nevada Department of Agriculture Prohibitions and Penalties document is a guide for employees, supervisors, and managers that identifies activities which are considered inconsistent, incompatible, or in conflict with their duties as employees and, as a result, will be cause for disciplinary action. It is meant as a supplement and does not attempt to cover all possible violations of the existing rules nor does it preclude other prohibitions and penalties as contained in the Nevada Administrative Code. It is intended to provide both the employee and the supervisor a better understanding of the disciplinary process. It is the employee's responsibility to understand and follow the rules of proper conduct and performance requirements. It is incumbent upon the employee to ask questions if s/he is uncertain how a particular disciplinary action may affect them.

AUTHORITY

The authority for management to take action regarding issues of employee conduct and work performance standards derives from the Nevada Revised Statute (NRS) Chapter 284 and the "Disciplinary Procedures, Adjustment of Grievances and Prohibitions and Offenses" sections of the Nevada Administrative Code (NAC) 284, also known as the Rules for State Personnel Administration. The NAC provides that each appointing authority may determine and describe, in writing, those activities which for employees under his/her jurisdiction will be inconsistent, incompatible, or in conflict with their duties as employees and shall provide a copy to each employee. **All employees have been so advised with the issuance of these "Prohibitions and Penalties" as a supplement to the State of Nevada Employee Handbook.**

EMPLOYEE ACKNOWLEDGEMENT

All employees have been so advised with the issuance of these Prohibitions and Penalties as a supplement to the State of Nevada Employee Handbook.

Once signed, this acknowledgment will be placed in the employee’s personnel file.

I, _____, acknowledge receipt of a copy of the Agriculture
(Print Name)
document entitled “Prohibitions and Penalties”:

Employee Signature: _____

Date: _____

DISCIPLINARY PROCESS

Varying levels of discipline may apply to employee conduct or work activity that violates any of the provisions outlined in this guide or the provisions of NAC and NRS. Violations may constitute a first, second, or third offense. The extent of disciplinary action should be in proportion to the seriousness of the offense. It is the supervisor's and the administrator team's responsibility to use judgment in determining whether an offense should be associated with other disciplinary action(s). Identified penalties for the various infractions are guidelines; a more or less severe penalty may be imposed depending upon the circumstances. Should an offense be of greater or even equal seriousness to a previous offense, it may constitute a second or third infraction leading to a higher level of progressive discipline. That is not to say that higher levels of disciplinary action should not be invoked on the first offense for more serious violations. As required by the State Administrative Manual (SAM), Section 1702.0, the Attorney General's office must review all disciplinary actions involving a recommendation of suspension, demotion, or dismissal of a permanent employee prior to the action. In addition, the pre-disciplinary hearing guidelines must be followed.

TYPES OF CORRECTIVE DISCIPLINARY ACTIONS

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| 1. Oral Warning | May only be appealed up to the agency head only |
| 2. Written Reprimand | May only be appealed up to the agency head only. Use Form NPD-52. |
| 3. Suspension | Without pay for a period not to exceed 30 calendar days. NPD-41 required. |
| 4. Demotion | Any movement of an employee to a class having a lower grade than the class previously held. NPD-41 required. |
| 5. Dismissal | Involuntary termination of employment. NPD-41 required. |

INDEX TO SUGGESTED GUIDE ON CORRECTIVE DISCIPLINARY ACTIONS

Offenses have been grouped under the headings listed below solely for ease of reference.

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DEFINITIONS

Abridge, as used in D1, D2 – means to lessen, diminish, or curtail.

Break Periods, as used in C7 – means a paid rest period for each four hours worked or major fraction thereof; as practicable, in middle of each work period. Does not apply to those employees whose total daily work time is less than 3 and ½ hours.

Deliberate, as used in B19, E4 – means done or marked with careful consideration and with full consciousness of the nature and effects; intentional.

Employee – means a person legally holding a position in the public service as defined in NRS 284.015.

Negligent, as used in B3, 5, 9, 12, and 18; D1; G4, 7, 9; and H14 – means acts or omissions which are done intentionally or willfully; deliberate inattention.

Prescribed Manner, as used in C4 – means the manner by which an employee is required to notify the supervisor when the employee will not be reporting to work.

Reasonable, as used in B3 – means fair, within the bounds of common sense.

Reckless, as used in D9 – means heedless or careless; having no regard for consequences; uncontrolled.

Turpitude, as used in I3 - inherent baseness; depravity; conduct contrary to community standards

Willful, as used in A1; B6-7, 12, 14, 16, 18-20, and 23; C11, D2, D9; G6; H9-10 - means the public officer or employee knew or reasonably should have known that his conduct was a violation. Reference also NRS 281A.170

GUIDELINES FOR DETERMINING CORRECTIVE DISCIPLINARY ACTIONS

A. FRAUD IN SECURING APPOINTMENT

<u>Description of Conduct or Activity</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
1 Willful falsification of application for employment or other personal records with respect to a material point, which would have adversely affected selection for appointment.	5	...	...
2 Permitting another person to take a portion of a State Civil Service examination for him/her, except when approved due to a disability such as blindness.	5	...	...
3 Refusal, upon hire, to sign the Acknowledgement of Receipt of Prohibitions and Penalties.	5	...	...
4 Refusal, upon hire, to sign the Acknowledgement of the Governor's Policy Against Sexual Harassment and Discrimination.	5	...	...

B. PERFORMANCE ON THE JOB

<u>Description of Conduct or Activity</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
1 Failure of employee to maintain performance standards after a reasonable period of instruction. When an employee has received an "Unacceptable" rating on an employee review, the agency requires that formal evaluations occur at least monthly for the next three months.	1,2,3	2,3	4,5
2 Failure to cooperate with other employees and/or supervisors.	1,2,3	2,3,4,5	5
3 Negligent failure to disclose information related to job duties from official records, from supervisors, or from other persons having necessity for said information.	1,2,3	2,3,4,5	4,5
4 Willfully withholding or concealing information regarding their job from supervisors or from other persons having necessity for said information.	2,3,4,5	3,4,5	5
5 Endangering self, fellow employees, clients, or the public through negligent or willful violation of agency policy as contained in performance standards, procedures, and applicable federal and state laws, regulations, and guidelines.	2,3,4,5	3,4,5	5
6 Failure of an employee, who is designated as a supervisor, to fulfill their supervisory responsibilities, including, but not limited to, taking corrective disciplinary action where such action is needed, preparing timely reports of employee performance, and accounting for employees' time.	1,2	2,3,4	4,5
7 Misconduct of supervisor because of prejudice, anger, or other unjustifiable reason.	1,2,3,4	2,3,4,5	4,5

B. PERFORMANCE ON THE JOB

	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
8 Failure to maintain prescribed records as per the policy of the agency.	1,2,3	2,3,4,5	4,5
9 Negligent destruction of state records.	1,2,3,4	2,3,4,5	5
10 Willful and unauthorized destruction of state records.	2,3,4,5	3,4,5	5
11 Unauthorized use or release of confidential information.	2,3,4,5	3,4,5	...
12 Negligent falsification of any state or federal record, including time sheets, travel vouchers, and/or information in employee, client, or agency files.	2,3,4	3,4,5	5
13 Willful falsification of any state or federal record, including time sheets, travel vouchers, and/or information in employee, client, or agency files that does not result in personal or financial gain.	3,4,5	4,5	5
14 Willful falsification of any state or federal record, including time sheets, travel vouchers, and/or information in employee, client, or agency files that results in personal gain.	4,5	5	...
15 Failure to account for state or federal funds where it is a known requirement of the position.	2,3,4,5	3,4,5	5
16 Unauthorized taking or using property belonging to the state or federal government or other employees.	2,3,4,5	5	...
17 Stealing or misappropriating any property owned by the state, whether it is located on state property or other such property where state activity is occurring.	5	...	...

B. PERFORMANCE ON THE JOB

<u>Description of Conduct or Activity</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
18 Negligent waste or loss of material, property, or equipment.	1,2,3	2,3,4,5	4,5
19 Deliberate failure to enforce or comply with laws and/or agency policies and regulations which directly relate to the employee's work activities.	2,3,4,5	3,4,5	5
20 Soliciting or accepting a bribe or otherwise personally profiting from activities related to the employee's state employment.	5	...	...
21 Embezzlement or misappropriation of state funds or of other funds for personal gain, which come into the employee's possession by reason of his/her official position.	5	...	...

C. NEGLECT OF, OR INEXCUSABLE ABSENCE FROM THE JOB

<u>Description of Conduct or Activity</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
1 Negligence in performing official duties, including failure to follow instructions or state and federal statutes, regulations, and administrative rules.	1,2,3	2,3,4,5	3,4,5
2 Indifference, and or inattention to duty.	1,2,3	2,3,4,5	3,4,5
3 Failure to notify supervisor promptly per established procedures when unable to report for work.	1,2,3	2,3,4,5	3,4,5
4 Failure to report to work at specified times and in the prescribed manner.	1,2,3	2,3,4,5	3,4,5
5 Absence from duty without permission or without adequate justification.	1,2,3	3,4,5	5
6 Failure to call in or report to work for three or more consecutive work days without permission and without justification.	5	...	...
7 Willful absence from duty without permission after having been denied permission to take such leave.	3,4,5	5	...
8 Use of sick leave for a reason not authorized by NAC 284.554.	2,3,4	5	...
9 Frequent or continual tardiness.	1,2,3	2,3,4,5	3,4,5
10 Repeated extension of rest periods beyond the prescribed 15 minutes in NAC 284.524.	1	2,3	3,4,5
11 Repeated extension of designated lunch periods.	1	2,3	3,4,5
12 Carrying on personal business during working hours.	1	2,3,4,5	3,4,5

D. RELATIONS WITH CLIENTS

	<u>Description of Conduct or Activity</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
1	Negligently abridging or denying the rights of a client as specified in NRS or agency policy.	1,2,3,4	3,4,5	5
2	Willfully abridging or denying the rights of a client as specified in NRS or agency policy.	3,4,5	3,4,5	5
3	Failure to report suspected denial of client rights, client abuse, or neglect.	2,3,4,5	3,4,5	5
4	Entering into a romantic or sexual relationship with any client of the employee's agency, facility, or program when said employee is involved in the programs, initiatives, or agency activities associated with the client.	3,4,5	3,4,5	...
5	Directing insulting, intimidating, or abusive language to clients; neglecting clients; threatening, clients; or causing bodily harm to clients.	2,3,4,5	3,4,5	5
6	Any willful or reckless act of aggression directed towards a client, including, but not limited to, sexual exploitation of a client, grabbing, pushing, tripping, hitting, or striking a client in any manner, or misuse of physical or other restraints in violation of state or federal law.	2,3,4,5	3,4,5	5
7	Threatening another person with a deadly weapon on the premise of the workplace or while conducting state business or performing duties of employment.	5	...	...

D. RELATIONS WITH CLIENTS

<u>Description of Conduct or Activity</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
8 Having personal or business relationships with program participants, grantees, registrants, or licensees with intent to gain position or privilege not available to others. This includes borrowing items from a client, selling to or trading items with a client, or entering into a transaction with a client involving the transfer of a client's property.	3,4,5	3,4,5	5
9 Soliciting clients and/or agency contacts for the establishment or maintenance of a private professional practice similar to their work activities.	2,3,4,5	3,4,5	5
10 Soliciting clients and/or agency contacts for the establishment or maintenance of a private professional practice while on work duty.	3,4,5	4,5	5

E. RELATIONS WITH SUPERVISORS, FELLOW EMPLOYEES, OR THE PUBLIC

<u>Description of Conduct or Activity</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
1 Refusal to comply with a reasonable and proper order or instruction from a supervisor.	1,2,3,4,5	2,3,4,5	5
2 Threatening, stalking, intimidating, attempting or doing bodily harm to a supervisor, the public, or a fellow employee, or using insulting, intimidating, or abusive language or conduct to supervisor, the public, or a fellow employee.	2,3,4,5	3,4,5	5
3 Discourteous treatment of the public or of a fellow employee.	1,2,3,4,5	2,3,4,5	3,4,5
4 Deliberately making false statements to or about a supervisor, and/or deliberately making false statements to or about an employee.	2,3	3,4	4,5
5 Making statements, false or otherwise, intended to impeach the character or integrity; having a negative impact on an employee, supervisor, the program, division, department, or director; reducing, harming, or otherwise negatively impacting the success, acceptance, or effectiveness thereof.	2,3	3,4	4,5
6 Engaging in romantic/sexual relationship with supervisor.	2,3	3,4	5
7 Engaging in sexual relationship with any state employee while in the workplace.	2,3	3,4	5

F. USE OF ALCOHOLIC BEVERAGES, NARCOTICS, OR HABIT FORMING DRUGS

<u>Description of Conduct or Activity</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
1 Having possession of non-prescriptive controlled substances on or in the work environment (office, vehicle, worksite, etc.) or while conducting state business.	3,4,5	5	...
2 While on duty, consuming or being under the influence of alcohol, narcotics, or other controlled substances, unless prescribed by a physician and his/her supervisor has been previously notified in writing.	3,4,5	4,5	5
3 Inability to perform the duties of the position because of being under the influence of alcohol, narcotics, or other controlled substances, including prescription medication.	1,2,3,4,5	2,3,4,5	5
4 Convicted of driving under the influence as enumerated in NRS 484.379 or an offense where driving under the influence is an element, while driving a state or federal vehicle at any time or a privately owned vehicle on state business.	3,4,5	5	...
5 Bringing alcohol or controlled substances onto agency grounds or any buildings occupied by clients unless specifically authorized.	3,4,5	5	...
6 Manufacturing, distributing, selling, giving, otherwise providing to staff or other persons with intoxicating beverages, or any controlled substances during working hours unless specifically authorized.	3,4,5	5	...

F. USE OF ALCOHOLIC BEVERAGES, NARCOTICS, OR HABIT FORMING DRUGS

<u>Description of Conduct or Activity</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
7 Refusal to submit to a screening test for alcohol or drugs when the appointing authority has a reasonable belief, based on objective facts, that the employee is under the influence of alcohol and/or a controlled substance while on duty.	5	...	...
8 Failure of a random screening test for alcohol or drugs for employees holding a commercial driver's license.	5	...	...
9 Inability to perform the duties of the position because of using over the counter drugs in a manner not consistent with the manufacturers directions and dosage recommendations on the label.	1,2,3,4,5	2,3,4,5	5

G MISUSE OF STATE OR FEDERAL PROPERTY

	<u>Description of Conduct or Activity</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
1	Unauthorized use of state or federally owned or leased equipment.	1,2,3,4,5	3,4,5	5
2	Operating state or federal equipment without authorization or credentials.	2,3,4,5	5	...
3	Failure to have state or federal equipment, which is used as part of the employee's activities, serviced according to established maintenance schedules, resulting in damage to the equipment.	1,2,3	2,3,4,5	5
4	Operating a state or federal vehicle in a negligent manner resulting in damage to people, state equipment, federal equipment or other property.	1,2,3,4,5	2,3,4,5	5
5	Failure to report an accident involving state or federally owned equipment assigned to an employee.	2,3,4,5	3,4,5	5
6	Willfully operating state or federal equipment in violation of state and federal laws, i.e., speeding, reckless driving, etc.	2,3,4,5	3,4,5	4,5
7	Negligently leaving state or federal equipment or machinery, which results in damage to people, the equipment or other property.	1,2,3,4,5	3,4,5	5
8	Willfully leaving state or federal equipment or machinery, which results in damage to people, the equipment or other property.	2,3,4,5	3,4,5	5
9	Negligent destruction of or damage to state or federal property.	1,2,3	2,3,4,5	5
10	Willful destruction of or damage to state or federal property.	2,3,4,5	3,4,5	5

H. MISUSE OF INFORMATION TECHNOLOGY

<u>Description of Conduct or Activity</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
1 Accessing or communicating data not pertaining to official job duties without authorization.	1,2,3,4	2,3,4,5	5
2 Revealing passwords or using another person's user identification and/or password to allow access to confidential information for unauthorized purposes.	2,3,4	3,4,5	5
3 Installing or using personal or unauthorized software on state information technology resources without proper authorization and approval.	2,3,4	3,4	5
4 Making unauthorized copies, such as books, manuals, and computer software, in violation of copyright laws or vendor licensing agreements.	2,3,4,5	3,4,5	5
5 Using state information technology resources, including, but not limited to, computing and communications equipment, services, or facilities for soliciting business, selling products, or otherwise engaging in commercial activities.	2,3,4,5	3,4,5	5
6 Misuse or abuse of the departmental, state, or federal email system or other violations of the Computer Usage Policies regarding email.	1,2,3	2,3,4	3,4,5
7 Downloading, sharing, or duplicating confidential data either onto a laptop computer, Personal Digital Assistant (PDA), Compact Disc (CD), memory stick or similar, or any other portable device without proper authorization.	5	...	...

H. MISUSE OF INFORMATION TECHNOLOGY

<u>Description of Conduct or Activity</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
8 Using state or federal information technology resources to gain access and/or download from the internet information not pertaining to official job duties without authorization, including, but not limited to, games, personal account information, and unauthorized software.	1,2	2,3,4,5	5
9 Willfully using state or federal information technology resources to gain access and/or download from the internet information not pertaining to official job duties without authorization, including, but not limited to, games, personal account information, and unauthorized software.	2,3,4,5	3,4,5	5
10 Viewing or distributing pornographic material on any computer, laptop, PDA, CD, memory stick or similar, or any other portable device.	5	...	...
11 Knowing and willful sabotage of information technology resources including, but not limited to, the introduction of computer viruses, system monitoring devices, or devices that can cause damage or limit access to the equipment, operating systems, software, or data.	5	...	...
12 Installation or use of computer monitoring devices, spyware, reader software or devices, unauthorized data collection software or devices, blocking devices, access software or devices, or other hardware, software, servers, devices, or similar that restricts or limits access not specifically approved by the agency or DoIT.	5	...	...

H. MISUSE OF INFORMATION TECHNOLOGY

<u>Description of Conduct or Activity</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
13 Using state or federal information technology resources to gain access, view, and/or download from the internet or upload from other electronic devices pornography.	4,5	5	...
14 Negligent use of information technology that results in the introduction of computer viruses, system monitoring devices, or devices that can cause damage or limit access to the equipment, operating systems, software, or data.	2,3	3,4,5	5

I. OTHER ACTS OF MISCONDUCT OR INCOMPATIBILITY

<u>Description of Conduct or Activity</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
1 Unauthorized bringing to agency grounds or buildings a firearm or other implement generally construed to be a weapon; unauthorized carrying of a firearm or weapon at any time while performing state duties.	2,3,4,5	3,4,5	...
2 Improper disclosure of confidential information or theft of confidential written matter.	2,3,4,5	3,4,5	5
3 Conviction of any criminal act related to the employee's work activity or conviction of any criminal act involving moral turpitude when it is related to the employee's work activity.	2,3,4,5	3,4,5	...
4 Accepting gifts from any individual, firm, or organization connected with department business when the employee is responsible for decisions or making recommendations for decisions affecting the activities of the individual, firm, or organization. A gift would be any item valued at \$25 or more. It would not include usual and customary items typically presented at conferences, conventions, and meetings.	2,3,4,5	3,4,5	...
5 Releasing a paycheck or pay advice before the time specified by agency or state policy.	2	3,4	5
6 Requesting, receiving, and cashing a paycheck before the state's designated payday.	2	3,4	5
7 Rendering of services or goods to recipients that is not in accordance with departmental or divisional policies.	1,2,3,4,5	3,4,5	5

I. OTHER ACTS OF MISCONDUCT OR INCOMPATIBILITY

<u>Description of Conduct or Activity</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
8 Refusal to undergo a criminal background check when it is required by law, regulation, or agency policy.	5	...	...
9 Failure to disclose a criminal conviction when disclosure is required by law, regulation, or agency policy.	3,4,5	4,5	5
10 Failure to maintain a current occupational license or certification when possession of the occupational license or certification is a requirement of the job.	2,3,4,5	3,4,5	5
11 Failure to notify supervisor when required credential, license, or certification has lapsed or been revoked.	1,2,3,4,5	2,3,4,5	3,4,5
12 Failure to maintain a valid driver's license when possession of a valid driver's license is a requirement of the job.	2,3,4,5	3,4,5	5
13 Driving a state vehicle with an expired or revoked driver's license.	3,4,5	5	...
14 Engaging in outside employment activity or enterprise which the department considers to be inconsistent, incompatible, or a conflict of interest.	1,2,3,4	3,4,5	5
15 Acting in an official capacity without authorization or not following the proper chain of command, by contacting other state administrators, officers, board members, or elected officials without first expressing concerns and intended purpose to supervisors, excluding contacts made by employees under the provisions of NRS 281.611 through 281.671.	1,2	2,3,4	5

I. OTHER ACTS OF MISCONDUCT OR INCOMPATIBILITY

<u>Description of Conduct or Activity</u>	<u>First Offense</u>	<u>Second Offense</u>	<u>Third Offense</u>
16 Completion of any department business transaction for self, friends, family members, or co-workers with incident, or with inappropriate data, fees, or other elements of the transaction that would not otherwise occur if handled properly.	5	...	...
17 Engaging in political activity during the hours of employment for the purpose of improving the chance of a political party or individual seeking office.	1,2,3	2,3,4	3,4,5
18 Engaging in political activity associated with the employee's work duties for the purpose of securing preference for promotion, transfer, or salary advancement.	1,2,3	2,3,4	4,5
19 As an employee in an agency administering federally funded programs, engaging in political activities which are forbidden by federal law.	1,2,3,4,5	2,3,4,5	3,4,5
20 Engaging in sexual harassment as defined in NAC 284.771, state, or department policy, against another employee, an applicant for employment, a client, or any other person in the workplace.	3,4,5	4,5	5
21 Creating or endorsing a hostile work environment as defined in NAC 284.0995.	2,3,4,5	3,4,5	5
22 Discrimination on the basis of race, color, religion, sex, sexual orientation, age, pregnancy, disability, or national origin (NRS 613.330), or other violations of Title VII of the Civil Rights Act.	3,4,5	4,5	5