Memorandum

To: All Employees of the Bureau of Indian Affairs

From: Deputy Commissioner of Indian Affairs
       Director, Office of Indian Education Programs

Subject: Employee Responsibilities and Standards of Conduct

This memorandum is intended to bring to the attention of all BIA Employees the necessity for complying with the prescribed standards of conduct governing all Federal employees in the BIA. In accordance with 43 Code of Federal Regulations (CFR) Part II, 20.735.2, employees of the Bureau of Indian Affairs (BIA) are expected to maintain especially high standards of honesty, integrity, impartiality, and conduct to ensure the proper performance of Government business and the continual trust, and confidence of the citizens in their Government. Employees are expected to comply with all Federal statues, Executive Orders, Office of Personnel Management, Departmental, and BIA regulations. The conduct of employees should reflect the qualities of courtesy, honesty, consideration, and loyalty to the United States, and to the public it serves. Such a standard of personal behavior will be a credit to employees and the BIA.

Servicing Personnel Offices and Supervisors are responsible for:

1. Abiding strictly by all requirements of the Standards of Conduct.

2. Setting examples for employees to follow.

3. Ensuring that all employees are made aware of Standards of Conduct when they begin employment.

4. Ensuring that all employees receive an annual written notice on the Standards of Conduct.

5. Assisting employees in determining the propriety of any...
intended action, this may include referring the employee to the appropriate Ethics counselor, if necessary, and initiating appropriate action in cases of any committed violations.

**Employees are responsible for:**

1. Becoming familiar with the Employee Responsibilities and Standards as stipulated in 43 CFR, 20.735, and abiding by them.

2. Resolving any cases of doubt regarding an intended action, by raising the issue(s) with their supervisors and/or ethics official.

3. As appropriate signing the Employee Certification Form.

The Departmental guidelines of 43 CFR, 20.735, provides more detailed information and should be referred to when questions related to employee responsibilities and standards of conduct arise. A good rule to follow is to avoid any activity which could create even the appearance of conflict of interest, preferential treatment, personal gain or similar improper actions and activities. All BIA employees are expected to abide by these requirements knowing that violations may be used as a basis for disciplinary action or adverse action.

In conclusion, emphasis must be placed on adherence to these standards. Integrity in government is first and foremost in this administration. If such standards have been applied in a lax manner in the past, then lax applications shall cease immediately. I am confident that we can and will, all work together to adhere to the proper image that is set before us as Federal employees.
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ADD. to FPM Release 44-88, 5/30/84
Chapter 735  Employee Responsibilities and Conduct  44 BIAM 735, 1.1

Subchapter 1. Introduction

1.1 General. The Department of the Interior (DOI) Regulations (Part 20, of 43 CFR), Employee Responsibilities and Conduct, is the basic source of guidance on ethical conduct. This HANDBOOK supplements those regulations and provides guidance and administrative procedures on maintaining proper conduct and the nature and use of discipline. Attention is also directed to the applicable statutes set forth in the Code of Federal Regulations which are listed in Appendix A. Table III.

1.2 Purpose. This release establishes the Bureau of Indian Affairs (BIA) policies, procedures and restrictions concerning the conduct and responsibilities of employees in the discharge of their official responsibilities. Office of Personnel Management regulations state that any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct on the part of a federal employee may be cause for removal from government service. Also, it provides information in using discipline as a constructive tool in securing maximum employee contribution to the Bureau mission; and it affords guidance to employees about their rights in regard to disciplinary and adverse actions.

1.3 Scope. These regulations apply to all Agency, Area and Central Office units of the Bureau of Indian Affairs and implements the provisions of Executive Order 11222 of May 8, 1965.

1.4 Policy. The BIA policy on standards of conduct as conveyed in the DOI regulations applies to all BIA employees and is designed to maintain, at all times, a level of behavior and efficiency which: (a) will promote the best interests of the service; and (b) will conform with the highest ethical principles. Employees are expected to maintain high standards of ethical, moral, and other conduct and to avoid any action which could reflect adversely on the Bureau of Indian Affairs, the Government service, or which would jeopardize the employee's effectiveness in dealing with peers, supervisors, and the public.

1.5 Philosophy. Discipline in BIA is considered a corrective process which is continuously applied to establish and maintain exemplary standards of work performance and conduct. Discipline is not merely the action taken when an employee may deviate from acceptable forms of conduct; but, it is a part of the daily responsibility of supervisors and should be applied in all supervisor/employee relationships. The supervisor's activities shall emphasize the prevention of incidents requiring disciplinary actions.

ADD. to FPM Release 44-88, 5/30/84
A. Disciplinary action is taken by management to correct offending employees and to maintain discipline and morale among all employees. In those cases where corrective action becomes necessary, the disciplinary measures taken should have a constructive effect. Disciplinary objectives are development, correction and rehabilitation. Constructive discipline encourages employee acceptance of job responsibilities and deters situations where penalties must be imposed.

B. Constructive discipline is the responsibility of all parties. Effective constructive discipline is timely, fair and effects positive results ideally. Management attains a constructive environment through good supervision, patience, understanding, encouragement, consistent practice, recognition of the rights and dignity of employees, fair treatment, and acceptance of responsibility. Before initiating action, management should conduct an inquiry into any apparent offense to assure consideration of relevant aspects of the situation. A disciplinary action is appropriate only when there has been a recognizable offense against the employer/employee relationship. Employees assist in the development and maintenance of constructive discipline by observance of established rules, exhibiting self-discipline, and by cooperating with management efforts. Any action taken must be to promote the efficiency of the service and must be:

1. For good cause;
2. Consistent with applicable law, regulation and policy;
3. To demonstrate a progression of penalties;
4. Fair, and equitable; and
5. Timely.
C. Discipline encourages both supervisors and employees to maximize use of motivators in securing maximum employee contributions to the accomplishment of the Bureau's mission. Motivators such as recognition, training and counseling are among the tools available and are dealt with in other directives.

D. Every effort must be made to ensure the confidential nature of disciplinary actions. Interviews and inquiries are conducted privately and in such a manner as to minimize personal embarrassment. The minimum number of persons possible, consistent with the need for fact gathering and internal coordination, are involved in or made party to the action. Information relating to such actions may not be routinely made available to parties not affected by the actions without the written consent of the employee involved. No employee may request adverse or disciplinary action against another employee as a remedy under BIA appellate procedures.

E. A management official cannot request that the employee resign or retire to keep from being disciplined, nor should the official imply that a resignation or retirement obtained by such means may be found to be involuntary and reversed and therefore subject to adverse action procedures.

1.6 Practice. Primary emphasis is placed upon preventing situations that require disciplinary actions through effective employee-management relations. The objective of disciplinary action is to correct, not to punish, the employee. When justified, disciplinary actions are to be promptly initiated in accordance with the policy and procedures outlined herein. Disciplinary action must be based on cause and be consistent with laws and regulations governing such actions. Except when required by statute, disciplinary action may not be taken against an employee for (partisan) political reasons or marital status. Disciplinary action may not be taken against an employee based on discrimination because of age, sex, race, religion, color, or national origin; nor because of physical handicap; nor because of an employee's membership or non-membership in a labor union. Formal disciplinary or adverse action (i.e.; letter of reprimand, suspension, demotion, reassignment or removal) should be taken when other corrective actions such as closer supervision, on the job training, admonition or oral reprimand have been unsuccessful. Constructive discipline must be timely or its effect will diminish in proportion to the amount of time elapsed between the offense and the corrective action.

Table I. Conduct and Discipline Guide, cites examples of conduct which can be considered cause for discipline. See Table 1 at the end of manual.


ADD. to FPM Release 44-88, 5/30/84
Subchapter II. Employee Responsibilities

2.1 General. An employee's conduct on the job has a direct bearing on the efficient, economical and effective accomplishment of official duties and responsibilities. Each employee's on the job conduct affects co-workers' attitudes and work; hence, all employees are expected to approach their work in a business like manner and maintain that attitude throughout the workday. Public attitude toward federal service and the BIA is influenced by the manner in which employees serve and the way they conduct themselves before the public.

2.2 Employee's Responsibilities. Each employee is responsible for conduct that will reflect credit on the Federal Government and the BIA, therefore; BIA employees shall observe the following rules of conduct:

A. Report for work on time and in a condition which will permit the performance of assigned duties, i.e., in appropriate clothing, with required tools or equipment, and in a mentally alert, and physically fit condition.

B. Render full, efficient, and industrious service in the performance of assigned duties. If insufficient work is assigned, the employee is expected to notify the supervisor so that additional work may be assigned.

C. Respond promptly to directions and instructions received from the supervisor.

D. Exercise courtesy and tact in dealing with co-workers and the public.

E. Maintain a clean and neat personal appearance as well as work area to the maximum practicable extent during working hours.

F. Conserve and protect federal funds, property, equipment, energy and materials.

G. Observe the various laws, rules, regulations and other authoritative instructions brought to an employee's attention by BIA authorities.
H. Accept responsibility for taking an active part in the BIA mission by using the Employee Suggestion System and offering cost reduction ideas, as well as reporting unsatisfactory conditions to proper levels of management.

I. Uphold with integrity the public trust in the assigned position.

2.3 Supervisor's Responsibilities. Supervisors are responsible for assuring that each of their employees is provided with a personal copy of the DOI Regulations, Part 20, DM 735 Employee Responsibilities and Conduct, and for annual recognition of those standards of conduct. Supervisors must maintain written evidence that the employees were made aware of these regulations and the date that this function was performed. Supervisors are expected to:

A. Provide positive leadership; set an example for their employees and instill in their subordinates a sense of loyalty, teamwork and responsibility.

B. Provide advice and assistance to individual employees who are in doubt as to whether a particular action is consistent with the expected standards of conduct.

C. Treat all employees under their supervision in a fair and equitable manner, demonstrating proper regard for the dignity of their subordinates.

2.4 Personnel Office Operations and Responsibilities. Personnel Management is responsible for the implementation and modification of procedures to:

A. Assure that each new employee is provided with a personal copy of and understands DOI Regulations, Part 20, DM 735, Employee Responsibilities and Conduct.

B. Ensure that supervisors call employees attention to those regulations annually.

C. Provide support and assistance to managers and supervisors in implementing the Conduct and Discipline Guide (Table I). See Table I at the end of the manual.

D. Provide management and employees with advice and assistance.

E. Define and interpret procedures and regulations as inquiries arise.
Subchapter III. Ethical and Other Conduct and Responsibilities

3.1 Safeguarding and Use of Information, Documents and Records. Employees shall not disclose or discuss classified or "For Official Use Only" information unless specifically authorized to do so or except as required on a "need-to-know" basis in the proper discharge of official duties. In addition, employees shall not:

A. Divulge any official information, obtained through or in connection with their government employment, to any unauthorized person or organization.

B. Release any official information, obtained through or in connection with their government employment, to any unauthorized person or organization.

C. Make use of, or permit others to make use of, any official information for private purposes which is not available to the general public.

D. Remove official documents or records from the files for personal reasons (the willing and unlawful falsification, concealment, mutilation or unauthorized removal of official documents or records is prohibited by law 18 U.S.C. 2071, Table III).

E. Fail or refuse to respond promptly and courteously to requests from a member of the public for information generally available to the public.

3.2 Safeguarding Public Funds. All employees whose duties concern the expenditure of public funds are expected to have knowledge of and observe all applicable legal requirements and restrictions. Summaries of the penalty provisions of some of the more important laws relating to the misuse of Federal funds are contained in Table I. (See table I at the end of the manual). For example, drastic penalties are imposed for knowingly and willfully, making or presenting a false, fictitious, or fraudulent claim; entering into an agreement or conspiracy to defraud the government by obtaining or aiding to obtain the payment or allowance of a false or fraudulent claim. An employee found to have committed any such act may be removed from the federal service.

3.3 Use of Federal Equipment, Property and Manpower. Employees may not use or permit others to use federal equipment, property or manpower, such as stenographic and typing assistance, duplicating services, or chauffeur services, for other than official business or officially approved or sponsored activities. Specific statutory penalties are prescribed for the willful use of Government-owned or leased motor vehicles or aircraft for other than official purposes (31 U.S.C. 629a) and the use of official envelopes or labels for private purposes to avoid payment of postage (18 U.S.C. 1719, see Table III at the end of the chapter).

ADD. to FPM Release 44-88, 5/30/84
BUREAU OF INDIAN AFFAIRS MANUAL

44 BIAM ADDITION TO FPM

PERSONNEL

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A. Government telephones are provided for conducting official business only and should not be used for making or receiving personal calls except in cases of emergency.

B. Employees are not permitted to receive personal mail at their place of employment and should have it directed elsewhere.

3.4 Observing Safety Regulations. All employees are expected to observe all rules, signs, and instructions relating to personal safety. In addition to avoiding accidents, employees are expected to report potential accident and fire hazards to the proper officials and to cooperate fully with the safety officer to assure that the safety of persons or property is not endangered. Willful nonobservance of the governing safety regulations described below constitute grounds for disciplinary actions:

A. Failure to report an accident involving injury to persons or damage to property or equipment.

B. Failure to use protective clothing or equipment.

C. Endangering the safety of or causing injury to personnel or damaging property or equipment through negligence.

3.5 Canvassing, Soliciting, or Selling. Employees are not permitted to engage in private activities for personal gain or any other unauthorized purpose while on government property.

A. This prohibition applies specifically to such activities as:

(1) Canvassing, soliciting, or selling goods or services for personal monetary gain, such as: cosmetics, diet plans and reducing aids, box lunches, plastic household items, raffle tickets, household cleaning products, vitamins, jewelry, household decorating items, etc.

(2) Promoting group buying when such action could reasonably be interpreted as involving the improper use of federal facilities and manpower.

(3) Canvassing or soliciting membership, except as authorized in connection with organized employee groups.

(4) Soliciting contributions from other employees for a gift to anyone in a superior official position in contravention of law (5 U.S.C. 7351, Table III). This prohibited activity applies on or off government premises.

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(5) Bureau employees are also prohibited from having an interest or concern in any trade with Indians except for, and on account of the United States (25 U.S.C. 68; exceptions to this law is also provided in 25 CFR 251.5, and 121.25).

B. This prohibition does not apply to:

(1) Those activities which have been specifically authorized by appropriate authority.

(2) Soliciting contributions for charitable, health, welfare, and similar organizations as authorized by appropriate authority.

(3) Collecting contributions for group immunization programs conducted for the benefit of employees.

(4) Those activities of voluntary groups of federal employees which are of the type commonly accepted as normal social, welfare, or recreational functions of such groups.

(5) A spontaneous, voluntary collection for an employee who is being married, retired, separated or is ill, or as an expression of condolence when conducted by co-workers of approximately equal status to the employee.

3.6 Unauthorized Absence. Employees are required to request and obtain approval for all absences from duty (including leave without pay). An absence which is not approved will be charged as absence without leave (AWOL). In addition, disciplinary action may be taken if the circumstances warrant such action (See Table I at the end of the manual). AWOL should be reported and certified in accordance with the procedures set forth in 35 BIAM 4.4. Supervisors are responsible for documenting, recording and certifying any periods of AWOL for employees under their supervision. Time attendance administration will be dealt with in detail under a separate issuance.

3.7 Giving Testimony.

A. It is the duty of every officer and employee of the BIA to give to the appropriate authorities (or authorized representatives conducting official investigations) all information and testimony about all matters of inquiry arising under the laws, rules, and regulations administered by the BIA. Release of information is subject to the regulations of the Privacy Act of 1974.

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(1) When directed by an appropriate authority, an employee shall take an oath or make an affirmation about his/her testimony or written statement before an officer authorized by law to administer oaths. The employee shall sign his/her name to a transcript of testimony or a written statement which he/she provided.

(2) Refusal of any officer or employee to testify or provide information pertinent to matters under investigation or inquiry may result in removal from office or employment, unless the employee validly invokes his privilege against self-incrimination.

B. All employees are expected to give information fully in response to requests received from Congress, General Accounting Office, or other duly authorized investigative bodies and to other Federal Agencies regarding matters under their jurisdiction. It is BIA policy to cooperate with such bodies in the public interest. Employees should notify their supervisors of any such request.

3.8 Borrowing and Lending Money. Employees may not borrow money from subordinates or have a subordinate act as an endorser or co-maker of a note given as security for a personal loan. Neither may an employee loan money to fellow employees for the purpose of monetary profit. Such conduct will be subject to disciplinary action. These prohibitions do not apply to the operations of recognized credit unions or to employee welfare plans.

3.9 Accepting Notarial Fees. An employee who is also a notary public may not charge or receive fees for performing notarial acts in connection with his official duties. Neither may such an employee charge or receive a fee for performing a notarial act for any person during official duty hours or lunch periods. The prohibition on acceptance of fees does not apply to notarial acts performed in an official capacity during off-duty and off-government-controlled property.

3.10 Letters and Petitions to Congress. The use of appropriated funds to influence the consideration of legislation is prohibited by statute (18 U.S.C. 1913). On the other hand, the right of employees, either individually or collectively, to petition Congress or any member thereof, or to furnish information to any committee or member of Congress is provided by law (5 U.S.C. 7102). Letters to Congress, as well as petitions and other communications, are covered by this provision. While the BIA desires that employees seek to resolve any problem or grievance within the Bureau, any employee exercising his/her constitutional right to correspond with a member of Congress shall be free from restraint, reprisal or coercion. Nevertheless, employees may not use Bureau facilities or duty time in writing about personal business to anyone, including any committee or member of Congress.
3.11 Prohibited Substances. Employees on duty may not possess, use, consume, offer for sale, sell, or be under the influence of alcoholic beverages, drugs, or other substances, the possession or use of which is unlawful or the use of which adversely affects the user's performance or conduct, or reflects adversely on the public service. Employees off duty also may not possess, use, consume, offer for sale, sell, or be under the influence of unlawful drugs or other substances, the possession or use of which reflects adversely on the public service. (See Table I at the end of the manual). The Bureau offers provisions for an Employee Counseling Assistance Program in which the participants are placed under the auspices of the Department Medical Officer.

Employees using drugs prescribed by a physician that adversely affect performance or conduct should make this fact known to their supervisors. Such employees would not normally be subject to disciplinary procedures. When necessary, they may be granted leave for the duration of such use or temporarily assigned to positions where the use of drugs will not interfere with the safe and efficient performance of normal duties.

3.12 Defamatory or Irresponsible Statements. Agency policies encourage freedom of expression. However, employees are accountable for the statements they make and views they express. Employees are not permitted to make irresponsible, false, or defamatory statements which attack, without foundation, the integrity of other individuals or of an organization.

3.13 Recording or Monitoring of Telephone Calls by a Third Party or Automatic Equipment.

A. Telephone mechanical or electronic eavesdropping is prohibited. Advance notice must be given whenever any person is placed on the line for any purpose whatsoever. Additionally, an advance verbal warning must be given when an automatic recording device with a tonal-warning system is used.

B. BIA employees, in the conduct of their official duties, are prohibited from:

1. The covert use of recording or monitoring equipment and devices of any kind.

2. Aiding or permitting the covert use of such equipment and devices.

ADD. to FPM Release 44-88, 5/30/84
3.14 Violations. It is the duty and responsibility of each employee to report promptly any known or suspected violations of law, policy, or regulations through supervisory channels or, if warranted, directly to the appropriate personnel or security office for appropriate handling.

A. It is essential that each violation or suspected violation be promptly and impartially investigated by experienced investigative personnel so that appropriate and timely corrective action can be taken.

B. Supervisors should consult their servicing personnel office before taking any disciplinary action. As in most circumstances, the Office of Personnel Management is charged with the responsibility of enforcing these restrictions.

C. An employee willfully violating the political activity restrictions will be subject to disciplinary action.

D. The freedom of employees to engage in political activities is limited by a number of statutes, laws and regulations. Some of the activities prohibited under penalty of fine and imprisonment are:

(1) Soliciting, receiving, disbursing, or otherwise handling contributions made for political purposes. This does not preclude employees from making voluntary contributions to a regularly constituted political organization for its general expenditures.

(2) Furnishing names and addresses of other employees for the purpose of political solicitation.

(3) Using official authority or influence for the purpose of interfering with an election or affecting the result thereof.

(4) Discriminating in favor of, or against, another employee or prospective employee because of political contributions or opinions.

3.15 Subversive Activity. No employee shall advocate or become a member of any organization which advocates the overthrow of the constitutional form of government of the United States, nor shall an employee become a member of any organization which seeks by force or violence to deny other persons their rights under the constitution of the United States. (18 U.S.C. 1918)

3.16 Striking. No employee shall strike against the Government or become a member of any organization which asserts the right to strike against the government of the United States (5 U.S.C. 7311).
3.17 Teaching, Lecturing, or Writing Activities. The attention of employees is directed to Section 20.735-10 of the Department of Interior Regulations on Employee Conduct and Responsibilities. That section makes it clear that while employees are encouraged to engage in such activities, there are certain restrictions. For example, an employee may not utilize information which has not or will not be made available to the general public. If the employee believes it is in the public interest to use such non-public information, that employee should request permission to do so from appropriate management officials. Permission to use the information must be given in writing over the signature of the appropriate official.

3.18 Meeting Financial Obligations.

A. All employees are expected to properly discharge their private financial obligations. For these reasons, failure without sufficient reason to honor just debts, (including tax delinquencies, claims based on court judgments, or to make and adhere to reasonable arrangements for settlement) will constitute grounds for disciplinary action. Employees are required to pay just financial obligations acknowledged by the employee or reduced to judgment by a court.

B. The agency will not permit itself to be used as a collection agent in connection with commercial obligations or claims based on court judgments. Neither will it be placed in the position of determining the validity of contested debts. Creditors and collectors shall be denied access to employees for the purpose of presenting or collecting claims during working hours. Upon receipt of a debt complaint, the employee shall be contacted by the supervisor and required to submit a statement concerning the action the employee will take to resolve the matter. Each complaint shall be acknowledged and the writer informed of the referral of the letter. If the obligation is admitted, the complainant will be advised of the employee's intentions regarding payment. If the obligation is disputed or denied the complainant will be so informed and advised that the BIA will take no further action pending determination of the claim's validity through proper civil proceedings.

C. All employees are also expected to properly discharge their financial obligations to the federal government. This includes but is not limited to prompt submission of travel vouchers, salary over payments, and income taxes when due.

ADD. to FPM Release 44-88, 5/30/84
Subchapter IV. Disciplinary Actions

4.1 Remedial Actions. When a supervisor decides that corrective action is necessary, the first consideration should be remedial action which is non-punitive in nature and will instruct the offending employee and possibly correct the problem situation. Consultation with the servicing personnel office is in order if a question should arise. Typically, these actions are applied by the supervisor, on their own initiative, and in situations where a relatively minor offense has occurred. The following suggested procedures are by no means the only informal corrective measures that can be employed. Supervisors are urged to review the background of individual cases and assure that these remedial measures are considered before disciplinary actions are utilized. It is the practice of sound management to be responsive to the first sign of unacceptable performance or employee misconduct.

A. Closer Supervision. At times the correction of unacceptable performance or employee misconduct requires nothing more than closer supervision. Such corrective action is particularly effective if applied immediately after the unacceptable performance or conduct occurs. Generally, the employee should be informed of the reason for the closer supervision and encouraged to participate in the corrective process. The employee should be informed of inadequacies in a proper time frame to ensure timely improvement.

B. On the Job Oral Instruction and Formal Training. Inadequacy in an employee's job performance can sometimes be remedied through on the job training and instruction. Such training shall be preceded by thorough employee counseling where the purposes and goals of the training are clearly described to the employee in a formalized training plan (IDP). As the training progresses, the employee should be apprised of his/her progress, or lack thereof, and notified in writing of this assessment. Unacceptable performance situations should be handled through the provisions of 5 CFR 432, Reduction in Grade And Removal Based On Unacceptable Performance.

C. Letters of Instruction. When further corrective action is necessary, letters of instruction should be written as a prelude to formal discipline. Informal letters should not be placed in the Official Personnel Folder, but may be maintained by the supervisor in the employee's SF 78 file. Letters of instruction should inform the employee of the performance or conduct expected to be performed which is consistent with the position or pertinent regulations. If a letter of instruction fails to correct the situation then an Admonishment Letter should be prepared.

D. Letter of Admonishment. It is a written interview between a supervisor and an employee and should be issued as a warning to the employee that a change in performance or conduct must take place immediately or formal disciplinary action may follow. It also identifies the infraction committed and informs the employee of the expected corrective action.

ADD. to FPM Release 44-88, 5/30/84
4.2 Formal Disciplinary Actions. Formal disciplinary actions consist of letters of reprimand, suspensions, reductions in grade or pay and removals. These actions should be initiated by supervisors after coordinating the proposed action with their personnel office. A record of the formal disciplinary action will become a part of the employee's official personnel file. The SF-50 effecting the action is placed on the right side of the employee's OPF. Detailed information concerning these actions is contained in FPM Chapter 752 and 370 DM 752, 1-3.

A. Letter of Reprimand. A written letter of reprimand is a letter or memorandum ordinarily issued by the immediate supervisor for the purpose of correcting an employee's conduct, attitude, work habits, or other factors which have a relationship to his/her employment, and to maintain the efficiency, discipline, and morale of the work force. A letter of reprimand is most effective when it is constructive and remedies or prevents the recurrence of an employee's shortcomings, fault, or offense. Before issuing a letter of reprimand, it may be necessary for the supervisor to fully discuss the incident with the employee in order to permit the employee to present his/her side of the situation. However, in cases where all the facts are known, a reprimand can be issued directly without first conferring with the employee. In the event the employee has no valid justification for the action, the employee shall be informed that a written letter of reprimand shall be issued and that it shall be filed in the Official Personnel Folder for up to two years. The employee must also be informed that a reprimand may be grieved through the Departmental grievance procedure or union contract as applicable. This type of disciplinary action shall be used when the situation or offense is serious and warrants corrective action, or in the case of repeated infractions of a minor nature. A reprimand lessens an employee's chance for promotion and other career opportunities and puts the individual on notice that more severe discipline may be imposed if the problem is not corrected.

B. Suspension. A suspension is an action placing an employee in an enforced temporary non-duty and non-pay status, which is imposed for significant misconduct or repeated lesser infractions. Since it penalizes not only the offending employee, but production as well, (the services of the employee are lost during the suspension period), it should only be imposed when a lesser penalty would be inadequate or prior actions have failed to correct the situation.

1. A suspension must first be proposed giving the employee an opportunity to reply orally and in writing and to furnish affidavits and other documentary evidence in support of the reply, prior to the decision. The deciding official must give fair consideration to the reply prior to making the decision as to the suspension of 14 days or less. Suspensions of more than 14 days are covered under separate procedures. Care should be exercised when taking a suspension action so that the appropriate procedures are followed. In all instances an employee must be apprised of his/her appeal rights.
(2) A Standard Form 52 (Request for Personnel Action) and all pertinent documentation must be sent to the servicing personnel office to enact all suspensions and adverse actions so that a Standard Form 50 can be processed.

C. Reduction in Grade or Pay. Demotion may be warranted as a result of misconduct or unsatisfactory performance when the employee cannot be continued in his/her present position and reassignment at the current grade or pay is not possible or practical. This type of action is normally imposed when (1) an employee is found to be inefficient in his/her current position and should be reduced in grade or pay, to a former position where it is determined that the employee did perform successfully and the conduct or performance deficiencies are not of such a nature to warrant removal or (2) an employee in a supervisory position, is found to be unable to properly supervise or manage and is demoted to a nonsupervisory position. (This does not apply to probation on initial appointment to a supervisory or managerial position see 370 DM 315, 9.1)

D. Removal. This is the most severe type of adverse action, since it not only removes the employee from the job, but may prevent any future federal employment. Before it is initiated, the facts and circumstances in an individual case must support the conclusion that the employee has clearly demonstrated unsuitability for continued employment or unwillingness to conform to the rules of conduct.

Note: Progression of Disciplinary Measures. Normally a progression of disciplinary measures is applied in an effort to correct employee performance or conduct before a decision is made to discharge. Discharge actions shall be preceded by progressive disciplinary measures such as reprimand, short suspension, and long suspension unless the misconduct is so serious or the violation of rules and regulations so flagrant, that immediate suspension or discharge is clearly warranted.

4.3 Additional Considerations. Withholding a with-in-grade increase from an employee does not constitute disciplinary action but is another mechanism of ensuring satisfactory performance. An employee must be informed in writing of the proposed denial, 60 days prior to the date the with-in-grade increase would become effective. The procedures for denying a WIGI are contained in 370 DM 531.4.
4.4. Choice of Discipline. Discipline demands the exercise of responsible judgment so that an employee will not be penalized disproportionately to the character of the offense. A supervisor, therefore, must evaluate the situation on the basis of factual circumstances to assure that the action proposed and taken is reasonable under those circumstances. Some factors that should be considered are:

A. The employee's past work record and disciplinary history, including the nature, frequency, and recency of other offenses.

B. The likelihood of constructive rehabilitation.

C. The character of the position to which the employee is assigned, since the more responsible the position, the more exacting the standard of performance or conduct on and off the job.

D. The nature and gravity of the offense and the influence or existence of mitigating circumstances.

E. Like penalties should be imposed for like offenses when the circumstances are fairly similar.

See Table IV at the end of the manual for listing of the Douglas factors the Merit Systems Protection Board (MSPB) uses in reviewing Federal Agencies determination on the maximum reasonable penalty imposed.

4.5 Restrictions on Implementing Disciplinary and/or Adverse Action
Part 355 DM 2.1 provides that certain complaints of a serious nature must be reported to the Assistant Inspector General for Investigation, Department of the Interior. Part 370 DM 311.2.2 provides that the Bureau shall not take final action on such cases until they are released by the Department. These cases shall be coordinated with the Branch of Employee and Labor Relations, Division of Personnel Management in the Central Office.

ADD. to FPM Release 44-88, 5/30/84