

## SECTION II

### DISCIPLINARY RULES AND PROCEDURES

#### CLASSES OF OFFENSES AND CLASS DEFINITIONS

**CLASS A:** Offenses of such seriousness as to warrant immediate dismissal as set forth in the attached listing of Class A Infractions.

General Definition: Willful or wanton violations of agency rules or policies which may adversely affect or disrupt the Agency's business or operations; **OR**

Willful violations of State or Federal laws which pertain to the operations or business interests of the Agency; **OR**

Fraudulent or dishonest act(s) involving any program or activity administered or supervised by the Agency or committed on Agency premises or property; **OR**

Willful acts, other than fraud and theft, which result in a loss to the Agency or in a loss or damage to agency property, equipment, or to Agency employees in the amount of fifty (\$50.00) dollars or more.

#### **DISCIPLINARY**

**ACTION:** Maximum penalty for any number of infractions: Immediate dismissal.

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**CLASS B:** Offenses of such seriousness as to warrant suspension as set forth in the attached listing of Class B infractions.

**General Definition:** Acts of insubordination, discourtesy, impropriety, or acts of gross negligence which may adversely affect or disrupt Agency business operations; **OR**

Willful acts which pose a threat to the safety or security of Agency property, equipment or employees or to the public while on Agency premises; **OR**

Other acts of misconduct, other than fraud and theft, which result in a loss of less than fifty (\$50.00) dollars.

#### **DISCIPLINARY**

**ACTION:** Maximum penalty:  
1st Infraction = Suspension\* and written warning.  
2nd Infraction = Dismissal.

**NOTE:** Class B Offenses shall be cumulative for a five (5) year period and different infractions within the same class category shall attach and become cumulative from date of each such act.

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**CLASS C:** Lesser offenses of such a nature as to warrant progressive disciplinary steps from oral and written warnings to suspension and dismissal as set forth in the attached listing of Class C infractions.

**General Definition:** Minor offenses of negligence, imprudence, or carelessness reflecting a disregard for, or constituting a violation of standard work rules, policies, or procedures, but which do not result in a loss or damage to property or persons, nor constitute a violation of rules or policies affecting the safety of agency property, equipment or employees.

**DISCIPLINARY**

**ACTION:**

Maximum penalty: 1st Infraction = Verbal Warning (documented written).

Maximum penalty: 2nd Infraction = Written warning.

Maximum penalty: 3rd Infraction = Suspension.\*

Maximum penalty: 4th Infraction = Dismissal.

**NOTE:** Class C offenses shall be cumulative on a revolving three-hundred-sixty-five (365) calendar day basis from date of each such infraction and different infractions within the same class category shall attach and become cumulative. Example; a third class C within a year of written will result in a suspension.

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**\*NOTE:** Suspension means disciplinary suspension from work without pay for up to five (5) working days, except where temporary suspension with pay is invoked by a Supervisor pending investigation of an incident.

If the investigation indicates a disciplinary action is warranted, then the time during which the employee was suspended will constitute part of the assessed disciplinary suspension. The Agency Director or the Assistant Director is the only Agency personnel authorized to issue Disciplinary Leave Without Pay (LWOP). Supervisors may recommend to the Director.

## **ARKANSAS DEPARTMENT OF VETERANS AFFAIRS**

### **DISCIPLINARY RULES AND PROCEDURES**

#### **CLASS A INFRACTIONS** Maximum Penalty: **IMMEDIATE DISMISSAL**

1. **Leave and Attendance:** (See also Leave and Attendance, under Class B and Chronic Tardiness, under Class C).
  - a. Abandonment of Job. (Unauthorized absence for more than two (2) days, forty-eight (48) hours).
  - b. Fraudulently claiming sick leave.
2. **Fraud, Theft and Dishonesty**<sup>1</sup>: (See also “Dishonesty and Breach of Trust” – under Class B infractions).
  - a. Charging personal long distance telephone calls to agency, including unauthorized use of WATTS lines, which result in charges or a monetary loss of fifty (\$50.00) dollars or more. (See Class B Acts of Dishonesty for charges of less than fifty (\$50.00) dollars. Misuse of Agency cell phone.
  - b. Fraudulent claims for travel expenses. (See Class B Acts of Dishonesty for false claims of less than fifty (\$50.00) dollars.
  - c. Embezzling agency or resident funds.
  - d. Theft of Agency property regardless of where housed, stored or located, or property of others on premises.<sup>2</sup>
  - e. Misappropriation of Agency or resident funds.
  - f. Misrepresentation of a material fact(s), or making a false statement(s) in connection with employment/job application, work related activity, record, report, investigation or other Agency related activity or proceeding.
  - g. Any act resulting in cancellation or loss of bond coverage for the individual employee or any act, which would render an employee, a security risk.

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<sup>1</sup>All such acts also require restitution and may result in criminal charges.

<sup>2</sup>Refers to the physical structures housing the places of business and the grounds of the Department/Agency.

#### **CLASS A INFRACTIONS (Continued)**

3. **Assault and/or Battery:**

- a. Assaulting another employee, resident or client.
- b. Fighting or creating a disturbance on the premises<sup>1</sup> or at any time or place while on official Agency business or duty status. (Does not preclude self-defense from unprovoked attack).

4. **Conviction of a Felony Offense Under the Arkansas Criminal Code:**

(Except for a conviction for a crime classified as a Class Y felony, the disciplinary action to be taken following a conviction for a non-work or non-agency related act will be at the discretion of the Agency Director).

5. **Unauthorized or Illegal Possession or use of Weapons, Liquor, Drugs or Narcotics:** (see Note 3)

- a. Unauthorized possession of firearms or other weapons on premises.<sup>1</sup>
- b. Use or possession of illegal drugs or narcotics on premises<sup>1</sup>, or in an Agency vehicle, or at any place or location while on official Agency business or duty status.
- c. Use of intoxicating liquor on premises<sup>1</sup>, in an Agency vehicle, or while in official duty status.

6. **Violations of the Hatch Act or Governor's Policy Directive Regarding Political Activity:**

- a. Candidate for elective office in a partisan election.
- b. Directly or indirectly coerce, command, assess, solicit, or otherwise persuade any employee to contribute anything of value to a party, committee, organization, agency or person for political purposes.

**NOTES:**

<sup>1</sup> Refers to the physical structures housing the places of business and the grounds of the Department/Agency.

<sup>2</sup> Can be subject to prosecution and loss of certification or license.

<sup>3</sup> ADVA recognizes Arkansas Statute 5-73-120 with regard to the definition of an illegal weapon. Below is the statute:

5-73-120. Carrying a weapon.

(a) A person commits the offense of carrying a weapon if he or she possesses a handgun, knife, or club on or about his or her person, in a vehicle occupied by him or her, or otherwise readily available for use with a purpose to employ the handgun, knife, or club as a weapon against a person.

(b) As used in this section:

(1) "Club" means any instrument that is specially designed, made, or adapted for the purpose of inflicting serious physical injury or death by striking, including a blackjack, billie, and sap;

(2) "Handgun" means any firearm with a barrel length of less than twelve inches (12") that is designed, made, or adapted to be fired with one (1) hand; and

(3) (A) "Knife" means any bladed hand instrument that is capable of inflicting serious physical injury or death by cutting or stabbing.

(B) "Knife" includes a dirk, sword or spear in a cane, razor, ice pick, throwing star, switchblade, and butterfly knife.

(c) It is a defense to a prosecution under this section that at the time of the act of carrying a weapon:

(1) The person is in his or her own dwelling, place of business, or on property in which he or she has a possessory or proprietary interest;

(2) The person is a law enforcement officer, correctional officer, or member of the armed forces acting in the course and scope of his or her official duties;

(3) The person is assisting a law enforcement officer, correctional officer, or member of the armed forces acting in the course and scope of his or her official duties pursuant to the direction or request of the law enforcement officer, correctional officer, or member of the armed forces;

(4) The person is carrying a weapon when upon a journey, unless the journey is through a commercial airport when presenting at the security checkpoint in the airport or is in the person's checked baggage and is not a lawfully declared weapon;

(5) The person is a licensed security guard acting in the course and scope of his or her duties;

(6) The person is hunting game with a handgun that may be hunted with a handgun under rules and regulations of the Arkansas State Game and Fish Commission or is en route to or from a hunting area for the purpose of hunting game with a handgun;

(7) The person is a certified law enforcement officer; or

(8) The person is in a motor vehicle and the person has a license to carry a concealed weapon pursuant to 5-73-301 et seq.

(d) (1) Any person who carries a weapon into an establishment that sells alcoholic beverages is guilty of a misdemeanor and subject to a fine of not more than two thousand five hundred dollars (\$2,500) or imprisonment for not more than one (1) year, or both.

## **CLASS A INFRACTIONS** (Continued)

- c. Engaging in partisan political activity of any type during work hours, or use of State or Agency property or equipment for such purposes, including display of bumper stickers, decals or other political advertising. (This prohibition also applies to personal vehicles when in use in the performance of official duties for which the employee will be reimbursed by the State or Agency.)
- d. Use of official authority or position to influence, or affect in any way, the result of an election or nomination for political office.

### 7. **Abuse or neglect of a resident's rights or needs.**<sup>1</sup>

Directly or indirectly responsible for the abuse or neglect of a resident's rights or needs.

### 8. Other Class A Infractions:

Includes other willful acts of similar nature or seriousness not specified above which fall within the scope of a Class A offense or act as defined above. (See General Definitions)

**CLASS B INFRACTIONS** Maximum Penalty:

**1ST INFRACTION = SUSPENSION AND WRITTEN WARNING**

**2ND INFRACTION = DISMISSAL**

1. Extended failure to show to work. (Unauthorized absence for two (2) days, forty-eight (48) hours).
2. **Personal Conduct:**
  - a. Reporting to work under influence of intoxicating liquor or drugs. (Also refer for Professional assistance and/or treatment.)
  - b. Drug Free Workplace violations, resulting in 10 day suspension for first offense; see ADVAP 2-15.
  - c. Gambling on premises.<sup>1</sup>
  - d. Possession of intoxicating liquor on premises.<sup>1</sup>
  - e. Use of insulting, abusive, obscene, profane or other offensive language directed to one's Supervisor, another employee, resident, client, or a member of the general public.
  - f. Racial, sexual or religious harassment.
  - g. Intentional interference, hindrance, delay or other willful act designed to impede, delay, or block the filing, processing and/or resolution of an employee grievance under the Agency's Grievance Procedure.
  - h. Sleeping on the job.

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<sup>1</sup>Refers to physical structures housing the places of business and the grounds of the Department/Agency.

**CLASS B INFRACTIONS** (Continued)

- h. Retaliation, discrimination or reprisal against an Agency employee because he/she has filed a complaint or grievance under the Agency's Grievance Procedure, or for having provided information in connection with or participation in any Agency hearing, investigation or other official Agency proceeding.

- i. Discourteous treatment of a client, resident or a member of the general public.
  - j. Insubordination. (Refusal to obey a reasonable order or directive issued within one's chain of command.)
  - k. Engaging in activity constituting a conflict of interest or an impropriety as an Agency employee, representative or Agent.
  - l. Endangering safety or welfare of employees, residents or Agency property.
  - m. Failure to report an accident involving Agency vehicle, property or equipment or resulting in personal injury or damage.
  - n. Use of Agency time, property or equipment for conduct of personal business, or engaged in other unauthorized or prohibited activity.
3. **Acts of Dishonesty or Breach of Trust**<sup>1</sup> which result in a loss of less than fifty (\$50.00) dollars or which violates security policies (exclusive of acts of fraud and theft as defined under Class A offenses for which no minimum monetary loss is specified.)
- a. Unauthorized or personal use of Agency credit cards, vehicles or other Agency property or equipment, including the operations of an Agency vehicle without a valid driver's license.
  - b. False or improper claims for travel reimbursement resulting in a monetary loss of less than fifty (\$50.00) dollars.
  - c. Failure to properly safeguard<sup>2</sup> Agency credit cards, keys, passwords, access to restricted areas or confidential information, or other security breaches which result in a loss or pose a threat to the safety or security of Agency property, equipment, records, employees, residents or clients.

**NOTES:**

<sup>1</sup> All such acts also require restitution and may also result in criminal charges.

<sup>2</sup>Refers to gross negligence reflecting a reckless disregard for the Agency's interest.

**CLASS B INFRACTIONS** (Continued)

- d. Charging personal long distance calls to Agency and Agency cell phone misuse, residents, which result in charges or a monetary loss of less than fifty (\$50.00) dollars.

4. **Violation of Internal Rules:**

- a. Loaning money or selling any item to Veterans Home residents.
- b. Borrowing money or purchasing any property/items from Veterans Home residents.
- c. Having personal relationships with Veterans Home residents or clients.
- d. Assisting Veterans Home residents after duty hours without proper authority.
- e. Changing or altering established procedures or documents, or removing official documents from work area without proper approval or authorization.
- f. Obtaining information or data through computer terminal, or by other means, for any purpose other than for the conduct of official Agency business.
- g. Discussing or disclosing personal or confidential information contained in Agency files for other than official purposes or the conduct of official Agency business.
- h. Removal of property or equipment from work place without prior authorization.

5. **Other Class B Infractions:**

Includes other willful acts of a similar nature or “moderate seriousness” not specified above which fall within the scope of a Class B offense or act as defined above. (See General Definitions.)

**CLASS C INFRACTIONS:** May result:

	1st INFRACTION	2nd INFRACTION	3rd INFRACTION	4th INFRACTION
	Verbal Warning	Written Warning	Suspension	Dismissal

- 1. Chronic tardiness.<sup>1</sup>
- 2. Excessive personal use of Agency telephones and cell phones.<sup>2</sup>
- 3. Leave abuse.<sup>3</sup>
- 4. Parking in “reserved” parking spaces including fire and traffic lanes.

5. Interfering with another employee's job performance.
6. Unauthorized absence of less than one (1) hour, including overstaying of lunch and coffee breaks.<sup>4</sup>
7. Use of insulting, abusive, obscene, profane or other offensive language in the presence of the general public or other Agency employees. (See personal conduct under Class B Infractions where such is directed to specific person or persons.)
8. Careless acts.
9. Leave and Attendance and Related: (see: Note 6)
  - a. Unauthorized absence from one (1) to fifteen (15) hours. (See Item 1(a) under Class A for unauthorized absence for two (2) days (forty-eight (48) hours.)
  - b. Failure or refusal without good cause, or authorized leave, to work scheduled shift when:
    - 1) The possibility of alternate work schedule was a part of the terms of hire when the employee accepted the job or with the employee's knowledge has been made a condition of employment, or
    - 2) Emergency situations which arise and require the performance, outside normal work hours of services of the type and nature which the employee is capable of performing in order to safeguard Agency property, prevent hardship to persons served by the Agency, or to meet workload deadlines or Agency staffing levels.
  - c. Failure or refusal without good cause to work overtime when scheduled or requested to do so under the following circumstances:
    - 1) The possibility of working overtime was a part of the terms of hire when the employee accepted the job or with the employee's knowledge has been made a condition of employment, or
10. Unexcused call-ins.<sup>5</sup>

Note: Emergency situations which arise and require the performance, outside normal work hours, of services of the type and nature which the employee is capable of performing in order to safeguard Agency property, prevent hardship to persons served by the Agency, or to meet workload deadlines, or to meet workload deadlines or Agency staffing levels.

## **Other Class C Infractions:**

Includes all other minor infractions of a similar nature not specified above which fall within the scope of a Class C act or infraction as defined above. (See General Definitions)

### **NOTES:**

<sup>1</sup> Refers to unexcused tardiness (without good cause). "Chronic" is defined as being late or tardy three (3) times or more within any consecutive thirty (30) day period or six (6) times within a six (6) month period or eight (8) times within a given twelve (12) month period. Leave-Without-Pay (LWOP) shall be assessed, on an hourly basis, for each "unexcused" tardiness of fifteen (15) minutes or more. Annual leave or LWOP shall be used in cases of excused tardiness as appropriate.

<sup>2</sup> Excessive is defined as more than three (3) calls in one (1) workday, or any personal calls in excess of three (3) minutes.

<sup>3</sup> Abuse is identified as inappropriate use or misuse of any type of leave; also includes unauthorized use of leave. Example: Using sick leave for a purpose other than intended by law and/or policy. Excessive is identified as taking leave in inappropriate amounts, chronic absenteeism (may be indicated by patterns of attendance or lack of attendance.) Example: Use of leave soon after accrual (may result in a zero balance.) If a pattern of "sick leave" abuse or excessive use is identified, an employee may be required to furnish a certificate from an attending physician of any use of "sick leave".

<sup>4</sup> Refers to fifteen (15) minute break in a.m. and in p.m. and thirty (30) minute lunch period unless otherwise specified by Supervisor.

<sup>5</sup> Refers to call-in procedures as defined in ADVA Policy 2-3. Call-in may be excused or unexcused. In order for a Call-in to be excused it must meet all of the following conditions:

1. It must be called in within the guidance of ADVA 2-3
2. The supervisor must approve the missed work schedule

Unexcused Call-ins are those instances that don't meet the previous conditions.

The following stepped approach will be taken:

- First (1<sup>st</sup>) unexcused call-in within a six (6) month period: Verbal Warning (Supervisors must document the Verbal Warning)
- Second (2<sup>nd</sup>) unexcused call-in within a rolling (6) month period: Written Warning (Supervisors must document the Written Warning)
- Third (3<sup>rd</sup>) unexcused call-in within a rolling (6) month period: Up to Suspension
- Fourth (4<sup>th</sup>) unexcused call-in within a rolling (6) month period: Up to Termination

<sup>6</sup> The first infraction for Leave and Attendance and related will by-pass the verbal warning and will be a written warning. The 2<sup>nd</sup> occurrence within two (2) years may be up to a suspension and the third within two (2) years may be up to termination. Leave and Attendance and related offenses will remain in the personnel record for no less than two (2) years.