

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**

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**

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.

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 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 general 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.

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.

***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: May result

Maximum Penalty:

	1st INFRACTION
	Termination

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 Dishonesty¹:** (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 property regardless of where housed, stored or located, or property of others on premises.
 - e. Misappropriation of Agency or resident property.
 - 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.

CLASS A INFRACTIONS (Continued)

3. Assault and/or Battery:

- a. Assaulting another employee, resident, client or member of the public.
- b. Fighting or creating a disturbance on the premises or at any time or place while on official Agency business or duty status. (Does not preclude self-defense from unprovoked attack).
- c. Discourteous treatment of a client, resident or a member of the general public.
- d. Insubordination. (Refusal to obey a reasonable order or directive issued within one's chain of command.)
- e. Endangering safety or welfare of a client, resident, employees, or member of the general public.

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:

- a. Unauthorized possession of firearms or other weapons on premises.
- b. Use or possession of illegal drugs or narcotics on premises 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 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. All ADVA employees are subject to the Governors' Policy Directive Regarding Political Activity as detailed in OPM Policy 18. Any violation of the Governors' Policy Directive Regarding Political Activity as detailed in

OPM Policy 18 constitutes a Class A offense. Prohibitions include, but are not limited to the following:

- i. State employees are prohibited from engaging in partisan political activity during the hours they are performing work for and being paid by an agency of State government.
 - ii. Political banners, posters or literature should never be allowed to be displayed on or in any State office.
 - iii. Political bumper stickers or decals should never be displayed on or in a State car. State vehicles must not be used during or after working hours to promote or assist the candidacy of any person in any way. State employees may not display political advertising on personal vehicles when using these vehicles in the performance of official duties for which they shall be reimbursed by the State.
 - iv. No State official (whether elected or appointed) shall assess employees for any political purpose or use threats or coercion to require or persuade an employee to contribute to a particular candidate or cause.
- b. Some ADVA employees may be subject to the Hatch Act, based on the funding source of their salary or wages. Any violation of the Hatch Act constitutes a Class A offense. Prohibitions include, but are not limited to the following:
- i. Be candidates for public office in a partisan election, if their salary is entirely federally funded;
 - ii. Use official authority or influence to interfere with or affect the results of an election or nomination; or
 - iii. Directly or indirectly coerce, attempt to coerce, command, or advise a state, D.C., or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.

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.**¹

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

- 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.

Abuse and neglect are based upon the definition by the Office of Long-Term Care.

<https://www.cdc.gov/violenceprevention/elderabuse/definitions.html>

Elder Abuse: Definitions

Related Pages

Elder abuse is an intentional act, or failure to act, by a caregiver or another person in a relationship involving an expectation of trust that causes or creates a risk of harm to an older adult. (An older adult is defined as someone age 60 or older.) Forms of elder abuse are below.

- **Physical Abuse:** the intentional use of physical force that results in acute or chronic illness, bodily injury, physical pain, functional impairment, distress, or death. Physical abuse may include, but is not limited to, violent acts such as striking (with or without an object or weapon), hitting, beating, scratching, biting, choking, suffocation, pushing, shoving, shaking, slapping, kicking, stomping, pinching, and burning.
- **Sexual Abuse or Abusive Sexual Contact:** forced or unwanted sexual interaction (touching and non-touching acts) of any kind with an older adult. This may include forced or unwanted:
 - Completed or attempted contact between the penis and the vulva or the penis and the anus involving penetration
 - Contact between the mouth and the penis, vulva, or anus
 - Penetration of the anal or genital opening of another person by a hand, finger, or other object

- Intentional touching, either directly or through the clothing, of the genitalia, anus, groin, breast, inner thigh, or buttocks

These acts also qualify as sexual abuse if they are committed against a person who is not competent to give informed approval.

- **Emotional or Psychological Abuse:** verbal or nonverbal behavior that results in the infliction of anguish, mental pain, fear, or distress. Examples include behaviors intended to humiliate (e.g., calling names or insults), threaten (e.g., expressing an intent to initiate nursing home placement), isolate (e.g., seclusion from family or friends), or control (e.g., prohibiting or limiting access to transportation, telephone, money or other resources). Can be expressed by resident or resident's family.
- **Neglect:** failure by a caregiver or other responsible person to protect an elder from harm, or the failure to meet needs for essential medical care, nutrition, hydration, hygiene, clothing, basic activities of daily living or shelter, which results in a serious risk of compromised health and safety. Examples include not providing adequate nutrition, hygiene, clothing, shelter, or access to necessary health care; or failure to prevent exposure to unsafe activities and environments.
- **Financial Abuse or Exploitation:** the illegal, unauthorized, or improper use of an older individual's resources by a caregiver or other person in a trusting relationship, for the benefit of someone other than the older individual. This includes depriving an older person of rightful access to, information about, or use of, personal benefits, resources, belongings, or assets. Examples include forgery, misuse or theft of money or possessions; use of coercion or deception to surrender finances or property; or improper use of guardianship or power of attorney.

Failure to follow State of Arkansas's Mandatory Reporting guidelines for the Elderly based upon the above definition of abuse and neglect:

<https://apps.rainn.org/policy/policy-state-laws-export.cfm?state=Arkansas&group=5>

When is a report required?

An observation or reasonable cause to suspect that an endangered person or an impaired person has been subjected to conditions or circumstances that constitute adult maltreatment or long-term care facility resident maltreatment.

Where does it go?

A report for a resident of long-term care shall be made to:

The local law enforcement agency for the jurisdiction in which the long-term care facility is located; and The Office of Long-Term Care of the Division of Medical Services of the Department of Human Services at 501-320-6500. The Office of Long-Term Care of the Division of Medical Services of the Department of Human Services also has developed a form that can be used to submit reports of abuse. Instructions for submission are

provided on the form. The form can be found at:

<https://humanservices.arkansas.gov/dms/Pages/oltcProviders.aspx#8>.

A report for a maltreated adult who does not reside in a long-term care facility shall be made to the adult and long-term care facility maltreatment hotline (1-800-482-8049).

9. **Personal Conduct:**

- a. Sleeping on the job while responsible for the care of residents.

10. HIPPA Violation –

- a. Obtaining information or data through computer terminal, or by other means, for any purpose other than for the conduct of official Agency business.
- b. Discussing or disclosing personal or confidential information contained in Agency files for other than official purposes or the conduct of official Agency business.

11. 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 May result:

Maximum Penalty:

1st INFRACTION	2nd INFRACTION
Suspension and Written Warning	Termination

1. **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. (let's look at DFA policy and tighten this up.
- c. Gambling on premises.

- d. Use of insulting, abusive, obscene, profane, rude, disrespectful, or other offensive language directed to one's Supervisor, another employee, resident, client, or a member of the general public.
- e. Racial, sexual or religious harassment.
- f. 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.
- g. Sleeping on the job except where responsible for the care of resident. See Class A, 9, a.

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. Engaging in activity constituting a conflict of interest or an impropriety as an Agency employee, representative or Agent.
 - j. Endangering safety or welfare of employees, residents or Agency property.
 - j. Failure to report an accident involving Agency vehicle, property or equipment or resulting in personal injury or damage.
 - k. Use of Agency time, property or equipment for conduct of personal business, or engaged in other unauthorized or prohibited activity.
2. **Acts of Dishonesty or Breach of Trust** 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 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.

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.

3. **Violation of Internal Rules:**

- a. Assisting Veterans Home residents after duty hours without proper authority.
- b. Changing or altering established procedures or documents or removing official documents from work area without proper approval or authorization.
- c. Removal of property or equipment from workplace without prior authorization.

4. **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.** “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.
- 2. Excessive personal use of Agency telephones and cell phones. Excessive is defined as more than three (3) calls in one (1) workday, or any personal calls in excess of three (3) minutes.

3. Leave abuse. 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".
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.
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:**
 - 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**

- a. First (1st) unexcused call-in within a six (6) month period: verbal warning
- b. Second (2nd) unexcused call-in within a rolling (6) month period: written warning
- c. Third (3rd) unexcused call-in within a rolling (6) month period: up to suspension
- Fourth (4th) unexcused call-in within a rolling (6) month period: up to termination

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)