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MEMORANDUM FOR EMPLOYEES OF ARKANSAS DEPARTMENT OF VETERANS AFFAIRS

SUBJECT: Arkansas Department of Veterans Affairs (ADVA) Uniform Discipline Policy

1. ADVA Human Resources is responsible for the creation, revision, and dissemination of agency policies and procedures in order to assist in the maintenance of an effective workplace.
2. This memorandum is intended to provide a uniform discipline policy, applicable to all ADVA employees and shall remain in effect until revoked or superseded.
3. Point of contact for this memo is Melissa Butler at (501) 682-1954

A handwritten signature in blue ink, appearing to read "K. W. Penn", is written over the typed name.

KENDALL W. PENN
MAJOR GENERAL, Retired
SECRETARY

ARKANSAS DEPARTMENT OF VETERANS AFFAIRS
Uniform Discipline Policy and Conduct Standards

I. PURPOSE:

The employee conduct standards and disciplinary actions are intended to identify common issues, to inform the employee of workplace expectations, and to guide supervisors through the discipline process.

These procedures are mandatory and set out minimum requirements for all employees, to include supervisors and managers. Nothing in this policy prevents workplace conduct or performance standards that are more specific, more rigorous, or both.

II. POLICY:

Disciplinary measures should be administered through progressive actions, when possible. If an employee's actions adversely affect the agency's operations, have involved abuse of authority, or jeopardize the health or safety of any person, progressive disciplinary actions may not be appropriate.

This policy creates no property interest or expectancy in employment, nor does it alter the employment-at-will doctrine. Nothing in this policy creates either an expressed or implied right or expectation of continued employment. This policy will be applied in a manner consistent with all relevant employment laws and regulations.

III. DEFINITIONS:

1. **Business Day:** Employee's regularly scheduled time to be at work.
2. **Conduct Standards:** Standards of acceptable behavior for ADVA employees while on duty.
3. **Disciplinary Action:** Actions taken in response to employee behavioral or performance issues. These may be administered as termination, suspension, involuntary demotion, written reprimand, and/or non-new hire probation.
4. **Disciplinary Probation:** The time established for ADVA to evaluate and assist employees with any issues.
5. **Employee:** A person regularly appointed or employed in a position of state service by a state agency for which he or she is compensation on a full-time basis or on a pro rata basis and a class title and pay grade are established in the appropriation act for the agency or institution in accordance with the Uniform Classification and Compensation Act, § 21-5-201 et seq.

6. **Initial Probation:** Employment includes a six (6) month period upon initial hire within ADVA.
7. **Multiple Violations:** Two or more conduct violations that are active at the same time but resulted from separate incidents.
8. **Personnel File:** The official record of employment of each ADVA employee maintained by the Human Resources Office.
9. **Supervisor:** An individual in each employee's chain of command to whom he or she reports. This person prepares performance evaluations. Supervisors are a part of management.
10. **Supervisor's File:** A record of an employee's performance, including any informal counseling or coaching that is maintained by the employee's supervisor.

IV. BEHAVIOR EXPECTATIONS:

In addition to the expectations set forth below, please refer to applicable policies implemented by individual work locations, as well as workplace rules and standards contained in Attachment (A) - Offenses that Violate Minimum Behavior Standards.

1. **Integrity and Honesty:** ADVA does not tolerate deceptive behavior including, but not limited to, misstatements of fact, failure to state complete facts, or fraud. Deceptive behavior is presumed to be a Discipline Level (3) violation. The following may be considered as mitigating circumstances:
 - a) The violation is an isolated occurrence and does not suggest that the employee is untrustworthy.
 - b) The violation did not adversely impact any ADVA client, any other state employee, or any ADVA service, operation, or funds.
 - c) The violation did not involve any abuse of official authority; and
 - d) The violation did not jeopardize the health or safety of any person.
2. **Compliance:** Employees must comply with workplace policies, rules and all job-related standards, standard practices, and requirements, including, without limitation, laws (including traffic laws), rules, regulations, judicial and administrative decisions, agency interpretations, and all work-related instructions. Minimum Discipline Level (1).

Supervisors must apply this and other ADVA policies to enforce conduct and performance expectations. Some examples of non-compliance include:

- a) Violation of a criminal law if it occurs on ADVA property or while on duty, regardless of whether the criminal law is job-related. Minimum Discipline Level (3).

- b) Conviction of a crime is non-compliance if one or more elements of the crime is relevant to the employee's behavior standards, job duties, or both. A conviction for fraud establishes that the employee lacks integrity and honesty, for example. Minimum Discipline Level (3).
- c) Misconduct or unsatisfactory performance that relates to the employee's workplace behavior standards, job duties, or both. This includes off-the-job behavior if the behavior is such that a reasonable supervisor could conclude that continuing the employee in the position without correction could impair ADVA operations or objectives or expose ADVA to liability. Minimum Discipline Level (1).

3. **Diligent and Competent Performance:** Reliable attendance; attentive and persistent attention to job duties. Minimum Discipline Level (1)

4. **Professionalism:** Tactful, discreet, and courteous behavior, demonstrating competence, compassion, and tolerance that brings credit to ADVA. Minimum Discipline Level (1)

5. **Supplemental List of Offenses and Level of Discipline:** see "Attachment A".

V. PROCEDURES:

1) **Notice:**

Policy dissemination shall be documented by each employee signing an acknowledgement of receipt of the policy that shall be placed in the employee's personnel file. All employees shall be notified and receive subsequent notice of any updates or revisions. The discipline policy is available on the ADVA website. An ADVA Human Resources representative will provide a copy upon request.

It is the duty of each employee to read and understand all ADVA policies and rules and operating procedures applicable to his or her specific work area and position. Employees who need further explanation of any policy should seek guidance through their chain of command or the Human Resources Office.

2) **Responsibilities:**

a) **Employees:**

- i) To be familiar with and follow ADVA conduct standards and all associated policies.
- ii) To seek clarification if they do not understand any ADVA standards and associated policies, standard operating procedures, or other governing rules; and
- iii) To abide by all standards, policies, rules, and procedures.

b) Supervisors or other Members of Management:

- i) Give proper notice to employees of all policy changes.
- ii) Monitor employee conduct to determine compliance with conduct standards and the need for disciplinary action.
- iii) Establish and maintain a work environment that helps employees meet conduct standards; and
- iv) Enforce all conduct standards and administer discipline in a consistent, objective, and good-faith manner.

3) Documentation:

Supervisors are responsible for timely documenting any disciplinary action taken and forwarding all necessary supporting documentation to the Human Resources office. Information regarding disciplinary actions will remain in the personnel file as appropriate.

Documentation should be specific and include detailed, factual statements in situations that include but are not limited to the following:

- i) Any behavior that has violated a standard.
- ii) Disciplinary action taken.
- iii) Coaching or other non-disciplinary measures taken.
- iv) Disciplinary actions to be taken.
- v) Acknowledgement of Disciplinary Action signed by the supervisor, the employee, and observer. If the employee refuses to sign, this should be noted in writing by the supervisor and observer.

All documentation shall be placed in the employee's personnel file, except for written documentation of verbal warnings which shall be kept in the supervisor's file.

4) Disciplinary Action Generally:

Management has the burden of proving misconduct by the greater weight of evidence. It is the evidence which, when weighed with that opposed to it, has more convincing force and is more probably true. Facts may be shown by circumstantial evidence when the existence of the fact can be reasonably inferred from other facts proved.

The penalty imposed for violating a rule, policy, or procedure must take into consideration all relevant circumstances. An employee may be disciplined for violating more than one rule or policy arising out of the same incident or if additional violations are discovered through the course of an administrative investigation.

Corrective counseling and routine coaching are options that should be considered prior to disciplinary action as well as between various steps of progressive discipline when appropriate. These tools are utilized to communicate, define expectations, and provide an opportunity for the employee to improve his or her non-compliance. Corrective counseling and coaching are not discipline. This documentation should be maintained in the supervisor's file.

5) **Penalties:**

Disciplinary measures for violations of ADVA standards shall be administered by supervisors in a consistent, objective, good faith, and non-discriminatory manner. Supervisors are expected to use good judgement in determining the seriousness of violations and in the disciplinary measure to be imposed. The facts of each case must be documented by the supervisor and all circumstances shall be considered before taking final action. Neither a history of satisfactory or higher performance evaluations nor the absence of previous disciplinary actions shall be mitigating factors or defenses to the administration of discipline.

Employees who have received more than one disciplinary action or receive a disciplinary action resulting in a suspension within the rating period, shall not be eligible for a merit increase.

- a) **Verbal Warning:** A verbal notice to inform the employee that he or she has violated a conduct standard. A verbal warning may be used as the basis for additional disciplinary action in the future and more severe disciplinary action may be taken if an equal or more substantial violation occurs within a six (6) month period of the verbal warning. A verbal warning shall be documented in writing and maintained in the supervisor's file. A copy of the verbal warning should not be placed in the employee's personnel file.
- b) **Written Warning (Discipline Level 1):** Written notification must inform the employee that a violation of a policy or standard has occurred. A more severe disciplinary action should be taken if an equal or more substantial violation occurs within twelve (12) months from the date of the disciplinary action. A written warning may be accompanied by a six (6) month disciplinary probation period, performance improvement plan (PIP), suspension without pay, demotion, or a combination thereof. All documentation accompanying the written warning shall be placed in the employee's personnel file. Employees will not be eligible for promotions during any probationary period (disciplinary or initial), except when approved by the ADVA Chief of Staff.
- c) **Suspension Without Pay (Discipline Level 2):** An action to be used for major or repeated violations of standards or when management determines that the violation warrants the removal of the employee for a period of time, typically five (5) business

days. A more severe disciplinary action shall be taken if an equal or more substantial violation occurs within twelve (12) months of the date of suspension. A suspension shall be accompanied by an automatic six (6) month probationary period that starts when the employee returns to work.

A recommendation to suspend an employee may be made by the immediate supervisor but the final decision will only be made after a documented review of the facts by the ADVA Human Resources Manager and Chief of Staff. The dates of suspension are to be scheduled in a timely manner. All documentation supporting the suspension shall be retained in the employee's personnel file.

- d) **Demotion (Discipline Level 2):** An action to be imposed against an employee for a serious violation. An employee must be qualified for the position to which he or she is demoted. If an equal or more substantial violation occurs within six (6) months of the date of demotion, the employee will be terminated. A demotion shall be accompanied by an automatic six (6) month probationary period and all supporting documentation shall be placed in the employee's personnel file.

A recommendation to demote an employee may be made by the immediate supervisor but the final decision will only be made after a thorough, documented review of the facts by the ADVA Human Resources Manager and Chief of Staff.

- e) **Termination (Discipline Level 3):** Termination is an action to be used for major policy or procedure violation or when there is an accumulation of violations.

A recommendation to terminate an employee may be made by the immediate supervisor but the final decision will only be made after a documented review of the facts by the ADVA Human Resources Manager and Chief of Staff.

6) **Administration of Discipline:**

- a) **Removal from Duty Assignment Pending Investigation:**

If there is reasonable cause to suspect that an employee may jeopardize the health or safety of any person, or the integrity of ADVA, a person in the employee's supervisory chain may immediately relieve the employee from regularly assigned duty pending an investigation.

Removal from duty pending investigation shall be with full pay and benefits.

- b) **Delivery of Discipline:**

Employees must be notified of the disciplinary action through written documentation. If the employee refuses to sign the notification letter, the supervisor and observer, shall sign in the appropriate place and indicate the employee refused to sign.

The following actions should then be taken:

- i) The notice of disciplinary action should be hand-delivered to the person at the supervisor's work location or the employee's work location.
- ii) If unavailable, employee must be notified by certified mail and regular mail. A return receipt is required for the certified mail.

d) Resignation Prior to Discipline:

- i) If an employee resigns at any time after an investigation begins but before discipline is administered, the investigation will continue, and a report will be prepared at the conclusion to determine if the employee would have been discharged, and whether the employee jeopardized the health or safety of any person or the integrity or public image of ADVA.
- ii) Employees who resign and are subsequently determined ineligible for rehire, either for two (2) years or permanently, shall be notified in writing by certified and regular mail at the address on file. A return receipt is required for the certified mail.

VI. POST DISCIPLINE:

1) Eligibility for Re-Employment

- a) Anyone discharged for violation(s) of this, or any policy is ineligible for re-employment for two (2) years unless permanently disqualified under Section VI(1)(c).
- b) Anyone who would have been discharged for violation of this, or any policy, but resigned prior to receiving disciplinary action, is ineligible for re-employment for two (2) years unless permanently disqualified under VI(1)(c).
- c) Anyone disqualified from re-employment under VI(1)(a) or (b) is permanently disqualified from re-employment if any one of the following conditions exist:
 - i) Employee's violation(s) jeopardized the health or safety of any person;
 - ii) Employee's violation(s) jeopardized the integrity or public image of ADVA;
 - iii) Discipline was or would have been termination for the first offense;
 - iv) It is determined that the employee engaged in work-related sexual misconduct or sexual harassment;
 - v) It is determined that the employee engaged in work-related discrimination based on race, age, gender, color, religion, national origin, or any other protected status.

2) Effective Date of Disciplinary Action

All disciplinary action shall be effective on the date the employee receives notification.

VII. EMPLOYEE GRIEVANCE:

Employees who are suspended without pay or have been terminated from employment may be eligible to grieve the disciplinary action. The employee must contact the agency grievance officer no later than five (5) business days from the date of notification (see Arkansas Office of Personnel Management policy #63, Grievances).

ATTACHMENT "A"

OFFENSES THAT VIOLATE MINIMUM BEHAVIOR STANDARDS

I. This section supplements the behavior expectations established in Section IV and other workplace rules and policies as established by ADVA. Depending on the severity of the offense, the frequency of unrelated offenses, or other relevant factors, the department may elect to implement any level of disciplinary action up to and including immediate termination. The acts described below are misconduct and warrant at least the minimum disciplinary level for a first offense:

- 1) Possession of any weapon or explosive on ADVA or customer property without authorization (Level 3).
- 2) Abuse of official authority (Level 3).
- 3) Any acts or threats of physical violence (Level 3).
- 4) Failing or refusing to cooperate in an ADVA investigation. An employee may refuse to answer a question on the basis that the answer would expose the employee to criminal violation; however, the investigator, supervisor, or other decision-maker may consider and draw inferences from the employee's failure or refusal to answer (Level 3).
- 5) Insubordination, defiance of authority, intentional refusal to obey an employer's lawful and reasonable order; Disrespectful behavior that would undermine a supervisor's level of respect and ability to manage. (e.g., failure to perform assignments or otherwise comply with established policy, intimidation, harassment, confrontational actions, or other disruptive behaviors) (Severity level dependent upon offense).
- 6) Possession, use, sale, or distribution of any substance or medication other than prescribed medication or over the counter drugs (Level 3).
- 7) Possession, use, or impairment by alcohol or any other substance during working hours (Level 3).
- 8) Loss of or damage to ADVA property, records, or the property of other persons, either intentionally or by neglect (Level 3).
- 9) Accessing or use of ADVA data, information, or property without authority (Level 3).
- 10) Threatening or coercing persons associated with any state agency or participating in any type of concerted interference with state operations (Level 3).
- 11) Selling or attempting to sell any goods or services during working hours.
- 12) Failure to report job-related personal injury, accident, or property damage to the employee's supervisor, regardless of whether the supervisor knows of the occurrence and regardless of the reason for the occurrence (Level 2 or 3).

- 13) Gambling during working hours.
- 14) Failing to observe traffic laws or failing to report traffic violations received while on duty or while operating a ADVA vehicle (Level 1).
- 15) Misuse of government internet or government issued electronic devices (e.g., accessing pornography, electronic stalking, etc.) (Level 3).
- 16) Possession, use, transfer, theft, unauthorized removal, or sale of any ADVA property without authorization (including, but not limited to records, real property, or property of other persons) (Level 3).
- 17) Using tobacco or electronic cigarettes or personal vaporizers that serve as a substitute for tobacco use in any ADVA motor vehicle or building owned or by ADVA or within 25 feet of the entrance to any such building except in designated smoking areas (Level 1).
- 18) Unsatisfactory attendance, excessive tardiness, or other abuse of state time (e.g., unauthorized time away from the work area, use of state time for personal business, or leaving the work area during work hours without permission) (Level 2).
- 19) Violation of ADVA Equal Employment Opportunity Discrimination Policies, depending upon the nature of the violation (Level 2 or 3).
- 20) Failure or refusal to work scheduled hours as required, to include overtime (Level 2).
- 21) Absence of two (2) consecutive workdays without prior authorization or satisfactory reason (not applicable to extra help or employees in new hire probationary status) (Level 3).
- 22) Sleeping during work hours (not applicable to firefighters) (Level 3).
- 23) Falsification of any agency records including, but not limited to vouchers, reports, insurance claims, time or leave records, client records, or any other state documents (Level 3).
- 24) Any criminal conviction for illegal conduct occurring on or off the job (Level 3).

II. The above offenses are intended as examples of unacceptable employee conduct and activities that may result in disciplinary action up to and including immediate termination. This list is not all-inclusive, and employees who engage in any type of conduct that may be injurious to the department, or interferes with the efficient operations, damages the reputation of ADVA, or is contrary to the best interests of ADVA and its employees shall be subject to disciplinary action.