

STATE OF NEVADA
DEPARTMENT OF BUSINESS AND INDUSTRY



PROHIBITIONS AND PENALTIES
A GUIDE FOR EMPLOYEES OF THE DEPARTMENT
OF BUSINESS AND INDUSTRY

Approved by the Personnel Commission on December 7, 2012

FORWARD

This Prohibitions and Penalties document is intended as a guide to clarify existing rules and regulations. It is meant as a supplement and does not attempt to cover all possible infractions and violations of the existing rules; however, it does cover the majority of situations that are important to the State of Nevada Department of Business and Industry (B&I) management. All employees of B&I will be issued a copy of the "Prohibitions and Penalties" handbook.

After receipt of this handbook, please sign the "Acknowledgement Form," which is the last page of this handbook and return it to Human Resources Management or to your Immediate Supervisor.

AUTHORITY

The authority for management to prescribe behavior and conduct standards derives from Chapter 284 of the Nevada Revised Statutes and the Nevada Administrative Code. The "Disciplinary Procedures, Adjustment of Grievances, and Prohibitions and Offenses" section of NAC 284 provides that each appointing authority will determine and describe in writing standards of conduct appropriate to the mission of the Agency. These standards are in addition to prohibitions and penalties that are listed in NAC 284 and are applicable to all State employees.

This handbook has been approved by the Personnel Commission and thus has the same force and effect as other rules and regulations covering classified employees.

TYPES OF CORRECTIVE ACTIONS AND THE PROGRESSIVE DISCIPLINE PROCESS

Letter of Instruction. A letter of instruction to the employee is typically written by the supervisor(s) responsible for the employee's activities. The letter is intended to provide the employee with information and instruction or training, and establishes documentation that the employee has been made aware of his or her responsibility with regard to a particular situation or set of circumstances. The Letter of Instruction is intended as a coaching tool and is not part of the disciplinary process and, therefore, is not included in the order of disciplinary actions that follow.

Progressive discipline normally follows the sequence outlined below. However, accelerated action may be taken when necessary.

1. Oral Warning. The oral warning typically comes from the supervisor responsible for the employee's activities. The warning may actually be oral or written, or both. Oral warnings issued in writing are maintained in the supervisor's file. Oral warnings are not forwarded to the employee's departmental personnel file or to the Division of Human Resource Management's Records section.

2. Written Reprimand. The supervisor responsible for the employee's activities also issues written reprimands. This action should be both oral and written. The supervisor and employee must sign it. A copy is given to the employee and copies are sent to the employee's departmental personnel file as well as the Division of Human Resource Management's Records section. Written reprimands must be on the standardized form NPD-52. If the employee refuses to sign the form, the supervisor will state this fact on the NPD-52 form.
3. Suspension. A suspension is without pay and may not exceed 30 calendar days. It requires an NPD-41 form-Specificity of Charges. If the employee refuses to sign the form, the supervisor will state this fact on the NPD-41 form.
4. Demotion. A demotion to a lower class also requires the NPD-41 form-Specificity of Charges. If the employee refuses to sign the form, the supervisor will state this fact on the NPD-41 form.
5. Dismissal. Dismissal from services also requires NDP-41 form-Specificity of Charges. If the employee refuses to sign the form, the supervisor will state this fact on the NPD-41 form.

NOTE: The Division Administrator of the employee's assigned Division will review pending disciplinary actions and grievances and consult with Agency Human Resource Services, and the Attorney General's Office as necessary, to ensure proper documentation, timely processing of disciplinary actions and grievances, and accuracy of employee files. According to NRS section 284.385 the Attorney General must be consulted prior to all disciplinary actions involving a recommendation of suspension (3), demotion (4), or dismissal (5) of a permanent employee.

The attached chart shows recommended minimum and maximum penalties for the first, second, and additional offenses for a wide range of prohibited activities. If disciplinary actions 3, 4 or 5, described at the top of each chart are recommended for a permanent employee, the pre-disciplinary hearing guidelines found in NAC 284.656 must be followed.

NOTE: Appropriate disciplinary or corrective action may also be taken for any causes listed in Section 284.650 of the Nevada Administrative Code, "Causes for Disciplinary Action"
(<http://www.leg.state.nv.us/NAC/NAC-284.html#NAC284Sec650>)

Actions that result in an oral warning or a written reprimand can be grieved through the formal grievance process. Corrective actions resulting in suspension, demotion or dismissal provide for a pre-disciplinary hearing process and a post disciplinary appeal before the Division of Human Resource Management Hearing Officer.

Department of Business and Industry (B&I) Prohibitions and Penalties

1 = Oral Warning 2 = Written Reprimand 3 = Suspension 4 = Demotion 5 = Dismissal							
		1st Offense		2nd Offense		Additional	
A.	Fraud In Securing Appointment	Min	Max	Min	Max	Min	Max
1	Falsification of application for employment or other personnel records with respect to a material point relating to education & training or employment history & experience which would have adversely affected selection for appointment.	5					
2	Taking, for another person, or permitting another person to take for you, an examination or a portion thereof.	5					
3	Refusal, upon hire, to sign the Acknowledgement of Receipt of Prohibitions and Penalties.	5					
4	Refusal, upon hire, to sign the Acknowledgement of the Governor's Policy Against Sexual Harassment and Discrimination.	5					
1 = Oral Warning 2 = Written Reprimand 3 = Suspension 4 = Demotion 5 = Dismissal							
		1 st Offense		2nd Offense		Additional	
B.	Performance On The Job	Min	Max	Min	Max	Min	Max
1	Failure of employee to maintain proper work performance or personal appearance standards after a reasonable period of instruction.	1	3	2	3	3	5
2	Failure to prepare or maintain prescribed records or reports.	1	5	2	5	4	5
3	Willfully falsifying prescribed records or reports.	3	5	5			
4	Withholding or concealing information regarding the job from supervisors or other persons having the necessity for such information.	1	5	2	5	5	
5	Failure to cooperate in work related projects with other employees and/or supervisors.	1	3	2	5	5	
6	Failure of an employee, who is designated as a supervisor and has supervisory authority, to take corrective disciplinary action where such action is needed.	1	2	2	3	4	5
7	Waste or loss of State material, property or equipment.	1	3	2	5	4	5

8	Negligent destruction of, or damage to, State or Federal property.	1	5	2	5	4	5
9	Willful destruction of, or damage to, State or Federal property.	2	5	3	5	5	
10	Jeopardizing the security of departmental property.	1	3	2	5	3	5
11	Unauthorized and willful destruction or alteration of departmental records.	2	5	5			
12	Soliciting or accepting a bribe.	5					
13	Embezzlement or misappropriation of State funds or other funds which come into the employee's possession by reason of their official position for personal gain.	5					
14	Negligent falsification of financial records, such as travel, payroll, or purchase vouchers, or their supporting documents: a. Not for personal financial gain; b. For personal financial gain.	1 3	3 5	4 5	5	5	
15	Willful falsification of financial records, such as travel, payroll, or purchase vouchers, or their supporting documents: a. Not for personal financial gain; b. For personal financial gain.	2 5	5	3	5	5	
16	Negligent falsification of time and attendance records including leave requests, overtime, compensatory time or any leave record.	1	2	3	4	5	
17	Willful falsification of time and attendance records including leave requests, overtime, compensatory time or any leave record.	3	5	5			
18	Willful concealment of material facts by omission from records.	2	3	4	5	5	
19	Unauthorized taking or using property belonging to the Federal or State government or fellow employees.	1	3	2	5	5	
20	Making unauthorized departmental transactions for personal profit.	3	5				
21	Disregard and/or deliberate failure to comply with or enforce statewide, Department, Division or office regulations and policies.	2	5	3	5	4	5

22	Unauthorized removal of secure or personal records, correspondence or documents from departmental files.	2	5	3	5	4	5
23	Failure to properly account for State or Federal funds where it is a known requirement of the position.	2	5	3	5	5	
24	Theft of property belonging to Federal or State government or fellow employees.	1	5	5			
25	Endangering self, fellow employees, clients or public through careless or willful violation of agency policy as contained in performance standards, procedures and various federal and state laws, regulations and guidelines.	2	5	3	5	5	
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		1 st Offense		2nd Offense		Additional	
C.	Neglect Of, or Inexcusable Absence From The Job	Min	Max	Min	Max	Min	Max
1	Negligence in performing official duties including failure to follow instructions or regulations.	1	3	2	5	3	5
2	Carelessness, indifference, and/or inattention to duty that results in reduced productivity.	1	5	2	5	3	5
3	Failure to report to work at specified times and in the prescribed manner.	1	3	2	5	3	5
4	Conducting personal business during working hours.	1	3	2	4	3	5
5	Frequent or continual tardiness.	1	3	2	4	3	5
6	Failure to notify supervisor or designated representative promptly when unable to report for work. Notification must occur for each shift unless otherwise pre-arranged.	1	3	2	5	3	5
7	Leaving a work area or a job without authorization or when specifically instructed to remain in work area or at the job.	1	4	2	5	4	5
8	Unauthorized absence from duty or abuse of leave privileges.	1	3	2	5	5	
9	Absence from duty without leave after having been denied permission to take such leave.	2	5	5			
10	Failure to report to work or call supervisor for three (3) consecutive work days without permission or justification.	5					
11	"Loafing" on the job; wasting time; failure to put in a full day's work.	1	3	2	5	3	5

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		1 st Offense		2nd Offense		Additional	
D.	Relations With Clients, Licensees, or Grantees	Min	Max	Min	Max	Min	Max
1	Willfully abridging or denying the rights of clients, licensees or grantees as specified in NRS or agency policy.	3	5	3	5	5	
2	Negligently abridging or denying the rights of clients, licensees or grantees as specified in NRS or agency policy.	1	4	3	5	5	
3	Borrowing items from a client, licensee or grantee, selling to or trading items with a client, licensee or grantee or entering into a transaction with a client, licensee or grantee involving the transfer of the client's, licensee's or grantee's property for personal gain.	2	5	3	5	5	
4	Entering into a romantic or sexual relationship with any client of the employee's agency or program when said employee is involved in the delivery of service to the client; or entering into a romantic or sexual relationship with a licensee or grantee and conditioning their licensure on the relationship.	3	5	3	5	5	
5	Using insulting, intimidating or abusive language to clients, licensees or grantees; neglecting, threatening or causing bodily harm to clients, licensees or grantees.	3	5	3	5	5	
6	Having personal or business relationships with clients, licensees or grantees for the purpose of, or which results in, any program advantages, considerations or benefits to either party which exceeds normal entitlement.	3	5	3	5	5	
7	Soliciting clients, licensees, grantees and/or agency contacts for the establishment or maintenance of a private professional practice similar to their work activities.	2	5	3	5	5	
8	Improper disclosure of protected health information as identified by the Privacy Act of the Health Insurance Portability and Accountability Act (HIPAA.)	1	5	2	5	3	5

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		1 st Offense		2nd Offense		Additional	
E.	Relations With Supervisor, Fellow Employees, and The Public	Min	Max	Min	Max	Min	Max
1	Insubordination: Refusal to comply with order or instruction from a supervisor (or superior in employee's chain of command.)	2	5	3	5	5	
2	Threatening or attempting bodily harm to supervisor, the public or fellow employee.	2	5	5			
3	Any act of violence in the course of duties, including stalking, threats, intimidation, assault or battery.	2	5	3	5	5	
4	Using insulting, abusive or profane language to a supervisor, the public or fellow employee.	1	5	2	5	3	5
5	Discourteous treatment of the public, supervisor or a fellow employee.	1	5	2	5	3	5
6	Deliberately making false statements to or about supervisor.	2	3	3	4	5	
7	Making statements, false or otherwise, intended to demean or disparage supervisor, fellow employees or the public; or intended to disrupt the work environment.	2	3	3	4	4	5
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		1 st Offense		2nd Offense		Additional	
F.	Use of Alcoholic Beverages, Narcotics, or Habit Forming Drugs	Min	Max	Min	Max	Min	Max
1	Consuming or being under the influence of alcohol, narcotics, drugs or other controlled substances while on duty, to include lunch and work breaks, unless prescribed by a physician.	3	5	5			
2	Convicted of driving under the influence or any other offense for which driving under the influence is an element of the offense, and the offense occurred while driving a State vehicle or a privately owned vehicle while on State business.	5					
3	Convicted of violating any State or Federal law prohibiting the sale of a controlled substance.	5					

4	Refusal to take any drug and/or alcohol test when there is reasonable belief an employee is under the influence of drugs or alcohol.	5				
5	Refusal to submit to a screening test for any drug and/or alcohol test mandated by Federal or State law.	2	5	3	5	5
6	Unlawful possession of a controlled substance at work or while on departmental business.	5				
7	Inability to perform the duties of the position because of being under the influence of an alcoholic beverage, narcotics or drugs, or any other controlled substance (includes prescription medication).	1	5	2	5	3 5
8	Failure to pass any drug and or alcohol test mandated by Federal or State law.	3	5	5		
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		1 st Offense		2nd Offense		Additional
G.	Misuse of Departmental or State Property	Min	Max	Min	Max	Min Max
1	Using State or departmental owned or leased property without proper authorization.	1	3	2	5	5
2	Operating State vehicle or equipment in an unsafe or negligent manner, or that results in injury to a person, damage to the equipment, or to the property.	1	5	2	5	5
3	Failure to have State vehicles maintained and or serviced pursuant to Motor Pool Standards resulting in damage to equipment or personal injury	1	5	2	5	5
4	Operating State vehicles or equipment without a valid or proper license: a. Without knowledge that the license is no longer valid. b. With knowledge that the license is no longer valid.	2	5	5		
5	Failure to report accident involving State equipment or vehicles assigned to the employee within 24 hours.	2	5	3	5	4 5
6	Removing property, equipment or documents from the workplace unless approved by the appropriate authority.	1	5	2	5	5
7	Negligently leaving state equipment or machinery, which results in damage to the equipment or other property.	1	5	3	5	5
8	Rendering of services or goods to recipients that is not in accordance with departmental or divisional policies.	1	5	3	5	5
9	Making unauthorized copies such as books, manuals, and	1	5	2	5	5

	computer software in violation of copyright laws or vendor licensing agreements.					
10	Cashing a paycheck before the State's designated payday.	2	3	3	5	5
11	All State issued charge cards are to be used for travel purposes according to the guidelines provided in the State Administrative Manual. No personal expenses are permitted to be charged on this card.	3	5	4	5	5
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		1 st Offense		2nd Offense		Additional
H.	Misuse of Information Technology	Min	Max	Min	Max	Min Max
1	Use that interferes with employee performance or departmental functions to include downloading and using entertainment software such as games or other non-work related materials, or on-line gambling.	1	5	2	5	3 5
2	Use for activities that are illegal, inappropriate or offensive to fellow employees or the public such as harassment or hate speech to include language that discriminates against others on the basis of race, religion, gender, disability, national origin, sexual orientation, genetic information or gender identity and expression, or any other state or federal anti-discrimination laws.	1	5	2	5	5
3	Obtaining unauthorized access to another's e-mail or data files or to confidential records maintained by the Department.	2	4	3	4	5
4	Accessing, displaying and/or printing material or images that are sexually explicit and serve to create a hostile environment in the work place.	1	4	2	5	5
5	Use that violates copyright laws, software licensing agreements, property rights, the privacy of others, or local, State, or Federal laws.	1	5	3	5	5
6	Accessing a website that results in a fee being charged to the State.	1	2	3	4	5
7	Personal use that could slow down, delay or disrupt computer services such as chain letters, greeting cards and streaming of radio or TV broadcasts or other audio or video material. Installing or using personal or unauthorized software on state information technology resources without proper authorization and approval.	1	2	3	4	5
8	Revealing passwords or using another person's user identification or password to access confidential information without authorization.	2	5	3	5	5

9	Negligent use of information technology that results in the introduction of computer viruses, system monitoring devices or devices that can cause damage or limit access to the equipment, software or data.	1	5	2	5	4	5
10	Knowing and willful sabotage of information technology resources such as the introduction of computer viruses, system monitoring devices, or devices that can cause damage or limit access to the equipment, software or data.	5					
11	Using state information technology resources, including but not limited to, computing and communications equipment, services or facilities for soliciting business, selling products or otherwise engaging in commercial activities.	2	5	3	5	5	
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		1 st Offense		2nd Offense		Additional	
I.	Other Acts of Misconduct or Incompatibility	Min	Max	Min	Max	Min	Max
1	Creating an atmosphere not conducive to a professional workplace, including creating discord among employees.	1	4	2	5	5	
2	Engaging in outside employment activity or enterprise which the appointing authority considers to be inconsistent, incompatible, or a conflict of interest with employment without authorization.	1	3	2	4	5	
3	Disgraceful personal conduct which impairs job performance.	1	4	3	5	5	
4	Accepting gifts, service, favor, employment, engagement or economic opportunity from any individual, firm or organization doing business with B&I or the State when the employee is responsible for making any recommendations or decisions affecting their business activities.	1	5	2	5	3	5
5	Misrepresentation of official capacity or authority.	2	5	4	5	5	
6	Bringing into State and/or B&I owned, leased or occupied buildings any firearm or implement considered to be a weapon, unless permitted by law to do so.	3	5	4	5	5	
7	Unauthorized or improper disclosure of confidential information.	2	5	3	5	5	

8	Refusal to undergo a criminal background check when it is a requirement of the job by law, regulation or divisional policy.	5				
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		1 st Offense		2nd Offense		Additional
J.	Improper Political Activity	Min	Max	Min	Max	Min Max
1	Directly or indirectly solicit or be in any manner concerned in soliciting or receiving any assessment, subscription, monetary, or non-monetary contribution for a political purpose from anyone who is in the same Department and who is a subordinate of the solicitor.	1	5	4	5	5
2	Engaging in political activity during the hours of employment for the purpose of improving the chance of a political party or individual seeking office.	1	3	2	4	3 5
3	Engaging in political activity for the purpose of securing preference for promotion, transfer or salary advancement.	1	5	2	5	5
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		1 st Offense		2nd Offense		Additional
K.	Discrimination and Harassment	Min	Max	Min	Max	Min Max
1	Engaging in sexual harassment as defined in Federal and State law, the Governor's policy, or B & I policy against employee, an applicant for employment or any other another person in the workplace.	2	5	4	5	5
2	Creating or endorsing a hostile work environment.	2	5	3	5	5
3	Failure of a supervisor to report instances of sexual harassment or discrimination as defined and required in Federal and State law, the Governor's policy, or B & I policy.	1	5	3	5	5
4	Discrimination on the basis of race, color, religion, sex, sexual orientation, age, disability, national origin, genetic information, gender identity and expression or other violations of the Title VII of the Civil Rights Act, or any other state or federal anti-discrimination laws.	3	5	4	5	5

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		1 st Offense		2nd Offense		Additional	
L.	Safety and Health	Min	Max	Min	Max	Min	Max
1	Willful removal or interference with a safety device or safeguard.	2	3	2	4	3	5
2	Dangerous horseplay or inattention that threatens the life of an individual.	2	5	3	5	5	
3	Workplace violence, threat of workplace violence, harassment or intimidation.	2	5	3	5	5	

ACKNOWLEDGMENT FORM

DEPARTMENT OF BUSINESS AND INDUSTRY PROHIBITIONS AND PENALTIES

The authority for management to prescribe behavior and conduct standards derives from Chapter 284 of the Nevada Revised Statutes and the *Disciplinary Procedures, Adjustment of Grievances, and Prohibitions and Offenses* sections of the State of Nevada Rules for State Personnel Administration. These regulations provide that each appointing authority shall determine and describe in writing activities that are inconsistent, incompatible, or in conflict with the duties and responsibilities of the Department of Business and Industry (B&I) employees.

The Department of Business and Industry's Prohibitions and Penalties document is a guide that intends to clarify existing rules and regulations, but does not cover all infractions and violations that could conceivably occur. It does however cover the majority of situations that are important to the State of Nevada Department of Business and Industry (B&I) management. As a tool, which describes behavior that is subject to discipline, the guide will serve the needs of both supervisory personnel and employees. Additions, deletions or changes to the guide as they are approved by The State Personnel Commission, will be communicated to employees in the same manner as other Department of Business and Industry policies and procedures.

The State Personnel Commission approved this guide, thus it has the same force and effect as other rules and regulations covering classified employees.

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

Acknowledgment of Receipt:

I acknowledge receipt of the Department of Business and Industry's Prohibitions and Penalties.

Print Employee Name

Employee Signature

Employee ID

Date

Human Resources Management Representative or
Immediate Supervisor

Date