



State of Nevada - Public Employees' Benefits Program Administrative Policies & Procedures

Policy Name: Prohibitions and Penalties

Date Originated: December 1, 2011

Last Updated:

I. PURPOSE

As an employee of the Public Employees' Benefits Program (PEBP), you are part of a public service agency, which provides services to other State agencies, State employees, State retirees, certain non-State employees, and certain non-State retirees, as well as vendors and members of the public. This guide is to assist you by providing guidance so that you can be confident that your conduct in the work place reflects the quality of service and level of professionalism these people deserve.

Each member of the PEBP team has the responsibility of understanding and following the rules of proper conduct and performance vital to carrying out the Agency's mission. Even though you will encounter many unfamiliar or unexpected situations requiring you to rely on your own discretion and judgment it is important to have a clear understanding of the rules that govern your actions in performing your duties.

It would be impossible to address every infraction or violation that could conceivably develop. This policy is intended to be sufficiently comprehensive to cover the majority of situations that could arise. It covers a wide range of undesirable actions and behaviors and provides a guide for supervisors and employees on what is expected in the area of proper conduct.

This policy provides reference to State statutes, State regulations, and Agency policies and procedures in the disciplinary process. It is often stated that the best form of discipline is self-discipline; however, in the absence of self-discipline, there are times when discipline must come from another source. When it does, it may come with a disagreeable or negative connotation. There is a tendency to think of discipline entirely in its most limited sense as an action taken against an employee who has committed some violation of proper conduct or a rule infraction. This is sometimes referred to as "corrective action."

It must be remembered that discipline also has a broader and more positive meaning. The word discipline comes from the Latin word *disciplina*, which means "instruction, teaching, and training." Discipline should, therefore, be thought of in terms of instruction and training, rather than punishment. It should be recognized that the conduct of well-disciplined employees is the result of training that motivates employees to accept and work in accordance with established standards. Well-disciplined employees develop and maintain good working habits, which goes far in preventing situations from developing that require "corrective action."

After you have thoroughly reviewed this policy, please sign the Acknowledgement and return it to your supervisor.



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II. AUTHORITY

The following is a guide for employees of the Public Employees' Benefits Program (PEBP) to help identify those activities which will be considered inconsistent, incompatible, or in conflict with their duties as employees. In compliance with the Nevada Administrative Code (NAC) 284.742, 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 could be a source of concern.

This guide provides reference to personnel rules and administrative procedures in the disciplinary process.

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 sections of NAC 284 provide that each appointing authority shall determine and describe in writing standards of conduct appropriate to the mission of the agency. These standards are in addition to prohibitions and penalties listed in NAC 284 that are applicable to all State employees. All PEBP employees will be issued a copy of the Prohibitions and Penalties guide.

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

The penalties identified for the various infractions are merely guidelines and may be applied to a greater or lesser degree indicated depending on the circumstances.

III. DEFINITIONS

“Letter of Instruction.” A letter of instruction to the employee is typically written by the supervisor responsible for the employee’s activities. The letter is intended to provide the employee with information and instruction or training, establishing 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 not intended to be a part of the disciplinary process and, therefore, is not included in the order of disciplinary actions that follow.

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

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writing are maintained in the supervisor's file. Oral warnings are not forwarded to the employee's department 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.

3. "Suspension." A suspension is without pay and may not exceed 30 working days. It requires an NPD-41 form – Specificity of Charges.

4. "Demotion." A demotion to a lower class also requires the NPD-41 form – Specificity of Charges.

5. "Dismissal." Dismissal from services also requires NPD-41 form – Specificity of Charges.

NOTE: The Executive Officer will review and discuss with the Attorney General's office 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. A dash on the chart indicates that the offense has been previously labeled as a "Dismissal." If disciplinary actions 3, 4, and 5, described above, are recommended for a permanent employee, the pre-disciplinary hearing guidelines found in NAC 284.656 must be followed.

NOTE: Additional, 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."

If an employee should disagree with an action taken by a supervisor, he or she has several administrative review processes available to him or her. 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.



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IV. PROCEDURES

Progressive discipline normally follows the course sequence as listed in “Definitions;” however, accelerated action may be taken when extreme situations prevail.



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		1 st Offense		2 nd Offense		Additional	
		Min	Max	Min	Max	Min	Max
A.	Fraud in securing appointment						
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	--	--	--	--	--
B.	Performance on the job						
1	Failure of employee to maintain proper work standards.	1	3	2	4	3	5
2	Failure of employee to maintain proper personal appearance standards.	1	3	2	4	3	5
3	Failure to prepare or maintain prescribed records or reports.	1	5	2	5	4	5
4	Willful concealment of material facts by omission from records.	2	5	4	5	5	--
5	Willfully falsifying prescribed records or reports.	5	--	--	--	--	--
6	Unauthorized and willful destruction or alteration of departmental records.	5	--	--	--	--	--
7	Failure of a supervisor to create Work Performance Standards, or to evaluate subordinates	1	2	2	3	3	5
8	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	4	4	5
9	Negligent falsification of: <ul style="list-style-type: none"> • financial records, such as travel, payroll, journal vouchers purchase vouchers; or • eligibility and accounting records such as years of service, manual adjustments, payment batches, payment detail batches; or • the supporting documents of such records through, including but not limited to, actions of omission of pertinent information, inclusion of incorrect information, failure to complete entire transaction/procedure: <p>a. Not for personal financial gain</p> <p>b. For personal financial gain.</p>	1 4	3 5	4 5	5 --	5 --	-- --
10	Willful falsification of: <ul style="list-style-type: none"> • financial records, such as travel, payroll, journal vouchers, purchase vouchers, or • eligibility and accounting records such as years of service, manual adjustments, payment batches, payment detail batches or • the supporting documents of such records through, including but not limited to, actions of omission of pertinent information, inclusion of incorrect information, failure to complete entire transaction/procedure: <p>a. Not for personal financial gain</p> <p>b. For personal financial gain.</p>	3 5	5 --	5 --	-- --	-- --	-- --

1= Oral Warning; 2=Written Reprimand; 3=Suspension, without pay of no more than 30 days; 4=Demotion; 5=Dismissal; (-)=previously labeled as dismissal.



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		Min	Max	Min	Max	Min	Max
11	Unauthorized removal of secure or personal records, protected health information (PHI), protected identifying information (PII), correspondence or documents from departmental files: a. Not for personal financial gain b. For personal financial gain.	2 5	5 --	3 --	5 --	5 --	-- --
12	Making unauthorized departmental transactions for personal profit.	5	--	--	--	--	--
13	Withholding information regarding the job from supervisors or other persons having the necessity for such information.	2	5	3	5	5	--
14	Failure to cooperate in work related projects with other employees and/or supervisors.	1	3	2	4	3	5
15	Negligent falsification of time and attendance records including leave requests, overtime, compensatory time, or any leave record.	1	2	2	3	3	5
16	Willful falsification of time and attendance records including leave requests, overtime, compensatory time, or any leave record.	3	5	5	--	--	--
17	Disregarding and/or deliberately failing to comply with or enforce statewide, department or office regulations and policies.	2	5	3	5	4	5
18	Embezzlement or misappropriation of departmental funds or other funds which come into the employee's possession by reason of their official position for personal gain.	5	--	--	--	--	--
C.	Neglect of, or inexcusable absence from the job						
1	Negligence in performing official duties including failure to follow instructions or regulations.	1	3	2	5	3	5
2	Carelessness, indifference, laziness and/or inattention to duty.	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	Frequent or continual tardiness.	1	3	2	4	3	5
5	Failure to notify supervisor or designated representative promptly when unable to report for work. Notification must occur within 15 minutes of the start of the work day unless otherwise pre-arranged.	1	2	3	5	5	--
6	Leaving a work area or a job without authorization or when specifically instructed to remain in work area or at the job.	2	4	3	5	5	--
7	Unauthorized absence from duty or abuse of leave privileges.	2	3	3	5	5	--
8	Absence from duty without leave after having been denied permission to take such leave.	3	5	5	--	--	--
9	Failure to report to work or call supervisor for three (3) consecutive work days without permission or justification.	5	--	--	--	--	--
D.	Relations with supervisor, fellow employees, and the public, including discrimination and harassment						
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	Causing discord among employees to the detriment of morale.	1	3	2	5	5	--

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		Min	Max	Min	Max	Min	Max
3	Engaging in sexual harassment as defined in NAC 284, the Governor's policy, or PEBP policy against another employee, an applicant for employment, or any other person in the workplace.	2	5	5	--	--	--
4	Creating or endorsing a hostile work environment.	2	5	5	--	--	--
5	Discrimination on the basis of race, color, religion, sex, sexual orientation, age, disability or national origin, or other violations of Title VII of the Civil Rights Act or any other state or federal law..	2	5	5	--	--	--
6	Discourteous treatment of the public, supervisor or a fellow employee.	2	5	3	5	5	--
7	Deliberately making false statements to or about supervisor.	2	5	3	5	5	--
8	Any act or threat of bodily harm or workplace violence, including stalking, intimidation, assault, battery or harassment, in the course of duties towards a supervisor, the public or a fellow employee.	3	5	5	--	--	--
9	Making statements, false or otherwise, intended to demean or disparage supervisor, fellow employees or the public; or intended to disrupt the work environment.	2	5	3	5	5	--
11	Using insulting, abusive or profane language to a supervisor, the public or fellow employee.	2	5	3	5	5	--
E.	Use of alcoholic beverages, narcotics, or habit forming drugs						
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 medical provider.	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. *Second offense is a repeated offense within 5 years of the first.	3	5	5	--	--	--
3	Failure to complete any rehabilitation program recommended in the evaluation of an employee who is suspended or demoted pursuant to 2 above, by an employee assistance program.	5	--	--	--	--	--
4	Convicted of violating any State or Federal law prohibiting the sale of a controlled substance.	5	--	--	--	--	--
5	Failure to report a conviction of any alcohol or drug related offense to the appointing authority within five (5) working days after it occurs.	5	--	--	--	--	--
6	Refusal to take any drug and/or alcohol test when there is reasonable belief an employee is under the influence of drugs or alcohol, or when the drug and/or alcohol test is mandated by Federal or State law..	5	--	--	--	--	--
7	Unlawful possession of an controlled substance at his work or while on departmental business.	5	--	--	--	--	--
F.	Misuse of agency or State property						
1	Using agency owned or leased property without proper authorization.	1	3	3	5	5	--
2	Waste or loss of State material, property or equipment.	1	3	2	5	4	5

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		Min	Max	Min	Max	Min	Max
3	Jeopardizing the security of departmental property.	1	3	2	5	4	5
4	Negligent destruction of or damage to State property.	1	5	2	5	5	--
5	Willful destruction of or damage to State property.	3	5	5	--	--	--
6	Unauthorized taking or using property belonging to the federal or State government or fellow employees.						
	a. 0 - \$25	2	3	3	5	5	--
	b. Over \$25	2	5	4	5	5	--
7	Operating State vehicle or equipment in an unsafe or negligent manner resulting in the damage to the equipment or to the property or injury to a person.	1	5	2	5	5	--
8	Failure to have State vehicles or equipment properly maintained and/or serviced resulting in damage to equipment or personal injury.	1	4	2	5	5	--
9	Operating State vehicles or equipment without:						
	a. a valid or proper license without knowledge the license is no longer valid.	2	5	5	--	--	--
	b. a valid or proper license with knowledge the license is no longer valid.	4	5	5	--	--	--
	c. a valid or proper defensive driver certification.	1	2	2	3	3	5
10	Charging personal long distance phone calls via telephone or fax to PEBP without compensating the Agency:						
	a. \$0 – \$25	2	3	3	5	5	--
	b. over \$25	2	5	4	5	5	--
G.	Misuse of Information Technology						
1	Internet usage for personal or non-work related purposes.	1	2	2	3	4	5
2	Personal use that could slow down, delay, or disrupt computer services such as chain letter, greeting cards, and streaming of radio or TV broadcasts or other audio or video material.	1	2	3	4	4	5
3	Use that interferes with employee performance or agency functions to include the downloading and using entertainment software such as games or other non-work related materials, or on-line gambling.	1	5	2	5	5	--
4	Use that violates copyright laws; software licensing agreements; property rights; the privacy of others; or local, State, or Federal laws.	1	5	2	5	5	--
5	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, or sexual orientation.	2	5	5	--	--	--
6	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	3	5	5	--
7	Obtaining unauthorized access to another's e-mail or data files or to confidential records maintained by the agency.	2	5	3	5	5	--
8	Revealing passwords or using another person's user identification or password to access confidential information without authorization.	2	5	3	5	5	--

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9	Accessing, displaying and/or printing material or images that are sexually explicit and serve to create a hostile environment in the work place.	2	5	5	--	--	--
10	Accessing a website that results in a fee being charged to the State:						
	a. for work-related purposes without prior approval of Executive Staff.	1	2	2	3	3	5
	b. for non-work-related purposes with an amount of \$0 to \$25.	2	3	3	5	5	--
	c. for non-work-related purposes with an amount over \$25.	2	5	4	5	5	--
11	Knowing and willful sabotage of information technology resources such as the introduction of computer viruses, system monitoring devices, or any device that can cause damage or limit access to the equipment, software, or data.	5	--	--	--	--	--
H.	Other acts of misconduct or incompatibility						
1	Conducting personal business during working hours or making personal phone calls or other personal communications or social networking:						
	a. on State-owned equipment	2	3	3	4	5	
	b. on personal equipment	1	3	2	4	3	5
2	Engaging in outside employment activity or enterprise which the appointing authority considers to be inconsistent, incompatible, or a conflict of interest with PEBP employment without authorization.	1	3	3	5	5	--
3	Disgraceful personal conduct which impairs job performance.	1	4	3	5	5	--
4	Failure to report an accident involving State equipment or vehicles assigned to the employee to the Appointing Authority within 24 hours.	2	5	3	5	5	--
5	Unauthorized or improper disclosure of confidential information.	2	5	5	--	--	--
6	Accepting gifts, service, favor, employment, engagement or economic opportunity from any individual, firm, or organization doing business with PEBP or the State when the employee is responsible for making any recommendations or decisions affecting their business activities without approval of the Executive Officer:						
	a. \$0 to \$25	3	5	4	5	5	--
	b. Over \$25	4	5	5	--	--	--
7	Soliciting or accepting a bribe.	5	--	--	--	--	--
8	Misrepresentation of official capacity or authority.	3	5	5	--	--	--
9	Bringing onto PEBP property or buildings any firearm or any implement considered to be a weapon unless authorized to do so.	3	5	5	--	--	--
I.	Improper political activity						
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.	2	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.	2	5	3	5	5	--

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		Min	Max	Min	Max	Min	Max
J.	Safety and Health						
1	Willful removal or interference with a safety device or safeguard.	1	3	2	4	3	5
2	Dangerous horseplay or inattention that threatens the safety of an individual.	1	5	3	5	5	--

<u>PROHIBITIONS AND PENALTIES</u>	
_____	_____
Executive Officer	Date
<p>Policy and procedure statements contain the Public Employees' Benefits Program's official interpretation of existing statutes and/or regulations as referenced above.</p> <p>THIS PROCEDURE SUPERSEDES ALL PRIOR WRITTEN PROCEDURES ON THIS SPECIFIC SUBJECT</p>	

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ACKNOWLEDGMENT FORM

PEBP PROHIBITIONS AND PENALTIES

I acknowledge receipt of the Public Employees' Benefits Program Prohibitions and Penalties.

Print Employee Name

Employee ID

Employee Signature

Date

The State Personnel Commission approved the PEBP Prohibitions and Penalties, thus this document has the same force and effect as other rules and regulations covering classified employees.

Refusal to acknowledge receipt of the Public Employees' Benefits Program Prohibitions and Penalties in no way diminishes their force and effect.

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

Witness (Required if employee refuses to sign acknowledgment):

I acknowledge the above named employee received the PEBP Prohibitions and Penalties and the employee refused to sign the Acknowledgment Form.

Print Witness Name

Employee ID

Witness Signature

Date