

STATE OF NEVADA

DEPARTMENT OF INDIGENT DEFENSE SERVICES



PROHIBITIONS AND PENALTIES

**A GUIDE FOR EMPLOYEES OF THE
DEPARTMENT OF INDIGENT DEFENSE SERVICES**

Approved by the Personnel Commission on March 19, 2021

FORWARD

This Prohibitions and Penalties document is intended as a guide to clarify existing statutes 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 Indigent Defense Services (DIDS) management. All employees of DIDS will be issued a copy of the "Prohibitions and Penalties" guide.

After receipt of this guide, please sign the "Acknowledgement Form," which is the last page of this guide and return it to Agency HR Services 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 (NRS) and the Nevada Administrative Code (NAC).

NRS 284.383: *“An appointing authority shall provide each permanent classified employee of the appointing authority with a copy of a policy approved by the Commission that explains prohibited acts, possible violations and penalties and a fair and equitable process for taking disciplinary action against such an employee.”*

NAC 284.742: *“Each appointing authority shall determine, subject to the approval of the Commission, those specific activities which, for employees under its jurisdiction, are **prohibited as inconsistent, incompatible or in conflict with their duties as employees. The appointing authority shall identify those activities in the policy established by the appointing authority pursuant to NRS 284.383.**”*

These standards are in addition to prohibitions and penalties that are listed in statute and regulation.

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

COACHING

Coaching normally takes place prior to beginning the disciplinary process. The Letter of Instruction, and any other means of coaching are not part of the disciplinary 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 concerning a particular situation or set of circumstances.

THE PROGRESSIVE DISCIPLINE PROCESS

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

1. Oral Warning. When instruction and training have not resulted in the change in behavior or performance that is desired, an “oral warning” is typically the first step in the progressive disciplinary process. This level of discipline may be skipped when the

seriousness of the employee's behavior and/or performance warrants a higher level of discipline on a first offense.

2. Written Reprimand. Typically the second level in the disciplinary process, a written reprimand is used when previous corrective and disciplinary action has not produced the appropriate change in behavior or performance or when the seriousness of a first offense warrants a higher level of discipline such as willful actions and/or threats. A copy of the Written Reprimand (form NPD-52) is maintained in the employee's permanent personnel file held by the Division of Human Resource Management's Central Records section.
3. Suspension. When previous corrective and disciplinary action have not produced the appropriate change in behavior or performance or due to the serious of a first offense, a suspension leave without pay may not exceed 30 calendar days. A copy of the Specificity of Charges (form NPD-41) which documents the reasons for the suspension is maintained in the employee's permanent personnel file held by the Division of Human Resource Management's Central Records section. Additionally, an appointing authority may refuse to consider the appointment (promotion, transfer, etc.) of an otherwise eligible employee who has been subject to a suspension as a result of an upheld or uncontested disciplinary action.
4. Demotion. Typically, after other forms of discipline have not produced the appropriate change in behavior or when the employee's behavior is particularly egregious, a demotion to a lower class may be used as a form of discipline. A copy of the Specificity of Charges (form NPD-41) which documents the reasons for the demotion is maintained in the employee's permanent personnel file held by the Division of Human Resource Management's Central Records section. Additionally, an appointing authority may refuse to consider the appointment (promotion, transfer, etc.) of an otherwise eligible employee who has been subject to a demotion as a result of an upheld or uncontested disciplinary action.
5. Dismissal. Typically, after other forms of discipline have not produced the appropriate change in behavior or when the employee's behavior is particularly egregious, dismissal from the State may be warranted. A copy of the Specificity of Charges (form NPD-41) which documents the reasons for the dismissal is maintained in the employee's permanent personnel file held by the Division of Human Resource Management's Central Records section.

NOTE: The Division Administrator of the employee's assigned Division will review pending disciplinary steps and grievances and consult with Agency HR Services, and the Attorney General's Office as necessary, to ensure proper documentation, timely processing of disciplinary steps and grievances, and accuracy of employee files. Agency HR Services must consult with the Attorney General prior to all disciplinary steps 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 steps 3, 4 or 5, described at the top of each chart are recommended for a permanent employee, the pre-disciplinary review 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>

Disciplinary steps that result in an oral warning or a written reprimand can be grieved through the formal grievance process. Disciplinary steps resulting in suspension, demotion or dismissal may be appealed before a Hearing Officer provided by the Personnel Commission.

**Department of Indigent Defense Services (DIDS)
Prohibitions and Penalties**

1=Oral Warning; 2=Written Reprimand; 3=Suspension, without pay, of no more than 30 calendar days; 4=Demotion; 5=Dismissal		1st Offense		2nd Offense		Additional	
		Min	Max	Min	Max	Min	Max
A. Fraud in Securing an Appointment							
1	Falsification of application or identity 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 an 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 and upon revision to sign the Acknowledgement of Receipt of Prohibitions and Penalties and/or Department and/or Division policies and procedures.	5					
4	Refusal, upon hire, to sign the Acknowledgement of the State Executive Branch Sexual Harassment and Discrimination Policy and/or the Governor's Alcohol and Drug Free Workplace Policy.	5					
B. Performance on the Job							
1	Failure of the 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 and/or negligently 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 steps where such action is needed.	1	2	2	3	4	5
7	Unauthorized and willful destruction, removal, concealing, stealing, tampering, mutilation and/or alteration of departmental records, public record, book, paper report or document, including but not limited to incident reports, financial records such as travel, payroll, purchase vouchers and supporting documents, time and attendance records to include leave requests, overtime, compensatory time, or other leave records.	2	5	5			
8	Soliciting or accepting a bribe or otherwise personally profiting from activities related to the employees' state employment.	5					
9	Embezzlement or misappropriation of State funds or other funds that come into the employee's possession because of their official position for personal gain.	5					

1=Oral Warning; 2=Written Reprimand; 3=Suspension, without pay, of no more than 30 calendar days; 4=Demotion; 5=Dismissal		1st Offense		2nd Offense		Additional	
		Min	Max	Min	Max	Min	Max
10	Negligent falsification or inaccurate preparation of financial records, such as travel, payroll, or purchase vouchers, or their supporting documents: a. Not resulting in personal financial gain; b. Resulting in personal financial gain that is not subsequently reported.	1 3	3 5	4 5	5	5	
11	Willful falsification of financial records, such as travel, payroll, or purchase vouchers, or their supporting documents: a. Not resulting in personal financial gain; b. Resulting in personal financial gain.	2 5	5	3 5	5	5	
12	Negligent falsification of any public record, time and attendance records including leave requests, travel records, overtime, compensatory time, or any leave record.	1	2	3	4	5	
13	Willful falsification of time and attendance records including leave requests, travel records, overtime, compensatory time, or any leave record.	3	5	5			
14	Willful concealment of material facts by omission from records.	2	3	4	5	5	
15	Unauthorized taking, loaning, selling, giving away or appropriating, or using property belonging to the Federal or State government or fellow employees.	1	3	2	5	5	
16	Making unauthorized departmental transactions for personal profit, or that result in excessive costs to the state for the transaction.	3	5	5			
17	Failure to wear appropriate clothing consistent with assigned duties.	1	3	2	4	3	5
18	Disregard and/or deliberate failure to comply with or enforce statewide, Department, Division or office regulations and policies, or when required by law, statute, or resolution which directly relate to the employee's work activities.	2	5	3	5	4	5
19	Unauthorized removal of secure or personal records, correspondence or documents from department or state files.	2	5	3	5	4	5
20	Failure to properly account for State or Federal funds where it is a known requirement of the position.	2	5	3	5	5	
21	Theft or misappropriation of property belonging to Federal or State government or fellow employees.	1	5	5			
22	Failure to maintain a valid driver's license when possession of a valid driver's license is a requirement of the job.	2	5	3	5	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, 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, or unauthorized absence from duty, abuse of leave privileges, or use of sick leave for a reason not authorized by NAC 284.554.	1	3	2	5	3	5

1=Oral Warning; 2=Written Reprimand; 3=Suspension, without pay, of no more than 30 calendar days; 4=Demotion; 5=Dismissal		1st Offense		2nd Offense		Additional	
		Min	Max	Min	Max	Min	Max
4	Conducting personal business during working hours.	1	3	2	4	3	5
5	Failure to notify the 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
6	Leaving a work area or a job without authorization or when specifically instructed to remain in the work area or at the job.	1	4	2	5	4	5
7	Willful absence from duty without leave after having been denied permission to take such leave.	2	5	5			
8	Failure to report to work or call supervisor for three (3) consecutive workdays without permission or justification.	5					
9	"Loafing" on the job; wasting time; failure to put in a full day's work. Consistent failure to demonstrate work productivity.	1	3	2	5	3	5
10	Repeated extension of designated lunch periods, or rest periods beyond the prescribed 15 minutes in NAC 284.524 without supervisor approval.	1	3	3	5	5	
D. Relations with Supervisor, Fellow Employees, and the Public							
1	Insubordination: Refusal to comply with order or instruction from a supervisor (or superior in the employee's chain of command.)	2	5	3	5	5	
2	Any act of violence, in the course of duties, including unauthorized or unlawful fighting, threatening, including stalking, intimidation, or attempting bodily harm to supervisor, subordinate, the public or fellow employee.	2	5	3	5	3	5
3	Using insulting, abusive, intimidating, or profane language to a supervisor, a subordinate, the public or fellow employee.	2	5	3	5	3	5
4	Discourteous, bullying, or disrespectful treatment of the public, supervisor or a fellow employee.	1	5	2	5	3	5
5	Making statements, false or otherwise, intended to demean or disparage supervisor, fellow employees or the public, intended to disrupt the work environment, or knowingly providing misleading statements to supervisor at any time.	2	3	3	4	3	5
6	Causing discord among employees to the detriment of morale.	1	4	2	5	5	
E. Use of Alcohol, Controlled Substance or Drugs							
1	Consuming or being under the influence of alcohol, drugs, or any other controlled substance, including misuse of a prescription medication while on duty to include lunch and work breaks, unless prescribed by a physician or 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 while off duty and the offense occurred while driving a State vehicle or a privately-owned vehicle while on State business.	3	5	5			

1=Oral Warning; 2=Written Reprimand; 3=Suspension, without pay, of no more than 30 calendar days; 4=Demotion; 5=Dismissal		1st Offense		2nd Offense		Additional	
		Min	Max	Min	Max	Min	Max
3	Convicted of violating any State or Federal law prohibiting the sale or manufacture, distribution, dispensing and/or possession of a controlled substance.	5					
4	Refusal to take any drug and/or alcohol test when there is a 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, or NAC or agency policy.	2	5	3	5	5	
6	Unlawful possession of an illegal controlled substance at his work or while on department business.	5					
7	Inability to perform the duties of the position because of being under the influence of alcohol, 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 to include those mandated by Federal or State law.	3	5	5			
9	Failure to notify a supervisor after consuming any drug and/or substance which could interfere with the safe and efficient performance of his/her duties.	3	5	4	5	5	
10	Failure to notify a supervisor of a conviction for possession of a controlled substance within 5 working days after it occurs or Failure to Complete a Rehabilitation Program (Mandatory Referral).	5					
F. Misuse of Departmental or State Property							
1	Using State, department-owned or leased property without proper authorization in accordance with Department or Division policy.	1	3	2	5	5	
2	Operating State vehicle or personal vehicle while on dept. Business, or equipment in an unsafe or negligent manner resulting in injury to a person or damage to the equipment or the property.	1	5	2	5	5	
3	Failure to have State vehicles or equipment properly maintained and/or serviced pursuant to Motor Pool Standards, resulting in damage to equipment or injury to a person.	1	5	2	5	5	
4	Operating State vehicles or equipment without a valid or proper license: a. Without the knowledge that the license is no longer valid. b. With the knowledge that the license is no longer valid.	2	5	5			
5	Failure to report accident involving State equipment or vehicles, state-owned, personal or rental, while on Department premises or Department business assigned to the employee within 24 hours, immediately. Requirement to report personal vehicle damage is limited to 3rd party and/or injury involvement.	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	

1=Oral Warning; 2=Written Reprimand; 3=Suspension, without pay, of no more than 30 calendar days; 4=Demotion; 5=Dismissal		1st Offense		2nd Offense		Additional	
		Min	Max	Min	Max	Min	Max
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 computer software in violation of copyright laws or vendor licensing agreements. Including but not limited to office Technology Terms of Use Policy.	1	5	2	5	5	
10	Cashing a paycheck before the State's designated payday.	2	3	3	5	5	
11	Personal expenses charged on State issued card. State issued card to be used in lieu of cash for travel expenses related strictly to State business.	3	5	4	5	5	
12	Negligent destruction of or damage or waste, loss to State or federal property.	1	5	2	5	4	5
13	Willful destruction of or damage or waste, loss to State or federal property.	2	5	3	5	5	
14	Jeopardizing the security of department property or records.	1	3	2	5	3	5
G. Misuse of Information Technology							
1	Use that interferes with employee performance or department 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	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 based on 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 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 which may or may not serve to create a hostile environment in the workplace.	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 letter, 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

1=Oral Warning; 2=Written Reprimand; 3=Suspension, without pay, of no more than 30 calendar days; 4=Demotion; 5=Dismissal		1st Offense		2nd Offense		Additional	
		Min	Max	Min	Max	Min	Max
10	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. or attempting to, or intentionally using email or Internet facilities to disable, impair, overload or disrupt computer or network performance, services or equipment, or to circumvent any system intended to protect privacy or security of another user or the system or to harass other users.	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	
H. Other Acts of Misconduct or Incompatibility							
1	Engage in an outside employment activity or enterprise which the appointing authority considers being inconsistent, incompatible or a conflict of interest with employment without authorization.	1	3	2	4	5	
2	Disgraceful personal conduct which impairs job performance or causes discredit to the institution including, but not limited to, lewd, disorderly and indecent conduct.	1	4	3	5	5	
3	Accepting or soliciting gifts, service, favor, employment, engagement or economic opportunity, rewards, fees from any individual, firm, or organization doing business with the State or the agency when the employee is responsible for making any recommendations or decisions affecting their business activities, or money for service relating to performance of the employee's duties contrary to agency policies, statutes or regulations.	1	5	2	5	3	5
4	Misrepresentation of acting in official capacity or authority without authorization or not following the proper chain of command by contacting other state administrators, officers, board members or elected officials without first expressing concerns and intended purpose to supervisors, excluding contacts made by employees under the provisions of NRS 281.611 through 281.671.	2	5	4	5	5	
5	Bringing into State and/or DIDS owned, leased or occupied buildings any firearm, or implement considered to be a weapon, unless permitted by law to do so and appointing authority receives prior notification.	3	5	4	5	5	
6	Unauthorized or improper disclosure of confidential information.	2	5	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, a 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 during scheduled work hours.	1	5	4	5	5	

1=Oral Warning; 2=Written Reprimand; 3=Suspension, without pay, of no more than 30 calendar days; 4=Demotion; 5=Dismissal		1st Offense		2nd Offense		Additional	
		Min	Max	Min	Max	Min	Max
2	Engage in political activity to secure preference for promotion, transfer or salary advancement during scheduled work hours.	1	5	2	5	5	
J. Discrimination and Harassment							
1	Engaging in sexual harassment as defined in Federal and State law, the State Executive Branch Sexual Harassment & Discrimination Policy, or DIDS policy against an employee, an applicant for employment or any other another person in the workplace. Unwelcome solicitation of a personal or sexual relationship while on duty or through use of official capacity.	3	5	4	5	5	
2	Creating or endorsing a hostile work environment.	2	5	3	5	5	
3	Discrimination, oppress or provide favoritism to any person based on race, color, religion, sex, sexual orientation, age, disability, national origin, genetic information, gender identity and expression or other violations of Title VII of the Civil Rights Act, or any other State or Federal anti-discrimination laws.	3	5	4	5	5	
4	Failure of a supervisor to report instances of sexual harassment or discrimination as defined and required in Federal and State law, the State Executive Branch Sexual Harassment & Discrimination Policy, or DIDS policy.	1	5	3	5	5	
K. Safety and Health							
1	Willful removal or interference with a safety device or safeguard.	2	3	2	4	3	5
2	Participating in dangerous horseplay, inattention that threatens the life of any person, or property damage.	2	5	3	5	5	
3	Participating in workplace violence, the threat of workplace violence, harassment, or intimidation.	2	5	3	5	5	
4	Endangering self, fellow employees, clients or public through negligent or willful violation of agency or division policy as contained in performance standards, procedures and various federal and state laws, regulations and guidelines.	2	5	3	5	5	
L. Relations with Clients, Licensees, or Grantees							
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, or a known victim, witness, suspect, defendant and/or department contact 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 or inappropriate 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	

1=Oral Warning; 2=Written Reprimand; 3=Suspension, without pay, of no more than 30 calendar days; 4=Demotion; 5=Dismissal		1st Offense		2nd Offense		Additional	
		Min	Max	Min	Max	Min	Max
5	Using insulting, intimidating or abusive language to clients, licensees or grantees; neglecting, threatening or causing bodily harm to clients, licensees or grantees.	2	5	3	5	3	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

ACKNOWLEDGMENT FORM

**DEPARTMENT OF INDIGENT DEFENSE SERVICES
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 State of Nevada Department of Indigent Defense Services (DIDS) employees.

The DIDS Prohibitions and Penalties document is a guide that intends to clarify existing statutes 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 DIDS 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 DIDS policies and procedures.

The State Personnel Commission approved this guide; thus, it has the same force and effect as other statutes 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 Indigent Defense Services Prohibitions and Penalties.

Print Employee Name Employee Signature Employee ID Date

Human Resources Management Representative or
Immediate Supervisor Date