

STATE OF NEVADA
PUBLIC EMPLOYEES' BENEFITS PROGRAM



PROHIBITIONS AND PENALTIES
A GUIDE FOR EMPLOYEES OF THE
PUBLIC EMPLOYEES' BENEFITS PROGRAM

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 Public Employees' Benefits Program (PEBP) management. All employees of PEBP 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 PEBP Agency HR Services or 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). The "Prohibitions and Offenses" section of NAC 284 provide that each appointing authority will determine and describe standards of conduct that are prohibited as inconsistent, incompatible or in conflict with their duties as an employee. These standards are in addition to prohibitions and penalties that are listed in statute and regulation that apply to all State employees. All employees of this agency will be issued a copy of the "Employee's Guide to Prohibitions and Penalties."

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. 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.

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 usually 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 and typically comes from the supervisor responsible for the employee's activities. The oral warning is documented and maintained in the supervisor's

file. Oral warnings are not forwarded to the employee's departmental personnel file or the Division of Human Resource Management's Central Records section.

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 as 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's Office 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 actions 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.

Public Employees' Benefits Program (PEBP) 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 for employment or other personnel records with respect to a material point relating to education and training or employment history and 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 and/or Agency and/or Division policies and procedures.	5					
4	Refusal upon hire, to sign the Acknowledgement of the State Executive Branch Sexual Harassment and Discrimination, the Governor's Alcohol and Drug Free Workplace Policy and/or any other required document.	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.	2	5	4	5	5	
6	Unauthorized and willful destruction, removal, concealing, stealing, tampering, mutilation and/or alteration of agency records, public records, books, paper reports or documents, 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	3	5	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: a. Financial records, such as travel, payroll, journal vouchers, purchase vouchers; or b. Eligibility and accounting records such as years of service, manual adjustments, payment batches, payment detail batches; or c. 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: a. Not resulting in personal financial gain.	1	3	4	5	5	

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		Min	Max	Min	Max	Min	Max
	b. Resulting in personal financial gain.	4	5	5			
10	Willful falsification of: a. Financial records, such as travel, payroll, journal vouchers, purchase vouchers; or b. Eligibility and accounting records such as years of service, manual adjustments, payment batches, payment detail batches; or c. 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: a. Not resulting in personal financial gain. b. Resulting in personal financial gain.	3 5	5	5			
11	Unauthorized removal of secure or personal records, protected health information (HIPAA), protected identifying information (PII), correspondence or documents from agency files: a. Not resulting in personal financial gain; b. Resulting in personal financial gain.	2 5	5	3 5	5	5	
12	Making unauthorized agency transactions for personal profit.	5					
13	Withholding information regarding the job from supervisors or other persons having the necessity for such information.	2	5	4	5	5	
14	Failure to cooperate in work related projects with other employees and/or supervisors.	1	3	2	5	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, agency or office regulations and policies.	2	5	3	5	4	5
18	Embezzlement or misappropriation of agency 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	4	3	5
4	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 workday unless otherwise pre-arranged.	1	2	3	5	5	

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5	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	
6	Unauthorized absence from duty or abuse of leave privileges.	2	5	3	5	5	
7	Absence from duty without leave after having been denied permission to take such leave.	3	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	4	3	5
10	Conducting personal business during working hours on State-owned equipment or on personal equipment.	1	3	2	4	3	5
11	Failure to maintain telephone or other method of delivering messages at residence.	1	3	2	4	3	5
12	Repeated extension of designated lunch periods, or of rest periods beyond the prescribed 15 minutes in NAC 284.524 without supervisor approval.	1	3	2	4	3	5
13	Use of sick leave for a reason not authorized by NAC 284.554.	2	4	3	5	5	
D. Relations with Supervisor, Fellow Employees, Clients, and the Public							
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	
3	Discourteous treatment of the public, supervisor or a fellow employee, and/or using insulting, abusive or profane language to a supervisor, the public or fellow employee.	2	5	3	5	5	
4	Deliberately making false statements to or about supervisor or employee, or knowingly providing misleading statements to supervisor at any time.	2	5	3	5	5	
5	Any act or threat of bodily harm or workplace violence, including threatening, stalking, intimidation, assault, battery or harassment, in the course of duties towards a supervisor, the public or a fellow employee.	2	5	5			
6	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	
7	Improper disclosure of protected health information as identified by the Privacy Act of the Health Insurance Portability and Accountability Act (HIPAA).	2	5	3	5	5	
E. Use of Alcohol, Controlled Substance or Drugs							
1	Consuming or being under the influence of alcohol, drugs or other controlled substances while on duty, to include work breaks, unless prescribed by a medical provider at the prescribed dosage levels.	3	5	5			

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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.	3	5	5			
3	Failure to complete any rehabilitation program recommended in the evaluation of an employee who is a mandated referral to 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 to include 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 manufacture, distribution, dispensing, or possession of a controlled substance on the premises of the workplace or while on agency 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
3	Jeopardizing the security of agency 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; b. Over \$25.	2 2	3 5	3 4	5 5	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 injury to a person.	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; b. A valid or proper license with knowledge the license is no longer valid; c. A valid or proper defensive driver certification.	2 4 1	5 5 2	5 5 2	5 5 3	3 3 5	
10	Charging personal long-distance phone calls via telephone or fax to PEBP without compensating the Agency: a. \$0-25; b. Over \$25.	2 2	3 5	3 4	5 5	5 5	

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11	Removing property, equipment, or documents from the workplace unless approved by the appropriate appointing authority.	1	5	2	5	5	
12	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	
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 online 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 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 email 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	
9	Accessing, displaying and/or printing material or images that are sexually explicit and serve to create a hostile environment in the workplace.	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-\$25;	2	3	3	5	5	
	c. For non-work-related purposes with an amount over \$25.	3	5	4	5	5	

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11	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; b. On personal equipment.	2 1	3 3	3 2	4 4	5 3	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 PEBP employment without authorization.	1	3	3	5	5	
3	Disgraceful personal conduct which impairs job performance.	1	4	3	5	5	
4	Unauthorized or improper disclosure of confidential information.	2	5	5			
5	The acceptance of 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. a. \$0-\$25; b. Over \$25.	3 4	5 5	4 5	5	5	
6	Soliciting or accepting a bribe or otherwise personally profiting from activities related to the employee's state employment.	5					
7	Misrepresentation of official capacity or authority.	3	5	5			
8	Bringing onto PEBP property or buildings any firearm or implement considered to be a weapon unless authorized to do so and with prior notification to appointing authority.	3	5	4	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 agency 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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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	
K.	Discrimination and Harassment						
1	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			
2	Engaging in sexual harassment as defined in NAC 284, the State Executive Branch Sexual Harassment & Discrimination Policy, or PEBP policy against another employee, an applicant for employment, or any other person in the workplace.	2	5	5			
3	Creating or endorsing a hostile work environment.	2	5	3	5	5	

