

**From:** Chandler, Christopher C <ccchandler0@tva.gov>  
**Sent:** Monday, August 12, 2019 3:29 PM  
**To:** Luina, Scott  
**Subject:** [External\_Sender] RE: MCBREARTY Case  
**Attachments:** TVA-SPP-11.316\_2.10.17 (3) Discipline Policy.pdf

Scott,

I have at long last been able to get a copy of Revision 5 of the Employee Discipline procedure. This is the revision that was current as of May 2018.

Chris

**Christopher Chandler**

Associate General Counsel, Nuclear  
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**From:** Luina, Scott  
**Sent:** Tuesday, August 06, 2019 7:38 AM  
**To:** Chandler, Christopher C  
**Subject:** MCBREARTY Case

**TVA External Message. Please use caution when opening.**

Chris –

Hope all is well.

I was going through my MCBREARTY case and noticed a few documents I still need.

POLAND mentioned during her interview that TVA Discipline Policy had changed. Could you please provide the policy that was in effect before MCBREARTY was released (May 2018) and after he was released as mentioned by POLAND.

The DOL Position Paper from TVA (February 11, 2019)

There might be more requests but wanted to get these to you while they were on my mind.

Thanks!

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**Created By:** ccchandler0@tva.gov

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**TVA Standard  
Programs and  
Processes**

**Employee Discipline**

**TVA-SPP-11.316  
Rev. 0005  
Page 1 of 27**

Validation Date 05-04-2017

Review Frequency 2 years

Validated By Jesi Shahan

Effective Date 07-03-2017

Responsible Executive Organization: Human Resources and Communications

Approved by: \_\_\_\_\_

Vice President, Human Resources

05/08/17

Date

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Revision Log			
Revision or Change Number	Effective Date	Affected Page Numbers	Description of Revision/Change
0000	12-17-2010	All	Initial issue. This procedure supersedes Employment Procedure 16 in its entirety. Converted to SPP format, updated references to other policies and procedures, and moved table of penalties to Appendix B.
		5-6	Clarified roles and updated language to reflect current organization names.
		10, 30	Added definitions and Source Notes.
0001	12-10-2012	9	Clarified use of non-disciplinary actions and terminations as related to inability to maintain employment suitability and security clearances.
		Appendix B	Explicitly included violence in section 2.4. Revised misuse of property section (2.10) and established separate vehicle (2.11) and Cybersecurity (2.37) sections. Clarified section 2.24 to explicitly state the requirement to comply with remedial actions associated with an Equal Opportunity case. Added new sections 2.31 Failure to Report Criminal Charges, 2.38 Unauthorized Disclosure and Other Security Incidents, and 2.39 Failure to comply with NERC Reliability Standards. Renumbered sections.
0002	04-15-2013	All	Revise SPP numbering (was 11.3.16) and linking of Source Notes to implementing language to align with TVA-SPP-01.001, rev. 4.
		9	Clarify language on Non-Disciplinary Corrective Actions and Termination.
		Appendix B	Clarify description of fighting/violence/threats (2.4), use of vehicles offenses (2.11), sick leave abuse/misuse (2.18), and violations of EO policy (2.24). Include written warning as a permitted penalty for political activities which violate the Hatch Act (2.14). Added new section Mishandling of Privacy Information (2.40).
0003	7-31-2015	8	Required additional review of suspensions and terminations in some instances
0004	9-12-2016	All	Update roles and responsibilities to reflect current organization structure.

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0004	9-12-2016	7	Clarify use of progressive discipline.
0004	9-12-2016	10	Reference Adverse Employment Action process. (NPG PER 768180)
0004	9-12-2016	Appendix B	<p>Added new sections an/or provisions regarding the following:</p> <p style="padding-left: 40px;">3.2.1 Prior offenses</p> <p style="padding-left: 40px;">3.2.2 Fitness for Duty</p> <p>Added new section Recording in the Workplace (2.41).</p> <p>Clarified sections 2.1 Abusive or Unprofessional Language or Conduct, 2.2 Arriving Late, 2.13 Personnel Error, 2.24 Violation of EO Policy or Remedial Actions, 2.29 Falsification or Failure to Correct TVA Documents, 2.34 Refusal or Failure to Cooperate with OIG and Other Groups, 2.35 Unsafe Work Practices</p> <p>2.3 Added section to include Critical and General Safety Offenses</p> <p style="padding-left: 40px;">2.5 Respectful Workplace</p>
0005	7-03-2017	Appendix A	Clarification on Douglas Factor application
0005	7-03-2017	Appendix B	Clarification 3.2.1- Critical Unsafe Work Practice
0005	7-03-2017	8	Clarification on 3.2.2

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**1.0 PURPOSE**

This SPP describes work conduct expectations of employees and provides guidelines to management on the application of disciplinary actions. TVA recognizes that the effective discipline practices come from strong leadership and firm, fair supervision at all employment levels. TVA's primary emphasis is preventing situations that require discipline through effective employee-management relations and appropriate internal controls.

**2.0 SCOPE**

To the extent the contents of this document are inconsistent with any other TVA or organizational policies, this document is controlling, with the exception of TVA Police and Emergency Management Work Instructions and the policies of the Office of the Inspector General.

Disciplinary actions and/or issues not addressed herein should be directed through the management chain and coordinated with Human Resources (HR) in order to promote appropriate disciplinary action.

**3.0 PROCESS**

**3.1 Roles and Responsibilities**

**3.1.1 Vice President, Human Resources**

Governance & Oversight Role

Serves as the owner of the Employee Discipline Process. Provides governance and oversight of the Employee Discipline Process and makes necessary delegation for its implementation.

**3.1.2 Human Resource Generalists**

Execution Role

- A. Communicates the employee discipline policy and processes to managers and employees throughout TVA organizations.

Support Role

- B. Consults on its application of discipline policy and processes with managers and employees.
- C. Consults with Labor Relations and Office of General Counsel (OGC) to promote consistent application of discipline.



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**3.1.3 Executive Vice Presidents, Chief Officers, and Managers**

Execute Role

- A. Determines appropriate disciplinary measures based on the facts of each case, findings of any investigation (including those conducted by the Office of the Inspector General and their respective organizations) and guidance provided by the Human Resources staff.

Oversight Role

- B. Ensures disciplinary measures are appropriately applied for similarly situated employees committing similar offenses while recognizing that individual circumstances may vary and disciplinary actions for particular offenses may not always be identical even within work groups.

**3.1.4 Supervisors**

Execute Role

- A. Establishes a mechanism to ensure emphasis of the guidelines' contents including application of discipline within their respective organizations.
- B. Coordinates disciplinary actions with their HR Generalist.
- C. Notifies employees when revisions are issued to TVA's Code of Conduct and discipline guidelines.
- D. Follows applicable Fitness for Duty guidelines in conjunction with disciplinary actions.
- E. Maintains performance, feedback and coaching documentation.

**3.1.5 Employees**

Execute Role

- A. Achieves desired work results and maintain appropriate behavior.
- B. Maintains an understanding of this Employee Discipline policy and operate within its guidelines.

**NOTE**

Please see the applicable collective bargaining agreements for related work conduct expectations and guidelines.

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## 3.2 Instructions

### 3.2.1 Guidelines for Progressive Discipline

- A. Progressive Discipline - TVA generally supports the concept of progressive discipline, believing that the major purpose of disciplinary action is to rehabilitate the employee, prevent recurrence, and encourage the employee involved to render future satisfactory service. An effective system emphasizes correcting the problem rather than punishing the offender. Therefore, TVA's focus is on communicating an expectation of change and improvement rather than an expectation of future problems and eventual termination. However, in some circumstances, more rigorous disciplinary action may be warranted. Such action is intended to deter more extreme unsafe and inappropriate behaviors. TVA encourages active cooperation between managers and employees aimed at positively reinforcing the rules and regulations of the organization. While progressive action may include counseling, a verbal warning, a written warning and disciplinary suspension preceding termination, the specific approach taken in each case will depend upon all circumstances.

Prior offenses, even in unrelated areas, may influence the level of disciplinary action. See Appendix A, "Factors to Consider Before Taking Disciplinary Actions." Typically, but not always, prior offenses that occurred more than two years previously are not considered for progressive discipline purposes.

TVA's practice is that the progressive discipline process does not apply to non-disciplinary actions. See section 3.2.3 for more information on non-disciplinary actions.

- B. Suspension Without Pay - It is the policy of TVA to issue a suspension without pay in cases that warrant this level of discipline. A suspension serves to put the employee on notice of the seriousness of his or her conduct and that further instances of similar behavior will result in termination. A suspension may vary in length from less than a week to several weeks or more, depending upon the circumstances surrounding the offense(s). For employees who are exempt from the Fair Labor Standards Act (FLSA), suspensions will be in full day increments, generally Monday-Sunday, unless a violation of a major safety rule or an infraction of a written workplace policy applicable to all employees occurred. Organizations should contact their HR Generalist regarding FLSA-related questions, including what constitutes a critical safety violation.
- C. Individual Circumstances - Although recognizing the value of progressive disciplinary steps to encourage improved behavior, all levels of progressive discipline may not be used in every disciplinary situation. In some situations, the offense(s) may be sufficiently serious to warrant beginning the progressive discipline process at a more advanced level than a verbal warning. For some serious offenses termination remains an appropriate initial disciplinary action. However, TVA's decision to impose discipline on an employee will include a consideration of the relevant circumstances affecting the employee and the agency. This consideration will include both the circumstances of each situation as well as the overall objectives and policies of TVA.

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### 3.2.1 Guidelines for Progressive Discipline (continued)

- D. Discipline and Performance Management - Progressive discipline may be appropriate in addressing some problems related to poor performance, but any such actions are intended to supplement, not replace, the continual evaluation process and the periodic performance appraisal which documents employee performance, including conduct matters. A service review, which on the basis of unacceptable performance supports demotion or other removal from a position (including termination), should be consistent with TVA policy regarding evaluation of employee service.

### 3.2.2 Taking Disciplinary Action

- A. To safely and efficiently conduct activities in TVA, proper behavior and strict compliance with policies, procedures, and regulations is required. The purpose of the TVA disciplinary procedure and guidelines is to establish the process and general disciplinary levels used when it is necessary to take disciplinary action.
- B. All disciplinary and non-disciplinary incidents cited in these guidelines should be investigated prior to action being administered. Managers/supervisors shall refer to the Douglas Factors Disciplinary Action Checklist prior to administering discipline. In matters that are referred to the Office of the Inspector General for investigation, the organization should carefully review the report and, as appropriate, the underlying evidence to assure itself that disciplinary action is warranted.
- C. Alternative disciplinary actions that provides additional focus on the corrective, rehabilitative process may be utilized with appropriate coordination and approval. An alternative process typically is a verbal warning for the first offense. Management shall consult with HR to identify alternative disciplinary actions and to ensure appropriate application. Verbal warnings should be documented in supervisor records for tracking purposes.
- D. Fitness For Duty procedures "Fitness for Duty Program for Non-Nuclear Organizations" and NPG's "Fitness for Duty and Fatigue Management," shall be followed when a fitness for duty violation occurs.
- E. Prior to implementing disciplinary action, the circumstances of the incident should be reviewed with the appropriate HR Generalist. The appropriate union official should be notified prior to taking disciplinary action against a job steward.
  - 1. A non-temporary Engineering Association (EA) or Office and Professional Employees International Union (OPEIU) represented employee should be given written notice as far in advance of the effective date of suspension as possible, although such notice may be effective immediately when necessary to protect the health of the employee or the interests of the Government, other employees, or the general public.

If the suspension is for 30 days or less, said employee should be given at least 5 days notice and for disciplinary suspensions of more than 30 calendar days, the beginning date should be no less than 30 full calendar days after said employee receives the notice.

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### 3.2.2 Taking Disciplinary Action (continued)

For Trades & Labor employees, if a suspension is for more than 30 calendar days, the beginning date should be no less than 30 full calendar days after said employee receives the notice.

2. Management is required to provide a 30-day notice of proposed action to any preference eligible veteran employee who has one or more years of current, continuous TVA service in the same or similar job position prior to issuing any adverse action, i.e., disciplinary or non-disciplinary suspension for more than 14 days, furlough up to 30 days, reduction in pay/pay grade or discharge (but excluding termination of a temporary appointment). Organizations should contact their HR Generalist regarding adverse actions involving veterans.

#### F. Suspension Pending Investigation

1. Employees may be suspended from work during an investigation of the alleged incident under certain circumstances, particularly if the presence of the employee could:
  - a. Seriously affect the conduct of the investigation,
  - b. Constitute a danger to the employee or other workers,
  - c. Compromise security, or
  - d. Seriously affect the work of the organization.
2. However, employees are generally in non-work, non-pay status with notification that they may take available leave. Care should be taken when suspending employees because of Federal and contractual obligations, including providing advance notice of the suspension for EA or OPEIU represented employees and special procedures for employees who are veterans, and FLSA considerations described above. Managers/supervisors shall contact their HR Generalist prior to suspending an employee.

#### G. Determination of Appropriate Disciplinary Action

1. When determining appropriate disciplinary action, managers and supervisors should consider the relevant factors of each situation. See Appendix A, "Factors to Consider Before Taking Disciplinary Actions" for factors to consider.
2. Guidelines for appropriate actions for various offenses are outlined in Appendix B, "Disciplinary Guidelines: Range of Penalties." The disciplinary actions indicated for each offense is a range of action; however TVA management may modify the steps as warranted based on the offense(s) and circumstances surrounding the offense(s).
3. Managers/Supervisors should consult with their HR Generalist prior to taking disciplinary action. Managers and HR should consult with the Office of the General Counsel (OGC) before taking disciplinary action for a veteran.

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### 3.2.2 Taking Disciplinary Action (continued)

4. For employees in Nuclear Power or employees badged for nuclear site access, proposed personnel actions involving a suspension or termination will be reviewed to ensure the actions comply with employee protection regulations and do not negatively impact the Safety Conscious Work Environment. NPG-SPP-11.10, Adverse Employment Action should be followed in conducting these reviews.

#### NOTE

The imposition of disciplinary action does not preclude management from referring an employee for criminal prosecution for the same actions, in appropriate circumstances

### 3.2.3 Non-Disciplinary Corrective Actions and Termination

There are non-disciplinary situations that may result in an employee's placement in non-work and/or non-pay status, demotion or termination depending on the requirements of the individual employee's position. Managers/Supervisors should retain proper documentation of all warnings and contact their HR Generalist before taking any corrective actions.

- A. Failure to Meet Performance Expectations - All employees are expected to meet the performance expectations established by management. If, after management has informed an employee of such expectations, the employee fails to perform satisfactorily, management may warn, demote or terminate said employee, as circumstances warrant.
- B. Failure to Meet Position Requirements - A requirement of all positions is that employees successfully meet medical, physical, psychological, background investigation and/or other checks relative to their position. Should an employee fail to meet the medical, physical, or psychological requirements of the position, employees will undergo an accommodation review. As a result of their failure to meet position requirements, they may be terminated. This may include, but is not limited to, failure of the employee to meet General Employee Training (GET) pass/fail requirements in TVA Nuclear organizations and failure to maintain necessary security clearances including unescorted access authorization.
- C. Failure to Maintain Suitability for Employment - It is an employee's responsibility to remain suitable for employment. Employees must report arrests and criminal charges upon arrival the next business day. (Failure to properly report arrests or charges is grounds for disciplinary action. See Appendix B, 2.2.6.) Upon notification of an arrest or charges, management may hold the employee off work in non-work non-pay status and an investigation will be conducted to assess the employee's suitability for employment. If found to be unsuitable, the employee will be placed on non-disciplinary suspension pending adjudication of the charges by the court.

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**3.2.3 Non-Disciplinary Corrective Actions and Termination (continued)**

TVA cannot hold open the jobs of employees under pending charges indefinitely and will review the status of the employee on a case by case basis. Failure to keep TVA informed of the status of the case or long term unavailability/uncertainty without disposition of the charges may result in a decision to terminate the employee. Employees who are incarcerated and not available for work may be terminated for unavailability.

- D. Unavailability for Work - Employees are entitled to use sick leave, but they must follow their respective TVA organization's policies in requesting leave, keeping management informed of their status, and providing acceptable medical certification as to incapacitation. As a general rule, an agency is not required to indefinitely retain an employee who cannot work due to continuing medical conditions. Termination for unavailability for work generally is taken when the employee has been unavailable for work because of a prolonged absence or excessive absenteeism due to continuing effects of an injury or illness. Supervisors/Managers should contact their HR Generalist prior to taking any action regarding an employee who is unavailable for work.

**4.0 RECORDS**

**4.1 QA Records**

None

**4.2 Non-QA Records**

Records of disciplinary action, beginning with a written warning, will be placed in the employee's Personal History Record and maintained in the Human Resources Information System. Copies are also sent to the Central Office of the appropriate union for a represented employee. The responsible HR Generalist should receive a copy of disciplinary letters for all employees.

**5.0 DEFINITIONS**

**Classified Information** - Official information that has been determined to require, in the interests of national security, protection against unauthorized disclosure and which has been so designated under the authority of Executive Order 13526 "Classified National Security Information" or other applicable law. [R.4]

**Intimidation** - Offensive, abusive, insulting behavior or unfair actions directed at another individual or group of individuals, causing the recipient to feel threatened, abused, humiliated or vulnerable.

**Harassment** - Harassment is unwelcome conduct that is based on race, color, religion, sex (e.g., pregnancy, gender identity, or sexual orientation), national origin, age (40 and over), mental and/or physical disability, genetic information, and reprisal. Harassment becomes unlawful where 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider, intimidating, hostile, or abusive.

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## 5.0 DEFINITIONS (continued)

**Misconduct** - A violation of the TVA Code of Conduct, any Executive Order, Federal or State law, or other TVA-approved policy or procedure prescribing a standard of conduct or ethics.

**Network Access** - This terminology encompasses NT ID as well as Unix ID and other mediums that could provide an access point to the TVA network.

**Represented Employee** - An employee who is represented by a union.

**Texting or Text Messaging** - Reading from or entering data into any handheld or other electronic device, including for the purpose of SMS texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication.

**TVA Property** - Any TVA owned, leased or rented property or vehicle. This includes property where TVA has an easement.

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**Appendix A  
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**Factors to Consider Before Taking Disciplinary Actions (Douglas Factors)**

Consider the following before deciding upon a course of action for all disciplinary actions, and secure documentation where available (e.g. employee's version of the events, previous disciplinary letters, performance appraisals, evidence of disciplinary violation, other employees' disciplinary letters if violations are the same, etc.).

Before taking an adverse action against a preference eligible veteran, consult with your HR Generalist and OGC.

- A. What is the nature and seriousness of the offense(s)?
- B. What is the employee's job level and type of employment?
- C. What is the employee's past disciplinary record?
- D. What is the employee's past work record?
- E. What is the effect of the offense(s) upon the employee's ability to perform their job and their supervisor's confidence in that ability?
- F. What is the consistency with penalties imposed on other employees similarly situated for the same or similar offenses?
- G. What is the consistency of the penalty with the TVA's disciplinary policy and organizational disciplinary guidelines?
- H. What is the notoriety or its impact upon the agency's reputation?
- I. Was the employee clearly on notice of any rules that were violated or had the employee been warned?
- J. What is the potential for the employee's rehabilitation?
- K. What are the mitigating circumstances surrounding the offense(s)?
- L. What is the adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others?
- M. What is the impact of the offense(s) on the overall effectiveness and efficiency of the organization and/or employees?



**Appendix B  
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**Disciplinary Guidelines: Range of Penalties\***

SUMMARY OF DISCIPLINARY GUIDELINES

Offense	**Verbal Warning	Written Warning	Suspension	Discharge
<b><u>1. Ethical Violation</u></b>				
1.1 Violation of Ethical Laws or TVA Code of Conduct	X	X	X	X
1.2 Refusal or Failure to Cooperate with Investigation	X	X	X	X
1.3 Violation of Equal Opportunity (EO) Policy or Remedial Actions	X	X	X	X
1.4 Mishandling of Classified Information, Privacy Information, and Security Incidents	X	X	X	X
1.5 Misuse of Government Property	X	X	X	X
1.6 Misuse of Work Time	X	X	X	X
1.7 Theft or Unauthorized possession of property			X	X
1.8 Falsification of Quality Assurance (QA) or Other Safety-Related Documents				X
1.9 Falsification or Failure to Correct TVA Documents		X	X	X
<b><u>2. Employment Standards</u></b>				
2.1 Fighting, Violence, or Threats of Violence			X	X
2.2 Deliberate Misconduct Causing TVA to Violate NRC Regulations or Plant License				X
2.3 Inattentiveness to Duty	X	X	X	X
2.4 Recording in the Workplace		X	X	X
2.5 Possession of Firearms/Weapons or Other Unauthorized Substances			X	X
2.6 Failure to Report Criminal Charges or Off Duty Misconduct		X	X	X
2.7 Violation of Fitness for Duty Requirements			X	X
2.8 Policy and Procedure Violation	X	X	X	X
2.9 Personnel Error	X	X	X	X
<b><u>3. Violation of Safety Standards</u></b>				
3.1 Critical Unsafe Work Practices			X	X
3.2 General Unsafe Work Practices	X	X	X	X

**Appendix B  
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**Disciplinary Guidelines: Range of Penalties\***

<b><u>4. Leave Misuse</u></b>				
4.1 Arriving Late or Leaving Early Without Approval	X	X	X	X
4.2 Leave Misuse	X	X	X	X
<b><u>5. Respectful Workplace</u></b>				
5.1 Harassment/Intimidation/Retaliation/ Discrimination (HIRD)		X	X	X
5.2 Abusive or Unprofessional Language or Conduct		X	X	X
5.3 Insubordination		X	X	X

\* Reference Appendix A

\*\* Proper documentation should be maintained for all verbal warnings.

**NOTES**

- 1) The disciplinary action indicated for the offenses is a range of action; however, TVA management may modify the steps as warranted based on the offense(s) and circumstances surrounding the offense(s). The guidelines are not intended to cover all potential disciplinary offenses. Human Resources should be consulted for review on a case-by-case basis to assist in determining the appropriate action to be administered for offenses not listed herein.
- 2) Some offenses may lead to additional consequences including criminal prosecution or restrictions on future employment with TVA or within the Nuclear industry.

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**Appendix B  
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**Disciplinary Guidelines: Range of Penalties\***

**2.0 DISCIPLINARY GUIDELINES**

**2.1 Ethical Violation**

Employees must adhere to federal ethical laws and standards of conduct and TVA related ethics policies. Employee should not engage in activity including but not limited to gambling, theft, misuse of work time, political activity in the workplace. In general, employees should avoid any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct or other conduct prejudicial to the Government. [R.2]

**2.1.1 Violation of Ethical Laws or Standards**

- A. Employees must adhere to ethical laws and standards of conduct, including, but not limited to those limiting gifts from outside sources and gifts between employees; avoiding conflicting financial interests; impartiality in performing official duties; and avoiding any criminal, infamous, dishonest, immoral, or notorious disgraceful conduct or other conduct prejudicial to the Government.
- B. The level of discipline for this offense will be commensurate with the seriousness of the charge and the connection to TVA employment.
- C. Specific information regarding Ethical Conduct requirements are contained in the United States Code of Federal Regulations, TVA Code of Conduct, and TVA Executive Code of Conduct, and TVA ethics related policies.

**2.1.2 Refusal or Failure to Cooperate with Investigation**

- A. Employees are required to cooperate and comply with any investigation, audit, review, or inquiry by the Office of the Inspector General, TVA Equal Opportunity Compliance Office, TVA Employee Concerns, or any other groups with oversight or investigatory responsibility as provided by law or as directed by management. Here, “cooperate” includes but is not limited to making oneself available in a timely manner for questioning or testimony, providing documents or other recorded information in a timely manner, being truthful, and providing complete responses to any written or verbal questions or other inquiries.
- B. Employees are also required to cooperate and comply with requests by security personnel. TVA employees, including their persons, vehicles, and personal belongings are subject to visual or hands-on search when entering or exiting the sites. Failure to comply with search requests may subject the employee to denial of access to the sites and/or disciplinary action up to and including termination.

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**Disciplinary Guidelines: Range of Penalties\***

**2.1.3 Violation of Equal Opportunity (EO) Policy or Remedial Actions**

Every TVA employee must actively support TVA's EO policy and help ensure a working environment free from all types of discrimination (overt or inadvertent) and hostility or harassment or retaliation that may result. Items or words such as racial slurs, offensive symbols (e.g., nooses or swastikas), ethnic jokes, or sexually explicit and/or offensive jokes, comments, or photos will not be tolerated.

Failure to comply with the TVA EO policy or with required remedial actions resulting from an Equal Opportunity Compliance case, or retaliation for raising an EO concern will result in disciplinary action up to and including termination.

**2.1.4 Mishandling of Classified Information, Privacy Information, and Security Incidents**

- A. Employees are prohibited from the unauthorized disclosure of classified information and are required to appropriately safeguard classified materials. In addition to being subject to TVA disciplinary action for a violation of this section, those who willfully and knowingly furnish, communicate, transmit or otherwise make available classified information to an unauthorized person are subject to prosecution for violation of Title 18, U.S. Law.
- B. Employees are required to protect the security of personal information, especially Personally Identifiable Information (PII) and Restricted Personally Identifiable Information (RPII). In addition to being subject to TVA disciplinary action for a violation of this section, persons who willfully disclose information protected by the Privacy Act of 1974 to any person or agency not entitled to receive it may be subject to prosecution.
- C. The following are examples of mishandling privacy information:
  - 1. Leaving PII/RPII unsecured, unattended, or unlocked in desks, tables, filing cabinets, or elsewhere in work areas open to the general employee or visitor population either during or after normal working hours.
  - 2. Storing or transmitting PII/RPII on TVA systems or applications in violation of TVA-SPP-12.002, TVA Information Management Policy.
  - 3. Publically posting PII/RPII.
  - 4. Disseminating PII/RPII information to unauthorized persons in any manner.
- D. TVA employees are also subject to discipline for unauthorized dissemination of certain other types of information, including but not limited to nuclear safeguards information and any other information that an employee knows or should know is confidential or sensitive, either by markings on the information or by the subject matter content.

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**2.1.4 Mishandling of Classified Information, Privacy Information, and Security Incidents (continued)**

- E. For additional information, see TVA-SPP-12.002, "TVA Information Management Policy" and NPG-SPP-14.3 "Safeguards and Security Sensitive Information."

**2.1.5 Misuse of Government Property**

- A. TVA tools, equipment, and other property are provided for the use of TVA employees for the conduct of TVA's business. TVA tools, equipment, and vehicles are for business use only, unless prior approval has been obtained. Unauthorized use of TVA property is prohibited. Employees are responsible for the proper care and accountability of tools, equipment, and other property assigned to them during or after normal work hours. TVA tools, equipment, and property may include but are not limited to TVA vehicles, copiers, computers, office phones, cell phones, TVA-issued credit cards, physical security components, etc.
- B. Physical Access credentials (employee badges) are the property of the U.S. Government and are issued for the official and exclusive use of the designated holder to gain access to TVA facilities and may be used as proof of identity for official TVA business purposes. Use or possession of TVA issued access credentials by individuals other than the designated holder is considered misuse and unlawful. Anyone suspected of misuse of TVA issued access credentials is subject to penalty under 18 U.S.C. 499, 506, and 701, and TVA-SPP-14.200, Physical Access and Visitor Management policy.
- C. Vehicles, both leased and rental, are provided for the use of TVA employees for the conduct of TVA's business. Unauthorized use of vehicles is prohibited. Employees are responsible for the proper care and accountability for vehicles assigned or provided to them during or after normal work hours. Willful misuse of a TVA vehicle will result in a minimum of a 30 day suspension. Refer to 31 U.S.C. Section 1349. [R.1]

**2.1.6 Misuse of Work Time**

Employees are expected to be productive in their work assignments. Loafing or wasting time while on working hours will not be tolerated. Employees without a work assignment are to contact their supervisor immediately.

**2.1.7 Theft or unauthorized possession or removal of TVA property**

- A. Theft or attempted theft of TVA property, or the property of TVA employees, visitors or contractors, will not be tolerated. An employee who steals is subject to the maximum disciplinary action of discharge for a single offense. Attempted theft includes, but is not limited to, the staging of material for later retrieval.

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**Disciplinary Guidelines: Range of Penalties\***

**2.1.7 Theft or unauthorized possession or removal of TVA property (continued)**

- B. Unauthorized possession or removal of TVA property, or the property of TVA employees, visitors or contractors, will not be tolerated. Unauthorized possession or removal includes instances where it cannot be substantiated that theft was intended or performed.
- C. Supervisors should contact their HR Generalist before implementing discipline for this offense.

**2.1.8 Falsification of Quality Assurance (QA) or Other Safety-Related Documents**

This includes falsification of any documents that are designated as Quality Assurance Records (QA). This also includes falsification of any documents related to industrial safety that could result in jeopardizing the safety of employees, contractors, or visitors to TVA sites.

**2.1.9 Falsification or Failure to Correct TVA Documents**

This includes falsification of any documents not covered above (e.g., employment or other work documents). It also includes failing to promptly correct records (e.g., leave or pay records) which the employees knows, or should know, to be in error.

**2.2 Employment Standards**

Employment standards are necessary to guide our work activities and assure a safe and orderly work environment. The standards by which we operate apply to all employees and contractors. Employment standards include, but are not limited to, policy and procedure adherence, fighting, threats of violence, inattentiveness to duty, and possession of unauthorized substances.

**2.2.1 Fighting, Violence, or Threats of Violence**

Fighting, violence, and threats of violence, including but not limited to physical or verbal acts that threaten aggression toward people or property will not be tolerated and will result in disciplinary action up to and including termination.

See TVA Workplace Violence policy TVA-SPP-14.100 "Workplace Violence Prevention and Prohibited Items."

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**2.2.2 Deliberate Misconduct Causing TVA to Violate NRC Regulations or Plant License**

An employee who deliberately and/or maliciously causes TVA to violate Nuclear Regulatory Commission (NRC) regulations or plant license requirements shall be terminated.

**2.2.3 Inattentiveness to Duty**

- A. Inattentiveness to duty is prohibited and serious incidents may result in termination of employment. Employees are expected to be fully alert and cognizant of their work environment. Employees who are not fully alert and attentive to their work assignments or duty station responsibilities cannot be tolerated. Employees found in any physical position or location which precludes them from performing their job duties and responsibilities will be considered to be inattentive to duty. This includes but is not limited to being asleep or physically being in a state or bodily position from which a work assignment cannot be effectively carried out.
- B. Employees are subject to immediate suspension if they are found to be inattentive to duty while performing work that does not affect personnel safety or safe operation of the plant. However, a repeated instance of being inattentive to duty may result in termination of employment, regardless of the nature of the work being performed or its effect on plant operation.
- C. Employees are subject to immediate termination if they are found to be inattentive to duty while performing safety-related work such as fire watch, operation of equipment, or any activity which could affect the safety of the employee, other employees, contractors, visitors, or the safe operation of the plant. Additionally, employees are subject to immediate termination if they have taken efforts to conceal or pre-plan being inattentive to duty.

**2.2.4 Recording in the Workplace**

- A. TVA prohibits the recording of confidential, proprietary or personal information and personal images or voices belonging to TVA employees, contractors and/or visitors unless approved by management. Employees are also prohibited from recording any aspect of TVA's facilities or properties without prior management approval. Employees are required to provide consent for personal images to be captured.
- B. "Recording" means the use of any device, whether work-issued or personal, to capture images or voices, regardless of whether in person, by telephone or by other means. This prohibition applies at TVA facilities and properties, while operating TVA owned, leased or rented vehicles, as well as off-site or during travel while in work status.
- C. Employees who record in violation of this prohibition will be subject to disciplinary action up to and including termination.

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**Disciplinary Guidelines: Range of Penalties\***

**2.2.5 Possession of Firearms/Weapons and Other Unauthorized Substances**

- A. The possession, use, or sale of alcohol and/or illegal drugs (including prescription drugs for which the employee does not have a current, valid prescription) on TVA property is prohibited and may result in termination of employment. Employees who use or are suspected of use of alcohol or illegal drugs on TVA property are subject to investigation, medical examination, testing, and disciplinary action.
- B. Unauthorized firearms, weapons, explosives, or fireworks shall not be permitted on TVA property. For additional information, see TVA-SPP-14.100 "Workplace Violence Prevention & Prohibited Items."
- C. Specific information regarding the Fitness for Duty Program requirements are contained in TVA-SPP-11.511 "Fitness for Duty Program for Non-Nuclear Organizations" and NPG-SPP-14.1 "Fitness for Duty and Fatigue Management."

Fitness for Duty requirements for employees required to possess a Commercial Drivers License as a condition of employment are contained in TVA SPP 11.512 "TVA Department of Transportation (DOT) Alcohol and Drug (A&D) Testing Program." (To the extent this document establishes standards above the DOT policy, this document is controlling.)

**2.2.6 Failure to Report Criminal Charges and Off Duty Misconduct**

- A. Employees who engage in conduct away from TVA property which, because of its illegality, notoriety, or impact upon the agency's reputation, results in the need to deter such conduct in the future by the employee or other employees, will be subject to disciplinary action up to and including termination. These determinations are made in conjunction with the Employment Suitability standards.
- B. Employees are required under TVA's personnel security procedures to report via form TVA 9871 "Data on Convictions" upon arrival the next business day whenever they are arrested or charged with any criminal act. Specific information regarding the reporting requirements are contained in TVA's personnel security procedure, TVA-SPP 14.410 "Adjudication of Employee Criminal Charges".
- C. Determinations on level of discipline for failing to report arrests or charges will consider the seriousness of the charge and the connection to TVA employment.

**2.2.7 Violation of Fitness for Duty Requirements**

- A. Employees who are suspected of use or being under the influence of illegal drugs or alcohol on TVA property or on TVA work time are subject to investigation, medical and/or psychological examination, and disciplinary action. Employees working at a TVA nuclear site will be subject to termination for first offense violations of Fitness for Duty Program requirements regarding "For Cause" testing.



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**2.2.7 Violation of Fitness for Duty Requirements (continued)**

- B. Fitness for Duty requirements for employees required to possess a Commercial Drivers License as a condition of employment are contained in TVA-SPP-11.511 "Fitness for Duty Program for Non-Nuclear Organizations." (To the extent this document establishes standards above the DOT policy, this document is controlling.)
- C. Employees who fail or refuse to fully cooperate with any part of a Fitness for Duty assessment or refuse, tamper/attempt to tamper with or subvert an alcohol/drug test will be terminated.
- D. Specific information regarding the Fitness for Duty Program requirements and consequences are contained in TVA-SPP-11.511 "Fitness for Duty Program for Non-Nuclear Organizations" and NPG-SPP-14.1 "Fitness for Duty and Fatigue Management."

**NOTE**

Violations of fitness for duty requirements may result in additional consequences beyond these disciplinary actions. Consequences may include restrictions on future employment with TVA and/or within the nuclear industry. Consult the fitness for duty procedures for additional information.

**2.2.8 Policy and Procedure Violation**

Policy and Procedure violation includes willful violations of known or established TVA policies or subset of those policies (TVA Safety Manual, NPG policies, site specific procedures, etc). This includes but is not limited to policies such as Vehicle Safety, Cyber Security, NERC standards, etc. Failure to comply with these policies can place TVA's employees, network, information, the public, etc. at risk.

**2.2.9 Personnel Error**

Personnel error occurs when an employee has the procedures, knowledge, and equipment to properly perform an assignment and fails to do so. Personnel errors may be intentional or unintentional. Personnel errors may result in disciplinary action up to and including termination. Personnel errors that result in incidents such as reportable events, violations of technical specifications, nuclear regulatory identified violations, or other procedures, etc., may also be a basis for disciplinary action. An attempt to conceal or failure to report a personnel error may result in disciplinary action up to and including termination. HR Generalist should be consulted for review on a case-by-case basis to assist in determining the appropriate action to be taken.

**2.3 Violation of Safety Standards**

Employees are accountable for working safely each and every day. Employees are expected to follow safe work practices. If an employee violates our safe work practices, progressive discipline will apply.

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**2.3.1 Critical Unsafe Work Practice**

Critical unsafe work practices include, but are not limited to behaviors that violate TVA safety procedures and lead to or have high potential to lead to death or serious injury to personnel or significant damage that might impair the performance of a TVA plant or TVA equipment.

- Energy clearance boundaries / lockout-tag out and protective grounding requirements must be followed
- Confined space entry requirements must be met
- Fall protection requirements must be met
- Radiation boundaries must not be violated
- Protective barriers for suspended loads must not be breached
- Arc-flash protective requirements (de-metal, protective clothing, proper tooling, stand off distances) must be met

**2.3.2 General Unsafe Work Practice**

General unsafe work practices are violations of those Safety Expectations, Procedures, Policies, and/or OSHA rules which are not designated as Critical Safety Rules. These behaviors include, but are not limited to, behaviors that lead to or have the potential to lead to injury to personnel or damage to TVA equipment. It also includes an employee's failure to notify his/her supervisor or appropriate TVA medical staff of any medication or changes in medication that might impact the employee's ability to work safely. Managers and supervisors should consider the risk and intentions to determine the appropriate level of discipline.

Level I - Safety violation that could cause an accident or illness that would most likely result in serious physical harm. Risk is medium to high and intent may have been willful in nature. The list below contains examples only and is not all inclusive. Level I safety violations will be addressed through the progressive discipline process, ranging from a written warning to termination.

- Use of unapproved climbing devices
- Misuse of tools/using the wrong tool for the job
- Failure to complete or review an approved safety briefing or plan prior to beginning high hazard work

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**2.3.2 General Unsafe Work Practice (continued)**

- Use of cell phones other electronic devices, other than in hands free mode, while driving a TVA owned or rented vehicle or while driving a personal vehicle on TVA business. (Executive Order 13513 "Federal Leadership on Reducing Text Messaging While Driving, 10/01/2009) [R.3]

Level II - Safety violation that has a direct relationship to job safety and health, but not serious in nature. Risk is very low and intent may or may not have been willful in nature. The list below contains examples only and is not all inclusive. Level II violations use the progressive discipline policy and normally begin at verbal warning as a first step.

- Failure to wear PPE (gloves, hard hat, hearing protection, safety glasses, etc) as required by safety rules or regulations
- Failure to maintain a neat and clean work area adversely impacting work safety
- Failure to meet established safe work expectations

**2.4 Leave Misuse**

Employees are expected to be at work unless they have previously-approved leave, a bona fide emergency exists, or valid medical reasons dictate an absences from work.

**2.4.1 Arriving Late or Leaving Early Without Approval**

All employees are required to gain approval from their supervisor when arriving late, including returning from lunch or breaks late, or leaving from their scheduled shift early. Situations may arise where an employee will have to come in late or leave early in order to attend to personal business. Employees are required to provide notice and obtain approval as soon as possible when they have to attend a scheduled appointment during work hours. If requested by the supervisor, employees must state the specific need for the absence before approval may be given. For non-prearranged absences, where an employee must arrive late or leave early, or when the employee is going to leave the work area or job site, it is the employee's responsibility to ensure they are approved by providing satisfactory information to their supervisor/manager as soon as he/she reports to work. If appropriate, as determined by a supervisor or manager, employees must enter leave for the time.

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**2.4.2 Sick Leave and Annual Leave Misuse**

Employees shall report to their supervisor or up to an appropriate level of management when employee is scheduled to be at work unless the employee has a previously approved leave, a bona fide emergency exists, or valid medical reasons dictate their absence from work. The supervisor may, at his/her discretion, inform the employee that administratively acceptable documentation, i.e. doctor's note associated with one's medical condition or other appropriate documentation is required for the absence to be approved. For absences that are  $\geq 40$  consecutive hours, or  $\geq 48$  consecutive hours for employees working 12-hour shifts, the employee will be required to provide acceptable medical evidence supporting the absence and the circumstances must be evaluated by an assigned medical case manager.

- A. If the supervisor suspects sick leave abuse/misuse, the supervisor will review the sick leave report(s) and document the days in question.
- B. If the supervisor suspects potential sick leave abuse/misuse, the supervisor will meet with the employee to express the concern and ask for an explanation. If, as a result of this discussion, the supervisor identifies misuse/abuse or questionable use of sick leave, the supervisor will proceed immediately, or after further investigation and discussion with HR, with a formal counseling session. If, following formal counseling, the employee fails to follow sick leave expectations or if they continue to have questionable leave usage, the supervisor shall issue a Leave Control Letter/verbal warning. If the employee continues to violate the leave control restrictions and/or receives additional unapproved absence(s), more progressive discipline will ensue, up to and including termination.
- C. Managers/Supervisors should contact their HR Generalist prior to taking disciplinary action and for assistance in preparing proper documentation.
- D. An unapproved absence is one in which the supervisor or manager was not contacted and/or given an acceptable reason for the absence, or the employee did not provide acceptable documentation to support the absence. For non-prearranged absences, it is the employee's responsibility to ensure approval by contacting their supervisor as soon as possible at the beginning of the work day/period for which they are absent and by providing satisfactory information to the supervisor/manager as soon as practical at the beginning of the work day/period for which they are absent and by providing acceptable and satisfactory evidence to the medical case manager as soon as he/she returns to work. Prior to initiating disciplinary action a supervisor/manager must ensure the employee's absence was not approved.

**2.5 Respectful Workplace**

Everyone at TVA is responsible for helping maintain a safe, professional, and respectful workplace. It is core to our TVA Values and it is what we expect of each other each and every day.

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**2.5.1 Harassment/Intimidation/Retaliation/Discrimination (HIRD)**

Incidents involving HIRD of any nature are strictly prohibited. Individuals who engage in any form of HIRD will be subject to disciplinary action up to and including termination.

**2.5.2 Abusive or Unprofessional Language or Conduct**

Abusive or unprofessional language and/or behavior directed toward other employees or others, or abusive or unprofessional conduct that adversely affects the work environment will result in disciplinary action up to and including termination.

**2.5.3 Insubordination**

Insubordination by an employee will not be tolerated. A willful failure or refusal to carry out or comply with a direct order, verbal/written instruction, or TVA policy is classified as insubordination. Abusive or unprofessional language or behavior toward an employee's supervisor or others in the chain of management is also considered insubordination.

\* Reference Appendix A

\*\* Proper documentation should be maintained for all verbal warnings.

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<b>Requirements Statement</b>	<b>Source Document</b>	<b>Implementing Statement</b>
Use of vehicles for official and authorized purposes only.	31 U.S.C. Section 1349	[R.1]
Refrain from prohibited political activity for federal employees.	5 U.S.C. Sections 1501 – 1508 ("Hatch Act")	[R.2]
Prohibition on the use of cell phones and other electronic devices in other than hands free mode while driving a TVA owned vehicle, a rented vehicle on TVA business or when driving a personal vehicle on TVA business and specified penalties.	Executive Order 13513 "Federal Leadership on Reducing Text Messaging while Driving," 10/01/2009	[R.3]
Protection against and unauthorized disclosure of official information that has been determined to require, in the interests of national security	Executive Order 13526 "Classified National Security Information"	[R.4]