

VOLUME 14, CHAPTER 9: “DISCIPLINARY ACTION”**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an * symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue and underlined font**.

The previous version dated October 2006 is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
Various	Updated and inserted hyperlinks.	Update

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CHAPTER 9

DISCIPLINARY ACTION

0901 ADMINISTRATIVE DISCIPLINE

A military member or DoD employee who is responsible for an Antideficiency Act Violation shall be subject to appropriate administrative discipline. Appropriate administrative discipline for violations of sections [1341](#), [1342](#), or [1517](#) of title 31, United States Code (U.S.C.), is authorized by sections [1349](#) or [1518](#) of title 31, U.S.C. The types of disciplinary actions that are appropriate when a provision of a law, rule, or regulation is violated can be found in [section 1215 of title 5, U.S.C.](#)

090101. Disciplinary Officer

A disciplinary officer's decision to administer a given level of discipline shall be in accordance with applicable laws and negotiated agreements. In no case can any due process be eliminated.

A. An appointment of a disciplinary officer may be made or reviewed by the Under Secretary of Defense (Comptroller), an Assistant Secretary of a Military Department for Financial Management, or the Comptroller or Senior Financial Manager for other DoD Components. The appointment of the disciplinary officer may need to be bargained, depending upon the status of the employee and the content of the applicable negotiated bargaining agreements. The independence of disciplinary officers must be verified before their selection. Disciplinary officers shall be chosen only to review cases and administer discipline. In no case shall the investigating officer also be appointed as the disciplinary officer. The investigating officer shall not make recommendations or determine discipline. A civilian employee must be given a proposal letter and an opportunity to respond before discipline is assessed.

B. Commanders and supervisors, with the assistance of counsel, shall determine discipline based on the investigating officer's facts. A disciplinary officer's decision shall not be influenced or undermined by any individual.

C. The Assistant Secretary of a Military Department for Financial Management, or the Comptroller or Senior Financial Manager for other DoD Components must notify their commands to appoint disciplinary officers whose individual independence is free from any influence.

090102. Civilian Personnel

Administrative discipline for a civilian employee may include written admonishment or reprimand, reduction in grade, suspension from duty without pay, or removal from office.

090103. Military Personnel

Military personnel may be subject to appropriate administrative discipline or may be subject to action under the Uniform Code of Military Justice.

090104. Non-DoD Personnel

If an individual determined to be responsible for a violation is no longer on active duty or employed by the applicable DoD Component, appropriate disciplinary action may be pursued if determined to be legally appropriate by counsel. In general, civilians may not be disciplined after they are no longer employed by the U.S. Government. If disciplinary action is taken, such action shall be documented in the individual's personnel file in accordance with established policies.

0902 DOCUMENTING DISCIPLINARY ACTION

An Antideficiency Act violation is a serious matter as it represents a violation of a Federal statute. Antideficiency Act violations constitute a misuse of DoD funds even if the violation was not willfully or knowingly committed. The individual who is responsible for determining the appropriate disciplinary action shall perform the following tasks:

090201. Acknowledgement Statement

Acknowledge, in writing, that he or she understands that (a) an Antideficiency Act violation is a violation of Federal statute; (b) Antideficiency Act violations constitute a misuse of DoD funds even though the misuse may not have been knowing or willful, and despite whether the disciplinary officer considers the misuse harmful to DoD, the Military Department or Service, or to the Defense Agency; (c) the Department is required to report the violation to the President (via the Director, Office of Management and Budget), the U.S. Congress, and to the Government Accountability Office; (d) an unwillful or unintentional violation does not justify a decision to not administer disciplinary action; and (e) disciplinary action shall be commensurate with the severity of the violation, and factors leading to the violation or its resolution may be considered.

090202. Commensurate Action Statement

Provide a written statement addressing why he or she believes that the disciplinary action taken, or the failure to take disciplinary action, is commensurate with the severity of the violation. If there are extenuating circumstances, they must be considered.

090203. Reporting

Include both statements discussed in paragraphs 090201 and 090202 in the report of investigation.

0903 CRIMINAL PENALTIES

090301. Investigator

If a violation has been determined to have been knowingly and willfully committed, there are statutory provisions requiring criminal penalties. Thus, an officer or employee found responsible for committing a violation knowingly and willfully may be subject to criminal penalties. All investigations that provide any indications that the violation was knowingly and willfully committed shall be terminated by the investigating officer. The investigating officer should consult with legal counsel to determine if the investigation should be referred to the appropriate criminal investigation organization for action.

090302. Governance

[Section 1350 of title 31, U.S.C.](#), prescribes that an officer or employee of the United States Government or of the District of Columbia government knowingly and willfully violating sections 1341 or 1342 of title 31, U.S.C., shall be fined not more than \$5,000, imprisoned for not more than 2 years, or both. [Section 1519 of title 31, U.S.C.](#) discusses the violation of section 1517 of title 31, U.S.C. and provides the same level of punishment. Criminal penalties for military personnel may include punishment under [Article 15 of the Uniform Code of Military Justice](#) or trial by Courts Martial.

090303. Reporting

When submitting a Report of Antideficiency Act Violation to the Office of the Under Secretary of Defense (Comptroller) Deputy Chief Financial Officer that may require criminal penalties, a statement to that effect—which is required by [OMB Circular A-11](#)—shall be included in the Report of Antideficiency Act Violation from the Assistant Secretary of the Military Department for Financial Management, or the Comptroller or Senior Financial Manager for other DoD Components.