

The Merit Systems Protection Board in its landmark decision, Douglas vs. Veterans Administration, 5 M.S.P.R. 280 (1981), established criteria that supervisors must consider in determining an appropriate penalty to impose for an act of employee misconduct.

Douglas Factor Evaluation Checklist

___ Douglas Factor 1 - Seriousness of Offense

- a. How does the charged conduct affect the agency's operations and/or mission?
- b. Was the action intentional/deliberate or inadvertent? Explain.
- c. Was it an isolated incident or was conduct repeated? Explain.
- d. Did the employee gain anything from the conduct? What?

___ Douglas Factor 2 - Job Level and Type of Employment

- a. Is the employee a supervisor/manager?
- b. Does the person occupy a position of trust? How does the employee's charged conduct relate to his/her position of trust?
- c. Does the employee occupy a position of prominence? Explain.

___ Douglas Factor 3 - Prior Misconduct

- a. Does the employee have a prior disciplinary record? What for? When?
- b. Is the prior discipline for similar conduct as the current charge(s)? Explain.
- c. Is the discipline a matter of record?
- d. Is it time-barred, i.e. reprimand over 2 years, contract article?
- e. Is the prior discipline still being challenged? Explain.

___ Douglas Factor 4 - Employee's Past Work Record

- a. Length of service?
- b. Prior work record? What do appraisals say?
- c. Ability to get along with others?
- d. Dependability?

___ Douglas Factor 5 - Erosion of Supervisory Confidence

- a. Is there a loss of trust and confidence? Explain without vague conclusions.
- b. How do job duties relate to a loss of trust and confidence?

___ Douglas Factor 6 - Consistency of Penalty

Is the penalty consistent with that imposed for other employees for similar charges? If not, why?

___ Douglas Factor 7 - Consistency of Penalty with Table of Penalties

- a. Is the charged conduct listed in the Table of Penalties?
- b. If not, what offense is most similar?
- c. Is the proposed penalty within the range identified in table? If not, why?

___ Douglas Factor 8 - Notoriety

- a. Any publicity regarding conduct? What type? Explain.
- b. Any complaints, concerns registered by customers, public, etc.?

_____ Douglas Factor 9 - Notice of warning about conduct

- a. Any non-disciplinary counseling documented? Copies given to employee?
- b. Any briefings/training involving charged violation?
- c. Any general Standards of Conduct briefings? When?
- d. Any letter of expectations provided to the employee about conduct?

_____ Douglas Factor 10 - Potential for Rehabilitation

- a. Early truthful admission?
- b. Remorsefulness/contrition?
- c. Getting assistance with the problem?
- d. Reporting of Misconduct before investigation?

_____ Douglas Factor 11 - Mitigating Circumstances

- a. Personal Problems? b. Emotional distress? c. Medical condition?
- d. Unusual Job tensions?
- e. Malice or provocation by others?

_____ Douglas Factor 12 - Effectiveness of a lesser sanction

- a. If removal, why not lesser sanction?
- b. Did you consider other alternative sanctions? If not, why? If so, why did you not mitigate?

I hereby certify that I have considered the twelve (12) Douglas factors as indicated above (with my initial next to each factor) in making my penalty determination.