

GAO Highlights

Highlights of [GAO-18-48](#), a report to congressional requesters

Why GAO Did This Study

Misconduct is generally considered an action by an employee that impedes the efficiency of the agency's service or mission. Misconduct incidents can affect other aspects of employee morale and performance and impede an agency's efforts to achieve its mission.

GAO was asked to examine how executive branch agencies address employee misconduct. This report (1) describes the process agencies are required to follow in responding to employee misconduct; (2) identifies alternative approaches to the formal process that agencies can use and assesses what factors affect agencies' responses to misconduct; (3) describes trends in removals and other adverse actions resulting from misconduct; and (4) identifies key practices agencies can use to help them better prevent and address misconduct. To address these objectives, GAO reviewed relevant sections of title 5 of the U.S.C.; analyzed MSPB and OPM data, and interviewed, among others, agency officials and subject-matter experts.

What GAO Recommends

GAO recommends that OPM, working with the Chief Human Capital Officers Council, (1) take steps to improve the quality of data collected on misconduct; (2) leverage lessons learned to help agencies address misconduct; and (3) improve guidance on training supervisors and human resources staff on addressing misconduct. OPM partially concurred with two recommendations, and disagreed with the first, stating that its guidance has been successfully relied upon by agencies. GAO maintains the action is needed to help strengthen oversight.

View [GAO-18-48](#). For more information, contact Robert Goldenkoff at (202) 512-2757 or goldenkoff@gao.gov.

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FEDERAL EMPLOYEE MISCONDUCT

Actions Needed to Ensure Agencies Have Tools to Effectively Address Misconduct

What GAO Found

Chapter 75 of title 5 of the U.S. Code specifies the formal legal process that most agencies must follow when taking adverse actions, i.e., suspensions, demotions, reductions in pay or grade, and removals, for acts of employee misconduct. Chapter 75 details the built-in procedural rights certain federal employees are entitled to when faced with adverse actions.

Depending on the nature of misconduct, an agency may use utilize alternative discipline approaches traditionally used in government to correct behavior. Alternative discipline is an approach to address misconduct that is available to agencies in lieu of traditional penalties (e.g., letters of reprimand and suspensions of 14 days or less). An example is a last chance agreement, whereby an employee recognizes the agency's right to terminate him or her should another act of misconduct occur.

Based on the data collected by the Office of Personnel Management (OPM), agencies formally discipline an estimated 17,000 employees annually under Chapter 75, or less than 1 percent of the federal workforce, for misconduct. Based on OPM data, in 2016, agencies made 10,249 suspensions, 7,411 removals, and 114 demotions for misconduct. However, because of weaknesses in OPM's data on employee misconduct, which is provided by the agencies, OPM is unable to accurately target supervisory training to address misconduct, and decision-makers do not know the full extent or nature of this misconduct.

Key lessons learned can help agencies better prevent and respond to misconduct. For example, tables of penalties provide a list of the infractions committed most frequently by agency employees, along with a suggested range of penalties for each to ensure consistent treatment for similar offenses. However, not all agencies have a table of penalties, including OPM, nor are agencies required by statute, case law or OPM regulations. Subject-matter experts we contacted identified additional promising practices that agencies can use to respond employee misconduct. Some of these are presented below.

Key Practices That Can Help Agencies Better Prevent and Respond to Misconduct

Senior Agency Officials Must Set Positive Conduct Examples (tone at the top)	Senior leaders must exhibit positive workplace behavior as an example to agency employees.
Additional Training Could Help Supervisors Identify and Deal with Misconduct	Conduct on-going training for supervisors and hold them accountable for addressing misconduct in a timely manner when it occurs
Internal Collaboration is Key to Effectively Address Employee Misconduct	Maintaining effective lines of communication and collaboration with the human resources office staff, line-level management, and agencies' legal counsel
Set Clear Expectations and Engaging Employees	Setting and communicating clear rules and expectations regarding employee conduct and assuring that employees conform to any applicable standards of conduct

Source: GAO analysis of expert testimony. | GAO-18-48

Agencies are accountable for providing required training to their managers. However, agency officials and subject-matter experts we interviewed said federal managers may not address misconduct because they are unfamiliar with the disciplinary process, have inadequate training, or receive insufficient support from their human resources offices.