

Disciplinary Actions and Adverse Actions

When a federal employee is issued a proposed or actual disciplinary or adverse action, nothing is more important than understanding your rights and fighting to protect them. Tully Rinckey's experienced federal employment

attorneys are available to provide counsel and representation to federal employees who are under investigation for misconduct, facing proposed disciplinary or adverse actions for misconduct or poor performance, as well as appealing or otherwise challenging disciplinary or adverse actions. In the federal government, a disciplinary action includes suspensions of 14 days or less and reprimands, while an adverse action includes the more severe forms of discipline such as removals, suspensions of more than 14 days, and a reduction in grade (demotion) or pay. Tully Rinckey lawyers have experience defending the interests of federal employees who are charged with a wide range of alleged misconduct, including, but not limited to:

Absence without leave (AWOL)

or other attendance issues

Misuse of funds

Violence in the workplace

Falsification

Insubordination or failure to follow directives

Security violations

Improper use or theft of government property

Conduct unbecoming a federal employee

Prohibited personnel practices

Lack of candor

Additionally, Tully Rinckey lawyers are available to assist federal employees who are faced with allegations of poor performance, have been placed on a Performance Improvement Plan (PIP) and/or are issued performance related discipline, such as a proposed removal or demotion. Tully Rinckey attorneys are also available to represent federal employees who have received a performance-related adverse action that needs to be appealed to the Merit System Protection Board

.At every stage of the investigatory or disciplinary process, Tully Rinckey attorneys will work with you and your agency to find the best solution possible for your career. About the Disciplinary Process

The disciplinary process usually begins when a federal employee is accused of misconduct and placed under investigation. The investigation should result in the agency's decision to interview the employee about their alleged misconduct, and to thereafter propose a disciplinary or adverse action through a written notice. The notice should provide the employee with the reasons for the proposed discipline or adverse action and provide him/her a reasonable opportunity to respond orally and in writing before the agency decides whether to issue a disciplinary or adverse action. These are crucial steps in the process and it may be helpful to discuss your rights with a lawyer who has experience in this area of law. Federal employees have the right to demand that the agency turn over any relevant evidence upon which the agency relied in proposing the discipline or adverse action. The employee then has the right to reply to the charges both orally and in writing. A Tully Rinckey attorney can assist you at these stages by helping you through your investigation interview, as well as with the arguments you need to set forth in your written reply while speaking on your behalf at the oral reply. After you reply, the deciding official will review your responses and issue a written decision either upholding or withdrawing the proposed action or reducing the proposed punishment. If the deciding official elects to issue a disciplinary action, Tully Rinckey attorneys can assist you in negotiating for a clean record or challenging the action through the EEO, OSC, or grievance process. If the deciding official elects to issue an adverse action (removal, suspension of more than 14 days, or demotion), Tully Rinckey attorneys can assist you in appealing the decision to the Merit Systems Protection Board (MSPB)

. If you are covered by a union contract, we may even be able to represent you to file and prosecute a union grievance through arbitration. Before the MSPB

judge, you will have the right to partake in formal discovery to obtain evidence from the agency relevant to the case and the right to a hearing on the merits of your case before an administrative judge. If the employee is unsuccessful before the MSPB

, he or she may petition for review by the full MSPB

, and, ultimately, appeal to the U.S. Court of Appeals for the Federal Circuit in Washington, D.C. While the appeals process is stressful, the employee may be entitled to have the disciplinary action reversed. Additionally, the employee could be awarded damages, full back pay, benefits, interest, and the reimbursement of attorney's fees. In whistleblower retaliation or EEO discrimination cases, a successful employee may be awarded consequential or compensatory damages. To learn more about the MSPB appeals process when facing discipline in the federal workplace, download Tully Rinckey PLLC's free MSPB Guidebook

.Contact Us

The timelines surrounding disciplinary and adverse actions, especially when notices of proposed removal or suspension are issued, are often tight and unforgiving. We recommend that you contact experienced legal counsel as soon as possible in order to be educated on all the options available to protect your career. If you are a federal employee facing a misconduct investigation or a disciplinary or adverse action, contact Tully Rinckey to see how our knowledgeable federal employment attorneys may assist you. We can be reached 24 hours a day, 7 days a week at 703-525-4700 or via email at info@fedattorney.com

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