

2. The employee's job level and type of employment, including supervisory or fiduciary role, contacts with the public, and prominence of the position. For example, certain employees such as supervisors or law enforcement officers may be held to higher standards than other employees. What consideration was given to this factor?

I have considered that (b)(6) is an Expert Behavioral Detection Officer (EBDO) who maintains a security clearance at a Secret Level. EBDO (b)(6) is relied upon to provide an additional layer of security that is vital to TSA Security Operations. EBDO has been assigned designated Point of Contact the majority of the time because he is a G Band. EBDO (b)(6) is relied upon to conduct SPOT- certified designee responsibilities in the absence of the SPOT- TSM; therefore, EBDO (b)(6) is held to a higher standard. All TSA employees are expected to comply with all TSA directives, policies and procedures.

As a Behavior Detection Officer, EBDO (b)(6) is required to be in constant contact with the traveling public either by having discussions with them or observing their behavior. Any deviation from this, as was the case with EBDO (b)(6) creates vulnerability in security. Moreover, this behavior is not in keeping with the professional standards expected of members of TSA.

3. The employee's past adverse or disciplinary action record. If past discipline is used, it must be mentioned in the notice of proposed action. What consideration was given to this factor?

EBDO (b)(6) past disciplinary action record is as follows:

06/17/2011: Letter of Reprimand for failing to follow SOP and submit the required reports after the shift

4. The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability. What consideration was given to this factor?

EBDO (b)(6) has been employed with TSA since September 8, 2002. He was a Lead Transportation Security Officer (LTSO) prior to becoming an Expert Transportation Security Officer (EBDO). Both positions require a higher level of conduct. EBDO (b)(6) generally gets along with fellow workers; however, EBDO (b)(6) has a reoccurring issue with one particular EBDO. EBDO (b)(6) dependability has become an issue considering this would be the second time EBDO (b)(6) has failed to complete assigned paperwork and the fact he was observed sitting and smoking instead of conducting Playbook.

5. The effect of the offense upon the employee's ability to perform at a satisfactory level, and its effect upon the supervisors' confidence in the employee's ability to perform assigned duties. What consideration was given to this factor?

The conflict EBDO (b)(6) had with EBDO (b)(6) on July 24, 2012 appears to have caused EBDO (b)(6) to be distracted which resulted in him not finishing his duties as the designated Spot-POC. This incident and the fact he was observed sitting and smoking instead of conducting Playbook on September 24, 2012, has caused the STSM to lose confidence in EBDO (b)(6) ability to perform at a satisfactory level.

6. Consistency of penalty with those imposed upon similarly situated employees for the same or similar offenses. What consideration was given to this factor?

The recommended penalty range for failure to follow Standard Operating Procedures is a five (5) day suspension to removal. The recommended penalty range for inappropriate conduct is a fourteen (14) day suspension to removal. Therefore, a fourteen (14) day suspension is consistent with the table of penalties and with other employees who have engaged in the same or similar offenses.

7. The notoriety of the offense or its impact on the reputation of the agency. What consideration was given to this factor?

No known notoriety.

8. The clarity with which the employee was on notice of any rules violated in committing the offense or had been warned about the conduct in question. What consideration was given to this factor?

EBDO (b)(6) reviews TSA MD 1100.73-5, Employees Responsibilities and Conduct annually in OLC and has signed the MD acknowledging the expectations. This MD states employees are responsible for complying with directions and instructions received from their supervisor or other management official. Additionally, I placed the BDOs, including EBDO (b)(6) on notice on February 28, 2012, regarding the expectations and regulations on how to conduct yourself while conducting Playbook. The Assistant Federal Security Director – Screening, Margarita Westphal, was also present during this conversation. EBDO (b)(6) signed the Conduct Responsibilities Memorandum acknowledging the expectations during Playbook. He is also well aware of the importance of performing BDO duties as an additional layer of security. When MBDO (b)(6) was issued a Letter of Reprimand in June 2011, he was placed on notice that any future misconduct could result in more severe disciplinary action up to and including removal.

9. The clarity with which the employee was on notice of performance expectations and problems with his or her performance. What consideration was given to this factor?

On June 17, 2011, EBDO (b)(6) received a Letter of Reprimand for failing to follow Standard Operating Procedures when he failed to ensure SPOT After Action- Reports were completed and submitted as instructed by his Supervisor.

To ensure all BDOs were informed, in the February 28, 2012 meeting both AFSD-S/SPOT Coordinator Margarita Westphal and myself explained how imperative it is for BDOs to conduct themselves professionally, especially when in public view during Playbooks.

10. Potential for the employee's rehabilitation. What consideration was given to this factor?

The potential for BDO (b)(6) rehabilitation is limited.

11. Mitigating circumstances surrounding the offense such as unusual job tensions, personality problems, mental impairment, harassment, or bad faith, malice or provocation on the part of others involved in the matter. What consideration was given to this factor?

No mitigating factors

12. The adequacy and effectiveness of alternative actions to deter such conduct or improve performance in the future by the employee or others. What consideration was given to this factor?

No alternative actions would be effective in deterring EBDO (b)(6) misconduct in the future. Accordingly, a fourteen (14) day suspension is appropriate and reasonable.

D. Gonzales
Deborah Gonzales, STSM

10.16.12
Date