

~~SENSITIVE SECURITY INFORMATION~~

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wrote that you needed a break to take your medication which you stated you always take between 0700 hours and 0730 hours. You wrote that in your original statement dated July 4, 2012, you gave a detailed account of the incident with a timeline of the events. You wrote that you lost sight of the suspicious individual; however, I note that SPOT SOP procedures require you to maintain visual contact with the individual until you complete the referral process. After you were at a distance, you and MBDO (b)(6) discussed and determined the individual was in fact a SPOT LEO notification. You and MBDO (b)(6) contacted the Behavior Detection Officer in Charge (BDOC) with all the pertinent information and for direction on how to proceed, but you never requested LEO assistance as required by the SPOT SOP. I note that your statement also contradicts that of MBDO (b)(6) as you wrote that you both escorted the individual down to the baggage claim area to the bus area, but MBDO (b)(6) stated that the individual appeared to go down to the baggage claim area to the information desk. I also note that when you spoke to the second BDO Team assigned to Terminal C you did not pass on the behaviors before going to break. However, in your statements you indicate that you and MBDO (b)(6) had already determined that the passenger was a SPOT LEO call.

I note that STSM (b)(6) spoke to you after the incident and asked you why you did not make the appropriate notifications and conduct the SPOT LEO referral. You stated, "I did not call for LEO to arrive because I could not locate the individual, and I thought if we could locate the individual and he had not left the premises we would then call LEO."

After considering all the evidence of record, I have determined that you committed the offenses described above, and that an five (5) day suspension is the appropriate penalty. In determining the appropriateness of this proposal, I considered the following factors.

I considered that when employees fail to follow SOP, it adversely affects our ability to provide efficient and effective security at our airport. In your position as an EBDO, you are responsible for screening people, property, and documentation to help ensure the security of the airport, passengers, and the public. Consequently, it is critical that management be able to trust that you will perform your duties in accordance with established procedures. I also considered that as an EBDO, you are expected to meet high standards of performance, conduct, and professionalism, and to lead by example. As noted in MD 1100.73-5, you are expected to conduct yourself in a manner that does not adversely reflect on TSA, negatively impact the agency's ability to discharge its mission, cause embarrassment to the agency, or cause the public and/or TSA to question your reliability, judgment, and trustworthiness. Your actions demonstrate poor judgment, set a poor example for your co-workers, and reflect a failure to meet the standards expected of an EBDO. I also considered that as an EBDO, you have been fully trained on the requirements of all SOPs and advised of the responsibilities cited above.

I note that on January 4, 2012, you received a Letter of Counseling for attendance as a result of unscheduled sick leave.

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Finally, I considered that a five (5) day suspension is consistent with the agency's penalty guidelines, which provides that the recommended penalty range for failing to follow SOP is a five-day suspension to removal. The recommended penalty range for inappropriate conduct is a five-day suspension to a fourteen-day suspension and the recommended penalty range for failure to follow instructions is a Letter of Reprimand (LOR) to a ten-day suspension. Although the penalty guidelines provide that in cases where an employee commits more than one offense, the appropriate penalty generally should be in the aggravated penalty range corresponding to the most serious offense being charged, I determined that the recommended penalty range for failure to follow SOP procedures, inappropriate conduct, and failure to follow instructions is appropriate in this case due to your lack of prior disciplinary and adverse actions. I also considered as mitigating factors that you have been with the agency since November 3, 2002, and your performance ratings have been satisfactory. Your PASS level for 2011 was a Level 4, and for 2010 was a Level 5.

This is a proposal and not a decision. You have the right to reply to this proposal orally and/or in writing and furnish any evidence in support of your reply within seven (7) calendar days after the date you receive this proposal. Full consideration will be given to extending this time limit if you submit a written request stating your reasons for needing more time. Full consideration will also be given to any reply you submit. A written reply, affidavits, and any other documentary evidence should be forwarded to the deciding official, Olusheyi Ogunleye, Assistant Federal Security Director for Screening, at 18700 John F. Kennedy Blvd., Houston, TX 77032. You may make arrangements for an oral reply with Mr. Ogunleye by contacting Candice Scott at 281-443-

(b)(6)

You have the right to be represented by an individual of your choice in preparing and presenting any reply. As a bargaining unit employee you may select a representative from AFGE to serve as your personal representative, but you are not required to do so. You may designate any individual, whether or not that person is affiliated with AFGE, to serve as your personal representative. However, you may not select an individual employed by any union other than AFGE to serve as your personal representative.

If you choose to have a representative, you must provide the name, title, address, and phone number in writing to Mr. Ogunleye before the expiration of the reply period and you must provide written notice of any change in representation. If the representative is a TSA employee, you must also provide the work location. All TSA representatives must follow the provisions and requirements of TSA MD 1100.63-3, *Employee Representation*. Management has the right to disallow your representative if the representative or his/her position creates a conflict of interest, or where the representative is a TSA employee, if he or she cannot be spared because of critical TSA work. You are responsible for all costs associated with your representation, including travel expenses.

You may request a reasonable amount of official time to prepare and present your reply, if you are in a duty status. Arrangements for the use of official time for these purposes must be made in

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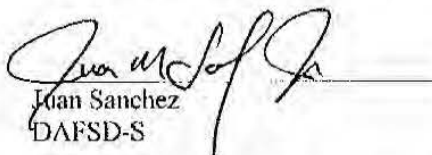
advance and in writing to Mr. Ogunleye. Your representative, if a TSA employee, may request a reasonable amount of official time for these purposes, if in a duty status. He or she must make arrangements for the use of official time for such purpose with his or her supervisor. In the situation where a chosen representative has a schedule conflict and cannot represent the employee during the requested time period, an alternative official time period should be identified and should be approved within a reasonable time thereafter.

A final decision will not be made in this matter until your reply has been received and considered, or if no timely reply is received, until after the time specified for the reply has passed. You will be notified in writing of the final decision.

The material relied upon is attached and is released only to you and/or your designated representative.

The Employee Assistance Program (EAP) is available to you to provide counseling and/or assistance and may be contacted at 1-800-222-0364. The EAP is a confidential resource designed to help employees address a wide range of personal or family issues.

Please sign the acknowledgement of receipt below. Your signature does not indicate agreement with this action; it only represents receipt of this notice on the date signed.


Juan Sanchez
DAFSD-S

10/10/12
Date

Attachments: Itemized list of the materials relied on to support this action
Material relied on to support this proposed action

Acknowledgement of Receipt:

(b)(6)


10/18/12
Date

EBDO

Delivery Information:

(b)(6)


10/18/12
Date

Hand Delivered By (name/signature)

cc. Employee Relations

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