

Writing Conduct and Performance Letters Course

Develop legally sufficient conduct and performance documentation by applying due process, regulatory requirements, case law, and structured disciplinary practices across a range of federal personnel actions.

Group classes in Washington, DC and onsite training is available for this course.

For more information, email onsite@graduateschool.edu or visit:

<https://www.graduateschool.edu/courses/writing-conduct-and-performance-letters>



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Course Outline

Module 1: Due Process

- Define due process and the property interest in continued employment; distinguish probationary vs. non-probationary rights.
- Identify violations (biased deciding official, ex parte communications, lack of authority) and their consequences.
- Draft probationary pre- and post-employment removal letters and outline available appeal/EEO channels.

Module 2: Progressive Discipline: The Initial Steps

- Use counseling as the informal first step; know what belongs in a counseling memo.
- Write a legally sufficient Letter of Reprimand and understand OPF retention and grievance language.
- Decide when to start informally vs. move directly to formal action.

Module 3: Important Regulatory and Other Factors

- Cite controlling authorities in letters: 5 CFR Parts 752/432/315/731; 5 U.S.C. 7513; crime provision; CBA references.
- Apply “efficiency of the service,” nexus, and just-cause principles (including the seven just-cause tests).
- Comply with the Privacy Act when collecting information that may drive adverse determinations.

Module 4: Charge, Element, and Specification

- Define and differentiate the charge, element, and specification in the body of a proposal letter.
- Avoid pitfalls: legal charges with higher burdens, piling/stacking, compound charges, and adding new charges post-proposal.
- Write specifications using the “who/what/where/when/why” to prove the element.

Module 5: Penalty Analysis

- Apply all twelve Douglas factors and document your analysis.
- Use (but don't be bound by) tables of penalties; ensure consistency and notice.
- Avoid “zero-tolerance only” reasoning and include aggravating factors in the proposal.

Module 6: Rights and Procedures

- Provide due process: notice, access to evidence, reply opportunity, and a neutral/authorized deciding official.
- Manage duty status and consider options such as administrative leave or indefinite suspension where appropriate.
- Explain appeal, grievance, OSC, and EEO avenues; understand harmful procedural error.

Module 7: The Decision

- Role of the deciding official: weigh the record and reply, avoid ex parte input, and exercise independent judgment.
- Draft a defensible decision letter (charges sustained, Douglas analysis, penalty rationale, and rights notice).
- Set effective dates and implement remedies while preserving the record.

Module 8: Medical Removal

- Prepare medical inability to perform letters and distinguish them from conduct/performance actions.
- Gather and evaluate medical documentation consistent with privacy and RA obligations.
- Address reassignment/last-chance options and document interactive-process efforts as applicable.

Module 9: Performance-Based Actions

- Establish elements and standards; structure and administer a PIP.
- Choose Chapter 43 vs. Chapter 75 appropriately and meet the correct evidentiary standard.
- Draft proposal and decision letters tied directly to failed critical elements.

Module 10: Settlement Agreements

- Draft clear, enforceable terms (scope of waiver, consideration, non-admission, confidentiality where permitted).
- Address special rules (e.g., age claims/OWBPA review periods) and last-chance agreements.
- Document compliance and close-out actions to prevent future disputes.

Module 11: Directed Assignment

- Explain the purpose and requirements of directed (re)assignments and business justification.
- Write the notice, outline consequences of refusal, and cover relocation/logistics as applicable.
- Identify employee response and grievance/appeal options.