This policy addresses what should be expected when employee conduct, performance, or attendance do not meet Department expectations and explains how most disciplinary actions will be administered. The Department reserves the right to apply discipline it considers appropriate. The Department will comply with all provisions of law prohibiting discrimination and unlawful retaliation when administering discipline.

GENERAL PROVISIONS

It is the responsibility of supervisors to discuss performance, conduct, and attendance with their staff regularly, providing both positive and constructive feedback. The Department endeavors to ensure all employees have clear performance expectations, understand how daily work contributes to the Department’s mission, and receive regular feedback from their supervisors. Professional development and growth are critical to the Department’s success. Such conversations should occur frequently and at a minimum monthly during the employee’s ENGAGE meeting. This may entail coaching or providing training to staff to help them improve in specific areas of their job performance.

Additionally, supervisors can encourage or recommend staff members contact the Strive Employee Life and Family (SELF) program (formerly the Employee Assistance Program) voluntarily. Mandatory SELF referrals for serious matters (such as drug/alcohol issues) should be requested by the supervisor through their chain of command to the Human Resources Program, who will make the mandatory referral.

When employee performance, conduct, or attendance does not meet expectations, discipline may be warranted. In general, the purpose of discipline is to ensure the employee understands behavior, performance, and attendance expectations, and depending on the severity of the issue, has a reasonable opportunity to correct the problem. While it is impossible to list every type of behavior that may warrant discipline, the Department’s Conduct and Ethics Policy 1.01 includes examples of behavior that may result in disciplinary action. All employees of the Department are employed at-will.

Employees of certified bargaining units may have rights pursuant to bargaining unit contracts in addition to those listed in this policy.
INVESTIGATING EMPLOYEE ACTIONS

Supervisors are responsible for undertaking appropriate factual investigations, when warranted. Supervisors should use the attached Employee Incident Report when investigating an issue that may lead to disciplinary action. Supervisors must work with their chain of command and the Human Resources Program to receive guidance in dealing with situations that may warrant an investigation by the Human Resources Program or law enforcement. Examples include but are not limited to allegations of sexual harassment, unlawful discrimination, retaliation, workplace violence, and other suspected or alleged crimes.

When appropriate, an employee may be placed on administrative leave with pay at the discretion of the appointing authority pending an investigation, submittal of fitness-for-duty documentation, or if other extenuating circumstances warrant removal of the employee from the workplace.

ADMINISTERING DISCIPLINE

Supervisors must work with their chain of command and the Human Resources Program during any disciplinary action(s). All formal disciplinary actions are done with the approval of the Division Director, in consultation with and approved by the appointing authority.

Disciplinary action includes options, such as:

- Verbal reprimand or a letter of caution.
- Written reprimand.
- Notice of Unacceptable Conduct.
- Suspension without pay.
- Demotion.
- Dismissal.

Every disciplinary action should clearly communicate the nature of the problem(s), the corrective action(s) the employee must take, and that future disciplinary steps may be taken if the problem(s) are not corrected.

Supervisors must maintain appropriate documentation for all disciplinary actions, and ensure that actions taken are based on the facts of the situation.
Supervisors are responsible for ensuring confidentiality of personnel-related investigations and disciplinary actions, while also ensuring an appropriate degree of information is shared with those who have a business need or safety reason to know.

For all disciplinary actions other than dismissal, the supervisor must follow up to ensure the employee receives appropriate guidance and feedback. This includes reviewing progress on the corrective action(s), answering questions, and discussing other circumstances that may be affecting the employee. Supervisors must document meetings and related discussions with the employee.

**DISCIPLINARY TYPES**

**Verbal Reprimand**
The supervisor, with their next level manager, privately and confidentially discusses with the employee the specific concern. Supervisors should provide specific examples of the unacceptable conduct, performance, or attendance, and examine the necessary facts to arrive at a satisfactory solution. The employee should generally be given an opportunity to express their perspective.

This discussion should clearly point the way to successful correction, including a definite and reasonable time frame for correction of the problem. In all instances, the supervisor must maintain documentation of the disciplinary action. The supervisor may choose to document the verbal warning with an email to the employee that summarizes the discussion and steps the employee must take for successful correction.

**Letter of Caution**
A letter of caution provides a formal alternative to the verbal reprimand. The supervisor drafts the letter of caution and obtains approval from their division director and the appointing authority before discussing and presenting the Letter of Caution to the employee.

After receiving approval from their division director and the appointing authority, the supervisor, with their next level manager, should discuss and present the disciplinary action to the employee. The Letter of Caution is placed in the supervisor’s other personnel file and a copy of the final letter is submitted to Human Resources.
Written Reprimand
A written reprimand can be used when the situation warrants a significant disciplinary action.

The supervisor drafts the written reprimand and obtains approval from their division director and the appointing authority before discussing and presenting the disciplinary action to the employee.

The supervisor, with their next level manager, should discuss and present the disciplinary action to the employee.

The employee or a witness in the meeting signs the written reprimand to indicate it was presented to the employee.

The written reprimand will be forwarded to the Human Resources Program to be placed in the employee’s official personnel file.

Notice of Unacceptable Conduct
A notice of unacceptable conduct can be used in the event of an instance of unacceptable conduct by an employee that in the judgment of the appointing authority does not warrant immediate suspension, dismissal or demotion, but requires a permanent record of the incident.

The notice of unacceptable conduct with any desired supporting documentation is forwarded through the appropriate chain of command to the division director for concurrence. Once in concurrence, the division director forwards the notice of unacceptable conduct to the appointing authority.

The appointing authority, in consultation with the department’s Triad, reviews and either approves or denies the recommendation for notice of unacceptable conduct.

The division director or designee, and/or other appropriate manager presents the notice of unacceptable conduct to the employee. The employee or a witness in the meeting signs the notice of unacceptable conduct to indicate it was presented to the employee.

This letter will be placed in the employee’s official personnel file and will be documented on the employee’s state employment record with the Office of Administration, Division of Personnel.

Suspension Without Pay or Demotion
Suspension without pay or demotion are tools to use when the situation warrants a very significant disciplinary action.
The supervisor drafts the letter informing the employee of the suspension or demotion and obtains approval from their division director and the appointing authority before discussing and presenting the disciplinary action to the employee. Any supporting documentation must be provided to the appointing authority along with the draft disciplinary action. The appointing authority, in consultation with the Department’s Triad team, reviews and either approves or denies the recommended action.

The division director or their designee and a manager in the employee’s chain of command should discuss and present the disciplinary action to the employee. Demotions cannot be made unless the employee clearly meets the minimum qualifications for the lower classification, a reasonable expectation for success has been demonstrated from the employee’s current performance, and the position in the lower classification is vacant. The employee must demonstrate success in the new classification or dismissal may be warranted.

The employee or a witness in the meeting signs the disciplinary action to indicate it was presented to the employee.

The disciplinary action will be placed in the employee’s official personnel file and will be documented on the employee’s state employment record with the Office of Administration, Division of Personnel.

**Dismissal**

When a supervisor believes dismissal is warranted, the supervisor must consult with their division director and the appointing authority. The supervisor drafts the letter informing the employee of their dismissal and obtains approval from their division director and the appointing authority. Any supporting documentation must be provided to the appointing authority along with the draft disciplinary action. The appointing authority, in consultation with the Department’s Triad team, reviews and either approves or denies the recommended action.

The division director or designee, and a manager in the employee’s chain of command should present the dismissal to the employee. If circumstances warrant, the employee may be notified by certified mail of the dismissal.

The dismissal will be placed in the employee’s official personnel file and will be documented on the employee’s state employment record with the Office of Administration, Division of Personnel.
REFERENCES

Related Department policies:

  Conduct and Ethics 1.01
  Affirmative Action and Employee Relations 1.02
  Employee Assistance Program Procedures 1.02-08
  Employee Records 1.03
  Discipline Procedures 1.08-01

DEFINITIONS

Appointing authority: An officer having power to make appointments for employment or other personnel related issues or transactions. In the Department the appointing authority to direct personnel action to is the Human Resources Director.

At-will: An employment relationship where an employee is selected at the discretion of the appointing authority, serves at the pleasure of the appointing authority, and may be discharged for no reason or any reason not prohibited by law.

Discipline: An action presented to an employee documenting performance, conduct, or attendance concerns.

Official personnel file: The file maintained by the Human Resources Program that is the official record concerning employment events or actions for an employee of the Department.

Other personnel files: Any record kept by an employee’s supervisor, program, and/or division as documentation.

Supervisor: Individual who directly supervises the work of another employee, who approves time sheets or leave requests, conducts ENGAGE meetings, and may recommend disciplinary action.

Triad: The Department’s team that advises the Appointing Authority (Human Resources Director) in reviewing certain personnel actions for equity, consistency, legality, and appropriateness, composed of the Division of Administrative Support Director, Human Resources Director, other Human Resources personnel, and the Department’s Legal Counsel.
Personnel actions typically reviewed by the Triad include but are not limited to discipline involving suspensions without pay, demotions, and dismissals.

*Witness:* Any employee (usually a supervisor) who signs their name to a letter concerning disciplinary action, to attest that the letter is authentic and that the terms of the letter were discussed with the employee.