

EMPLOYEE DISCIPLINE POLICY

Policy Statement

Policy

The Department of Labor shall ensure that employee discipline is administered in a fair and consistent manner. The Department is committed to taking the minimum disciplinary action necessary to correct the employee's deficiencies while maintaining proper conduct and morale.

Authority and Reference

- A. Connecticut General Statutes, 5-240, 5-266-a - 5-266-c.
- B. Regulations of Connecticut State Agencies, Sections 5-201-1 through 5-201-3, 5-240-1a - 5-240-8a inclusive, 5-266-a - 5-266-d inclusive.

Appeals

Within one (1) week of a decision to suspend, involuntarily demote, or dismiss an employee, the appointing authority shall provide written notice to the employee. The notice shall state the appointing authority's decision, the reasons for the decision, the effective date of the decision, and shall inform the employee of any right to further review or appeal.

Collective bargaining agreements give employees the right to file a grievance when they are disciplined. Any permanent classified employee not included in a collective bargaining unit may appeal to the Employees' Review Board if said employee receives an unsatisfactory performance evaluation, is demoted, suspended or dismissed, or is aggrieved as a result of alleged discrimination, unsafe or unhealthy working conditions or violations involving the interpretation and application of a specific state personnel statute or regulation.

Appointed officials may not avail themselves of the grievance procedures referenced herein.

Employees may file an affirmative action grievance or complaint based on alleged discrimination through the grievance procedure outlined in the Affirmative Action Policy statement.

Definitions

For the purposes stated herein, the following definitions apply:

- A. **Appointing Authority.** A board, commission, officer, commissioner, person or group of persons having the power to make appointments by virtue of a statute or

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- by lawfully delegated authority.
- B. **Appointment.** An appointment to a position in the classified or unclassified service.
 - C. **Burden of Proof.** The responsibility placed upon one of the parties to prove the correctness or truth of any charges.
 - D. **Confidential Employee.** A public employee who would have access to confidential information used in collective bargaining.
 - E. **Contract Employee.** An individual working under the terms of a personal services agreement or an employee who has a contract to provide services.
 - F. **Employee.** An individual holding a position in the classified or unclassified service of the state, whether full-time or part-time, for which compensation is paid, who has been appointed to that position following successful completion of a working test period.
 - G. **Grievance Procedure.** The steps prescribed in the various collective bargaining agreements and Regulations of Connecticut State Agencies for the handling of a grievance. The intent of the process is to settle a complaint, customarily an allegation that the contract has been misinterpreted or misapplied.
 - H. **Investigation.** An inquiry into an alleged incident in which the findings may be sufficient to take disciplinary action.
 - I. **Just Cause.** Rationale sufficient to substantiate disciplinary action upon an employee.
 - J. **Past Practice.** A mutually recognized and consistent employer response to a given set of workplace circumstances over an extended period of time.
 - K. **Unclassified Service.** An office or position in the state service which is not in the classified service.
 - L. **Unfair Labor Practice.** Conduct on the part of either union or management that violates provisions of the national or state labor relations act.

Decision Regarding Any Formal Discipline

The appointing authority or designee, in consultation with the Human Resources Unit, shall make the decision regarding any formal discipline.

Disciplinary Factors

In determining appropriate disciplinary action, the agency shall consider the following:

- A. The employee's past work record including disciplinary history and years of service.
- B. The effect of the offense on the organization's efficient operation.
- C. The seriousness or type of the offense relative to the employee's duties and responsibilities within the organization including the possible impact on other

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employees.

- D. Any mitigating or aggravating circumstances surrounding the offense.
- E. The uniformity of enforcement.
- F. The timeliness of the disciplinary action.
- G. The propriety of the work rule(s) the employee violated.

Effective Dates of Discipline

Disciplinary action, except immediate dismissal, shall be effective as follows:

- A. **Dismissal.** The effective date of a dismissal shall not be earlier than two (2) weeks from the date of the notice required above, except in cases of serious misconduct by an employee affecting the public, or of state employees, or the protection of state property, in which case the appointing authority may make the dismissal effective immediately upon the close of the prediscipline meeting. The appointing authority shall state the specific reason for imposing immediate dismissal at the close of the prediscipline meeting and in the subsequent written notice of discipline.
- B. **Demotion.** The effective date of a demotion shall not be earlier than two (2) weeks from the date of the notice.
- C. **Suspension.** The effective date of a suspension shall be at a time determined by the appointing authority, commencing after oral or written notice of the determination to impose a suspension, so long as any oral notice is followed by the written notice required by this directive.

Exceptions to Policy

Any exception to this policy shall require prior written approval from the Commissioner.

Informal Resolution

Prior to initiating discipline, informal discussion and formal counseling shall be used whenever practicable. Additional training may be considered if it appears the employee could benefit and performance is likely to improve. However, formal disciplinary action may be taken when in the judgment of a supervisor, further training and counseling would not be effective, or the incident is of such magnitude as to require formal discipline.

Investigation

No disciplinary action shall be taken unless a disciplinary investigation has been conducted. The investigation shall be conducted by a supervisor not directly involved in the incident or by Human Resources staff. The investigator shall interview the involved employee(s), any witnesses, review all documents and any other evidence, and prepare a written report of findings.

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The investigator shall not recommend specific penalties or a level of discipline. The investigator shall gather all pertinent information to permit the appointing authority or designee to determine the most appropriate disciplinary sanction(s).

Off-Duty Employee Misconduct

An employee may be disciplined for off-duty misconduct when the conduct affects the employer-employee relationship. Discipline may occur when the conduct affects the employee's ability to perform the job; other employees refuse to work with the employee; or the Department is harmed, either directly or indirectly, as a result of the employee's off-duty conduct.

The Department shall conduct its own investigation in such circumstances. The outcome of the Department's investigation shall not be dependent upon the finding of any criminal court concerning the employee's guilt.

Offenses Resulting in Demotion

The following offenses may result in demotion: (please note that is is not an all-inclusive list)

- A. Failure to successfully complete a promotional working test period.
- B. Failure to maintain satisfactory job performance as a result of inefficiency or incompetence.
- C. Failure of a permanent employee in a trainee class to successfully complete the requirements for promotion to the target level.

Offenses Resulting in Dismissal

The following offenses or repeated lesser offenses may result in dismissal: (please note that is is not an all-inclusive list)

- A. Failure to follow a direct order.
- B. Conviction of a felony.
- C. Conviction of a misdemeanor committed while on duty.
- D. Conviction of a misdemeanor committed off duty which could impact upon the performance of job responsibilities.
- E. Offensive, indecent, or abusive conduct toward the public or co-workers.
- F. Fraud or collusion in connection with any examination or appointment in the classified service.
- G. Theft, willful neglect or misuse of any state funds, property, equipment, materials or supplies.
- H. Deliberate violation of any state statute or regulation or agency rule, depending

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upon severity of offense or place of occurrence.

- I. Absence without leave for (5) or more working days or failure to return to duty within five (5) working days following authorized leave.
- J. Use of and/or intoxication from alcohol or illegal drugs while on duty.
- K. Neglect of duty, or other employment related misconduct.
- L. Insubordination, including but not limited to failure to work overtime if directed to do so.
- M. Engaging in any activity which is detrimental to the best interests of the agency or of the state.
- N. Violation of the code of ethics and conflict of interest law and policy.
- O. Two successive unsatisfactory service ratings, if filed within two years of each other.
- P. Continuing unsatisfactory job performance after being notified of unsatisfactory job performance and the need for improvement.

Offenses Resulting in Reprimand

The following offenses may result in a reprimand for the first offense: (please note that is not an all-inclusive list)

- A. Failure to follow a direction or instruction.
- B. Failure to follow written procedures including unit rules and directives.
- C. Failure to report an incident involving a breach of conduct or violation of any work rule, regulation, or statute.
- D. Verbal altercation with another employee.
- E. Inattentiveness while on duty.

Offenses Resulting in Suspension

The following offenses may result in a suspension for the first offense or repeated lesser offenses: (please note that is is not an all-inclusive list)

- A. Failure to follow an order.
- B. Failure to follow written policies and/or procedures, resulting in severe consequences.
- C. Sleeping on duty.
- D. Fraudulent use of sick time.
- E. Loss, neglect or misuse of any state funds, property, equipment, materials or supplies.

Leave of Absence Pending Investigation

The appointing authority may place an employee on leave of absence with pay for up to

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fifteen (15) days to permit investigation of alleged serious non-criminal misconduct which could constitute just cause for dismissal. Such leave shall only be utilized if the employee's presence at work could be harmful to the public, the employee or other state employees or state property. Following a decision to place the employee on such leave, the appointing authority shall provide written notice to the employee stating the reasons for the leave, the effective date of the leave and the duration of the leave which shall not exceed fifteen (15) days.

Any employee who is the subject of criminal charges, which upon conviction would constitute just cause for dismissal, may request a voluntary leave of absence without pay pending the disposition of the criminal charges. In the event the criminal charges are not disposed of during a one (1) year voluntary unpaid leave of absence, the employee may request an extension of that leave. An appointing authority may, pending disposition of criminal charges the pendency of which would hamper the completion of an independent administrative investigation and which upon conviction of an employee would constitute just cause for dismissal, place the employee on leave of absence with pay for up to thirty (30) days. Such leave shall only be used if the employee's presence at work could be harmful to the public, the employee, other state employees or state property. Following a decision to place the employee on such leave, the appointing authority shall provide written notice to the employee stating the reasons for the leave, the effective date of the leave and the duration of the leave, which shall not exceed thirty (30) days. The leave may be extended for an additional thirty (30) day period upon request of the appointing authority and approval of the Deputy Commissioner for Administrative Services based on a showing that there are significant problems which prevent the completion of an independent administrative investigation of the underlying conduct. Any leave may be terminated by the Division Head in consultation with the Director of Human Resources with a return to work order.

To place an employee on leave without pay (in effect, a suspension) during the course of an investigation, or while criminal charges are pending, a prediscipline meeting shall be held.

Penalties

In accordance with the principles of progressive discipline, penalties may include:

- A. **Oral and Written Reprimand.** An oral or written reprimand may be used when a first offense warrants some form of disciplinary action. The purpose of a reprimand is to correct the specific act or omission that is the subject of the reprimand. An employee subject to a reprimand shall be placed on notice that continued misconduct may result in more severe discipline. Reprimands shall be documented in the employee's personnel file.
- B. **Suspension.** Suspension may be imposed for a specific and serious breach of conduct rather than an action resulting from an employee's incompetence. A suspension may be warranted for a first offense which constitutes a serious breach of rules or subsequent offense following the issuance of an oral or written reprimand. Suspension without pay or reduced pay shall not exceed 60 days in any

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calendar year.

- C. **Demotion.** Demotion may be considered when an employee, based on inefficiency or incompetence, cannot carry out the duties and responsibilities of the assigned position but may perform satisfactorily in a less demanding assignment. A demotion may be given following an "Unsatisfactory" service rating. A demotion shall not be made earlier than three (3) months after a permanent appointment.
- D. **Dismissal.** Dismissal is the most severe penalty in the employee disciplinary process and is reserved for situations when an employee has repeatedly demonstrated an inability to follow agency and/or unit directives, procedures or orders, or when other forms of disciplinary action have failed to correct the problem, or for first offenses which threaten the safe and efficient operation of the unit.

Pre-Discipline Meeting

Upon completion of the investigation, and prior to a decision to involuntarily suspend, demote or dismiss, a prediscipline meeting shall be held for any permanent employee whose employment is subject to the "just cause" standard. This meeting shall be conducted by a management designee who has a significant role in the decision making process.

- A. **Scope.** Prior to the prediscipline meeting, the employee shall be provided with: (1) oral or written notice of charges; (2) the action being considered by the agency; (3) a concise statement explaining the evidence which supports the action being considered; and (4) a specific time, a place for a meeting where the employee will be given an opportunity to present his or her side of the story and reasons why the employee feels that the action being considered should not be taken.
- B. **Notice.** If written notice is given, it may be mailed, return receipt requested, or hand delivered to the employee at work. If the notice is mailed, the time of the meeting when the employee is given an opportunity to respond to the charges shall be no sooner than five (5) business days following the mailing of the notice. If the notice is hand delivered to the employee at work or given orally, the time of the meeting when the employee shall be given an opportunity to respond to the charges may be any time following receipt of the notice, including immediately following the receipt of the notice unless the complexity of the charges require additional time. In such case the employee may request and be granted a reasonable amount of time before being required to respond, normally within 48 hours of the notice. If an employee declines or fails to attend the pre-disciplinary meeting, the appointing authority may proceed with disciplinary action consistent with the notice provided under this policy.
- C. **Representation.** An employee who receives a prediscipline meeting shall have representation if the employee so chooses. Under certain collective bargaining agreements, the employee must be notified of the right to have representation. However, representation is limited to those situations when the employee

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reasonably believes the hearing or meeting may result in disciplinary action. The employee may choose the union representative, but cannot insist upon a specific representative whose required presence would unreasonably delay the proceedings.

- D. **Employee Representative Function.** The representative may reasonably assist the employee during the hearing. However, a representative cannot attempt to transform the disciplinary hearing into an adversarial proceeding through unduly provocative questions or by the tone or manner of the representative's conduct. The employer has no duty to bargain with the representative.

Standards for Disciplinary Proceedings

Disciplinary action shall be taken in accordance with the applicable collective bargaining agreement and/or Regulations of Connecticut State Agencies. However, all disciplinary action shall be undertaken in accordance with the following principles:

- A. **Reasonable Work Rules.** The Department's directives and procedures shall be reasonably related to the orderly, efficient and safe operation of the Department's business.
- B. **Fair Application of Rules.** The Department shall apply its directives, procedures, and orders fairly and without discrimination to all employees.
- C. **Fair Notice.** The Department shall provide the employee with information concerning probable or possible disciplinary consequences of the employee's conduct.
- D. **Investigation.** The Department, before disciplining an employee, shall conduct an investigation to determine whether the employee committed an offense.
- E. **Sufficient Evidence.** The decision to initiate the disciplinary action shall be based upon substantial proof of an employee's act or omission.
- F. **Just Penalty.** The degree of discipline imposed shall be related to the seriousness of the employee's offense and its impact upon the orderly, efficient and safe operation of the agency.

Supervisor Responsibilities

Each supervisor shall be responsible for maintaining proper discipline within the work unit. Discipline shall be used only to correct problems, maintain the unit's order and/or deter negative behavior. Disciplinary problems shall be dealt with promptly when they arise. Discipline shall be administered on the basis of substantiated facts. Any disciplinary action taken shall be related to the offense.

The supervisor shall carefully document and maintain a written record of an incident. Prior to the imposition of a suspension, involuntary demotion, or dismissal, the agency shall conduct an investigation and pre-disciplinary hearing. Disciplinary action shall be taken consistent with this policy and any applicable collective bargaining agreement

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and/or Regulations of Connecticut State Agencies.

Termination During Working Test Period

An employee terminated during the working test period may file a request for reinstatement in writing to the Commissioner. The Commissioner, in turn, shall forward the request to the Director of Human Resources. Upon receipt, the Director shall schedule a review by a three member panel within thirty (30) calendar days. The panel shall consist of a staff member from the Human Resources Unit at or above the level of Personnel Officer 1, the Affirmative Action Administrator and one (1) other supervisor. The panel shall submit its recommendation to the Director of Human Resources for final approval. The employee shall receive notification of the Department's decision within fourteen (14) days receipt of the recommendation by the Director of Human Resources.