



**Office of Human Resources  
Standard Operating Procedure  
HR SOP #403**

**Subject:** Employee Discipline

**Effective Date:** August 16, 2018

**Policy Statement:**

The Department will administer a disciplinary procedure for employees that is fair, prompt, and complies with the requirements of laws, regulations and the Rules of the State Personnel Board. This Standard Operating Procedure is intended to provide direction that will correct inappropriate behavior or performance deficiencies unless the offense committed is one for which dismissal is appropriate. It is designed to provide guidelines for employee discipline that are clear to both employees and supervisors.

**Definitions:**

**Adverse Action:** An Adverse Action is a disciplinary action taken by the Appointing Authority which results in suspension without pay, demotion, reduction in salary, or dismissal of an employee. NOTE: Adverse Actions must be approved by and are issued by the Appointing Authority to ensure consistency of disciplinary actions.

**Appointing Authority:** The Appointing Authority for DNR is the Commissioner. For the Environmental Protection Division, it is the Director. Note: The Deputy Commissioner has been named as the designee for disciplinary action for units supervised. The Human Resources Director has been identified as designee for disciplinary action for all other units of DNR.

**Classified Position:** A position that existed on June 30, 1996, held classified status on that date and has not been occupied by an unclassified employee since that date.

**Demotion:** The movement of a qualified employee to a job on a lower pay grade within the same compensation plan. When moving between two different pay plans, a pay grade is deemed lower when its market average or midpoint salary is 5% or more below the market average or midpoint of another pay grade.

**Unclassified Position:** A position created on or after July 1, 1996, or occupied by an unclassified employee on or after that date.

**Procedure:**

**Supervisor and Employee Requirements:**

To ensure that employees are well aware of performance and behavioral expectations and that discipline is administered appropriately, supervisors must:

- Inform employees regarding:
  - Job duties, responsibilities, and expectations;
  - Relevant information (i.e., agency-wide rules, policies, standards, etc.) that will assist employees in carrying out job duties;
  - Local rules and operating procedures; and
  - Changes in duties, responsibilities, expectations, standards, policies, etc.
- Provide a performance plan to their employees within 45 days of hire and should:
  - Communicate;
  - Provide performance feedback to employees;
  - Hold employees accountable for performance standards throughout the performance period; and
  - Complete evaluations at the midpoint and at the end of the performance year.

NOTE: (See HR SOP #701, *Performance Management* for responsibilities of supervisors.) Additional performance management materials and training are available on the intranet at <http://dnrintranet.org/hr/performance-management>.

- Consistently enforce rules, policies, etc. Similar situations should be handled in a similar manner; however, it is not required that the penalty for violations be precisely the same in every instance. The penalty may vary because of the severity of the:
  - Offense;
  - Presence or absence of intent;
  - Previous work record of the employee; or
  - Other relevant factors.
- Be aware that it is not necessary or required that every disciplinary action be followed in sequence for every situation (i.e., oral reprimand, then written reprimand, then adverse action). Over a period of time, it may be appropriate to use several approaches, including disciplinary action, to address an employee's issue(s). Some situations, on the other hand, require immediate dismissal. The basic guideline in each situation should always be to use the form of discipline that is most appropriate for the inappropriate behavior or performance deficiency.
- Not administer discipline with the purpose of punishing the employee. Disciplinary actions, with the exception of dismissal, are a good faith effort to affect change in, and correct unacceptable behavior and/or performance.

Employees must:

- Satisfactorily perform job duties and behave in a reasonable manner in accordance with agency standards of conduct and other agency rules and procedures. See HR SOP #401, *Employee Conduct*.

- Be familiar with the agency and local rules, policies and standards. See the agency intranet at <http://dnrintranet.org/> for Human Resources, Information Technology, and Administrative policies and procedures.
- Be aware that it is not a right that disciplinary actions be administered in sequence, (i.e., oral reprimand, then written reprimand, then adverse action). The supervisor will decide what discipline is required for each instance of inappropriate behavior or performance deficiency.
- Be aware that disciplinary action is administered as a good faith effort intended to affect change in, and correct unacceptable behavior and/or performance.
- Understand that your employment relationship with the Georgia Department of Natural Resources is for an indefinite period of time. Employment of unclassified employees may be terminated at-will, at any time, with or without cause.
- Cooperate fully and truthfully and provide assistance, when appropriate, with investigations regarding alleged misconduct. This includes activities such as:
  - Cooperating in interviews;
  - Answering questions related to the performance of official duties;
  - Producing requested documents; and
  - Polygraph examinations.
- Report suspected criminal or administrative misconduct including fraud, waste and abuse relating to any State program or operation. Employees who make false allegations and/or disclose information with willful disregard for its truth will be disciplined.

#### Preliminary Considerations:

When a violation of a rule, policy or standard occurs, before deciding on the type of disciplinary action to take, supervisors should:

- Research the facts and circumstances.
- In a minor case, a one-time observation may be a sufficient basis for determining the type of disciplinary action that should be taken.
- In a serious case, an investigation may be necessary to determine the full extent of the offense.
- Determine the appropriate disciplinary action by considering several factors including but not limited to:
  - The seriousness of the offense;
  - Whether it was deliberate or unintentional;
  - The employee's work record of behavior and performance; and
  - Applicable rules, policies and standards.
- Take appropriate action promptly, observing the correct procedural requirement.

**NOTE:** In some cases (suspension, salary reduction, demotion, dismissal) supervisors must obtain the approval of the Appointing Authority before proceeding with implementing the disciplinary action.

## Disciplinary Actions:

In addition to or prior to taking disciplinary action against an employee, other disciplinary actions such as a verbal warning, written warnings, attendance plans, letters of concern and expectations, unauthorized leaves without pay, work plans, denials of salary increases, written reprimands and suspensions with pay may be appropriate to emphasize inappropriate behavior or performance deficiencies.

*Verbal Warning:* A Verbal Warning is a discussion between the supervisor and employee intended to get employees back on track after inappropriate office behavior or substandard work performance. A verbal warning should be documented by the supervisor in the form of written notes to be placed in the supervisor's employee management file.

*Letter of Concern and Expectations:* A Letter of Concern and Expectations is a letter issued to the employee by the supervisor to outline concerns and expectations. The concerns are typically based on poor performance or behavior that violates performance expectations previously provided in the employee's performance plan. The letter should clearly list the performance and/or behavior issues, future performance and/or behavior expected, and the timeline for improvement. The employee should be asked to sign and date the letter to indicate receipt of the letter. The supervisor should keep the letter in their employee management file. See *Sample Letter of Concern and Expectations* (Attachment 1). NOTE: The Department's *Corrective Interview Form* may also be used for this purpose. The *Corrective Interview Form* is Attachment 3 of HR SOP #701, *Performance Management*.

*Work Plan:* A Work Plan is a written statement of specific/detailed work expectations and may include a timeline. The plan is designed to give the employee the opportunity to raise performance to an acceptable level. Supervisors may write a work plan to supplement the performance plan or add the expectations to the Individual Development Plan section of the performance plan. The supervisor must inform the employee of the changes. Work plans that are separate from the performance plan should be kept in the supervisor's employee management file.

*Attendance Plan:* If applicable, supervisors must ensure that they have provided leave to eligible employees under the Family Medical Leave Act (See HR SOP #608, *Family Medical Leave*) and accommodated employees with disabilities under the Americans with Disabilities Act (See HR SOP #506, *Americans with Disabilities Act and Americans with Disabilities Amendments Act*). In cases where these rights have been addressed or are not applicable and an employee does not meet attendance requirements (e.g., chronic tardiness, absenteeism or abuse of leave), a formal Attendance Plan may be implemented. An attendance plan outlines specific expectations required of the employee. Attendance plans typically include a summary of the employee's attendance record, references to discussion regarding tardiness and absenteeism with the employee, and expectations for attendance and notice of absences. Medical or other supporting documentation may be required if an employee has demonstrated excessive or abusive use of

accrued leave or leave without pay. NOTE: *Terms and Conditions of Employment*, Attachment 1 to HR SOP #701, *Performance Management* must be provided to employees to provide specific expectations regarding attendance and leave. Attendance plans should be kept in the supervisor's employee management file.

*Unauthorized Leave Without Pay:* An employee who is absent without approval of the supervisor may be placed on Unauthorized Leave Without Pay for the period of absence. Unauthorized Leave Without Pay decisions must be made in consultation with the HR Director and requires the Appointing Authority approval. (See DNR HR SOP #605, *Leave Without Pay*.) After consultation with the HR Director unclassified employees on ULWOP for 3 days or classified employees on ULWOP for 5 days may be considered to have abandoned their position and may be dismissed from employment.

*Denial of Salary Increase:* An employee who receives an annual performance evaluation rating of 1 - Unsatisfactory Performer will not receive a performance based salary increase. The supervisor of employees who receive a rating of '1' on their annual performance rating must create an individual development plan for the employee as part of the next performance plan. Performance ratings of '1' must be adequately supported by documented performance issues and coaching discussion throughout the performance year. See HR SOP #701, *Performance Management*.

Documentation regarding any corrective measures above, including correspondence with the employee, should be kept in the supervisor's employee management file.

*Written Reprimand:* A Written Reprimand is a memo issued to an employee due to significant or continuing inappropriate behavior or performance deficiencies. Written reprimands are a permanent record that are placed in the employee's personnel file, in the DNR Office of Human Resources in the central office.

The written reprimand should contain the following information:

- The date, time and/or place of the inappropriate behavior or performance deficiency;
- Future expectations of the employee; and
- The consequences if the inappropriate behavior or performance deficiency continues.

See *Sample Letter of Reprimand* (Attachment 2).

Classified employees may contest a written reprimand or a written confirmation of an oral reprimand by using the Employee Complaint Resolution Procedure, see HR SOP #303, *Employee Complaint Resolution*. Unclassified employees may not use the complaint resolution procedure to contest a written reprimand or a written confirmation of an oral reprimand.

### Suspension With Pay:

While it is not an adverse action, a Suspension with Pay may often precede or accompany an adverse action. If it is deemed in the best interest of the Department, the Appointing Authority may suspend a full-time employee with pay as follows:

- During an investigation of alleged misconduct when the employee cannot work or be assigned to another location;

- During the period of notice of proposed forfeiture of position, separation, reduction in force, or proposed adverse action;
- After receiving verbal notification, and pending receipt of the official laboratory report and notice from the Department of Administrative Services – Human Resources Administration, that a classified employee has tested positive for the presence of one or more illegal drugs in a random or post-accident test, or when the employee has refused random drug testing, the classified employee will be placed on Suspension with Pay. (The unclassified employee will be placed on Suspension Without Pay). Upon completion of a reasonable suspicion drug test, both a classified and unclassified employee should be placed on Suspension With Pay until the test results are determined.
- During the period between the arrest or indictment of the employee on a criminal charge and the disposition of the charge. (NOTE: An unclassified employee may be suspended without pay under this circumstance.); and/or
- For alleged unfitness to perform assigned duties where the alleged unfitness creates the potential for harm to the employee, co-workers, or others. The following requirements pertain to alleged unfitness to perform assigned duties:
  - During a period of Suspension with Pay for alleged unfitness to perform assigned duties, the employee may be directed under limited circumstances to undergo a medical (physical and/or psychiatric) examination at the expense of the Department.
  - The employee will be required to authorize the release of the results of the medical examination to an authorized official. The results must be considered confidential and are to be shared with individuals only on a ‘need to know’ basis.
  - Upon receipt of the results, a determination will be made regarding appropriate action.
  - This type of Suspension With Pay cannot exceed 45 calendar days.

Managers must obtain the approval of the Appointing Authority to implement a Suspension With Pay. The employee must be notified in writing of the Suspension With Pay. See *Sample Suspension With Pay Letter* (Attachment 3).

### Adverse Actions:

Suspension without Pay, Disciplinary Salary Reduction, Demotion and Dismissal are Adverse Actions.

Except in cases that warrant immediate dismissal, the supervisor should investigate the incident or offense, history of corrective measures and/or disciplinary actions previously taken against the employee, prior to proposing an Adverse Action. Most, if not all, of this information should be found in the supervisor’s employee management file and/or the employee’s personnel file.

Adverse Actions require approval of the Appointing Authority. Managers, supervisors, division directors or others in authority are **not** to take adverse action against an employee unless it is approved by the Appointing Authority.

An Adverse Action may be taken against an employee for reasons including, but not limited to, the following:

- Negligence or inefficiency in performing assigned duties;
- Inability or unfitness to perform assigned duties;
- Insubordination;
- Misconduct;
- Conduct reflecting discredit on the department;
- Theft;
- Commission of a felony or other crime involving moral turpitude;
- Chronic tardiness or absenteeism;
- Failure to report for or remain at work without justifiable cause;
- Failure to complete performance planning and evaluations in a timely manner; and/or
- Political activity in violation of the Rule 8 of the State Personnel Board.

Adverse Action against classified employees will be taken in accordance with Rule 26 of the State Personnel Board.

#### Processing Adverse Actions:

Division Directors/Field Managers will request an adverse action as discipline regarding an employee's behavior or actions. The request to the Director of Human Resources will include the following information:

- Completed personnel action containing the appropriate action reason code for the recommended adverse action (suspension without pay, salary reduction, involuntary demotion or dismissal).
- Executive Summary of the incident/issue, to include findings, policy violation, and recommendation.
- Witness statements.
- Summary of disciplinary actions involving this employee.
- Documents supporting the adverse action such as the performance plan, document from the management or personnel files, etc.
- Draft letter from the Appointing Authority to the employee regarding the adverse action. NOTE: For classified employees, this memo must contain notice that the employee may appeal the adverse action to the State Personnel Board by filing an appeal in writing to the Georgia Office of State Administrative Hearings.

Once approved by the Appointing Authority, the Division Directors/Field Managers will give the employee the adverse action memo. The employee is to be asked to sign and date the memo and a copy of the memo is to be forwarded to the Director of Human Resources to be kept in the

employee's personnel file. If the employee refuses to sign, the person presenting the letter should sign the letter and indicate that the employee refused to sign. See *Sample Adverse Action Letter (Unclassified Employee)* (Attachment 4) and *Sample Adverse Action Letter (Classified Employee)* (Attachment 5).

NOTE: *Sample Adverse Action Letter (Unclassified Employee)* references the *DOL Separation Notice* and Employee Separation Information. These and other separation information and requirements can be found on the agency intranet at <http://dnrintranet.org/hr/separations>.

### Adverse Actions – Classified Employees:

The Appointing Authority must give a classified employee written notice of a proposed adverse action at least 15 calendar days prior to the effective date of the adverse action. The notice of the proposed adverse action must include the following:

- The effective date of the adverse action which must be 15 calendar days after the date on which the notice of proposed action is presented to or received by the employee.
- The specific charges or reasons for the adverse action.
- A statement that the employee has the right to respond to the charges or reasons in writing or in person to a named Appointing Authority within 10 calendar days from the date the proposed action was received.
- A statement informing the employee that failure to respond within 10 days from the date the proposed action was received will result in the action being effective on the date specified without further notice.
- A warning that failure to respond by the date set forth in the notice will result in a waiver of all further rights including an appeal to the State Personnel Board.
- Signature of the Appointing Authority and a signature line for the employee.

If the employee refuses to sign, the person presenting the letter should sign the letter and indicate that the employee refused to sign.

The Appointing Authority who reviews the employee response shall issue a notice of final action not later than 3 calendar days after the date of the response. If the Appointing Authority requires additional time to consider the appeal, they must notify the employee and extend the effective date of the adverse action.

The Appointing Authority must determine whether the facts support the charge and whether the adverse action is appropriate based on a review of adverse actions imposed on other employees in the past under similar circumstances. The Appointing Authority may uphold, reverse or modify the proposed adverse action.

The final determination issued by the Appointing Authority to the employee must include:

- The final action;
- The specific charges;



- The effective date of the final action; and
- A notice that the employee may appeal the determination to the State Personnel Board by filing an appeal in writing to the Georgia Office of Administrative Hearings within 10 days of receipt of the final determination or within 10 calendar days of the effective date of the action whichever is later.

Rule 27 of the State Personnel Board outlines the basis on which a classified employee may file an appeal to the Board. Unclassified employees have no right to appeal.

If the employee refuses to sign the memo, the presenter of the memo should sign and date it and indicate that the employee refused to sign the memo.

### Suspension Without Pay:

Employees may be suspended without pay for several reasons listed below. The timeframe for a Suspension without Pay for disciplinary purposes should be appropriate for the offense and cannot exceed 30 calendar days.

- For disciplinary reasons listed in the Adverse Action section above.
- For pending criminal court action. Such suspension should not exceed the time period necessary for the disposition of the action. The agency may continue the suspension beyond the court disposition date for the period necessary to conclude any internal investigation of the issue.

For FLSA exempt employees, Suspensions Without Pay must be administered in full FLSA work periods and cannot cover parts of two FLSA work periods. (Example: A full-time FLSA exempt employee with a work period of Saturday 12:01 a.m. to midnight the following Friday may be suspended without pay for 40 hours from Saturday 12:01 a.m. to midnight the following Friday. This employee cannot be suspended without pay for less than 40 hours or for a 40-hour period other than the FLSA work period.)

### Notification Process for Unclassified Employees:

The Appointing Authority must give the employee written notice of the suspension without pay. The notice must include the following:

- The effective date of the suspension.
- The specific reasons for the suspension without pay.
- If the suspension without pay is for pending criminal charges, the statement must advise the unclassified employee that they may be separated from employment after a 30-day period.

See *Sample Notice of Adverse Action (Unclassified Employee)* (Attachment 4).

### Notification Process for Classified Employees:

Classified employees are to be notified of suspension without pay in accordance with information in the Adverse Action – Classified Employees section of this SOP. See *Sample Notice of Adverse Action (Classified Employee)* (Attachment 5).

## Salary Reduction:

Salaries of FLSA nonexempt employees may be reduced for disciplinary purposes.

**NOTE:** Do not take Disciplinary Salary Reductions against FLSA exempt employees due to provisions of the Fair Labor Standards Act.

As a result of Disciplinary Salary Reduction, salary should be reduced by an amount equal to at least five percent (5%), and should normally be reduced by an amount equal to increments of 5% (e.g., 5%, 10%, 15%).

A Disciplinary Salary Reduction may be permanent, indefinite or for a specified period of time conditional upon the employee's achievement of fully satisfactory performance and appropriate/acceptable behavior.

Employees retain eligibility for the salary received prior to the Disciplinary Salary Reduction. Salary may be restored on the first day of any pay period following the Disciplinary Salary Reduction provided the employee's:

- Behavior is fully satisfactory;
- Performance is fully satisfactory; and
- Position remains the same.

## Demotion:

Employees may be demoted to a lower level job for disciplinary reasons.

The salary of an employee who is demoted for disciplinary reasons is to be reduced by an amount equal to at least five percent (5%). The salary cannot be less than the job minimum or exceed the pay grade maximum for the job to which the employee is demoted. NOTE: The employee must meet the qualifications for the job to which they are demoted.

## Dismissal:

Generally, employees may be dismissed when other courses of action have been unsuccessful or when the situation is so serious that employment termination is necessary such as theft, insubordination, gross negligence, etc.

Dismissal is required in certain situations, including but not limited to, some drug or alcohol testing violations, second conviction on a drug related crime, if required by law.

Each situation of corrective action will be handled on an individual basis with the severity and frequency of conduct taken into consideration. However, the agency is not obligated to progressively discipline an employee. Therefore, unclassified employees may be dismissed by the Appointing Authority at any time with or without cause and without following any system of discipline or warning.

## Recommendation for Re-Employment:

Circumstances surrounding dismissal should be reviewed to determine whether it is appropriate to enter a recommendation that employees not be re-employed by the Department in the future.

If it is determined appropriate to enter a recommendation that an employee should not be re-employed, the manager must check the box in Section 4: Supporting Documents, of the *Personnel Action Request Form* indicating that rehire is not recommended. Managers are to attach documents that support the 'no rehire' request and must notify the HR Director of the request. The Department Human Resources Director makes the final determination on assignment of a 'no rehire' code. NOTE: The *Personnel Action Request Form* and completion instructions may be found on the agency intranet at <http://dnrintranet.org/hr/position-action-request>.

#### Dismissal/Termination Settlement Agreement:

If an employee is dismissed/terminated and, as a condition of a settlement agreement, the personnel file is to be partially purged, the following procedures must be followed:

- The Human Resources Director shall ensure that the employee's personnel file and any associated work history records are clearly designated with a notation that the file and records have been purged as a condition of a settlement agreement.
- Such notation shall be disclosed to any subsequent governmental entity seeking information on the former employee's work history for the sole purpose of making a hiring decision.

#### Retention:

Adverse action and written reprimand letters must be retained permanently in the employee personnel file.

#### **Attachments:**

Attachment 1: – *Sample Letter of Concern and Expectations*

Attachment 2: – *Sample Letter of Reprimand*

Attachment 3: – *Sample Suspension with Pay Letter*

Attachment 4: – *Sample Adverse Action Letter (Unclassified Employee)*

Attachment 5: – *Sample Adverse Action Letter (Classified Employee)*