

## 9.0 DISCIPLINE AND CORRECTIVE ACTION

The State Personnel Board requires that all forms of discipline comport with due process. Disciplinary action shall be applied in steps of increasing severity whenever practical in order to stimulate a change in the behavior that activated the disciplinary process. The appointing authority or designated representative shall exercise corrective action when a state service employee violates established rules of conduct or performs below minimal standards as prescribed herein. Each appointing authority shall:

- A. Establish and adhere to fair and objective procedures for correcting or treating unacceptable conduct and performance in accordance with the guidelines herein;
- B. Distinguish between less serious and more serious actions of misconduct and provide disciplinary action accordingly; and
- C. Limit disciplinary action to employee conduct occurring only when employees are at work or when otherwise representing the state in an official or work-related capacity, unless otherwise provided for in this section.

## 9.10 SCHEDULE OF OFFENSES AND AUTHORIZED DISCIPLINARY ACTION

The appointing authority or designated representative shall administer discipline in an equitable and consistent manner. The schedule of offenses and disciplinary actions below shall be adhered to in administering discipline to all employees subject to these policies, rules, and regulations. The appointing authority may add to this schedule of offenses and disciplinary action to reflect the particular mission and work environment of the agency. Offenses and disciplinary actions added by the agency in addition to those listed by the SPB shall apply only to that agency and shall be submitted to the State Personnel Board **for approval prior to implementation**. The approved schedule of offenses and disciplinary actions shall be published and a copy provided to each employee on or before the effective date of the schedule.

### A. Group One Offenses

Generally, these offenses are less severe and may be disciplined by written reprimand. The accumulation of three (3) Group One written reprimands within a three (3) month period may result in suspension without pay not to exceed three (3) working days. Four (4) Group One written reprimands within a six (6) month period may result in demotion or dismissal.

Group One includes the following offenses:

1. Unexcused tardiness;

2. Abuse of state time such as unauthorized time away from work area or failure to notify supervisor promptly upon completion of assigned work;
3. Obscene or abusive language;
4. Conviction of a moving traffic violation while operating a state vehicle.

**B. Group Two Offenses**

Acts and behavior in this group are generally more severe than Group One offenses. Each Group Two offense may be disciplined by written reprimand and/or suspension without pay not to exceed five (5) working days. Two (2) Group Two reprimands within a one (1) year period may result in demotion or dismissal. Accumulation of one (1) written reprimand for a Group Two offense and three (3) written reprimands for Group One offenses within a one (1) year period may result in demotion or dismissal.

Group Two includes the following offenses:

1. Insubordination, including, but not limited to, resisting management directives through actions and/or verbal exchange, and/or failure or refusal to follow supervisor's instruction, perform assigned work, or otherwise comply with applicable established written policy;
2. Violation of safety rules in the absence of a threat to life;
3. Leave usage without justifiable and reasonable excuse for such absence;
4. Failure to report to work without giving proper notice to supervisor;
5. Leaving the work site without permission during working hours in the absence of a threat to life;
6. Unauthorized use or misuse of state property or records.

**C. Group Three Offenses**

Acts and behavior in this group are of the most serious nature. Commission of one (1) Group Three offense may be disciplined by a written reprimand and/or may result in suspension without pay up to thirty (30) working days, demotion, or dismissal.

Group Three includes the following offenses:

1. Unauthorized absence or leave in excess of three (3) consecutive working days without proper notification and satisfactory explanation;
2. Use of alcohol or the unlawful manufacture, distribution, dispensing, possession or use of controlled substances while on the job or on the employer's premises;
3. Reporting to work under the influence of, or when ability is impaired by, alcohol or the unlawful use of controlled substances;
4. Falsification of records, such as, but not limited to, vouchers, reports, time records, leave records, employment applications, or other official state documents;
5. Willful or negligent defacement of or damage to the records or property of the State, another employee or business invitee of a state agency or office;
6. Acts of physical violence or fighting;
7. Violation of safety rules where there exists a threat to life or human safety;
8. Unauthorized possession or use of firearms, dangerous weapons or explosives;
9. Threatening or coercing employees, supervisors, or business invitees of a state agency or office, including stalking;
10. Criminal conviction for a felony or misdemeanor while employed. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony or a misdemeanor is deemed to be a conviction within the meaning of this offense;
11. An act or acts of conduct occurring on or off the job which are plainly related to job performance and are of such nature that to continue the employee in the assigned position could constitute negligence in regard to the agency's duties to the public or to other state employees;
12. Engaging in prohibited political activity;
13. Leaving the work site without permission where there exists a threat to life or human safety;

14. Theft on the job;
15. A breach of Agency security or confidentiality;
16. Willful violation of State Personnel Board policies, rules and regulations;
17. Operation of a state-owned motor vehicle without a valid Mississippi driver's license or a valid driver's license from a contiguous state (Tennessee, Alabama, Louisiana or Arkansas);
18. The failure of any appointing authority or supervisor of any employee to properly deduct an employee's donation of leave to another employee for a catastrophic injury or illness, from the donor employee's earned personal leave or major medical leave.

### **9.20 FORMS OF DISCIPLINE**

The appointing authority or designated representative shall take action to formally discipline an employee who is guilty of an offense. All forms of discipline are grievable and/or appealable. Written notice of intent to affect any action adversely affecting compensation or employment status and the reasons for such action shall be given to the employee at least ten (10) working days prior to the effective date of the intended action.

The employee shall be given an opportunity for a conference with the appointing authority or designated representative and to respond in writing prior to any such action. When a conference has been held prior to an action adversely affecting compensation or employment status, the affected employee may appeal directly to the Employee Appeals Board without exhausting the grievance procedure. (Reference Section 10.40.)

In extraordinary circumstances, the employee may be placed on immediate suspension with or without pay pending a hearing on the matter pursuant to Sections 9.20.3 and 9.20.6.

#### **9.20.1 Forms of Discipline**

The appointing authority or a designated representative may attempt to correct unacceptable behavior with a verbal warning and/or counseling and/or other appropriate informal means, whenever practical, prior to taking formal action against an employee.

#### **9.20.2 Documentation of Corrective and Disciplinary Actions**

- A. When the appointing authority or designated representative has taken corrective action preliminary to a formal disciplinary action, e.g. oral counseling, a written account of such action may be placed in the employee's personnel file. Formal disciplinary actions include written reprimand, suspension, demotion, and dismissal.
- B. When an employee has been reprimanded, a copy of the written reprimand shall be placed in the personnel file of the employee. All reprimands must be in writing.
- C. Documentation of corrective actions, disciplinary measures, and written reprimands may be kept indefinitely in the employee's personnel file for the purpose of showing a pattern of employee conduct.
- D. Before any reprimand or other adverse comment is placed in the personnel file of an employee, the employee shall be given:
  - 1. A copy of the material to be placed in his/her file; and
  - 2. Written notice that the material will be placed in his/her personnel file.

The appointing authority shall keep a copy of the notice, which shall contain either a written acknowledgment the employee has received the material and the notice, or a statement signed by the person who delivered the material and the notice that the employee refused to sign such an acknowledgment.

- E. The appointing authority shall determine what job-related information will be included in each employee's personnel file. However, the inclusion of any information, which may adversely affect a permanent state service employee's compensation or employment, shall be a grievable and appealable issue.

### **9.20.3 Suspension**

The appointing authority may suspend an employee without pay or other compensation pursuant to Sections 9.10 and 9.20.6 as punishment for disciplinary cause. Such suspension shall not exceed thirty (30) working days during any twelve (12) month period. The twelve (12) month period shall begin with the first day of the suspension.

In extraordinary circumstances, the appointing authority may immediately suspend an employee with pay. Such employee must be given an opportunity for a hearing with the appointing authority or designated representative within twenty (20) working days of the suspension, at which time the appointing authority may make a final decision. (Refer to Section 9.20.6, C and D). Further, where the employee has been charged with a felony, the appointing authority may suspend an employee without pay pending a

post suspension hearing to be held within twenty (20) working days from the first day of suspension.

#### **9.20.4 Disciplinary Demotion**

Pursuant to Sections 9.10 and 9.20.6, a permanent state service status employee may be demoted from a position in one (1) class to a position in a lower class having a lower salary range and having less discretion or responsibility only for cause. The salary will be certified in accordance with policies and rules regarding demotion.

#### **9.20.5 Dismissal**

A state employee may be dismissed or their employment terminated voluntarily or involuntarily. Voluntary severance of employment occurs when a state employee submits his/her resignation of employment. An involuntary severance of state employment can occur based upon a Reduction in Force (RIF), disciplinary action, failure of the employee to continue to meet the eligibility criteria for the position held or an inability to perform the essential functions of the job.

The appointing authority may dismiss a permanent state service status employee only for good cause pursuant to Sections 9.10 and 9.20.6. A probationary employee may be dismissed any time during the probationary period.

#### **9.20.6 Due Process**

- A. At least ten (10) working days prior to any suspension without pay, demotion, or dismissal of a permanent state service employee, the employee shall be given written notice of the reason(s) for such action and shall be given an opportunity for a conference with the appointing authority or designated representative and to respond in writing.
- B. The written notice presented to an employee prior to a conference shall list all of the reason(s) for the appointing authority's consideration of the adverse action, and the written notice of the appointing authority's final decision to take adverse action shall restate all of the reason(s) for the action. The reason(s) listed in these notices shall be specific by setting forth the particular group offense(s) violated and the charge(s) or ground(s) upon which the disciplinary action is predicated. The reason(s) listed in these notices shall be the only reason(s) to be addressed throughout the appeals process.
- C. In extraordinary circumstances, an employee may be suspended immediately with pay. Such employee must be given an opportunity for a hearing with the appointing authority or designated representative within twenty (20) working days of the suspension, at which time the appointing authority may make a final

decision. (Refer to Section 9.20.3.) Further, where the employee has been charged with a felony, the appointing authority may suspend an employee without pay pending a post suspension hearing to be held within twenty (20) working days from the first day of suspension.

Extraordinary circumstances means a situation in which, based on the judgement of the appointing authority, retention of an employee would result in damage to state property, would be detrimental to the interests of the state or would result in injury to the employee, to a fellow employee, or to the general public, including inmates, patients, and residents of institutions.

- D. If the employee waives hearing, the appointing authority may make a final decision after the waivers. The waiver of the hearing shall be determined by an employee's written statement of waiver or by the employee's failure to respond in writing or appear at the conference with the appointing authority or designated representative by a pre-established date and time.