



NEW JERSEY DEPARTMENT OF HUMAN SERVICES

DISCIPLINARY ACTION PROGRAM



OFFICE OF EMPLOYEE RELATIONS

DEPARTMENT OF HUMAN SERVICES

EFFECTIVE DATE: January 1, 1981

DATE ISSUED: December 1, 1980

SUBJECT: DISCIPLINARY ACTION POLICIES AND RESPONSIBILITIES

TO THE EMPLOYEES
OF
THE DEPARTMENT OF HUMAN SERVICES

This Administrative Order establishes policies and responsibilities for the employee disciplinary action function within the Department.

I. REPORTING TO THE DEPUTY COMMISSIONER THE DIRECTOR OF EMPLOYEE RELATIONS CARRIES THE FOLLOWING RESPONSIBILITIES:

A. To direct the administration and application of this Administrative Order.

B. To compose, promulgate and direct the administration and application of a series of directives for the administration of the disciplinary process for all employees within the Department.

C. To prepare DEPARTMENT OF HUMAN SERVICES TABLE OF OFFENSES AND PENALTIES with the necessary explanations and directions for implementation and application, which upon acceptance would be considered a part of this Administrative Order.

D. To establish a system to post-audit disciplinary actions.

E. To act as the Department representative in all matters of employee discipline.

F. To evaluate employee relations training needs and in cooperation with the Department's Training Officer initiate measures to meet those needs.

II. RESPONSIBILITIES OF DEPARTMENT APPOINTING AUTHORITIES:

A. To assure compliance with this Administrative Order and any directives for the administration of the disciplinary process for all employees.

B. To designate an individual responsible for the administration of the disciplinary process.

C. To bring to the attention of the Director of Employee Relations any significant problems related to the disciplinary process.

The purpose of the Disciplinary Action Booklet is to help department supervisors meet their managerial responsibilities and to advise all employees of the Department's standards for on-the-job performance. The Table of Offenses and Penalties, as well as the Corrective Steps Procedure at the end of the Booklet, should be closely reviewed.

Each institution and agency now has a designated Employee Relations Officer and they are available on a day-to-day basis. Should you wish information about the designated Employee Relations Officer for your unit, please contact your Personnel Office.

It is important that all supervisors and employees review and understand the contents of the Disciplinary Action Booklet. This will ensure that all of us are working within the same clear, stated guidelines and rules, and will, in turn, lead to the expectation of fair and consistent treatment within this framework.

ADMINISTRATIVE ORDER 4:08
Supplement 1

DEPARTMENT OF HUMAN SERVICES

EFFECTIVE DATE: January 1, 1981

DATE ISSUED: December 1, 1980

SUBJECT: TABLE OF OFFENSES AND PENALTIES AND THEIR APPLICATION

The attached TABLE OF OFFENSES AND PENALTIES accepted and incorporated in this SUPPLEMENT to Administrative Order 4:08 represent the Department's policies of corrective rather than punitive actions, progressive discipline, a progressive range of penalties for a specific type of offense, and the consideration of appropriate and demonstrable mitigating factors.

All penalties imposed must be within the range of penalties set forth in the TABLE for the particular type of offense and the number of the infraction, unless consideration of mitigating factors would cause the penalty to be deemed inappropriate. Mitigating factors can be length of service, disciplinary record, or other legitimate reasons.

The TABLE OF OFFENSES AND PENALTIES indicates where corrective steps of counseling, oral warnings and written warnings may be taken in lieu of disciplinary action. A record of corrective steps taken is to be made and maintained by the appropriate supervisor and the employee is to be offered a copy of that record. The record of a corrective step is not to be placed in the employee's official personnel file, unless such is used in determining the penalty for subsequent offense of the same nature, if appropriate, a prior offense which resulted in a corrective step being initiated must be considered when computing the number of the infraction of a subsequent like offense.

The TABLE does not reflect the disciplinary action of "fines." Fines can be instituted as substitution for suspensions or to have an employee make restitution to the State for lost, destroyed, or damaged property.

ADMINISTRATIVE ORDER 4:08
Supplement 1

TABLE OF OFFENSES AND PENALTIES

TYPES OF OFFENSES	1st INFRACTION Min. - Max.	2nd INFRACTION Min. - Max.	3rd INFRACTION Min. - Max.	4th INFRACTION Min. - Max.	5th INFRACTION Min. - Max.
A. ATTENDANCE					
1. Absent from work as scheduled without permission and without giving proper notice of intended absence.	WW	OR	R		
2. Absent from work as scheduled without permission but with giving proper notice of intended absence.	C	WW	OR	R	
3. Abandonment of job as a result of absence from work as scheduled without permission for five (5) consecutive days.					
4. Chronic or excessive absenteeism from work without pay.	C	WW	OR	R	
5. Unreasonable failure to report delay in reporting to work as scheduled.	C	WW	OR	R	
6. Unreasonable excuse for lateness of less than fifteen (15) minutes.	C	OW	WW	OR	R

KEY: C = Counseling
OW = Oral Warning
WW = Written Warning
d = Number of Working Days Suspension
D = Demotion
R = Removal
OH = Official Reprimand

A

TABLE OF OFFENSES AND PENALTIES

TYPES OF OFFENSES	1st INFRACTION		2nd INFRACTION		3rd INFRACTION		4th INFRACTION		5th INFRACTION	
	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
7. Repetitive or neglectful lateness of less than fifteen (15) minutes with a reasonable excuse.	C	OW	OW	WW	WW	OR	OR	R		R
8. Unreasonable excuse for lateness more than fifteen (15) minutes.	C	WW	WW	OR	OR	R	R			
9. Abuse of sick leave.	WW	OR	OR	10d	10d	R	R			
10. Refusal or failure to work overtime without a reasonable excuse.	C	OR	OR	3d	3d	10d	10d	R		R
11. Leaving assigned work area without permission but not creating a danger to persons or property.	C	5d	5d	R	R					
12. Leaving assigned work area without permission creating danger to persons or property.	5d	R	R							
B. PERFORMANCE										
1. Neglect of duty, loafing, idleness or willful failure to devote attention to tasks which would not result in causing a danger to persons or property.	C	WW	WW	OR	OR	R	R			

KEY: C = Counselling OR = Official Reprimand
 OW = Oral Warning d = Number of Working Days Suspension
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B

TABLE OF OFFENSES AND PENALTIES

TYPES OF OFFENSES		1st INFRACTION		2nd INFRACTION		3rd INFRACTION		4th INFRACTION		5th INFRACTION	
		Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
2. Neglect of duty, loafing, idleness or willful failure to devote attention to tasks which could result in danger to persons or property.		5d	R	R							
3. Sleeping while on duty.	2	5d	R	R							
4. Failure or excessive delay in carrying out an order which would not result in danger to persons or property.		C	OR	OR	10d	10d	R	R			
5. Failure or excessive delay in carrying out an order which could result in danger to persons or property.		5d	R	R							
6. Serious mistake due to carelessness but not resulting in danger to persons or property.		C	OR	OR	R	R					
7. Serious mistake due to carelessness which would result in danger and/or injury to persons or property.		OR	R	R							

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	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
11. Any improper conduct which violates common decency.	3d	R		R						
12. Continual use of obscene language.	C	OR	OR	5d	5d	R		R		
13. Actual or attempted theft of State property or equipment or the property of other employees, residents, clients or patients	1d	R		R						
14. Willful damage to State property or the property of other employees, residents, clients or patients.	1d	R		R						
15. Unacceptable personal appearance or unhygienic personal habits which jeopardize the health of employees, residents, clients or patients.	C	OR	1d	5d	5d	15d	15d	R		R
16. Notoriously disgraceful conduct.	30d	R		R						
17. Misappropriation of funds.		R								
18. Unauthorized possession of contraband on State property.	OR	5d	5d	R		R				

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	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
19. Conviction of criminal offense.	4	R								
20. Discourtesy to public, visitors, patients, residents or clients	OR	1d	1d	10d		R				
21. Vending, soliciting, or collecting a contribution on State property without authorization.	OR	5d	5d	R		R				
22. Religious proselytizing of patients, clients or residents.	OR	5d	5d	R		R				
23. Distribution of written or printed matter on premises without authorization.	WW	5d	5d	10d		R				
24. Posting or removal of any matter on bulletin boards or State property without authorization.	WW	5d	5d	10d		R				
25. Threatening, intimidating, coercing or interfering with fellow employees on State property.	OR	R	3d	R		R				

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	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
26. Willful violation of any of the provisions of the Civil Service statutes, rules or regulations.	C	5d	5d	R		R				
27. Engaging in any form of political activity during working hours	C	R	R	R						
28. The use or attempt to use one's authority or official influence to control or modify the political view of any person.		R								
D 0. SAFETY AND SECURITY PRECAUTIONS										
1. Negligence in performing duty resulting in injury to persons or damage to property.		5d	R	R						
2. Negligently contributing to an elopement or escape.		5d	R	R						
3. Willfully contributing to an elopement or escape.		R								
4. Improper or unauthorized conduct with inmate work details	C	5d	5d		R	R				

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	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
5. Failure to report loss of tools, equipment or articles.	1d	10d	10d	R		R				
6. Loss or careless control of keys.	OR	5d	5d	10d	10d	R	R			
7. Violation of administrative procedures and/or regulations involving safety and security.	OR	R	5d	R	10d	R	R			
8. Unlawful possession of firearms or other weapons on state property.		R								
9. Failure to report injury, abuse or accident involving patient, resident or client.	1d	5d	5d	10d	10d	R	R			
10. Violation of traffic laws while operating a State vehicle.	C	1d	1d	5d	10d	R	R			
11. Use of State vehicle for unauthorized or unofficial purposes.	C	3d	3d	10d	10d	R	R			
12. Failure to observe parking regulations on State premises.	C	WW	WW	OR	OR	5d	5d	20d		

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	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
13. Engaged in horseplay, running, scuffling or throwing things.	C	3d	3d	5d	5d	10d		R		
14. Engaging in sabotage or espionage.		R								
15. Entering restricted areas without specific permission.	OR	2d	2d	R		R				
16. Failure to use safety devices.	OR	1d	1d	5d	5d	R		R		
17. Engaging in financial transactions between employees, patients, residents or inmates.	OR	2d	2d	R		R				
18. Failure to report communicable disease.	5	OR	R	R						
E. GENERAL 1. Violation of a rule, regulation, policy, procedure, order or administrative decision.	C	R	5d	R		R				
2. Intentional abuse or misuse of authority or position.	C	R	5d	R		R				

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	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
F. SEXUAL HARASSMENT 1. Submission to unwelcomed sexual advances, requests for sexual favors, and/or other verbal or physical conduct, based on the gender of the employee, has either explicitly or implicitly been made a term or condition of the targeted employee's employment.	5d	30d	30d	R		R				
2. Submission to or rejection of unwelcomed sexual advances, requests for sexual favors, and/or other verbal or physical conduct, based on the gender of the employee, has been used as the basis for employment decisions affecting the targeted employee.	30d	R		R						
3. Unwelcomed sexual advances, requests for sexual favors and/or other verbal or physical conduct, based on the gender of the employee, had been used for the purpose of or has had the affect of unreasonably interfering with the targeted employee's work performance or created an unreasonably intimidating, hostile or offensive working environment, which includes: a. Generalized gender based remarks and behavior;	C	WW	V/W	OR	OR	R		R		

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	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.	Min.	Max.
b. Inappropriate unwanted, offensive physical, or verbal sexual advances and comments;	WW	5d	5d	10d	10d	R		R		
c. Solicitation of sexual activity or other sex linked behavior by promise of reward;	OR	10d	10d	30d	30d	R		R		
d. Coercion of sexual activity by threat of punishment;	5d	30d	30d	R		R				
e. Gross sexual imposition such as touching, fondling, grabbing, or assault;	30d	R		R						
f. Other conduct.	C	R	5d	R		R				

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ADMINISTRATIVE ORDER 4:08
SUPPLEMENT 1
NOTES TO TABLE OF OFFENSES AND PENALTIES

1. Civil Service Rule 4:1-16.14, Resignation resulting from unauthorized absence, states:
 - (a) Any employee who is absent from duty for five (5) consecutive business days without notice and approval of his superior of the reason for such absence, and the time he expects to return, or who fails to report for duty within five (5) business days after the expiration of any authorized leave shall be held to have resigned not in good standing.
 - (b) The employee shall be properly notified by personal service or certified mail, return receipt requested, of his involuntary resignation and the precise reasons therefore, and entitlement to a departmental hearing if he so desires in accordance with N.J.A.C. 4:1-5.15. The appointing authority shall report the resignation to the Department of Personnel.

Such involuntary resignation is not considered disciplinary action and is included here only as a matter of notice and convenience. (A.3., p.1)
2. The degree of discipline, within the minimum and maximum penalties indicated for the first offense, is to be determined by the potential hazard or actual harm to the employee, other employees, patients, clients, or residents and/or the potential or actual damage to the property of the State, other employees, patients, clients or residents. The second infraction of sleeping on duty, requires the penalty of removal. (B.3., p.3)
3. Physical or mental abuse could be defined as a malicious act directed toward a patient, resident, client, or employee with the intent to cause pain, injury, suffering or anguish. (C.3., p.4)
4. If the criminal offense is not directly related to or did not occur during the course of the individual's employment, then the offense must be of such a nature that the public interest would not be served by the continued employment of the individual. (C.19., p.7)
5. Civil Service Rule 4:1-17,18, Verification of sick leave states:
 - (b) In case of leave of absence due to exposure to contagious disease, a certification from the Department of Health shall be required. (D.18., p.10)

NOTE: Where there is a progression of the severity of the penalty for an offense, the severity increases from the first step to the final step of removal.

DISCIPLINARY DIRECTIVES

DEPARTMENT OF HUMAN SERVICES

EFFECTIVE DATE: January 1, 1981

DATE ISSUED: December 1, 1980

SUBJECT: CORRECTIVE STEPS PROCEDURE

In accordance with ADMINISTRATIVE ORDER 4:08, Disciplinary Action Policies and Responsibilities, Section 1, paragraph B, this Directive is issued for the administration of the corrective steps process that may appropriately be taken in lieu of disciplinary actions. This procedure applies to all employees of the Department.

I. CORRECTIVE STEPS

A. Corrective steps are defined as:

1. **Counseling** -- a meeting in private where only the appropriate supervisor and the employee are present. The supervisor should identify the incident which subjects the employee to disciplinary action and the minimum and maximum penalties that could be imposed or recommended. The supervisor in conducting this meeting has determined beforehand that the corrective step of counseling will be used rather than implementing or recommending disciplinary action. The employee is to be advised of the seriousness of the infraction, its adverse effect and the importance of the offense not recurring.

2. **Oral Warning** -- a meeting in private where only the appropriate supervisor and employee are present. The supervisor should identify the incident which subjects the employee to disciplinary action and the minimum and maximum penalties that could be imposed or recommended. The supervisor in conducting this meeting has determined beforehand that the corrective step of oral warning will be used rather than implementing or recommending disciplinary action. The employee is to be advised of the seriousness of the infraction, its adverse effects, the importance of the offense not recurring, and is warned that if such an offense is repeated he/she is subject to disciplinary action.

3. **Written Warning** -- a written document which sets forth the incident which subjects the employee to disciplinary action and warns the employee that if such an offense is repeated he/she is subject to disciplinary action.

B. Implementation of Corrective Steps

As provided for by ADMINISTRATIVE Order 4:08 a supervisor may, where consistent with the TABLE OF OFFENSES AND PENALTIES, take a corrective step as defined above rather than implementing or recommending disciplinary action. All corrective steps are to be taken on a timely basis.

II. RECORD OF INCIDENT AND CORRECTIVE STEP

A. If an incident occurs for which an employee could be disciplined and the appropriate supervisor decides, with proper and just reason that disciplinary action will not be implemented or recommended, and that a corrective step as described in Section I will not be initiated, then there shall be no record of the incident unless such is required for an explanation on time sheets or other official records.

Although a supervisor may decide not to take disciplinary action or corrective steps, the supervisor may be required to justify and demonstrate why such action was not taken.

B. Whenever the appropriate supervisor takes the corrective steps of counseling, oral warning or written warning, the following procedures apply:

1. The Record of Counseling or Oral Warning form, a copy of which is attached, will be used as the method of recording counseling or oral warnings. These forms will not be distributed to any person other than the employee involved.
2. As indicated on the form, a copy will be offered to the employee and a copy will be retained by the supervisor. The appropriate notation should be made on the bottom of the form as indicated.
3. Copies of the record of counseling, oral warning and written warnings will not be forwarded to the personnel office for inclusion in the employee's official institution or agency personnel folder unless it is used in determining the degree of discipline for a subsequent offense of the same nature.

DEPARTMENT OF HUMAN SERVICES

(Institution or Agency)

RECORD OF COUNSELLING OR ORAL WARNING

This form is being used to:

1. record the oral counselling conducted on _____
with _____
or
2. record the oral warning given on _____
to _____

The statement contained in this section of the form must indicate the date and the specifics of the incident which caused the counselling or warning to be initiated. Any additional statements must be appropriate and to the point.

(Signature)

(Supervisor's name and title)

(Date)

NOTE: Employee was offered a copy of this completed record and (a)
accepted it or (b) did not want a copy.