



OFFICE OF THE SECRETARY

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SECRETARIAL DIRECTIVE

SUBJECT:	Employee Conduct Standards and Discipline		
NUMBER:	2020-09	SUPERSEDES:	ADC AD 12-33
APPLICABILITY:	All Department of Corrections employees; except those covered under the Teacher Fair Dismissal Act or School District Personnel Policies		ACC AD 18-23 (in part) ACC AD 18-27 APB AD 19-02 (in part)
REFERENCE:	A.C.A. §§ 25-43-103, 25-43-105, 25-43-108, 25-43-403	PAGE:	1 of 7
ISSUED BY:	<u>Signature on file</u>	EFFECTIVE DATE:	<u>November 9, 2020</u>

I. POLICY:

As the executive head of the Arkansas Department of Corrections (DOC) it is the responsibility of the Secretary of Corrections to ensure that all employee discipline be administered in a consistent, objective, and good-faith manner. Nothing in these guidelines and procedures limits the Secretary’s authority to establish or revise human resource policies. These guidelines and procedures are adopted to guide the internal operations of the Department and its Divisions and do not create any legally enforceable interest or limit the Secretary’s or Director’s or his/her designee’s authority to terminate any employee at will. These guidelines shall be enforced in conjunction with Department or Division level Code of Ethics.

II. PURPOSE:

The purpose of this policy is to establish consistent employee conduct standards and discipline. The conduct standards are intended to identify common problems associated with employee conduct. Discipline should be through progressive actions, where appropriate.

In those situations where an employee’s actions adversely affect the security and good order of the agency’s operations, progressive disciplinary actions are not required. The Department Secretary, or a Division Director, may intervene in a matter, and increase a disciplinary sanction, when a situation warrants. Progressive discipline also does not apply to employees during their initial probation.

The Human Resource Administrator or designee should be contacted for consultation in applying disciplinary sanctions to avoid inconsistencies where sanctions are not clearly established. In cases of incidents involving the use of Polygraph/CVSA, Retaliation, Sexual Harassment/Discrimination, or Racial Discrimination, the Human Resource Administrator will provide a summary to the DOC Legal Division to discuss any potential issues with the case prior to administering discipline. The Center Supervisor/Area Manager/Warden/Administrator will then be advised of their recommendation.

Divisions that utilize an Employee Review Committee shall establish a written Unit/Facility Policy regarding procedures for that Committee. Those procedures will be filed with the Department's EEO/Grievance Coordinator.

III. DEFINITIONS:

- A. Conduct Standards. Standards of acceptable behavior for Department employees while on or off duty, including but not limited to those found in this Secretarial Directive.
- B. Contraband. Any article, in any amount, the possession of which is prohibited by law, regulation or policy.
- C. Disciplinary Probation. This probationary period is established as a time for the Department to evaluate and help employees correct negative behavior and achieve success.
- D. Initial Probation. Initial employment includes a (1) one-year probationary period upon initial hire with the Department. This probationary period is established as a time for the Department/Division to evaluate and help employees adjust to their new positions. A six-month initial probationary period also applies upon promotion within the Department.
- E. Multiple Violations. Two or more employee conduct violations that are active at the same time, that resulted from separate incidents.
- F. Offender. Individuals under the custody or supervision of a division of the Department of Corrections, including but not limited to: inmates, residents in a community correction center or reentry center, parolees, and probationers.
- G. Personnel File. The official record of employment of all Department staff maintained by the Central Human Resources Office.
- H. Supervisor. Any individual who has the authority, acting in the interest of his/her employer, to take personnel actions including, but not limited to hire, transfer, suspend, promote, demote, discharge, reward, discipline, etc., either by taking the action himself or by effectively recommending it.
- I. Supervisor's File. A record of an employee's performance, including any counseling or verbal warnings, which is maintained by an employee's supervisor. This is not the same as the personnel file, and may contain additional performance and disciplinary records.
- J. Unit. Any correctional facility or center operated by the Department of Corrections.

IV. PROCEDURES:

A. Notice

The Central Human Resources Office or Unit Human Resource Offices will make available the appropriate Administrative Rule and this Secretarial Directive to all employees. Policy dissemination will be documented by the employee by signing an acknowledgment of receipt for the policy. The receipt will be placed in the employee's personnel file. The employee is responsible for reviewing and becoming familiar with the Employee Conduct Standards and Discipline policy. Employees needing further explanation of this policy should seek the assistance of their immediate supervisor or Human Resources Manager. All employees shall be notified and receive subsequent notice of changes.

B. Responsibilities

1. Employee
 - a. To be familiar with and follow conduct standards;
 - b. To seek clarification if they do not understand the conduct standards;
 - c. To abide by all conduct standards; and
 - d. To participate in good faith with administrative investigations into violations of standards.
2. Management
 - a. To give proper notice to the employees of any changes in this policy;
 - b. To monitor employee conduct to determine compliance with conduct standards and discipline;
 - c. To establish and maintain a work environment that helps employees meet the conduct standards; and
 - d. To enforce all conduct standards and administer discipline in a consistent, objective, and good-faith manner.

C. Disciplinary Action Generally

Progressive discipline is intended to impose discipline at the level that is commensurate with the offense and progress through the disciplinary grid when further violations of the applicable Standards of Employee Conduct are committed. Progressive discipline also recognizes that some violations of the Standards of Employee Conduct are so serious that the level of discipline imposed may exceed the level recommended on the disciplinary grid. The proximity and repetitive nature of the violations can be grounds to increase the penalty. Consistency in application of the Standards of Employee Conduct is a goal to be achieved through a fair and thorough investigation prior to the imposition of discipline. The consistency being sought does not require management to administer the exact discipline indicated in the Standards of Employee Conduct in every case. When the facts of a case are different and distinguishable, the disciplinary action may vary. However, when the facts are the same or very similar, the discipline imposed must reflect consistency.

The penalty imposed for violating a rule or policy must take into consideration all relevant circumstances. All relevant circumstances taken into consideration when determining a penalty must be clearly stated and well documented. An employee may be disciplined for violating more than one rule or policy arising out of the same incident. In all cases, any mitigating and aggravating circumstances, along with the relationship of multiple offenses, must be considered in determining the level of discipline.

Corrective counseling is an option and should be considered prior to any disciplinary action as well as between various steps of progressive discipline. Corrective counseling is a tool used to communicate, define expectations, and provide an opportunity to achieve success. Corrective counseling is not discipline; however, it should be documented and placed in the supervisor's file for the counseled employee. To the extent that is reasonable and within the scope of requirements of this policy, employees may be given opportunity to alter negative behavior using constructive corrective action.

D. Penalties

Penalties for violation of standards shall be administered by supervisors in a consistent, objective, good faith, and non-discriminatory manner. Supervisors are expected to use good judgment in determining the seriousness of violations and the disciplinary penalties. Supervisors must document facts in each case and make sure the penalty is appropriate. All circumstances must be considered before taking final action.

1. **Verbal Warning:** A verbal notice to inform the employee that he or she has violated a conduct standard. A verbal warning may be used as the basis for additional disciplinary action later. A more severe disciplinary action may be taken if an equal or more substantial violation occurs within a (6) six-month period from the date of the verbal warning.

Documentation of the Verbal Warning will be placed in the supervisor's employee file. A copy of the documentation should not be placed in the employees personnel file. The employee shall not be placed on probation, as a result, of a Verbal Warning. Upon the employee's written request and the supervisor's approval, documentation of an Verbal Warning may be removed from the supervisor's file after (1) one year from the date of the warning, providing that no other incidents have occurred. When an employee is reassigned to a different supervisor, the supervisor's file will be forwarded to the new supervisor.

2. **Written Warning:** The written notification must inform the employee that a violation of a standard has occurred. A more severe disciplinary action should be taken if an equal or more substantial violation occurs within (6) six months from the date of the disciplinary action. A written warning is accompanied by an automatic six (6) month probationary period. A copy of the Written Warning will be placed in the employee's personnel file.
3. **Suspension:** An action to be used for major violations of standards, repeated violations of standards or when management determines that the violation and/or its impact on the job atmosphere or circumstances warrants the immediate removal of the employee for a specified period. A more severe disciplinary action should be taken if an equal or more substantial violation occurs within (12) twelve months of the date of suspension. A suspension is accompanied by an automatic twelve (12) month probationary period. A copy of the suspension document will be placed in the employee's personnel file.

A recommendation to suspend an employee may be made by the immediate supervisor after a thorough and documented review of the situation, but the final decision to suspend must be made by the appropriate Unit Warden/Administrator/Area Manager/Center Supervisor, or higher official within the Division or Department. Dates of suspension are to be scheduled generally soon as possible following the imposition of the penalty. Suspension shall be without pay for a minimum of (1) one working day but not to exceed (10) ten working days (80 hours).

In cases where an employee's drivers license is suspended, the suspension could be up to fifteen (15) working days (120 hours). For timekeeping and payroll purposes, the number of hours worked plus the hours suspended will not exceed the number of the employee's regularly scheduled work period.

4. Demotions: An action to be imposed against an employee for a serious violation. An employee must be qualified for the position to which demoted. A more severe disciplinary action should be taken if an equal or more substantial violation occurs within (12) twelve months of the date of demotion. Demotion is accompanied by an automatic twelve (12) month probationary period. A copy of the demotion document will be placed in the employee's personnel file. A demotion may be imposed in conjunction with a suspension.

A recommendation to demote an employee may be made by the immediate supervisor after a thorough and documented review of the situation, but the final decision to demote must be made by the appropriate Unit Warden/Administrator/Area Manager/Center Supervisor or higher official within the Division or Department and reviewed by the Human Resource Administrator to ensure an appropriate position placement.

Please note: Re-assignment can occur for non-disciplinary reasons. If re-assignment does not result in a loss of pay, the re-assignment does **not** constitute a disciplinary action.

5. Termination: Termination is an action to be used for major violations of a conduct standard affecting the security and good order of departmental operations or when the accumulation of violations has exhausted available disciplinary sanctions up to discharge.

A recommendation to terminate an employee may be made by the immediate supervisor after a thorough and documented review of the situation, but the final decision to terminate must be made by the appropriate Unit Warden, Administrator, Area Manager, Center Supervisor, his designee or higher official within the Division or Department.

E. Documentation

Supervisors are responsible for documenting each disciplinary action taken and forwarding supporting documentation to the appropriate HR Personnel then forward to Central Office. Documented information regarding disciplinary action should not be used as a consideration for further progressive disciplinary actions or other personnel actions after the probationary period has expired. However, the information will remain in the personnel file, unless ordered removed pursuant to the employee grievance process or as a result of an internal investigation concluding that the violation never occurred.

Documentation should be specific and include detailed factual statements. Documentation includes but is not limited to the following information:

1. Standards which have been violated.
2. Disciplinary action taken.
3. Assistance and/or advice given to the employee to bring conduct into acceptable standards.
4. Consequences if standards are not followed.
5. Acknowledgment of Disciplinary Action signed by both the supervisor and employee or a witness.
 - a. If the employee refuses to sign the Acknowledgment of Disciplinary Action form (Attachment #1), a third party shall witness the refusal by signing the appropriate place.

- b. A copy of the documentation shall be placed in the employee's personnel file, except for verbal warnings.

F. Probationary Period

All disciplinary actions except a verbal warning are accompanied by an automatic disciplinary probation period. A disciplinary probation period will commence on the day an employee receives official notification of disciplinary action. Official notification should be hand-delivered or mailed by certified mail with return receipt requested.

Employees are automatically subject to an initial probationary period during their first year of employment or within six months of promotion. Employees who are disciplined during this initial probationary period who then subsequently cannot adjust, may be terminated. The reason given for the termination shall be submitted in writing to the Unit Human Resource Manager, the employee being dismissed and the Central Human Resource Office. However in lieu of termination, and with written notification, this initial probationary period may be extended by the Warden/Center Supervisor or Division Administrator.

Employees will not be eligible for promotions during any probationary period (disciplinary or initial), except when approved by the Secretary.

G. Violations and Prohibited Conduct

All employees of the Department are expected to abide by the attached standards (Attachment #2) which are established as guidelines to give a measure of consistency in the administering of discipline with the Department. Other conduct standards may be subsequently adopted by the Department. Following each standard are examples of conduct which violate the standard and the disciplinary action which should follow for a typical occurrence.

The standards are intended as a guide for such actions the Department considers unacceptable but are not intended as an inclusive list.

V. **ATTACHMENTS:**

- #1 Acknowledgment of Disciplinary Action Form
- #2 Acknowledgement of Policy
- #3 Employee Conduct Standards

ARKANSAS DEPARTMENT OF CORRECTIONS

ACKNOWLEDGEMENT OF DISCIPLINARY ACTION

I have reviewed the Employee Conduct Standards with the employee. He/she is aware of the infraction and potential consequences if the action is repeated.

Supervisor Signature

Date

This is to certify that the attached letter, which is being placed in my personnel file, has been discussed with me. I have been given a copy of the attached letter. My signature does not necessarily indicate agreement with the attached letter.

Employee Signature

Date

Employee refused to sign

Witness

Date

NOTE: THIS FORM SHOULD BE COMPLETED FOR ANY LETTER OF FORMAL DISCIPLINARY ACTION. BOTH SHOULD BE PLACED IN THE EMPLOYEE'S PERSONNEL FILE.

ARKANSAS DEPARTMENT OF CORRECTIONS
ACKNOWLEDGEMENT OF RECEIPT OF POLICY

I have been provided a copy (digital or physical) of the Department of Corrections Employee Conduct Standards and Discipline Policy. I understand that it is my responsibility to read and understand this policy. My signature below indicates that I acknowledge receipt of the policy and that I have read and understand the policy.

Employee Signature

Date