



**DEPARTMENT OF PUBLIC SAFETY  
AND CORRECTIONAL SERVICES**

**STANDARDS OF CONDUCT &  
INTERNAL ADMINISTRATIVE DISCIPLINARY PROCESS**

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## FOREWORD<sup>1</sup>

The agencies comprising the Department of Public Safety and Correctional Services are fundamental partners in Maryland's criminal justice system, and they are responsible for performing various functions that help make communities safe for the residents of this state. Developing the professional, disciplined, and effective work force to perform these functions in a manner which earns the public's confidence and respect necessitates that all employees appreciate the inseparable connection between their actions--on the job and in private life--and public opinion. A single employee's misconduct or ineffective performance reflects negatively on immediate co-workers, other employees in the agency, other government agencies, and interferes with the Department's ability to accomplish its goals.

It is essential that all of the Department's employees understand and comply with the rules, regulations, and procedures in the Rules of Conduct. Recognizing it is impossible to foresee and describe every situation employees may encounter in the performance of assigned duties, the fundamental purpose of this document is to provide guidelines to stimulate thoughtful, professional actions. In addition, the Rules of Conduct are intended to ensure fairness and parity in the handling of disciplinary matters as well as the imposition and appeal of related sanctions. The procedures and time frames are structured to protect the procedural rights of employees as well as the integrity of the Department's programs and facilities. Whenever possible, disciplinary measures will be progressive and promote improved employee performance; however, the severity and frequency of infractions will be considered when imposing sanctions.

Consistent with the integrity of the Department and its agencies, various investigative functions also are prescribed in this document, particularly the responsibilities of the Investigative Unit. Utilizing specialized resources, this Unit coordinates and supervises the investigation of suspected violations of certain rules, regulations, and criminal law. Their efforts may rule out any wrong doing or pave the way for appropriate administrative action. The responsibility of supervisors to investigate and take action appropriate to their authority is not diminished by the existence of the Investigative Unit.

The Department strives to simultaneously protect the public, comply with state and federal laws and standards, and operate its programs and facilities consistent with the best contemporary management practices in related fields. These Rules of Conduct are part of continuing efforts to ensure that employees are informed about their responsibilities.

**/s/ Stuart O. Simms**  
Stuart O. Simms  
Secretary  
Department of Public Safety and  
Correctional Services

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<sup>1</sup> This Foreword summarizes the spirit and content of the rules of the Rules of Conduct and is not part of the regulation.

## I. DEFINITIONS

As used in this regulation the following terms have the meanings indicated.

- A. "Abuse of drugs or alcohol" means the use of an illegal drug; the intentional misuse of an over-the-counter drug if the misuse impairs the job performance of the State employee; the intentional use of any prescription drug in a manner inconsistent with its medically prescribed intended use or under circumstances where its use is not permitted, if it impairs the job performance of a State employee; the use of alcohol if it impairs job performance of the State employee.
- B. "Agency" means a major component unit within the Department as defined by law or designated by the Secretary.
- C. Agency Technical Representative (ATR) means an individual designated by an appointing authority to ensure compliance with the employee drug testing program.
- D. "Appointing authority" means the chief administrative official of an agency or institution, as defined by law or designated by the Secretary.
- E. "Breath alcohol concentration (BAC)" means the grams of alcohol concentration per 210 liters of breath.
- F. "Chemical test" means the test of an employee's breath to determine alcohol concentration.
- G. "Contraband" means any item, material, substance, or other thing that is not authorized for employee or inmate possession by the Managing Officer of a correctional facility or is brought into a correctional facility in a manner prohibited by the Managing Officer of the correctional facility.
- H. "Controlled dangerous substance" (CDS) means an illegal drug as defined in Art. 27, Sec. 279 of the Annotated Code of Maryland including, but not limited to marijuana/cannabinoids, cocaine, opiates, phencyclidine (PCP) and amphetamines.
- I. "Department" means the Department of Public Safety and Correctional Services.
- J. "Electronic Search" means a search conducted with an electronic device, e.g., hand scanner, metal detector, or wand.

- K. "Employee" means any person (excluding an inmate) receiving direct or indirect compensation for services performed for an agency.
- L. "Escape" means the voluntary departure of an inmate from his/her place of confinement or other authorized location outside the inmate's place of confinement.
- M. "Exempt employees" means employees who are not eligible for cash overtime payment under the Federal Fair Labor Standards Act (FLSA) 29 U.S.C. Sec. 201 et. seq.
- N. "Found Guilty" means a plea of guilt or nolo contendere or a determination of guilt in a court of law.
- O. "Frisk search" means a search involving the patting down of an employee's outer clothing.
- P. "Impaired" means the state or condition which renders an employee unable to properly carry out the duties of his/her classification. An impaired condition may result from the consumption of alcoholic beverages, the use of CDS or the improper use of prescription drugs.
- Q. "Incident" means an event that occurs in the actual performance of job duties in which human error may result in death or in personal injury requiring immediate inpatient hospitalization or in damage to state or private property that appears to the employee's supervisor or the Agency Technical Rep to be in excess of approximately \$2,500.00.
- R. "Insubordination" means the failure of an employee to acknowledge and submit to the lawful authority of a superior.
- S. "Lawful order" means any order or instruction, either oral or written, that an employee should reasonably believe to be in keeping with the performance of his/her duties.
- T. "Non exempt employees" means employees who are eligible for cash overtime payment under the FLSA.
- U. "Probation Before Judgment (PBJ)" means the staying of the entry of judgment and the placing of the defendant on probation after a finding of guilt.

- V. "Property Search" means the search of an individual's personal belongings being brought onto state property.
- W. "Reasonable suspicion" means:
1. For drug testing: the existence of facts which give an appointing authority and/or designee a reasonable, objective basis to suspect that a drug test of an employee will produce evidence of illegal use of drugs.
  2. For strip search: the existence of facts which give an appointing authority a reasonable, objective basis to suspect that an employee has unauthorized articles in his/her possession.
- X. "Sensitive class or position" means a classification or position that has been designated sensitive by an employee's appointing authority or personnel system.
- Y. "Strip search" means a search during which an employee is required to remove his/her clothing.
- Z. "Unscheduled leave" means leave not requested in advance.
- AA. "Work place" means any place where an employee is performing work for the State of Maryland.

## II. STANDARDS OF CONDUCT AND PERFORMANCE

### A. Authority

1. Under authority of law the Secretary of Public Safety and Correctional Services promulgates and adopts the following rules and regulations for the operation and maintenance of its agencies, including the institutions and facilities of the Division of Correction, the Patuxent Institution and the Division of Pretrial Detention & Services, the facilities of the Division of Parole and Probation, the Date Services Division, the Parole Commission and the other offices of the Department. These rules and regulations provide for the discipline and conduct of employees of the institutions and agencies. Such rules and regulations may be altered, amended or abrogated by the Secretary. (Article 41, Section 204)

2. To the extent that these rules and regulations are inconsistent with or in conflict with any provision of State Personnel and Pensions Article, or the rules and regulations of the Department of Personnel, as they apply to merit system employees, State Personnel and Pensions Article and the rules and regulations of the Department of Personnel shall prevail. The rules and regulations of the Maryland Correctional Training Commission shall govern in matters regarding the minimum qualifications and training requirements of employees of the Division of Correction, the Patuxent Institution, the Division of Pretrial & Detention Services and the Division of Parole & Probation.

### B. Personal Conduct

1. Each employee shall conduct him/herself at all times, both on and off duty, in such a manner as to reflect most favorably on the Department. Any breach of the peace, neglect of duty, misconduct or any conduct on the part of any employee of the Department, either within or outside of his/her place of employment, which tends to undermine the good order, efficiency, or discipline of the Department, or which reflects discredit upon the Department or any employee thereof, or which is prejudicial to the efficiency and discipline of the Department, even though these offenses may not be specifically enumerated or stated, shall be considered conduct unbecoming an employee of the Agency, and subject the employee to disciplinary action by the Agency.

2. Each employee shall maintain a professional working relationship with his/her superiors, subordinates and coworkers. While loyalty and cooperation between employees are encouraged, relationships between coworkers, supervisors and subordinates that compromise the chain of command, result in the appearance of partially, or otherwise undermine good order, discipline or authority are forbidden.

## STANDARDS OF CONDUCT AND PERFORMANCE

3. An employee while acting in his/her official capacity, may not use any coarse, profane or insolent language and/or take action towards other employees, supervisors, inmates, offenders, clients or members of the public that is considered offensive to contemporary community standards, except as required as part of an approved inmate or offender treatment program.

4. No employee of the Department shall threaten, strike, or assault any other member of the Department. An employee who assists, abets, instigates or invites any altercation between employees of the Department shall be held responsible along with those employees actually involved.

5. Any employee of the Department, who being present at or having knowledge of any mutinous, rebellious or reactionary activity within the Department, shall use his/her utmost effort to suppress such action. Any employee having knowledge that such action is to take place, shall give information to his/her appointing authority or designee without delay. Management respects labor groups' right to confidentiality during the course of regular business meetings. An employee is not required to disclose to his/her supervisor issues that have been discussed at such meetings. An employee shall not engage in any work stoppage or job action.

6. An employee of the Department may not purchase or drink alcoholic beverages while on duty, or while off duty in uniform or partially identifiable uniform. An employee may not bring any alcoholic beverage onto State property, or into any State building or vehicle and may not permit the same to be brought therein. An appointing authority or their designee may make exceptions for religious or training purposes.

7. The illegal possession and/or use of any controlled dangerous substance and/or controlled paraphernalia while on or off duty is strictly prohibited.

8. An employee who reports to work or who, while working, is suspected of being under the influence of alcohol and/or an illegal controlled dangerous substance shall be immediately examined in accordance with procedures outlined in the Alcohol and Drugs sections of this regulation. This examination may include the use of personnel trained in the use of alcoholizer and other chemical tests. Refusal to submit to such an examination shall be considered as evidence against the employee in disciplinary proceedings. There shall be reasonable suspicion prior to any action by supervision.

9. When controlled dangerous substances are legally prescribed, an employee shall notify his/her immediate supervisor in writing on the first day of his/her reporting to work. After consultation with an appropriate medical authority or the review of appropriate medical documentation and/or consultation with the appointing authority or designee, the supervisor shall determine whether the

## STANDARDS OF CONDUCT AND PERFORMANCE

employee is fit to stand duty as assigned.

10. An employee may not violate any state, federal or local law. An employee arrested or criminally charged shall notify or cause to be notified, in writing, his/her appointing authority via the immediate supervisor on his/her next scheduled work day, but in no case later than five calendar days following the employee's arrest or criminal summons. Upon adjudication of the criminal case, the employee shall notify or cause to be notified, in writing, his/her appointing authority via the immediate supervisor of the Court's disposition. This shall be done on the employee's next scheduled work day, but in no case later than five (5) calendar days following such action.

11. Any employee, upon receipt of summons or oral notification of his/her being called to testify in a criminal prosecution, shall report in writing, on his/her next scheduled work day but in no case later than five (5) days following receipt of such notification, the circumstances, date, time and court locations to the appointing authority.

### C. Searches

1. An employee is subject to strip search upon entering a correctional institution or facility. Reasonable suspicion shall be established by the appointing authority or designee prior to a strip search being authorized.

2. Any employee entering secure areas of an institution may be subject to a routine frisk search without reasonable suspicion.

3. An employee may be subject to a frisk search, property search (including the use of K-9) and electronic search while the employee is on duty or on institutional property in accordance with appropriate Agency directives and post orders or when reasonable suspicion is present. No employee is permitted to bring into or take out of any institution any package, bag, parcel, luggage or container of any kind without permission from the appointing authority or his/her authorized representative. When authorized, such articles are subject to inspection and shall be taken through main entrances only.

4. All lockers or other storage areas assigned to an employee may be searched in compliance with the provisions of C.1 above. The appointing authority may also order the conduct of random unannounced searches of such areas to ensure the integrity of the institution or facility.

### D. Contraband

An employee may not possess or convey contraband into an institution or onto institutional property. An employee shall be responsible for knowing which items are considered contraband at his/her work place. If ever in doubt, the employee must seek clarification of the supervisor.

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### E. Parking and Securing Personal Vehicles

1. An employee who drives a personal or state-owned vehicle to work and parks it on State property shall make certain that the vehicle is locked and secured. At no time may a vehicle be left unattended on institutional property with the motor running or with keys accessible.

2. An employee may not under any circumstances have contraband in a personal/state-owned vehicle which is driven onto State property. Equipment necessary to the operation of the vehicle may not be considered contraband while in the vehicle. Any vehicle may be searched if there is reasonable suspicion that the vehicle contains contraband. An employee shall be responsible for knowing which items are contraband on the property of the employee's particular work place.

### F. Employee Contacts With the Public and News Media

1. An employee shall treat the official business of the Department as confidential. Information regarding official business shall be disseminated only to those for whom it is intended in accordance with established Agency procedures, or by authorized persons as provided by law.

2. An employee whose duties involve contact with the public shall be courteous and conduct him/herself in a businesslike and dignified manner. Information presented to the public or news media shall be truthful, objective and in accordance with existing rules and regulations. Employees may not represent themselves as an official spokesperson for an Agency unless specifically authorized by the Secretary or Secretary's designee.

### G. Registering of Address, Telephone Number and Name

1. An employee shall provide his/her immediate supervisor and the personnel office with his/her current phone number and a current address.

2. A Correctional Officer, Correctional Dietary Officer, or Correctional Maintenance Officer shall have a current telephone number at his/her place of residence or telephone number where he/she may be reached.

3. A legal name change shall be reported to the personnel office.

4. An employee shall report changes in the above on the employee's next scheduled workday.

### H. Secondary Employment in Addition to State Employment

A full-time State employee may secure secondary employment provided that:

1. The hours of the secondary employment shall never conflict with the employee's duty hours in State service.

## STANDARDS OF CONDUCT AND PERFORMANCE

2. The secondary employment does not interfere in any manner with the satisfactory performance of the employee's duties in State service.
3. The employee submits to the appointing authority, in writing, complete information pertaining to such secondary employment, prior to assuming such employment.
4. The secondary employment does not create a conflict of interest.

### I. State Property

No employee shall remove, or knowingly allow the removal of State property from any facility of the Department without the written permission of the appointing authority or authorized representative. This shall include all property within the facility or on the grounds regardless of its current state of use. Personal use of State property is forbidden. Each employee shall be responsible for the proper maintenance of State property and is expected to exercise reasonable care in preventing inmates or others from damaging, stealing or destroying such property.

### J. Performance of Duties

An employee of the Department shall be responsible for his/her own actions, as well as the proper performance of his/her duties. In carrying out the functions and objectives of the Department, an employee shall perform his/her duties in a manner that will maintain the highest standards of efficiency. Examples of unsatisfactory performance include but are not limited to lack of knowledge, unwillingness or inability to perform assigned tasks, failure to conform to work standards established for the member's rank, classification, or position, or failure to take appropriate action to ensure compliance with Department regulations.

### K. Insubordination

1. An employee shall acknowledge the authority of a supervisor and promptly obey all lawful orders of a superior or person designated to supervise.
2. An employee without adequate justification may not issue an order that is contrary to an order, either oral or written, issued by a superior. An employee to whom conflicting orders are issued shall call immediate attention to such a conflict. If the conflict is not resolved, the employee shall obey the last order.
3. An employee shall transact all official business with employees senior in rank or classification through the established chain of command unless otherwise directed by competent authority.

## STANDARDS OF CONDUCT AND PERFORMANCE

4. An employee shall cooperate with a superior or other person designated to conduct an investigative procedure. An employee shall answer all questions truthfully and to the full extent of his/her knowledge due to security purposes.

### L. Prevention of Escapes and Disorders

An employee shall take all reasonable means to prevent escapes or disorders. An employee having information about an unusual institutional occurrence, an escape, disturbance, violation of an institutional directive or Department regulation or any other matter affecting the security or safety of an institution shall immediately report the information orally to his/her immediate supervisor and submit a written report as soon as possible. Such information shall be reported even if there is any doubt regarding its validity.

### M. Breach of Security

An employee may not take any action or fail to take any action when the action or failure to act causes a breach of security or a potential breach of security by jeopardizing:

1. the physical security or integrity of an institution, or the physical security or integrity of any part or area of an institution or
2. the safety or security of any employee, inmate, offender, client, visitor or member of the public.

### N. Aiding or Assisting in Escape or Attempted Escape

Any employee aiding or assisting in the escape and/or attempted escape of any offender or person detained and/or under the custody of any institution of the Department shall be subject to immediate termination and to prosecution under the provisions of Article 27, Section 139 of the Annotated Code of Maryland (ACM) or any other security provision of the ACM.

### O. Control of Weapons, Keys, Tools, Drugs, Toxic and Dangerous Material

An employee shall exercise extreme caution at all times to adequately control weapons, keys, tools, drugs, toxic and dangerous material and to prevent inmates from gaining access to them. An employee who loses or is unable to account for any of these items, shall report that information to the appointing authority or designee immediately.

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### P. Safety and Fire Prevention/Control

An employee shall become familiar with and comply with agency safety and fire prevention/control procedures. An employee shall be constantly alert to detect and immediately correct or report unsafe conditions and/or fire hazards.

### Q. Emergency Duty

During institutional emergencies or where there is critical need, a correctional employee shall be subject to twenty-four hour call to duty.

### R. Changing Post or Assignments

An employee of a Correctional institution may not leave his/her assigned post or exchange assigned duties unless properly and officially relieved or authority has been granted by his/her immediate supervisor and/or designated officer-in-charge.

### S. Reports

1. An employee may not make any false oral or written statement or misrepresent any material fact, under any circumstance, with the intent to mislead any person or tribunal. Reports submitted by employees shall be clear, concise, factual and accurate. There is a distinction between the two kinds of reports:

- a. A false report is one which is intentionally untrue, deceptive or made with the intent to deceive the person to whom it was directed.
- b. An inaccurate report is one that is untrue by mistake or accident and made in good faith.

2. An employee shall not create, alter or be a party to the creation or alteration of any documentation that is submitted to obtain wages/benefits under fraudulent circumstances.

### T. Acceptance of Rewards or Gifts From Any Person(s) or Corporation Engaged or Attempting to Engage in Business with the Department

1. An employee may not be directly or indirectly involved as a party of interest in any contract purchase or sale made by the Department, or by its authority, or accept any reward or gift, or any promise of any reward or gift directly or indirectly from any person interested in any contract, purchase or sale made by the Department.

2. An employee shall make a report through the chain of command to his/her appointing authority of all offenses coming to his/her knowledge. Failure or neglect to do so is a breach of duty.

## STANDARDS OF CONDUCT AND PERFORMANCE

3. An employee shall be subject to the provisions of the State Ethics Law as found in Article 40A of the Annotated Code of Maryland. Any violation of the State Ethics laws, regulations or opinions adopted or promulgated pursuant thereto by the State Ethics Commission may result in disciplinary action under State Personnel and Pensions Article as well as under Article 40A of the Annotated Code of Maryland.

4. Any employee violating this section shall be subject to immediate termination and to prosecution.

### U. Report for Duty

1. An employee shall report to work or assigned duties at the prescribed time to ensure safe and efficient operations. An employee who will be late or absent shall contact his/her supervisor as established in Section III, Attendance Requirements.

2. No employee of the Department shall feign his/her or a family member's illness in an attempt to avoid his/her duties and responsibilities.

### V. Personal Telephone Calls

Personal telephone calls may not be made using State telephone equipment or while an employee is on duty, except in case of emergency or with a supervisor's permission.

### W. Inviting Guests to an Institution or Facility

An employee may not invite guests or visitors to any correctional institution without the prior written approval of the appointing authority or designee. An employee may not invite guests or visitors to other offices or facilities without the specific approval of the employee's supervisor.

### X. Attitude Towards Inmates and Clients

An employee shall be fair, firm and impartial in relationships with inmates and offenders. The employee shall maintain a humane, objective and professional interest in the welfare of inmates and clients in order to contribute to the success of the programs of the Department.

### Y. Use of Force (In conjunction with related directives)

1. An employee may not strike or use physical force upon an inmate, offender, client or any other person, except in self-defense, defense of another employee, member of the public, offender, client or inmate, to prevent an escape or serious disturbance or to control an unruly inmate who refuses to obey a lawful order.

## STANDARDS OF CONDUCT AND PERFORMANCE

2. An employee shall be firm and resolute with inmates or offenders and if he/she is resisted, he/she may repel force with force, using only such force as is necessary to take the individual into custody and/or gain control of the situation.

3. An employee shall complete a report regarding any use of force situation as required in agency directives. Under no circumstances shall a supervisor waive the employee's responsibility to complete the report.

### Z. Use of Firearms (In conjunction with related directives)

1. An employee of the Department must agree to use firearms as required by his/her job responsibilities as well as complete required weapons training.

2. An employee of the Department who is authorized to carry a firearm while on duty shall exercise the utmost care and precaution in the preservation and use of such a weapon.

3. An employee may not use firearms in the discharge of duties except in the following cases:

- a) In self-defense to prevent death or serious bodily injury, or to defend another person from death or serious bodily injury;
- b) To prevent the escape of an inmate confined to an institution where the use of firearms is authorized, when other means are insufficient;
- c) When used in training and practice on the range.

### AA. Taking Inmates From a Correctional Institution

An employee may not escort or take any inmate away from the institution without legal authority or the authority of the appointing authority or designee. The employee assigned to inmate escort duty shall take inmates only to and from authorized destinations as directed by the appointing authority or designee. An employee may not permit inmates to leave their places of assignment or to make unauthorized stops. Inmates must be in sight and under the control of employees at all times, except when temporarily maintained in a holding facility. Inmates must be searched each time they are removed from a holding facility.

### BB. Rewards or Gifts From Inmates or Clients

1. An employee may not accept any reward, loan or gift, or any promise of reward, loan or gift, from any inmate, offender or client of the Department, or from anyone on behalf of any inmate, offender or client, or receive any devise or bequest, or any promise of devise or bequest, from any inmate, client or any person on behalf of the inmate, offender or client, or from the estate of an inmate, offender or client.

## STANDARDS OF CONDUCT AND PERFORMANCE

2. An employee may not request, demand or accept personal services from inmates, offenders or clients.

3. All attempts of any of the above actions must be reported immediately to the supervisor and confirmed in writing.

### CC. Inmate Letters, Messages, etc.

An employee may not take any letter, message, or communication of any type, written or oral, from or intended for an inmate except as required in the daily performance of business.

### DD. Contacts Between Employees and Families of Inmates, Offenders or Clients; Employees and Friends of Inmates, Offenders or Clients; or Employees and Inmates or Clients.

1. An employee may not visit the homes of inmates, offenders or clients, relatives of inmates, offenders or clients, or known friends of inmates, offenders or clients for any purpose other than official Agency business. If such a visit is necessary, prior written approval from the appointing authority or designee shall be obtained and made a matter of record. Such contacts shall be handled in an objective and professional manner.

2. An employee may not contact or visit inmates at any correctional facility, regardless of whether he/she is on or off duty, for any purpose other than official Departmental business. The exception to this shall be for an employee who is related to the inmate. Any request for permission to visit relatives shall be approved by both the employee's appointing authority or designee and by the appointing authority or designee of the institution or facility where the relative is incarcerated.

3. An employee may not become socially, personally or intimately involved in relationships with inmates, offenders or clients of the Department. This includes communication through written correspondence, telecommunications and social interactions.

4. An employee may not allow inmates to contact or visit with them for any purpose while off duty.

### EE. Confidential Nature of Inmate, Offender or Criminal History Files

1. Utmost care is essential in the handling of inmate, offender or criminal history records, as they are confidential. Should questions arise concerning inquiries from outside sources, other than agencies conducting business with the Department such as the courts, parole, police, etc., the appointing authority or designee shall be consulted.

## STANDARDS OF CONDUCT AND PERFORMANCE

2. Employees may not remove inmate, client, offender or criminal history files or documents from any institution or facility of the Department without permission of the appointing authority or designee.

### FF. Employee Personnel Files and Records

1. No member of the Department shall have access to personnel files, materials or other official or confidential personnel records except as permitted by Section 10-611 et. seq of the State Government Article of the Annotated Code of Maryland, or policies of the Department of Personnel or of the Department of Public Safety and Correctional Services.

2. Unless otherwise provided above, access to personnel files shall be limited to Personnel staff, management employees in the chain of command above the employee, personnel specifically designated to conduct investigations requiring the review of personnel files, the employee and those designated by the employee to have access to the file.

3. No employee shall transmit any official document, file or report of the Department without proper authority.

### GG. Appearance and Equipment

1. An employee shall set a positive example in his/her overall appearance and grooming.

2. An employee designated to wear a uniform shall wear only the uniforms, badges, insignia of rank and equipment as prescribed in Agency procedures.

3. An employee designated to wear a uniform while on duty shall wear the prescribed uniform and be properly equipped, unless otherwise directed.

4. An employee shall be responsible for all equipment issued to him/her and where it is established that any part thereof is lost or damaged through negligence, the employee shall be obligated to replace it at his/her own expense.

5. Any employee suspended pending termination from State service shall be required to return to his/her supervisor all Agency equipment/uniforms issued to or assigned for his/her use.

### HH. Sexual Harassment and Other Discrimination

An employee found to have engaged in discrimination on the basis of race, color, religion, national origin, political affiliation, handicap, age or sex (including sexual harassment) will be subject to disciplinary action up to and including termination depending on the degree of the infraction.

## STANDARDS OF CONDUCT AND PERFORMANCE

### II. Conducting Inmate Counts

An employee assigned to conduct a count of any inmate population shall ensure that the recorded count accurately reflects the number and identity of inmates in the assigned area at the time the count is conducted.

### III. ATTENDANCE REQUIREMENTS

#### A. Employee Responsibilities

1. An employee shall report for duty at a prescribed time on those days specified in his/her work schedule unless he/she has been approved leave.

2. In situations where an employee does not have leave approved and will not be reporting for duty as required, he/she shall contact his/her supervisor with a request for unscheduled leave.

3. For absences that exceed one day, the employee shall call in daily until a date of return is established, in accordance with the guidelines below.

#### B. Supervisors' Responsibilities

1. Each supervisor shall advise his/her subordinates of the responsibility to call when they are unable to report to work at the scheduled time. The supervisor shall establish himself/herself as primary contact and provide the name of another person who can be reached in his/her absence.

2. The supervisor receiving an employee's telephone call shall evaluate the request and shall determine whether or not the request can be granted based on the reason for the request and the operational needs of the agency.

3. Decisions to approve or disapprove leave shall be made in keeping with the nature of the employees' position and the conditions outlined below.

#### C. Management of Unscheduled Leave Requests (Excluding Sick Leave)

##### 1. Shift Personnel

a) Shift personnel must obtain prior approval for use of annual, compensatory or personal leave. However, such leave may be denied only if the immediate supervisor determines that the employee's shift is below minimum staffing levels.

b) Shift personnel who will be late or absent for their scheduled shifts are required to telephone their supervisors between sixty (60) minutes and thirty (30) minutes prior to their normal reporting time unless otherwise directed by the appointing authority or designee.

##### 2. Non Shift Personnel

a) An employee whose unit is open only during a specific period of time each day and who will be late or absent shall notify his/her supervisor during the first half hour of his/her unit's normal workday.

b) An employee may use up to two days of annual and three days of personal leave each calendar year in increments of at least one half day without obtaining prior approval, provided that the employee notifies the immediate supervisor not later than thirty (30) minutes after the

## ATTENDANCE REQUIREMENTS

employee's normal reporting or starting time of his/her intended use of each period of annual/personal leave.

### 3. Shift & Non Shift Personnel

a) Lateness shall be defined and handled in terms of the specific conditions in which the tardiness occurs.

b) An employee shall be considered late if:

(1) An employee calls as required and arrives at work within one hour of the start of his/her shift.

(2) An employee does not call but arrives at work within 30 minutes of the start of his/her shift.

c) An employee shall be considered grossly late if:

(1) An employee calls as required and arrives at work later than one hour after the start of his/her shift; or

(2) An employee does not call and arrives later than 30 minutes after the start of his/her shift.

d) An employee shall be charged with a failure to report if he/she does not call and/or does not report to work.

e) An employee who is late, grossly late or who fails to report shall be charged with LWOP (leave without pay) for the time missed from work and shall be subject to the appropriate level of discipline.

### D. Mitigating Circumstances

1. In situations where it is determined by the supervisor or designated attendance control officer that the employee's lateness, gross lateness or failure to report was due to circumstances beyond the employee's control and was unexpected and unanticipated and appropriate documentation is submitted, the employee may not be charged with an occurrence and no disciplinary action shall be taken. Likewise, employees may be allowed to charge the absence to accumulated leave rather than LWOP.

2. If the circumstances do not warrant accepting the excuse, it shall be counted as an occurrence of lateness, gross lateness or failure to report and appropriate action shall be taken.

3. A file shall be kept that includes an explanation and all documentation for situations associated with mitigating circumstances. The appointing authority or designee shall review the documentation periodically to ensure consistency.

### E. Management of Overtime Coverage in Unscheduled Leave Situations

If the unscheduled absence of an employee requires that another employee be paid overtime to replace the absent employee, one of the following procedures listed in order of priority shall be implemented. Documentation is required when exercising these options.

## ATTENDANCE REQUIREMENTS

1. A volunteer from the shift where the vacancy occurred, who is on his/her regularly scheduled off day, shall be called in to cover the full eight (8) hour shift.
2. A volunteer from the shift going off duty shall be held over for the next eight (8) hour shift.
3. A volunteer from the shift going off duty shall be held over for four (4) hours, and one volunteer shall be called in four (4) hours early from the following shift.
4. Two (2) employees shall be designated to work by seniority to cover this shift, with one (1) employee being held over for four (4) hours from the shift going off duty and one (1) employee being called in four (4) hours early from the following shift, or an employee shall be designated by seniority to be held over for the next eight (8) hour shift.

#### IV. DISCIPLINARY SANCTIONS

##### A. Principles of Work Performance

The following principles of work performance and supervision are adopted:

1. An employee shall meet established performance standards.
2. Conditions or circumstances that will prevent an employee from performing effectively or from completing his/her assigned tasks shall be reported to supervision as soon as they become known by the employee.
3. An employee shall bring to the attention of his/her supervisor any unclear instructions or procedures.
4. A supervisor shall assist his/her employees in understanding their work assignments, the Standards of Conduct and Performance, and the goals, objectives and performance standards of their positions.
5. A supervisor shall be aware of inadequate or unsatisfactory work performance or behavior on the part of employees and attempt to correct the performance or behavior immediately.

##### B. Counseling and Training

Efforts to improve employee behavior may include counseling or remedial training. Counseling may range from a private, informal discussion to a written documented statement outlining those aspects of the employee's performance or behavior that need modification. While it is hoped that most problems can be resolved through such a process, counseling is not a prerequisite to taking formal disciplinary action, particularly in dealing with the most serious infractions.

In a situation where the employee may possibly benefit from outside counseling, referral may be made to the Employee Assistance Program (EAP). Such a referral shall be made as an effort to assist the employee and not as a measure of discipline.

A referral for remedial training shall be made when the employee's unsatisfactory performance is due to lack of knowledge, information or skills.

##### C. Types of Disciplinary Actions

1. Written Reprimand - a formal written statement that specifies a violation and warns the employee of the consequences of future infractions. The following actions represent levels of progressive discipline.
  - a) Level One Reprimand - a reprimand signed by the immediate/intermediate supervisor with the approval of the appointing authority or designee.
  - b) Level Two Reprimand - a reprimand issued and signed by the appointing authority or designee. This constitutes a more severe warning.

## DISCIPLINARY SANCTIONS

2. Suspension - the act of relieving an employee of his/her job responsibilities for a specific period of time without pay.
3. Demotion - the act of assigning an employee the duties and responsibilities and compensation of a lower classification.
4. Rejection on Probation - the termination of employment during the probationary period.
5. Discharge - the termination of employment at a time other than during a probationary period.
6. Denial of Annual Increment - the act of keeping an employee at his/her present salary, when advancement to the next salary step would normally have occurred.
7. Unsatisfactory Report - a report filed with the Department of Personnel which specifies both the reason for an employee's termination from State service and the agencies in which future employment is prohibited.

### D. Mitigating Circumstances

Mitigating circumstances include those conditions which indicate that the employee is not wholly at fault. When in the judgement of the appointing authority or designated representative that mitigating circumstances exist and can be substantially documented, specific corrective action may be reduced or not invoked.

### E. Category of Infractions/Type of Discipline

Unacceptable behavior is divided into three categories, according to severity. The behaviors listed in the three groups are only examples. Other behaviors that occur may be grouped and disciplined according to other regulations, policies, directives or procedures. A probationary employee may be rejected or extended on probation for disciplinary reasons of any category level, and such action may also be taken for other than disciplinary reasons.

#### 1. First Category Infractions

- a. The least severe types of infractions that require corrective action include:
  - 1) Use of coarse, obscene, profane or insolent language
  - 2) Failure to notify supervisor or Personnel Officer of change of address, name or telephone number
  - 3) Failure to report details of secondary employment
  - 4) Improper use of State property
  - 5) Inadequate or unsatisfactory job performance
  - 6) Failure to follow chain of command
  - 7) Violations of safety rules involving no threat to life
  - 8) Failure to report knowledge of a first or second category infraction

## DISCIPLINARY SANCTIONS

- 9) Violation of State Ethics Law
- 10) Misuse of telephones
- 11) Inviting guests to an institution
- 12) Inattentiveness or negligence in the performance of duties by an employee not directly responsible for the custody of inmates
- 13) Gross lateness
- 14) Failure to maintain required contacts with supervisor when away from assigned office location.
- 15) Lateness\*
- 16) Failure to maintain proper appearance\*
- 17) Failure to adequately maintain equipment\*

b. First category infractions shall result in discipline according to the following schedule and shall be dependent on the number of occurrences within the twelve months prior to the subject offense.

- 1) First Offense: Documented Counseling/Training
- 2) Second Offense: Level 1 Reprimand
- 3) Third Offense: Level 2 Reprimand
- 4) Fourth Offense: 5 day suspension
- 5) Fifth Offense: Charges for Removal (In situations where the employee is allowed to work pending the charges, a minimum of a five day suspension shall be levied in addition to the filing of Charges for Removal.)

c. Infractions 15.-17. denoted with an \* shall be documented and treated as a first category infraction after the third occasion.

### 2. Second Category Infractions

a. The more serious category of infraction requiring more stringent discipline includes:

- 1) Failure to report arrest/conviction
- 2) Failure to report receipt of criminal summons
- 3) Transporting in or out of institution any unauthorized package, bag, parcel, luggage or container
- 4) Possession of contraband other than that described under third category infractions
- 5) Leaving personal vehicle on grounds with motor running, or keys accessible or unlocked
- 6) Possession of contraband in personal vehicle
- 7) Unauthorized representation of the Agency before public or news media
- 8) Misuse of State property
- 9) Insubordination
- 10) Failure to exercise caution in control of weapons, keys, tools, drugs, toxic
- 11) Failure to report when summoned in an emergency situation
- 12) Leaving or exchanging assigned posts
- 13) Accepting rewards or gifts from person or corporations
- 14) Filing of a false report

## DISCIPLINARY SANCTIONS

- 15) Directing cruel or harsh treatment (not resulting in harm) towards inmates
- 16) Discharging of a weapon without authorization
- 17) Failure to report for duty
- 18) Inattentiveness or negligence in the performance of duty by an employee directly responsible for the custody of inmates
- 19) Providing an inaccurate count of the inmate population
- 20) Failure to report knowledge of a third category infraction
- 21) Unauthorized access of inmate, client, offender or criminal history records and information.

b. Second category infractions shall result in discipline according to the following schedule and shall be dependent on the number of occurrences within the twelve months prior to the subject offense.

- 1) First Offense: Level 1 Reprimand
- 2) Second Offense: Level 2 Reprimand
- 3) Third Offense: 5 day suspension
- 4) Fourth Offense: Charges for Removal (In situations where the employee is allowed to work pending the charges, a minimum of a five day suspension shall be levied, in addition to the filing of Charges for Removal.)

c. An employee with a First Category infraction who proceeds to commit a Second Category infraction shall be disciplined at that step in the Second Category which represents the next level of progressive discipline. Example: An employee who has received a Level 2 Reprimand under the First Category for his/her third First Category offense would receive a five day suspension upon committing a Second Category offense.

### 3. Third Category Infractions

a. Third category infractions are the most serious and include:

- 1) Striking, threatening, or assaulting fellow employees
- 2) Refusal to submit to a lawfully ordered strip, frisk, property or electronic search
- 3) Arrest for felony
- 4) Possession of contraband including, but not limited to, firearms, ammunition, other lethal weapons, or drug, alcohol, or escape paraphernalia on state property
- 5) Breach of security resulting in escape or the immediate possibility of escape
- 6) Aiding or assisting in escape or attempted escape
- 7) Use of unnecessary force which could reasonably be expected to result in serious bodily harm or death
- 8) Participation in any job action or work stoppage

## DISCIPLINARY SANCTIONS

- 9) Submission of fraudulent documentation to obtain wages/benefits
  - 10) Unprofessional personal relationship or contacts with inmate, offender or client
  - 11) Unauthorized access and dissemination of inmate, offender, client or criminal history records or information
- b. Third category infractions shall result in termination from State service.
  - c. The employee shall be suspended pending termination from State service.

### F. Alcohol

#### 1. Violations at the Work place

An employee shall not report to work impaired by alcohol. The possession or consumption of alcohol at the work place is forbidden.

##### a. Observation Process

1) When a supervisor has reason to believe that an employee is impaired due to alcohol consumption, he/she shall observe the employee carefully and document the symptoms/behaviors on the Department of Public Safety and Correctional Services Suspected Substance Use Observation Record.

2) The supervisor shall request that another supervisor in the area observe the employee. In situations where it is impossible for another supervisor to observe the employee, the observations of a co-worker shall be recorded. The names of all observers must be recorded on the Suspected Substance Use Observation Record.

##### b. Testing Process

1) When the supervisor's observations lead to the conclusion that the employee is impaired, the supervisor shall ensure that the employee is given the Alcoholizer Test.

2) When the results of the alcoholizer indicate that the employee has not consumed alcohol, the supervisor shall counsel the employee to determine the reason for the observed behavior. A Counseling Record Form shall be completed. Disciplinary sanctions may be implemented if warranted.

3) When the results of the alcoholizer indicate that the employee has consumed alcohol, the supervisor shall immediately contact IU. The IU will arrange for additional chemical testing involving a breathalyzer or comparable instrument and will issue a Written Order to Submit to a Alcohol Test (Form 3). The supervisor shall assure that the employee is taken to the designated testing site.

4) At the designated testing site, the employee shall be administered a chemical test to determine his/her breath alcohol concentration (BAC) level.

## DISCIPLINARY SANCTIONS

### c. Testing Process - Other Agencies

1) When the supervisor's observations lead to the conclusion that the employee is impaired, the supervisor shall ensure that the employee is given the alcoholizer test or another authorized preliminary test, if such tests and qualified operators are reasonably available.

2) When the results of the preliminary test indicate that the employee has not consumed alcohol, the supervisor shall counsel the employee to determine the reason for the observed behavior. A Counseling Record Form shall be completed. Disciplinary sanctions may be implemented, if warranted.

3) When no preliminary test is available or when the preliminary test indicates that the employee has consumed alcohol, the supervisor shall issue the employee a written order to submit to an alcohol test and shall arrange to have the employee transported to a designated testing site.

4) At the designated testing site the employee will be administered a chemical test to determine breath alcohol concentration (BAC).

### d. Management of Test Results

The nature of employee's position (non-sensitive/ sensitive) and the degree of impairment shall determine what action is to be taken.

#### 1) Non-Sensitive Classes or Positions

a) An employee who registers a BAC at or above .07 on the chemical test shall:

i) On the first occasion be referred to EAP and be suspended for five days.

ii) On the second occasion, the employee shall be suspended pending termination from State service.

b) An employee in a non sensitive class or position who registers at a BAC below .07 but above .01 on the chemical test shall be counseled by his/her supervisor. A counseling record shall be completed. Disciplinary sanctions may be implemented if warranted.

#### 2) Sensitive Classes or Positions

a) An employee in a sensitive class who registers a BAC at or above .04 on the chemical test shall:

i) On the first occasion be suspended for fifteen days and be required to successfully participate in an alcohol treatment program designated by the EAP. Failure to do so shall result in a suspension pending termination from State service.

ii) On the second occasion, be terminated from State service.

b) An employee in a sensitive class or position who registers at a BAC below .04 but at or above .01 on the chemical test shall be counseled by his/her

## DISCIPLINARY SANCTIONS

supervisor. A counseling record shall be completed. Disciplinary sanctions may be implemented if warranted.

2. Alcohol Violations Off the Work place
  - a. All Classes and Positions
    - 1) An employee who is found guilty of an alcohol related offense off of the work place shall:
      - a) On the first occasion be referred to the EAP, and in addition, be subject to any other appropriate disciplinary actions.
      - b) On the second occasion be suspended for a minimum of five working days, be referred to the EAP, be required to participate successfully in a treatment program designated by the EAP, and in addition, be subject to other appropriate disciplinary actions, up to and including termination from State service.
      - c) On the third occasion be suspended pending termination from State service.
    - b. An employee not in the work place who is found drinking alcohol off duty in uniform and in public shall be disciplined in accordance with Section IV, E 2.b.
    - c. General Provisions (All classes and positions - Sensitive and Non-sensitive)
      - 1) When an employee is unconscious or otherwise incapable of taking a breath test or who has sustained injuries requiring transportation to a medical facility, he/she may be subject to a blood test to determine blood alcohol concentration.
      - 2) An employee who refuses to be tested shall be treated as testing at the .07 level if he/she is non- sensitive or at the .04 level if he/she is sensitive.
      - 3) Violations of the alcohol policy shall remain a matter of record. Subsequent violations shall be handled in accordance with the next level of prescribed discipline regardless of the amount of time that has elapsed.

## G. Drugs

All institutions, facilities and offices of the Department of Public Safety and Correctional Services are drugfree work places. As a condition of employment, an employee shall refrain from using illegal drugs and abusing legally prescribed or over-the-counter drugs on and off the work place.

1. CDS Violations at the Work place
  - a. Reporting to work under the influence of CDS, being in possession of or using CDS at the work place is forbidden. When there is reasonable suspicion, (sensitive and non sensitive employees) or triggering incident has occurred (sensitive employees only) the supervisor shall complete the Suspected Substance Use Observation Record and contact IU (for employees of DOC, PATX or DPDS) or the

## DISCIPLINARY SANCTIONS

designated ATR (for employees of all other agencies).

b. The IU OR ATR shall report to the worksite to arrange for a drug test. The employee shall be given two forms: Written Order to Submit to a Urine Test and CDS Test Order.

c. The IU or ATR shall direct the employee to the designated testing site.

d. An employee who tests positive for CDS shall be suspended pending termination from State service.

### 2. CDS Violations Off the Work place

#### a. Non-sensitive classes or positions

1) An employee who is arrested for a CDS violation shall be subject to action based on a review of his/her case.

2) An employee who (i) is found guilty of a CDS violation prior to 10/1/95, or (ii) is convicted of a CDS violation thereafter, or (iii) receives a PBJ disposition and for whom there is a demonstrable relationship between the offense and job duties, shall:

a) On the first occasion, be suspended for a minimum of 15 working days, be referred to the EAP, be required to participate successfully in a treatment program designated by the EAP, and in addition, be subject to other appropriate disciplinary actions, up to and including termination from State service.

b) On the second occasion, be suspended pending termination from State service.

#### b. Sensitive classes or positions

1) An employee who is arrested for a CDS violation shall be suspended pending termination from State service.

2) An employee who is convicted of a CDS violation shall be suspended pending termination from State service.

3) An employee who receives a PBJ disposition and for whom there is a demonstrable relationship between the offense and the job duties shall be suspended pending termination from State service.

### 3. CDS Violations - Other Circumstances Requiring Testing (Sensitive Employees only)

In addition to reasonable suspicion and incident triggered testing, sensitive employees shall also be subject to testing under the following circumstances.

#### a. Random Testing (Sensitive Only)

1) An employee who tests positive for CDS through random testing shall be suspended for fifteen days. The employee shall meet the following conditions in order to return to duty and/or remain in his/her position.

a) Accept a referral to EAP during the suspension period and enroll in a rehabilitation program of at least six months duration.

b) Participate in periodic testing throughout the duration of the rehabilitation program.

## DISCIPLINARY SANCTIONS

c) Submit at the conclusion of the rehabilitation program a certification from the attending physician, or a certified chemical dependency counselor, licensed certified social worker or licensed psychologist associated with the rehabilitation program, stating under oath that the employee has successfully participated in a drug abuse rehabilitation program of at least six months duration and has not tested positive for drugs at any point during the rehabilitation program.

d) Participate in random testing for as long as he/she is in a sensitive classification or position.

b. Promotional Testing (Sensitive Only)

1. An employee who tests positive for CDS through the promotional testing process shall be suspended for 15 days and shall meet the conditions specified in 3.a.1.

2. He/she shall be rejected on probation from the promotion.

3. He/she shall be eligible to be considered for a promotion after one year provided that he/she completes the six-month rehabilitation program and meets all other eligibility requirements at that time.

c. Employment Action Testing (Sensitive Only)

1. An employee who tests positive for CDS as a result of demotion, horizontal change, transfer (including transfer from one facility to another) or reclassification shall be suspended for fifteen days and shall meet the conditions specified in 3.a.1.

4. Violations Involving Abuse of Legally Prescribed Drugs (or Over-the-Counter)

An employee who abuses a legally prescribed drug or an over-the-counter drug at the work place shall:

1) On the first occasion be suspended for five working days and be required to participate successfully in a drug treatment program designated by the EAP

2) On the second occasion be suspended pending termination from State service.

5. General Provisions (All classes and positions - Sensitive and Non-sensitive)

a. Failure to complete a required rehabilitation program shall result in charges for removal.

b. A second positive test, under any circumstances, shall result in charges for removal.

c. An employee who refuses to be tested shall be treated as testing positive and suspended pending termination from State service.

d. Violations of the drug policy shall remain a matter of record. Subsequent violations shall be handled in accordance with the next level of prescribed discipline regardless of the amount of time that has elapsed.

## DISCIPLINARY SANCTIONS

### H. Exception Information

1. An Agency Head has the authority to approve or impose any reasonable disciplinary action regardless of the provisions of Section III.E, F or G, except those provisions required by Executive Order.

2. Any arrest or conviction not listed above may also result in disciplinary action or termination from State service.

## V. IMPLEMENTATION OF CORRECTIVE AND DISCIPLINARY SANCTIONS

Each category of infraction is associated with different types of discipline or corrective action. Once it has been determined that disciplinary or corrective action is necessary, the appropriate procedure(s) shall be implemented as follows:

### A. Written Counseling

A supervisor shall:

1. Meet with the employee in private and explain that the purpose of counseling is to inform the employee about a work performance or behavior problem which, if not corrected, could lead to a disciplinary action.
2. Review the issues which resulted in the counseling and discuss methods of resolving them with the employee.
3. Clarify to the employee the supervisor's expectations and establish goals and objectives if necessary.
4. Inform the employee how his/her performance shall be monitored, explaining what shall happen if the employee does not correct the problem areas.
5. Complete Counseling Record Form, ask the employee to sign, and give the employee the original copy.
6. Submit a copy of the Form to the Personnel office for the employee's file.

### B. Training

A supervisor may order additional training for an employee by taking the following steps:

1. Meet with the employee and discuss the problem areas.
2. Explain how training can help the employee to resolve the problem.
3. Determine which of the following types of training would be appropriate:
  - a. On-the-job training provided by the supervisor or designee;
  - b. Training provided by the Agency's training program.
4. Provide the employee with written notification of the type of training and instructions for obtaining the training.
5. Complete and submit a copy of the notification to the personnel office for the employee's file.

### C. Referral to Employee Assistance Program (EAP)

1. A supervisor shall take the following steps to refer an employee to EAP:
  - a. Contact the agency, institution or facility EAP Coordinator (Personnel Officer) and complete the relevant sections of the EAP Supervisory Referral Form MS 561.

## IMPLEMENTATION OF CORRECTIVE AND DISCIPLINARY SANCTIONS

b. Meet with the employee in private and discuss the employee's behavior, emphasizing the benefits to the employee of attending the EAP initial interview.

c. Ask the employee to sign the Referral Form and forward the form to the Personnel Officer.

2. The personnel office shall complete the Referral Form and submit it to the EAP. A copy shall be placed in the employee's EAP file and a copy shall be provided to the employee. A copy may not be placed in the personnel file.

3. In a crisis situation, the Personnel Officer shall contact EAP for assistance in scheduling an appointment immediately.

4. Referral to EAP may not be considered a substitute for corrective action for a violation of the requirements stated in this manual.

5. The employee may decline the referral. This shall be documented on the Referral Form, which shall be sent to the Personnel Officer for the employee's EAP file.

### D. Written Reprimand

In issuing a reprimand the following steps shall be taken:

1. When feasible the official issuing the reprimand shall personally explain the reason for the reprimand and what modifications are necessary in the employee's behavior. The employee shall also be advised of the consequences of future infractions.

2. The appointing authority or designee shall explain that in specific cases (First Category - Third Offense, Second Category - First or Second Offense) the reprimand is comparable to a suspension for the purposes of progressive discipline.

3. A reprimand shall be issued within 30 calendar days of the alleged infraction or knowledge of the alleged infraction. The Official Reprimand Form shall be completed and the employee will be required to sign it.

4. A copy of the reprimand shall be submitted to be included in the employee's personnel file and the employee shall be presented with the original. Within the Division of Correction, copies of all Level One and Level Two reprimands must be submitted to the Headquarters Personnel office in addition to the institutional personnel office.

### E. Suspension

1. The appointing authority or designee may personally discuss with the employee the reason(s) for the suspension. In situations where the employee is not available at the work site, notification may be made by telephone. An employee's status of exempt or non-exempt shall be considered in implementing a suspension.

## IMPLEMENTATION OF CORRECTIVE AND DISCIPLINARY SANCTIONS

### a. Exempt employees

1) A disciplinary suspension shall begin within five WORKdays after the close of the employee's next shift following the alleged infraction or after knowledge of the alleged infraction by the appointing authority. SATURDAYS, Sundays, State holidays AND EMPLOYEE LEAVE DAYS are excluded from calculating the timeliness of imposing a suspension.

2) A suspension shall be for a full work week or multiples of a work week only. A work week begins on Wednesday and ends the following Tuesday. A suspension shall start on a Wednesday at the beginning of an employee's shift.

### b. Non-Exempt employees

1) A disciplinary suspension shall begin within two days after the close of the employee's next shift following the alleged infraction or after knowledge of the alleged infraction by the appointing authority. SATURDAYS, Sundays, State holidays AND EMPLOYEE LEAVE DAYS are excluded from calculating the timeliness of imposing a suspension.

2) An employee who has been suspended may not be permitted to work overtime during the ten working days following the last day of the suspension, unless approval to do so is granted in writing by the appointing authority or designee. Approval may only be granted when not allowing the employee to work overtime would be detrimental to the security of an institution. Documentation of the reasons for granting approval shall be maintained at the facility.

3) A suspension may be for all or any part of the employee's normal working day. Where a specific or minimal length of suspension is required, the suspension shall last for at least the number of hours equal to the employee's normal working day for the number of days the employee is required to be suspended.

### c. Exempt & Non-Exempt Employees

1) Suspension days shall fall on consecutive days. For any given suspension, the suspension cannot be interrupted by the employee's work time. In situations where a scheduled weekly leave day would interrupt the suspension period, the length of the suspension shall be adjusted. The adjusted suspension period shall include the appropriate number of days with loss of pay, which corresponds to the penalty schedule for the infraction.

2) Any time spent by an employee awaiting or participating in a conference with a representative of management shall be considered work time and shall be compensated as such. This includes only conferences initiated by management.

3) During a suspension, any time the employee spends in court or in administrative hearings as a part of his/her job shall be compensated, but may not be considered as an interruption of the suspension.

4) The Personnel office of a Division of Correction agency shall complete and submit the Disciplinary Suspension Form SEC Form #4A and Personnel Transaction Form

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## IMPLEMENTATION OF CORRECTIVE AND DISCIPLINARY SANCTIONS

MS 310 to the DOC Headquarters personnel office along with relevant reports. The personnel offices of all other agencies shall forward the suspension and MS 310 Forms directly to the Department of Public Safety and Correctional Services, Division of Personnel.

### F. Demotion

The appointing authority or their designee may demote an employee by taking the following steps:

1. The appointing authority or their designee shall meet with the employee and explain why the employee is being recommended for demotion.
2. A Division of Correction appointing authority shall submit to DOC HQ Personnel a letter to the Secretary of Personnel including the following information: (All other appointing authorities shall submit the letter directly to DPSCS Division of Personnel).
  - a. Specific reasons for the proposed demotion;
  - b. The position and rate of compensation to which the employee is to be demoted;
  - c. A statement informing the employee of the appropriate appeal procedure.
3. The personnel office of a Division of Correction institution shall prepare the MS 310 Form to implement the demotion and submit it to DOC Headquarters Personnel with the letter to the Secretary of Personnel. The personnel offices of all other agencies shall submit the MS 310 Form directly to DPSCS Division of Personnel.
4. Upon approval by the Commissioner or DPSC Division of Personnel, the recommendation shall be sent to the Department of Personnel and a copy shall be provided to the employee. If the demotion is not approved, other courses of action may be taken.

### G. Rejection of Probationary Employees

1. To reject an employee who is serving an initial probationary period, the following steps shall be taken:
  - a. The employee shall be advised of his/her rejection by the appointing authority or designee. The employee shall be personally advised of the rejection, the reasons therefor, and his/her right to appeal.
  - b. The notice of rejection shall be submitted on Probation and Annual Efficiency Rating Report MS 500 with the last day on payroll being no less than two weeks after the forms are presented to the employee. The two-week period shall end within the probationary period. If the employee is available, he/she shall be given and asked to sign the MS 500 Form at the time he/she is notified of the rejection. If the employee is not available, the Form shall be mailed to the employee's last known address via registered mail.

## IMPLEMENTATION OF CORRECTIVE AND DISCIPLINARY SANCTIONS

c. In situations where the employee routinely has daily contact with inmates, he/she shall be assigned duties of a less sensitive nature during the two weeks after the rejection notice has been given.

d. When the rejection of an employee is due to breach of discipline or gross incompetence which jeopardizes essential services, the employee need not be given two weeks notice. In such cases, the forms shall reflect that the two weeks notice was not given for at least one of the aforementioned reasons.

e. The Unsatisfactory Report MS 106 shall be completed and submitted with the MS 310 Form and MS 500 Form to the Personnel Office at DOC Headquarters for Division of Correction employees and to the Personnel Office at the Department of Public Safety and Correctional Services for all other employees. All pertinent documentation shall be attached.

2. In a case where the rejection involves an employee serving another type of probationary period, the following additional procedures shall be implemented:

a. The employee's personnel file shall be reviewed by the appointing authority or designee to assure that appropriate documentation associated with the reason for rejection is contained therein.

b. The employee, if promotional, shall be provided the option of returning to the position which he/she vacated, assuming said position has not been filled. The personnel officer shall contact the previous employing agency to determine the status of the position before the employee is informed of the rejection.

c. The notice of rejection shall be submitted on MS 500 Form with the last day on payroll no less than 30 days after the forms are presented to the employee. The 30-day period shall end within the probationary period.

d. Forms MS 310, MS 500 and MS 106 shall be submitted to DOC Headquarters Personnel for Division of Correction employees. All other agencies shall submit the forms directly to DPSCS Division of Personnel.

### H. Discharge of a Classified Employee

1. Whenever possible, the appointing authority or designee, shall meet with the employee before making a determination to discharge the employee.

2. When an employee is to be discharged, the employee shall be notified in writing. If immediate personal delivery is not possible, such notice shall be immediately sent Certified Mail - Return Receipt Requested to the employee's last known address.

a. If the employee is allowed to work pending the outcome of the Charges for Removal, the written notification to the employee shall include the information on the Notification of Charges for Removal Form.

## IMPLEMENTATION OF CORRECTIVE AND DISCIPLINARY SANCTIONS

b. If the employee is suspended without pay pending the filing of Charges for Removal, the written notification shall include the information on the Notification of Suspension Pending Charges for Removal Form.

3. The Charges and Specifications for Removal of Permanent Employee MS 507 Form shall be completed by the Personnel office and forwarded by the appointing authority in triplicate to the Commissioner (for Division of Correction employees). The Commissioner shall review them and if approved, forward them to the Secretary of Public Safety and Correctional Services. A completed MS 106 Form should accompany the Charges for Removal. All other agencies shall submit the forms directly to DPSCS personnel.

a. If an employee of DOC is suspended without pay pending Charges for Removal, the institution or facility shall notify the DOC's Employee Relations Unit the same day. The charges shall be sent to the Commissioner within two working days.

b. If an employee is suspended without pay pending Charges for Removal, and if the Charges for Removal are not received in the Department of Personnel within 14 days of the suspension, the employee shall be compensated as if he/she worked a normal schedule, not to include overtime other than roll call time, from the 15th day of the suspension until the date the charges are received by the Department of Personnel. However, if the employee is employed within the DOC, the institution or facility may not compensate the employee until so ordered by the Office of Administrative Hearings, the Department of Personnel, the Office of the Secretary of Public Safety and Correctional Services, or the Office of the Commissioner of Correction.

### I. Discharge of an Unclassified Employee

1. The appointing authority shall provide the Secretary of Personnel and the employee with a written notice of termination at least two weeks before the effective date of termination. The notice shall state the effective date of the termination and shall inform the employee of the appropriate appeal procedure. If the employee is employed within the DOC a copy shall go to the Commissioner for approval.

2. The appointing authority shall submit a copy of the written notice to the personnel office for the employee's file and a copy to the Employee Relations Unit DPSCS for their records.

3. Each appointing authority shall assure that no public statements are made regarding the termination of an unclassified employee and that any related inquiries are referred to the Public Affairs Officer for handling.

## IMPLEMENTATION OF CORRECTIVE AND DISCIPLINARY SANCTIONS

### J. Denial of Annual Increment

1. The appointing authority or designee shall meet with the employee and discuss the reasons for the denial of the Annual Increment.
2. The Personnel office shall submit the completed Forms MS 500 and MS 310 to the Department of Personnel in accordance with the time requirement set forth by that Department. If the employee is employed within the DOC a copy shall also be submitted to the DOC Headquarters Personnel Unit for review along with the supporting documentation.

### K. Unsatisfactory Report

1. Form MS 106 shall be completed by the Personnel office of the institution or facility whenever an employee leaves employment after unsatisfactory service.
2. Forms MS 310 and MS 106 shall be forwarded to HQ Personnel for Division of Correction employees. All other agencies shall forward Form MS 106 directly to DPSCS Division of Personnel.

### L. Extension on Probation

1. The supervisor shall meet with the employee before the employee's initial probationary period ends and discuss the reason(s) for the extension on probation.
2. The supervisor shall explain what the employee needs to do to successfully complete probation and that the employee shall continue to receive monthly evaluations.
3. The employee shall sign Form MS 500 and receive a copy.
4. The Personnel office shall submit Form MS 500 and Form MS 310 to the Department of Personnel before the end of the probationary period. If the employee is employed within the Division of Correction a copy shall be sent to the Headquarters Personnel Unit.
5. The appointing authority may deny the employee's annual increment during the period of extended probation by completing the appropriate portion of Form MS 500.

## VI. APPEALS AND GRIEVANCES

### A. Appeal of an Adverse Action

1. An employee has the right to appeal an adverse action that is taken against him/her. There are several types of appeals described in this section.
2. An appeal may be initiated by completing the Universal Appeal and Grievance Form.

### B. Types of Appeals

1. Grievance Appeals
  - a) An employee may file a grievance appeal with regard to the interpretation and application of State employee personnel rules, regulations or policies over which management has control.
  - b) In accordance with COMAR 06.01.01.56C, the grievance procedure consists of the following steps:
    - 1) Step One. The employee shall initiate a grievance appeal by presenting the grievance orally to the employee's supervisor for informal discussion within 30 calendar days after the alleged cause of complaint, or within 30 calendar days after the employee reasonably may be held to have been aware of the alleged cause of complaint. After the informal discussion, and within that 30 day period during which the grievance appeal was initiated, the employee may present the grievance in writing to the appointing authority or a designated representative, who shall hold a conference with the employee or the employee's designated representative within ten calendar days after receipt of the written grievance and shall render a written decision within fifteen calendar days after the conference. If the employee is not satisfied with the decision, the employee or the employee's designated representative may file a written appeal to step two within ten calendar days after receipt of the written decision.
    - 2) Step Two. The employee may present a written appeal to the Employee Relations Unit of the Department of Public Safety and Correctional Services, who shall hold a conference with the employee or the employee's designated representative on behalf of the Secretary, within ten calendar days after receipt of the written appeal, and shall render a written decision to the employee within 15 calendar days after the conference. If the employee is not satisfied with the decision, the employee or the employee's designated representative may appeal to step three within 15 calendar days after receipt of the written decision.
    - 3) Step Three. The employee may appeal by either of the following routes:
      - (a) The employee may submit the dispute, in writing, to the Office of Administrative Hearings. The Office of Administrative Hearings shall render a written decision, which is binding on all parties, within 45 calendar days after a hearing is held at a site designated by the Office of Administrative Hearings and after all legal memoranda or briefs have been filed.

## APPEALS AND GRIEVANCES

b) The employee may submit the dispute to outside arbitration by writing to the Secretary of Personnel. By mutual agreement, both parties to the grievance may select an outside arbitrator. If the parties cannot reach a mutual agreement, the Secretary of Personnel shall request the American Arbitration Association to furnish an arbitrator. The Secretary of Personnel shall inform the employee and the American Arbitration Association that the selected arbitrator may not be an employee or official of the State or a person who is under contract with the State to perform work or services. Fees resulting from arbitration are assessed by the arbitrator equally between the parties. The decision of the arbitrator is advisory to the Secretary, who may not consider additional appeals or hearings. The Secretary of Personnel shall make the final decision, which is binding on all parties. The Secretary of Personnel shall render a written decision within fifteen calendar days after receipt of the decision of the arbitrator.

2. A reprimand may be appealed through the grievance procedure as outlined in Section VI.B.1. This includes Level 1 and Level 2 reprimands.

### 3. Appeal of Disciplinary Suspensions

a. In accordance with COMAR 06.01.01.57, the employee may appeal a disciplinary suspension. The employee may appeal to the Office of Administrative Hearings in writing within five working days after receipt of written notice of suspension any disciplinary suspension and any denial of increment in connection with a suspension.

b. Alternatively, the employee may appeal to the Secretary of the Department of Public Safety and Correctional Services in writing within three working days after receipt of the written notice of suspension, any disciplinary suspension and any denial of increment in connection with a suspension.

### 4. Appeal of Suspension without Pay Pending Filing of Charges for Removal

In accordance with COMAR 06.01.01.65, an employee who is suspended without pay pending a hearing on disposition of Charges for Removal may submit a written appeal for a preliminary hearing to the Office of Administrative Hearings within five working days after receiving notice of the suspension. The preliminary hearing is limited to the issue of whether suspension without pay is necessary to protect the interests of the State or the employee. Other employment and status alternatives shall be considered at the preliminary hearing.

### 5. Appeal of Charges for Removal of a Classified Employee

In accordance with COMAR 06.01.01.61, a classified employee against whom Charges for Removal have been filed may submit a written appeal of the charges to the Office of Administrative Hearings within ten calendar days after receipt of the charges.

## APPEALS AND GRIEVANCES

### 6. Appeal of Termination of Employment of an Unclassified Employee

In accordance with COMAR 06.01.01.60, an unclassified employee, unless otherwise provided by law, whose employment is terminated may submit a written appeal to the Office of Administrative Hearings within five working days after receipt of the notice of termination. The appeal is limited to the legal and constitutional bases for the termination.

### 7. Appeal of Involuntary Demotion

In accordance with COMAR 06.01.01.61, an employee may submit a written appeal to the Office of Administrative Hearings within ten calendar days after receipt of a written recommendation for demotion from the appointing authority.

### 8. Appeal of Report of Unsatisfactory Service

In accordance with COMAR 06.01.01.64, a classified employee who has satisfactorily completed a probationary period may appeal a report of unsatisfactory work or conduct by filing a written appeal to the Office of Administrative Hearings within ten calendar days of receipt of the report.

### 9. Appeal of Rejection on Probation

In accordance with COMAR 06.01.01.59, employees may appeal a rejection on probation.

#### a. New Probationary Employee

A new probationary employee who is rejected on probation may submit a written appeal to the Office of Administrative Hearings within five working days after receipt of the rejection form. The appeal is limited to the legal and constitutional bases of the rejection.

#### b. Other Probationary Employees

1) For purposes of this regulation, the category of other probationary employees includes an employee who has satisfactorily completed a probationary period, and currently is serving another probationary period as a result of a promotion, demotion, horizontal change, transfer or reinstatement.

2) A probationary employee who is rejected on probation may submit a written appeal to the Office of Administrative Hearings within five working days after receipt of the rejection form.

## C. Witnesses and Representatives

1. An employee may be represented by anyone of his or her choice at any step in the grievance process. Representatives who are employees of this Department shall not lose any pay for investigating, processing or presenting the grievance.

2. An employee representing another employee must request approval for any release time from their normally scheduled shift by submitting written notice to his/her supervisor at least two weeks prior to the conference or hearing date. Such notice will contain the location and time of the conference or hearing and the step in the grievance process.

## APPEALS AND GRIEVANCES

3. The appointing authority may be represented at any time in the grievance process and may designate a representative for this purpose.

4. Witnesses may be subpoenaed to testify at hearings conducted by the Office of Administrative Hearings in accordance with the procedures of that office. Appointing authorities will ensure the presence of properly subpoenaed witnesses at scheduled hearings.

5. Employees or their representatives may request witnesses for step 1 and 2 conferences. Their availability will be determined by operational need.

6. All time necessary for required witnesses to appear at scheduled conferences or hearings is considered work time and shall be compensated accordingly.

### D. Conduct of Grievance and Appeal Considerations

#### 1. Grievances Appeal Conferences

Upon receipt of a written grievance at Step One, the appointing authority shall personally consider the matter or shall designate a representative to do so. A conference shall be scheduled with the employee and/or the employee's representative within ten calendar days.

a. The conference should be scheduled when possible during the scheduled work hours of the employee.

b. The employee or his/her representative may present argument and documentation relevant to the issue of the grievance.

c. A written decision shall be rendered by the appointing authority or representative.

#### 2. Other Appeal Proceedings

a. The Employee Relations Unit of the Department will conduct second step grievance conferences with the employee and/or employee's representative.

b. The Office of Administrative Hearings will conduct third step grievance hearings.

c. Management representatives at either second or third step hearings will be designated by the appropriate appointing authority or other management official.

## VII. INVESTIGATIVE UNIT

The Investigative Unit is responsible for coordinating and conducting investigations of violations of specific rules, regulations and criminal laws. These duties are generally carried out for the Division of Correction, Patuxent Institution and Division of Pretrial Detention and Services unless otherwise directed by the Secretary.

### A. Investigative Unit Organization

1. The Investigative Unit (IU) may be composed of members of the Maryland State Police, Maryland Division of Correction, and Maryland Division of Pretrial Detention and Services or other Agencies as necessary.

2. The Unit Commander shall be the ranking State Police Officer assigned.

3. Personnel assigned to the IU report directly to the Commander who shall report to the Commissioner of Correction or the Commissioner's designee.

4. Maryland State Police personnel are ultimately accountable to the Superintendent of the Maryland State Police. This accountability is in all matters that relate to the performance of their official duties within the Unit.

5. Personnel assigned from the Division of Correction and Division of Pretrial Detention and Services or other Agencies, are ultimately accountable to their Agency Heads. This accountability is in all matters that relate to the performance of their official duties within the Unit.

### B. Investigative Unit Functions

1. The IU shall be accessible 24 hours a day, seven days a week. Access is obtained by contacting the IU Duty Officer. During hours when the IU office is closed or unattended, the IU is accessible through the Division of Correction Home Detention Unit.

2. Within the Division of Correction and Division of Pretrial Detention and Services, the IU is responsible for investigations of all criminal activity, and serious administrative violations of policy and procedures.

3. Within Patuxent Institution, the IU is responsible for investigations of serious administrative violations of policy and procedures involving personnel. Upon receiving a request for assistance from the Commander of the Maryland State Police, Criminal Investigation Division, the IU Commander will direct that the Unit assist in/or conduct an investigation of criminal activity involving the Patuxent Institution.

4. Other Agencies within the Department may request IU assistance regarding investigation of criminal activity or serious administrative violations of policy or procedures, on a case by case basis. Requests shall be made to the Secretary, DPSCS, who will determine IU involvement.

## INVESTIGATIVE UNIT

### C. Authority for Conducting Investigations

1. The Investigative Unit's authority for conducting investigations is at the direction of the Secretary, DPSCS, Commissioner of Correction, Commissioner of Division of Pretrial Detention and Services and the Superintendent of the Maryland State Police.

2. The IU shall make an evaluation of all complaints received and refer investigations to the appropriate investigative body. The IU Commander has authority to assign complaints of alleged administrative violations to Managing Officers of State correctional facilities.

3. The IU will have sole authority and responsibility for investigations conducted by the IU.

4. Lawful IU requests for assistance, access, and items necessary for conducting investigations shall be handled as if the respective Agency Heads made the request.

5. The IU shall assume investigation of complaints assigned to Managing Officers upon direction of the IU Commander, Commissioner of Correction, Commissioner of Pretrial Detention and Services or Superintendent of the Maryland State Police.

### D. Incidents and Complaints Requiring Notification to the Investigative Unit

Infractions of a minor nature are the responsibility of agency heads or managing officers who are expected to take appropriate administrative action. The IU must be notified of certain other infractions or incidents. Those infractions or incidents which shall be immediately reported to the IU include:

1. Any violation of the Criminal Laws of the United States or State of Maryland, involving employees, inmates and others as well as property owned, leased, occupied or controlled by the Department of Public Safety and Correctional Services. Included are those sections of the Transportation Article that are related to the operation of a motor vehicle while under the influence of alcohol or a controlled dangerous substance;

2. All allegations of excessive use of force including assault and battery;

3. Trafficking or possession of contraband within State facilities;

4. Being unfit for duty due to consumption of alcohol or a controlled dangerous substance, including the illegal use of a prescription drug;

5. Inmate deaths and attempted suicides;

6. Escapes and attempted escapes from any correctional institution;

7. The display or handling of a firearm in a flagrant, careless or unsafe manner;

## INVESTIGATIVE UNIT

8. The discharge of a weapon other than on the range;
9. Sexual misconduct while on duty;
10. Sexual Harassment;
11. The criminal arrest of a State, contractual or volunteer employee;
12. Unofficial associations with inmates and former inmates of the Agency or their families or other personal associates; and
13. An incident or emergency which by nature has the potential to develop into a major disturbance and/or attract media attention.

### E. IU Notification Requirements

1. Required reports shall be made to the IU by an Agency Head, Managing Officer or designee. Reports shall be made even when the allegation is believed to be unfounded.
2. Information shall be reported by telephone to the IU. Notification to the IU shall be made immediately [not to exceed two (2) hours. If the incident involves a criminal matter, the crime scene is to be secured and a report made immediately to IU.] A completed Complaint Against Personnel Report shall be forwarded directly to the IU as soon as it is practical. Anonymous complaints shall be forwarded in the same manner as those wherein the complainant is identified.

### F. Reports

All investigative reports shall contain complete information regarding the complaint and a clear chronological account of investigative action and findings. Original supporting documents and evidence necessary to reach a conclusion shall be included in the case file.

1. Administrative Investigation Reports shall conform to a report format designed by the IU Commander and approved by the Commissioner of Correction. The format is a standard to be used by the Investigative Unit, as well as Managing Officers of State correctional facilities.
2. Criminal Investigation Reports shall conform to the formats and standards of the Maryland State Police Field Reporting System as defined in Chapter 29 of the Maryland State Police Patrol Manual.
3. The Investigative Unit is the repository for all investigative reports assigned through the IU complaint control ledgers regardless of the investigative body. Reports will be maintained in accordance with approved filing and retention schedules.
4. The IU Commander will coordinate the release of investigative reports with the Commissioner of Correction or designee, consistent with all laws and regulations.

## INVESTIGATIVE UNIT

### G. Responsibilities of IU Personnel

1. The Commander shall report to the Commissioner or designee regarding the operation and administration of the Unit. The Commander shall report to the Superintendent of the Maryland State Police regarding the administration of Maryland State Police policy.
2. The Commander shall be responsible to provide direction and supervision to all subordinate personnel.
3. The Commander is responsible for the conduct of all investigations assigned to the IU.
4. The Commander shall ensure that a completed Record of Previous Complaint is completed on personnel investigated for administrative violations. The form shall be forwarded to the assigned investigator.
5. The Commander will coordinate with the Commissioner of Correction or designee, the public release of information regarding investigations assigned to the IU.
6. The Commander is responsible for contact with officials, allied agencies and appropriate government bodies regarding the operation of the Unit.
7. Investigators assigned to the IU are responsible for conducting investigations, submitting reports and completing all assigned duties.

### H. Responsibilities of the Managing Officers of Correctional Facilities

1. The Managing Officer shall cooperate and give the Unit complete charge of an investigation assigned to the IU. This also applies to investigations initially handled by the Managing Officer and later assumed by the IU.
2. The Managing Officer shall provide uninhibited access to all areas of the institution.
3. The Managing Officer shall ensure their employees cooperate with investigations.
4. The Managing Officer shall designate and assign appropriate staff as institutional investigators and intelligence coordinators who shall also act as IU liaison officers.
5. During investigations, the Managing Officer or designee shall coordinate interviews with employees and inmates.
6. Managing Officers shall provide records, documents and information requested by an IU investigator.
7. Managing Officers shall ensure that a completed Prior Disciplinary Action Record is completed on all personnel investigated for administrative violations. This form shall be forwarded to the assigned investigator.
8. The Managing Officer shall ensure that confidentiality is maintained on all reports, records and documents relating to an investigation. This applies to disclosure of material requested by an investigator, as well

## INVESTIGATIVE UNIT

as that provided to the Managing Officer as a result of an investigation.

9. The Managing Officer shall provide office space for an investigator when necessary to conduct an investigation.

10. The Managing Officer or designee shall secure and preserve the scene of an incident until released to the IU or directed to do otherwise by the IU.

11. Managing Officers are responsible for investigations assigned back to their institution or facility. Completed investigations upon approval of the Managing Officer are to be forwarded to the IU for filing and retention.

### I. Responsibilities of the Employee

1. An employee who is alleged to have committed an infraction or who is directly involved in an incident as outlined in Sec. VII.D. shall cooperate fully with IU Personnel during the investigative process.

2. An employee who is a witness or a party to the commission of an infraction or an incident as outlined Sec. VII.D. shall cooperate fully with IU Personnel during the investigative process.

3. An employee shall respond to questions and requests for information made by IU in accordance with Sec. II, K.4. and S.1 of this regulation.

## FORMS

The following forms are examples of those used to record and document some of the agency procedures referenced in this document. These forms are examples and should not be copied. Originals for use in implementing desired actions may be obtained from your Personnel Office.

<u>Subject</u>	<u>Forms</u>	<u>Form Number</u>
<u>Alcohol and CDS</u>	Suspected Substance Use Observation and Action Record	DPDS OS 31 PS
	Written Order to Submit to a Urine Test	DPDS OS 32 PS
	Written Order to Submit to an Alcohol Test	DPSCS OS 33 PS
<u>Disciplinary Actions</u>	CDS Test Order	MS-DOP-3DT
	DPSCS Counseling Record	DPDS OS 34 PS
	DPSCS Official Reprimand	DPDS OS 35 PS
	Disciplinary Suspension Form	SEC Form 4A
	Charges and Specifications for Removal of Classified Employee	MS-507
<u>Employee Assistance</u>	EAP Supervisory Referral Form	MS-561
<u>Employee Evaluation</u>	Probation and Annual Efficiency Rating Report (not included)	MS-500
<u>Employee Grievance</u>	Universal Appeal and Grievance Form	OAH-CO-D1
<u>Investigation Unit (IU)</u>	Complaint Against Personnel Report	
	Record of Previous Complaints	
	Prior Disciplinary Action Record	

MARYLAND DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

SUBSTANCE USE OBSERVATION AND ACTION RECORD

EMPLOYEE NAME: \_\_\_\_\_ Class: \_\_\_\_\_ Sensitive: Y/N

Date: \_\_\_/\_\_\_/\_\_\_ Time of Report: \_\_\_\_\_ Time first observed \_\_\_\_\_

INITIAL OBSERVATIONS \_\_\_\_\_

\_\_\_\_\_

Observers: 1) \_\_\_\_\_ 2) \_\_\_\_\_

Signatures: 1) \_\_\_\_\_ 2) \_\_\_\_\_

OBSERVATIONS (Check and/or circle all that apply)

- |                                    |                                |
|------------------------------------|--------------------------------|
| _____ Mood elevation/Euphoria      | _____ Depression               |
| _____ Reduced concentration        | _____ Argumentative attitude   |
| _____ Inappropriate laughter       | _____ Anxiety/Panic            |
| _____ Excessively talkative        | _____ Withdrawn                |
| _____ Insensitive to pain          | _____ Watery eyes/Runny nose   |
| _____ Dizziness (Walking)          | _____ Nausea/Vomiting          |
| _____ Eyes glazed/bloodshot        | _____ Pupils reactive/fixed    |
| _____ Speech slurred               | _____ Speech loud/soft         |
| _____ Complexion flushed/drained   | _____ Odor of Alcohol Beverage |
| _____ Injury (Part of body): _____ |                                |

OTHER: \_\_\_\_\_

Employee explanation: \_\_\_\_\_

\*\*\*\*\* Correctional Agencies only: IU Notified? Y/N \*\*\*\*\*

ALCOHOLIZER TEST ORDERED: Y/N RESULTS: POS./NEG. (Report attached? Y/N)

ACTION TAKEN \_\_\_\_\_

BREATHALYZER (OR OTHER CHEMICAL TEST FOR ALCOHOL) ORDERED Y/N

Type: \_\_\_\_\_ Result: \_\_\_\_\_ BAC Level (Report attached? Y/N)

ACTION TAKEN \_\_\_\_\_

URINALYSIS TEST ORDERED? Y/N (Report attached? Y/N)

ACTION TAKEN \_\_\_\_\_

DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES

WRITTEN ORDER TO SUBMIT TO A URINE TEST

Test Location:

Date:

Time:

Pursuant to the Department of Public Safety and Correctional Services Directives as they pertain to the conduct of employees, you, \_\_\_\_\_, are hereby ordered to submit  
Employee's Name

to a chemical test to determine the presence of controlled dangerous substances in your body. This test is being ordered by Agency Technical Representative \_\_\_\_\_ and is  
Name

based upon the following statement of reasonable suspicion/incident triggered:

This information was reviewed by the on-call Command Staff Officer, \_\_\_\_\_, DOC/IU, on \_\_\_\_\_ at \_\_\_\_\_ hrs who concurred that reasonable suspicion exists. (Correctional Agencies only)

By order of \_\_\_\_\_  
ATR Signature

Title \_\_\_\_\_

Date/Time \_\_\_\_\_

YOU ARE HEREBY ORDERED TO APPEAR AT \_\_\_\_\_  
Address

On \_\_\_\_\_ for the purpose of submission to a urine test, per order of  
Date/Time

\_\_\_\_\_  
Appointing Authority's Name, Signature

I hereby acknowledge receipt of this Order and understand that my refusal to sign or comply with the test may result in disciplinary action and/or dismissal.

\_\_\_\_\_  
Employee Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Date/Time

Distribution:

DOC/IU original (Correctional Agencies only)

Managing Officer duplicate

Employee triplicate

**DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES**

**WRITTEN ORDER TO SUBMIT TO AN ALCOHOL TEST**

**Location** \_\_\_\_\_

**Date** \_\_\_\_\_

**Time** \_\_\_\_\_

Pursuant to the Maryland Department of Public Safety and Correctional Services' Regulations as they pertain to the conduct of employees, you, \_\_\_\_\_, are hereby

**Employee Name**

ordered to submit to a chemical test to determine the presence of alcohol substances in your body. This test is ordered by \_\_\_\_\_ and is based upon the following statement of reasonable suspicion:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**By order of:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date/time:** \_\_\_\_\_

I hereby acknowledge receipt of this Order and understand that my refusal to sign or comply with the test may result in disciplinary action and/or dismissal.

\_\_\_\_\_  
**Employee Signature**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Witness**

\_\_\_\_\_  
**Date/time**

**Distribution:**

**DOC-IU original (Correctional Agencies only)**

**Managing Officer duplicate**

**Employee triplicate**

**CONTROLLED DANGEROUS SUBSTANCE TEST ORDER**

Employee's Name \_\_\_\_\_  
Employee's SS# \_\_\_\_\_  
Employee's Pin# \_\_\_\_\_  
Agency Appropriation Code \_\_\_\_\_

Location of Collection Site \_\_\_\_\_  
DATE \_\_\_\_\_  
TIME \_\_\_\_\_

Under the provisions of Code of Maryland Regulations (COMAR) .06.01.09, Testing for Illegal Use of Drugs, I am directing you to submit to a urinalysis test based on:

**Check one**

- \_\_\_\_\_ A) Reasonable Suspicion
- \_\_\_\_\_ B) Random Selection
- \_\_\_\_\_ C) Incident-Triggered Factor
- \_\_\_\_\_ D) Participation in a Drug Abuse Rehabilitation Program

The urinalysis will be analyzed by PharmChem Laboratories, Inc. 1505A O'Brien Drive, Menlo Park, California 94025. The laboratory will test for the following drugs only:

- (1) Marijuana/Cannabinoids;
- (2) Cocaine;
- (3) Opiates;
- (4) Phencyclidine (PCP); and
- (5) Amphetamines.

The tests will not reveal any information pertaining to non-prescription and/or prescription drugs which are not cited above.

If you refuse to conform to this order, your refusal may result in disciplinary action which may include termination from State service.

Confirmed positive test results will result in appropriate disciplinary action which may involve counselling, suspension, referral to the Employee Assistance Program, mandatory participation in a drug abuse rehabilitation program, or termination from State service.

In the event of a positive test result, you will be contacted by the office of the State Medical Director, and given an opportunity to present information relevant to the test results.

You may request the re-testing of the same specimen by a National Institute for Drug Abuse (NIDA) certified laboratory of your own choice at your expense.

You have the right to appeal any disciplinary action resulting from a positive test result by utilizing the existing grievance appeal procedure.

All test results will be confidential as required by applicable law and regulation.

\_\_\_\_\_  
AGENCY TECHNICAL REPRESENTATIVE      DATE      EMPLOYEE      DATE

**THIS IS A CONFIDENTIAL DOCUMENT.**

**DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES**

**COUNSELING RECORD**

**EMPLOYEE NAME:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**CLASSIFICATION:** \_\_\_\_\_ **DATE OF INCIDENT:** \_\_\_\_\_

**COUNSELING SUMMARY:**

---

**Signature & Title of Supervisor (or person completing form)**

---

**Signature of Employee**

**Date**

**Cc: Personnel File**

**DPSCS OS 34 PS (June 1995)**

**DEPARTMENT OF PUBLIC SAFETY AND CORRECTIONAL SERVICES**

**OFFICIAL REPRIMAND**

**EMPLOYEE NAME:** \_\_\_\_\_ **DATE:** \_\_\_\_\_

**CLASSIFICATION:** \_\_\_\_\_ **DATE OF INFRACTION:** \_\_\_\_\_

**LEVEL I** \_\_\_\_\_

**LEVEL II** \_\_\_\_\_

**DISCIPLINARY HISTORY (Infraction and Date)**

_____	_____
_____	_____
_____	_____
_____	_____

**REASON FOR REPRIMAND (Attach all supporting documentation. Include information regarding the specific infraction, the rule/regulation violated, required modifications in the employee's performance and resulting disciplinary action in the event of non-compliance. Use additional sheet(s), if necessary.)**

**CERTIFICATION OF SUPERVISOR/APPOINTING AUTHORITY**

**This is to certify that the above issues have been discussed with the employee and that he/she was provided the opportunity ask any necessary questions.**

\_\_\_\_\_  
\_\_\_\_\_  
**Signature & Title of person completing form**

**CERTIFICATION OF EMPLOYEE**

**This is to certify that the above information was explained to me and that I have been provided with a copy of this form. I understand that my signature does not necessarily imply agreement or disagreement.**

**Cc: Personnel File**

\_\_\_\_\_  
**Signature of Employee**

**DISCIPLINARY SUSPENSION FORM**

**Employee:** You may appeal to the Secretary of Personnel in writing within five working days after receipt of written notice of suspension any disciplinary suspension and any denial of increment in connection with the suspension.

**OR**

Under the Grievance Procedure you may appeal to The Secretary of your Department in writing within three working days after receipt of the written notice of suspension any disciplinary suspension and any denial of increment in connection with the suspension.

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**Agency:** 1. COMPLETE IN TRIPLICATE. FORWARD ONE COPY TO SECRETARY OF PERSONNEL, GIVE ONE COPY TO THE EMPLOYEE, AND RETAIN ONE COPY FOR YOUR FILES.

2. FORWARD COMPLETED FORM MS 310 WITH THIS FORM.  
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\_\_\_\_\_  
(Name of Employee) (Classification) Social Security No.)

has been suspended without pay from duty for disciplinary reasons for a period of \_\_\_\_\_ working days from \_\_\_\_\_ through \_\_\_\_\_.

Date of incident from which suspension is given:

I recommend the next salary increment NOT be denied.

I recommend the next salary increment BE denied.

**REASON FOR SUSPENSION: (Explain in full)**

Copy to Employee \_\_\_\_\_  
Date

In Person

Mailed

\_\_\_\_\_  
(Date – Name of Dept.)

\_\_\_\_\_  
(Name and Signature of Dept. Head)

THREE COPIES to be forwarded  
To DEPARTMENT OF PERSONNEL

STATE OF MARYLAND  
DEPARTMENT OF PERSONNEL  
301 WEST PRESTON STREET  
BALTIMORE, MD. 21201

CHARGES AND SPECIFICATIONS FOR REMOVAL OF CLASSIFIED SERVICE EMPLOYEE

To: The Secretary of Personnel

Under authority of Section 9-204 of the State Personnel & Pensions Article, I hereby file charges with the Secretary of Personnel against the following named employee for the purpose of terminating this employee from the classified service of the State: The employee is advised that the employee may appeal these charges within ten calendar days after receipt. The appeal should be directed to the Office of Administrative Hearings, Administrative Law Building, Green Spring Station, 10753 Falls Road, Lutherville, Maryland 21093.

Name and Social Security Number of Employee.....

Home Address of Employee.....

Class of Position.....

Name of Employing Agency.....

CHARGE

(List specific charge(s). Where applicable, refer to Merit System Rule(s) violated by number and section.)

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SPECIFICATIONS

(State in detail each specific instance, giving dates, etc.)

DATE: \_\_\_\_\_

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**SPECIFICATIONS**

(State in detail each specific instance, giving dates, etc.)

**DATE:**

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**WITNESSES**

**NAME**

**ADDRESS**

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**(Signed)** .....

**Appointing Authority or Designee**

.....  
**Title of Position**

.....  
**Name of Department**

**Date of Suspension**.....

**Date of Charges**.....

EAP SUPERVISORY REFERRAL FORM

General Instructions: The purpose of this form is to provide information to the Employee Assistance Program (EAP) regarding an employee's poor work performance when there is reason to believe that the cause may be due to a personal-medical problem. It is important that you fill in the information requested to the best of your knowledge, limiting your responses to the facts, not hearsay and/or assumptions. This information will serve as a means of assessing the employee's problem and will help the EAP to determine the necessary steps needed in assisting the employee in alleviating his/her problem.

(PLEASE PRINT IN INK OR TYPE) REFERRAL DATE: \_\_\_\_\_

EMPLOYEE'S NAME: \_\_\_\_\_ SOCIAL SECURITY# \_\_\_\_\_

STREET ADDRESS: \_\_\_\_\_ DATE OF BIRTH: \_\_\_\_\_

CITY, STATE: \_\_\_\_\_ HOME PHONE: \_\_\_\_\_

ZIP: \_\_\_\_\_ WORK PHONE: \_\_\_\_\_

CLASSIFICATION: \_\_\_\_\_ GRADE: \_\_\_\_ EOD: \_\_\_\_\_

DEPARTMENT WORK LOCATION: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

WORK HOURS: \_\_\_\_\_ DAYS OFF: \_\_\_\_\_

REFERRED BY: \_\_\_\_\_ TITLE: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

AGENCY EAP COORDINATOR: \_\_\_\_\_ TITLE: \_\_\_\_\_

TELEPHONE NUMBER: \_\_\_\_\_

REASON FOR REFERRAL

Please fill in the sections below that are relevant to this referral. If sufficient space is not available, please attach a supplemental sheet in order that all relevant information is provided. Attach documentation to support these disclosures.

ATTENDANCE

\_\_\_\_\_ Number of days absent in past 12 months. Reasons (if known) Pattern (if any) (e.g., Mondays, Fridays, after paydays before and after holidays). Attach leave records for verification

\_\_\_\_\_ Number of extended lunch periods in past 6 months. Reasons (if known) \_\_\_\_\_ Number of late occurrence in past 6 months. Reasons (if known)

\_\_\_\_\_ Other (specify) \_\_\_\_\_

**JOB PERFORMANCE**

\_\_\_\_\_ Lower Quality of Work

\_\_\_\_\_ Erratic Work Patterns

\_\_\_\_\_ Decreased Productivity

\_\_\_\_\_ Failure to Meet Schedules

\_\_\_\_\_ Increased Errors

\_\_\_\_\_ Inability to Concentrate

\_\_\_\_\_ Impaired Judgement/Memory

\_\_\_\_\_ Other (specify) \_\_\_\_\_

**BEHAVIOR DEMONSTRATED**

\_\_\_\_\_ Avoids Supervisors or Co-workers

\_\_\_\_\_ Loss of Interest or Enthusiasm in Job

\_\_\_\_\_ Less Communicative

\_\_\_\_\_ Frequent Mood Swings

\_\_\_\_\_ Unusually Sensitive to Advice or Constructive Criticism

\_\_\_\_\_ Disregard for Safety on the job

\_\_\_\_\_ Unusually critical of supervisor, Co-Workers or Employer

\_\_\_\_\_ Other \_\_\_\_\_

**HAVE THE ABOVE ISSUES BEEN DISCUSSED WITH THE EMPLOYEE?** \_\_\_\_\_ YES \_\_\_\_\_ NO

**HAS EMPLOYEE BEEN REFERRED TO THE STATE MEDICAL DIRECTOR?** \_\_\_\_\_ YES \_\_\_\_\_ NO

If yes, when? \_\_\_\_\_ (Please attach all relevant documentation)

**THIS SECTION TO BE COMPLETED BY THE EMPLOYEE**

I understand that I am being referred by my employer to the State’s Employee Assistance Program (EAP). I also understand that my signature below does not reflect my agreement/disagreement to any of the issues raised. My signature verifies that I have seen the referral and all documentation contained therein.

\_\_\_\_\_ Yes, I will participate in the Employee Assistance Program. My health insurance carrier is:

\_\_\_\_\_

\_\_\_\_\_ No, I will not participate in the Employee Assistance Program

SIGNATURE

DATE

Please forward MS 561 and all supporting documentation in **DUPLICATE** to:

Department of Personnel  
Employee Assistance Program  
2100 Guilford Avenue  
Suite 309  
Baltimore, MD 21218

If you have any questions, please call the Employee Assistance Program on 333-6418, 6407 or 2727 in Baltimore, outside Baltimore 1-(800)-332-6418.

**UNIVERSAL APPEAL AND GRIEVANCE FORM  
(NOT FOR USE IN FILING EEO COMPLAINTS)**

**EMPLOYEE'S NAME:** \_\_\_\_\_ **SS#** \_\_\_\_\_

**EMPLOYING AGENCY:** \_\_\_\_\_ **DEPT. OR UNIT:** \_\_\_\_\_

**HOME ADDRESS:** \_\_\_\_\_ **HOME PHONE#:** \_\_\_\_\_

\_\_\_\_\_ **WORK PHONE#:** \_\_\_\_\_

**Issue of employee's grievance (or, reason given by agency for taking disciplinary action):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Specify the law, regulation or policy allegedly misinterpreted:**

\_\_\_\_\_  
\_\_\_\_\_

**Remedy Requested:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**DATE ACTION TAKEN:** \_\_\_\_\_ **EFFECTIVE DATE OF ACTION:** \_\_\_\_\_

**EMPLOYEE REPRESENTED BY:** \_\_\_\_\_

**Address:** \_\_\_\_\_

\_\_\_\_\_

**Phone Number:** \_\_\_\_\_

**EMPLOYEE'S SIGNATURE:** \_\_\_\_\_ **DATE SIGNED:** \_\_\_\_\_

Please Circle Appeal Category:

- |  |  |
|--|--|
| 01 Charges of Removal  | 05 Involuntary Demotion                                    |
| 02 Suspension  | 06 Denial of Increment                                     |
| 22 Suspension pending charges for removal                      | 07 Unsatisfactory Report                                   |
| 03 Grievance (If involves reclass, give last audit date _____) | 08 Retaliation for "Whistle blower" Disclosure             |
| 04 Rejection on Probation (37F-1) (New State employees)        | 09 Termination of Unclassified Employee                    |
| 44 Rejection on Probation (37F-2)                              | 10 Washington Suburban Sanitary Commission Referral (WSSC) |
|  | 11 Transportation Service Human Resources System (THRS)    |
|  | 12 Loss of Leave (THRS)                                    |
|  | 13 Injured Workers Insurance Fund (IWIF)                   |

**(ATTACH A COPY OF ANY NOTICE OF DISCIPLINE BEING APPEALED)**

**Failure to fully complete this form will result in delay in your appeal.**



**Date**

**Current IU No.**

**RECORD OF PREVIOUS COMPLAINTS**

**IU No.**

**Accusation and Date**

**Disposition**

Check here \_\_\_\_\_ if no prior IU complaint on file.

**The above represents a check of the files of the Division of  
Correction Internal Unit.**

**Commander**

**Date**

**DOC Investigative Unit  
2100 Guilford Avenue,  
Suite 302  
Baltimore, Maryland 21218**

**PRIOR DISCIPLINARY ACTION RECORD**

**Name:**

**SSN:**

**Rank:**

**Date**

**Pers. Order No.**

**Cause of Action**

**Action Taken**

**This is a complete and accurate summary of disciplinary action in the official personnel file of the above named employee.**

**Provided By:**

**Date:**

**Title:**