

GEORGIA DEPARTMENT OF JUVENILE JUSTICE	Transmittal # 17-17	Policy # 3.18
Applicability: <input checked="" type="checkbox"/> All DJJ Staff <input type="checkbox"/> Administration <input type="checkbox"/> Community Services <input type="checkbox"/> Secure Facilities (RYDCs and YDCs)	Related Standards & References: OCGA. §§16-12-100, 16-6-1 to 17, 16-6-20 to 22.2, 20-2-984.3, 35-8-24, 40-5-54, 40-6-394, 40-6-391, 40-6-392, 45-20-8, 45-20-9 DJJ 3.21, DJJ 3.26, DJJ 3.55, DJJ 3.80, DJJ 4.2, DJJ 4.5	
Chapter 3: PERSONNEL	Effective Date: 12/28/17	
Subject: FITNESS FOR DUTY	Scheduled Review Date: 12/28/18	
Attachments:	Replaces: 6/5/15	
A – EAP Referral Letter B - Attending Physician’s Statement of Functional Capability C – Termination Letter Template D - Notification of Suspension E – Disclosure of Criminal or Traffic Offense Information F – Georgia Peace Officer Standards and Training Council’s Change of Status Form, Form C-11	Division of Training and Personnel Services APPROVED:  <hr/> Avery D. Niles, Commissioner	

I. POLICY:

Department of Juvenile Justice staff shall be physically and mentally capable of performing assigned duties, have a background investigation and fingerprint check that indicates suitability for employment, and possess valid professional credentials when required.

II. DEFINITIONS:

Cadet: An employee of DJJ or an employee with an equivalent job function as a Juvenile Correctional Officer or Juvenile Probation/Parole Specialist who has yet to have completed mandated training (Basic Juvenile Corrections Officer Training, Basic Community Services Training, or Basic Juvenile Probation Officer Training).

Conviction: The term “conviction” includes a finding or verdict of guilt, plea of guilty, or a plea of nolo contendere, regardless of whether the adjudication of guilt or sentence is withheld or not entered.

Crime: Convictions that are considered mandatory disqualification or dismissal from employment, including:

- Any felony;
- Misdemeanor assault, battery, or sexual offense when the victim was a minor;
- Contributing to the delinquency of a minor;
- Misdemeanor sexual-related offense(s): including, keeping a place of prostitution, pimping, and pandering;

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- Criminal attempt when the crime attempted is any of the crimes specified by this paragraph; or
- Any other offenses committed in another jurisdiction which if committed in this state would be one of the enumerated crimes listed in this paragraph.

Fit for Duty: A physical and mental ability to perform assigned duties, a background investigation and fingerprint check that indicates suitability for employment, and possession of valid professional credentials when required.

Modified Duty Assignment: A temporary assignment of duties that does not last more than 60 days.

Temporary Disability: A physical or mental limitation that affects the ability of an employee to perform some or all assigned duties for a term of 60 days or less.

III. PROCEDURES:

A. General Provisions:

1. All employees must be fit for duty.
2. Supervisors will ensure that all employees under their authority are fit for duty. These responsibilities include:
 - a) Being aware of and addressing performance deficiencies;
 - b) Ensuring that employees are aware of their responsibility for reporting arrests or convictions and taking appropriate action after receiving such a report; and
 - c) Tracking possession and renewal of applicable professional credentials and taking appropriate action should those credentials expire or be revoked. (See DJJ 3.55, Professional Credentials.)

B. Disability or Incapacity:

1. Employees who are not able to participate in the physical activities of a training program will not be scheduled for that training. Employees must complete all mandatory training programs within the timeframes set forth in Chapter 4, Staff Development and Training. When the Office of Training becomes aware of an employee's inability to participate in the physical activities of a training program, the employee will no longer be allowed to participate. The Director of Training or designee will notify the facility Director and the Director's supervisor.

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2. If an employee becomes disabled or incapacitated in any way that limits his/her ability to perform assigned duties, the employee must notify his/her immediate supervisor as soon as possible of the condition. (See DJJ 3.21, Americans with Disabilities, for information.)
3. Employees may access the Employee Assistance Program for help with personal or family issues that affect job performance. (See DJJ 3.26, Employee Assistance Program.)
 - a) Under certain circumstances, and upon approval by the Office of Human Resources, a manager may refer an employee to the EAP for evaluation if the employee's conduct might cause harm to himself/herself or others, or if the employee's behavior is likely to have a negative impact on the work environment, (e.g., outbursts of anger, inability to control anger, noticeable stress or anxiety, etc.). (See Attachment A, EAP Referral Letter).
 - b) Refusal to comply with manager's referral may result in disciplinary action in accordance with DJJ 3.80, Employee Progressive Discipline.
4. Employees with a temporary disability may request a modified duty assignment of up to 60 days per medical condition or combination of concurrent medical conditions, provided that the modified duty assignment does not adversely affect the Department's ability to carry out its functions as mandated by law.
 - a) The employee must present an Attending Physician's Statement of Functional Capability (Attachment B) to support the request for modified duty.
 - b) A modified duty assignment may be requested by an employee or required by a supervisor.
 - c) Requests for modified duty assignments will be considered, upon consultation with the Office of Human Resources.
 - d) After consulting with the Office of Human Resources, a supervisor may make a modified duty assignment after determining the employee is unfit for duty. (See Section I.)
 - e) If a modified duty assignment cannot be offered to the employee, the employee will be required to request leave with or without pay for the period of temporary disability.
 - f) If the employee is unable to return to duty with or without reasonable accommodations after 60 days in a modified duty assignment, the employee will be required to request leave with or without pay.

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- g) If the employee is unable to return to duty with or without reasonable accommodations and has exhausted all leave options, the employee may be separated from employment.

C. Professional Credentials:

Employees whose position requires a professional credential will ensure that the necessary professional credential is maintained. The Department of Juvenile Justice will not permit an employee to perform work that requires professional credentials if the appropriate credential has not been obtained or if the credential has expired or been revoked. (See DJJ 3.55, Professional Credentials.)

D. Teachers and Other School Personnel:

1. When a teacher or other school personnel has committed any of the following specifically identified crimes, the Director of the Office of Education (Associate Superintendent) will notify the Commissioner (Superintendent of Schools), DJJ School Board, and Professional Standards Commission:
 - a) Murder, voluntary manslaughter, aggravated assault, aggravated battery, or kidnapping as defined in Chapter 5 of Title 16 of the Official Code of Georgia (OCGA);
 - b) Any sexual offense, as provided for in OCGA §16-6-1 through §16-6-17 or OCGA §16-6-20 through 16-6-22.2;
 - c) Any sexual exploitation of a minor as provided for in OCGA §16-12-100;
 - d) Any offense involving marijuana or a controlled substance, as provided for in Chapter 13 of Title 16 of OCGA;
 - e) Any offense involving theft, as provided for in Articles 1 and 2 of Chapter 8 of Title 16 of OCGA; or
 - f) Unlawfully operating a motor vehicle after being declared a habitual violator for violating OCGA §40-5-54, §40-6-391, §40-6-392, or §40-6-394 or any combination of these.
2. Any supervisor who becomes aware of a teacher or other school personnel who has committed one of the crimes above will notify the Facility Director, Director of the Office of Education and the Director of the Office of Human Resources as soon as he/she becomes aware of any of the above violations so that the appropriate notifications can be made.

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E. Cadet's Training Requirement:

Cadets must complete Basic Juvenile Correctional Officer Training (BJCOT), or Basic Juvenile Probation Officer Training (BJPOT) within 6 months of their hire date. (See DJJ 4.5, Staff Training Requirements.)

1. If a Cadet will not complete BJCOT, or BJPOT within 6 months of his/her date of hire, the Facility Director/ District Director will immediately notify the Office of Human Resources.
2. If the Office of Training becomes aware that a Cadet will not complete BJCOT or BJPOT within 6 months of his/her hire date, the Office of Training will notify the Office of Human Resources and respective Deputy Commissioner.
3. The Office of Human Resources will determine the course of action to be taken within 10 days and notify the Office of Training, Facility Director/District Director, and Director's supervisor of the decision. If needed, a template of a termination letter is found as Attachment C, Termination Letter Template.

F. Employment-Related Investigations:

1. An employee may be suspended with pay pending an employment-related investigation. The Facility Director, District Director, or Central Office Director will provide the employee written notification of the suspension (see Attachment D Notification of Suspension). The notification must include any terms and/or conditions about the period of suspension. The employee must abide by the terms and/or conditions contained within the notification. (The Director of Human Resources or designee must be notified when an employee is suspended with pay.)
2. A suspension with pay pending an employment-related investigation of an employee will not exceed 30 days without the written approval of the respective Deputy Commissioner, with notification to the Director of Human Resources. The Director of Investigations or designee will notify the Facility Director when an investigation will extend beyond 30 days. The Facility Director, District Director, or Central Office Director must request the extension in writing before the 30 days expires.

G. Arrest, Conviction or Citation of Employees:

1. Employee Responsibilities:
 - a) Employees must notify their supervisor and local human resources representative of any arrest(s) no later than the next business day following the arrest, using the Disclosure of Criminal or Traffic Offense Information form (Attachment E). Failure to do so may result in

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disciplinary action up to and including dismissal. (The Office of Human Resources will act as the local human resources representative for Central Office.)

- b) Employees who may transport youth as a part of their job duties (e.g., JCOs, JCCs, JPPSs, etc.) must notify their supervisor and local human resources representative of any traffic citations (other than parking tickets), no later than the next business day, using the Disclosure of Criminal or Traffic Offense Information form (Attachment E). Failure to do so may result in disciplinary action up to and including dismissal. (The Office of Human Resources will act as the local human resources representative for Central Office.)
- c) Employees must notify their supervisor and local human resources representative of any traffic citations (including parking tickets) received while driving a state vehicle or vehicle rented for agency business no later than the next business day, using the Disclosure of Criminal or Traffic Offense Information form (Attachment E). Failure to do so may result in disciplinary action up to and including dismissal. (The Office of Human Resources will act as the local human resources representative for Central Office.)
- d) Employees will be required to present documentation regarding the arrest or citation (e.g., a copy of a traffic citation). Failure to do so may result in disciplinary action up to and including dismissal.
- e) Employees will be required to present documentation regarding the disposition of all arrests and citations to their supervisor and the Office of Human Resources within 3 business days of receipt of the disposition. Failure to do so may result in disciplinary action up to and including dismissal. When possible, the disposition will also be reported on the Disclosure of Criminal or Traffic Offense Information.

2. Management Responsibilities:

- a) Supervisors must immediately report any information regarding the arrest and/or conviction of an employee, or an outstanding warrant for the arrest of an employee, to the appropriate facility/office Director.
- b) The supervisor will instruct the employee to complete the Disclosure of Criminal or Traffic Offense Information (Attachment E).
- c) The supervisor will make a recommendation regarding personnel action and forward the Disclosure form to the respective Division Head or designee within 3 days of notification of the offense. The Division Head

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or designee will concur or amend the recommendation of the supervisor, and forward the Disclosure form to the Office of Human Resources. The Office of Human Resources will concur or amend the recommendation of the division, and forward the final recommendation to the division and originating facility/office.

- d) If the arrest is not a felony charge, the facility/office Director will immediately determine if the arrest impacts the employee's assigned job duties and what, if any, employment action is appropriate for the circumstances. The facility/office Director will consider placing the accused staff member on "No Contact" status pending the outcome of the arrest. (Employees placed on "No Contact" status will not be allowed contact with any youth pending the outcome of the arrest.) The Director of Human Resources will be consulted before implementing any employment action. If the arrest is for a misdemeanor charge, the Director of Legal Services will be consulted before implementing a suspension without pay action.
- e) If an unclassified employee is arrested for a felony charge, the facility/office Director will place the employee on suspension without pay pending further court action. The facility/office Director will inform the employee to immediately report any change in the legal status of the arrest (e.g., dismissal, indictment, conviction, etc.). (For FLSA exempt employees, the employee will be placed on suspension with pay until the beginning of the next work week. At the beginning of the next work week, the employee will be placed on suspension without pay.)
- f) If a classified employee is arrested for a felony charge, the facility/office Director, in consultation with the Office of Legal Services, will determine if the felony arrest will deter the employee's effectiveness in employment. If the determination is made that the felony arrest will deter the employee's effectiveness in employment, the employee will be placed on suspension without pay and notice will be provided in accordance with DJJ 3.80, Employee Progressive Discipline.
- g) The employee may submit a written request to the Division Head that the first 30 days of the suspension be approved as authorized leave without pay and that all accumulated deferred holiday time, Fair Labor Standards Act compensatory time and annual leave be paid in a lump sum. Any requests to use or be paid for sick leave will not be approved. Under no circumstances will the employee be permitted to return to duty in less than 30 days. If at the end of the authorized leave without pay the pending court action has not been resolved, the employee will be placed on suspension without pay for the remainder of the 60 days.

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- h) During the suspension without pay, the facility/office Director will obtain information pertinent to the charges (e.g., arrest report, investigative report, etc.) to determine if termination is appropriate during the suspension period. (See DJJ 3.80 Employee Progressive Discipline.)
- i) At the end of the suspension without pay (SWOP), the employee should be returned to duty or terminated. If the criminal court action exceeds 60 days, an extension of SWOP may be granted on a case by case basis as determined by the Office of Legal Services and the Office of Human Resources.
- j) If the charges are dropped or dismissed during the suspension without pay, the employee may be reinstated to duty only upon approval of the Director of Legal Services, who will consult with the Director of Human Resources and the Office Director.
- k) If a classified employee is found not guilty or the felony charge results in no adverse consequences to the employee (e.g., dismissed, dropped, etc.), the employee will be reinstated to duty with full back pay and benefits. (The employee will receive payment, leave, and benefits as though there had been no break in service, minus any amount earned by or paid to the employee from other employment and wage substitutes (including but not limited to unemployment compensation) during the period off the job and minus any amount paid for annual leave.)
- l) If an unclassified employee is found not guilty or the felony charge results in no adverse consequences to the employee (e.g., dismissed, dropped, etc.), the employee may be eligible for reinstatement to full duty or re-hire as appropriate.
- m) Conviction of a crime (as defined by this policy) shall result in mandatory dismissal from employment.
- n) If the disposition of any other charge includes any penalty to the employee, the facility/office Director will consult with the Director of Human Resources to determine the proper employment action to be taken.
- o) An employee placed on probation for a criminal or traffic offense may be dismissed from employment or placed on suspension without pay for the term of his/her probation if the probation renders the employee unable to successfully perform his/her assigned duties or is of such a nature that to continue the convicted employee in his/her position (while on probation) could subject the Department to liability.

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H. POST Certified Employees:

1. Employee Responsibilities:

- a) If there is any change in the information contained in the POST certified employee's POST application after he/she is certified, the employee must notify the POST Council in writing of the change within 30 days. This would include any change that would require a different answer to any question in the application, including a change of address, or any change to a supporting document that is part of the application.
- b) Any POST certified employee or an employee who is a candidate for POST certification who has a disciplinary action taken against him/her must notify the POST Council in writing of the action within 15 days. Disciplinary actions (for the purposes of this section of this policy) will include any action taken by any municipal, county, state, or federal agency that meets the following criteria:
 - i. Arrest by local, state or federal authorities;
 - ii. Suspensions of 30 days or longer for misconduct, demotions (other than for administrative purposes), termination, or resignations in lieu of terminations;
 - iii. Indictment in any local, state or federal courts; and
 - iv. Conviction or bond forfeiture, in any local, state or federal court.
- c) Any applicant, candidate or POST certified employee must notify the POST Council in writing within 15 days when the following circumstances occur:
 - i. The applicant, candidate or POST certified employee has a change in medical condition that will persist for more than 180 days (as determined by a doctor) and prohibits him/her from performing required duties; or
 - ii. The applicant, candidate or POST certified employee is terminated, resigns (voluntarily or in lieu of dismissal), demoted, suspended or retires as a result of the change in medical condition.
- d) The employee must notify his/her facility Director/District Director immediately upon being notified of being placed under file review or receiving an emergency suspension or certification revocation by the POST Council.

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2. Management Responsibilities:

- a) The facility Director/District Director will ensure that the POST Council is notified within 15 days of the hiring, promotion, termination of employment or other changes in the employment status of a POST certified employee.
- b) The facility Director/District Director will ensure that the POST Council is notified within 10 days of the following disciplinary actions:
 - i. Suspension for 30 days or longer;
 - ii. Demotion (other than for administrative purposes);
 - iii. Termination of an applicant/candidate for certification for disciplinary reasons;
 - iv. Termination of a POST certified employee for disciplinary reasons; or
 - v. Resignation in lieu of termination of a POST certified employee or applicant/candidate for certification.
- c) The facility Director/District Director must notify the POST Council in writing within 10 days when the Department receives notice of the following:
 - i. The applicant, candidate or POST certified employee has a change in medical condition that will persist for more than 180 days (as determined by a doctor) and prohibits him/her from performing required duties; or
 - ii. The applicant, candidate or POST certified employee is terminated, resigns (voluntarily or in lieu of dismissal), demoted, suspended or retires as a result of the change in medical condition.
- d) All required POST Council notifications will be done using the Georgia Peace Officer Standards and Training Council's Change of Status Form, Form C-11 (Attachment F).
- e) The facility Director/District Director will notify the Director of Human Resources and Office of Training on the same day of becoming aware that an employee has been placed under file review or received an emergency suspension or certification revocation by the POST Council. Upon revocation of POST certification, the employee will be considered

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to have forfeited his or her position. See DJJ 3.55, Professional Credentials, and DJJ 3.83, Separation from Employment.). The facility Director and the Director of Human Resources or designee will take appropriate actions.

I. Unfitness for Duty:

1. In consultation with and upon approval by the Office of Legal Services, a facility Director/District Director may suspend an employee with pay for alleged unfitness to perform assigned duties if the alleged unfitness creates the potential for harm to the employee, other employees, youth, or others. (The Director of Human Resources must be notified when an employee is suspended with pay.)
2. During the period of suspension with pay, the employee may be directed to undergo a medical and/or mental health examination at the expense of the Department. Based on the need, a psychiatrist or licensed psychologist can perform a fitness for duty evaluation.
3. Any suspension for alleged unfitness to perform assigned duties must be approved by the appointing authority and must not exceed 30 days.

IV. LOCAL OPERATING PROCEDURES REQUIRED: NO