

<b>GEORGIA DEPARTMENT OF JUVENILE JUSTICE</b>	Transmittal # 16-09	Policy # 3.80
<b>Applicability:</b> {x} All DJJ Staff { } Administration { } Community Services { } Secure Facilities	<b>Related Standards &amp; References:</b> O.C.G.A. §§ 45-20-1; 47-2-2; 47-2-123 Governor's Executive Orders dated May 3, 1996 and September 13, 1996 Rules of the State Personnel Board 478-1-.24 ACA 4-JCF-6C-09,4-JCF-6D-01, 3-JDF-1C-01 DJJ 3.82	
Chapter 14: PERSONNEL	Effective Date: 7/15/16 Scheduled Review Date: 7/15/17	
Subject: Employee Progressive Discipline	Replaces: 8/1/15 Office of Human Resources APPROVED:	
<b>Attachments:</b> A - Letter of Concern B - Letter of Reprimand C - Performance Improvement Plan D - Recommended Adverse Action/Separation Action for Unclassified Employees	 <hr/> Avery D. Niles, Commissioner	

## I. POLICY:

The Department of Juvenile Justice emphasizes quality and excellence in all aspects of Department operations. Employees will be treated with dignity and respect. The Employee Progressive Discipline (EPD) program will be utilized to correct attendance problems, performance deficiencies, and inappropriate behaviors as they arise unless the offense committed is one for which dismissal is the appropriate penalty. It is designed to assist with employee commitment to the organization, and to encourage/promote the development of effective working relationships between supervisors and their subordinate employees.

## II. DEFINITIONS:

**Adverse Action:** A disciplinary action taken against an employee, which results in suspension without pay, salary reduction, demotion, or termination. It addresses an employee's work-related problems in the areas of attendance, performance, or conduct when lesser disciplinary actions have not corrected the problem or where the problem is significant.

**Appointing Authority:** The person or groups of persons authorized by law or delegated authority to make appointments to fill positions. The term also includes any person properly designated by the Appointing Authority to perform any of his or her official duties.

Chapter	Subject	Policy#	Page
PERSONNEL	EMPLOYEE PROGRESSIVE DISCIPLINE	3.80	2 of 10

**Classified Employee:** An employee with rights of appeal as set forth in O.C.G.A §§ 45-20-8 and 45-20-9 who was in the classified service as of June 30, 1996, and who has remained in a classified position without a break in service since that date.

**Commissioner’s Designee for Adverse Actions:** The person designated to hear appeals of Adverse Actions and to decide requests for exceptions to this policy.

**Employee Progressive Discipline (EPD) Program:** A series of disciplinary actions, or steps, that are progressively more severe and which lead either to an employee’s improved performance or to termination from employment. The seriousness of the employee’s deficiency or misconduct will determine the severity of the disciplinary action taken. A supervisor will take increasing levels of discipline if lesser levels have failed to correct the problem, unless the infraction requires immediate dismissal. The levels of disciplinary steps by level of severity are Letter of Concern, Letter of Reprimand, and Adverse Action.

**Informal Coaching:** Informal discussions between a supervisor and an employee concerning the need to improve in the area of attendance, performance, or conduct.

**Involuntary Demotion:** An adverse action that results in the movement of an employee to a job on a lower pay grade. The employee must be qualified for the lower job at the time of demotion. An involuntary demotion will result in a salary reduction of at least 5%; however, the employee’s salary may be set at any salary in the new pay range that is not higher than the salary received prior to the demotion. The new salary may not be less than the pay range minimum or more than the pay range maximum for the new job.

**Letter of Concern:** A Letter of Concern, the least severe punitive of the progressive discipline steps, addresses an employee’s specific problem in the area of attendance, performance, or conduct. The objective is to ensure that the employee recognizes that a problem exists, to mutually develop an effective solution, and to avoid the need for further progressive disciplinary action.

**Letter of Reprimand:** A Letter of Reprimand addresses an employee’s continuing or significant work-related problem in the areas of attendance, performance, or conduct. The reprimand will also include a Performance Improvement Plan.

**Performance Improvement Plan:** The Performance Improvement Plan (PIP) identifies performance or behavioral issues that need to be corrected or modified, and it establishes a written plan of action to guide the improvement or corrective action.

**Unclassified Employee:** An employee who was hired after June 30, 1996, or who has occupied an unclassified position at any time since July 1, 1996. Unclassified employees have employment-at-will status, with limited exception for employees with more than 18 years of service who established ERS membership prior to April 1, 1972.

Chapter	Subject	Policy#	Page
PERSONNEL	EMPLOYEE PROGRESSIVE DISCIPLINE	3.80	3 of 10

### III. GENERAL PROVISIONS:

- A. Employees of the Department are employees-at-will and as such, can be terminated from employment for any lawful reason. This policy is not to be considered an explicit or implied contract between the Department and any employee or group of employees or to create an expectation of continued employment. The Appointing Authority's failure to abide by the time frames or follow any other steps in administering disciplinary action as set forth in this policy will not prevent the disciplinary action from being implemented or grant the employee with a private right of action under state or federal law.
- B. This policy is intended to provide the Appointing Authority with a framework to address deficient work performance in a consistent manner. The Department reserves the right to adapt, modify, or abandon this policy at any time for any reason, with or without advance notice to employees.
- C. All full-time and part-time DJJ employees are subject to Employee Progressive Discipline except for:
  - 1. Salaried employees in unclassified positions who have been employed fewer than 90 days;
  - 2. Hourly employees; and
  - 3. Salaried employees who report directly to the Commissioner.
- D. However, DJJ may subject an employee who is not covered by this Policy to all or part of this Policy. When a problem area is identified with an hourly employee or a salaried employee who reports directly to the Commissioner, management will ordinarily use Informal Coaching as an initial step.
- E. All requests to terminate a salaried employee who has been employed fewer than 90 days will be reviewed by the Office of Legal Services prior to termination.
- F. This policy does not override "employment-at-will," the Fair Labor Standards Act ("FLSA"), DJJ's grievance policies and procedures, or any other state and federal law. The progressive discipline steps outlined in this policy are not required to be followed in sequence. Should an employee have a significant or continuing attendance, performance, or conduct problem, the employee may be given a Letter of Reprimand or Adverse Action as warranted.
- G. Disciplinary actions are of a sensitive nature and should be discussed only with relevant parties involved. Therefore, such matters should be addressed in a confidential manner.

Chapter	Subject	Policy#	Page
PERSONNEL	EMPLOYEE PROGRESSIVE DISCIPLINE	3.80	4 of 10

**IV. LETTER OF CONCERN:**

- A. A Letter of Concern is issued by the Appointing Authority (or designee).
- B. The Appointing Authority will meet with the employee face-to-face and:
  - 1. Inform the employee that this is an informal discussion that will be documented as a Letter of Concern (Attachment A);
  - 2. Discuss the work-related problem, the need for the employee to correct that problem, and ways for the employee to correct that problem;
  - 3. Have the employee sign the Letter of Concern;
  - 4. When appropriate, provide assistance to the employee to correct the problem, such as additional training; and
  - 5. Schedule a follow-up date to discuss employee progress.
- C. The Appointing Authority (or designee) will give the employee a copy of the Letter of Concern and maintain a copy in the employee's productivity file.
- D. The employee's supervisors will continue to coach and monitor the employee's performance and progress. The supervisors should provide and document a positive contact when improvement occurs.

**V. LETTER OF REPRIMAND:**

- A. A request to issue a Letter of Reprimand (Attachment B) is submitted by the employee's Appointing Authority to the appropriate administrator: a District Director (Division of Community Services), Regional Administrator (Division of Secure Facilities), or Office Director (Central Office). If one of those identified administrators is the Appointing Authority, then the request will be submitted to the next level in the chain of command.
- B. The Appointing Authority must submit a request to issue a Letter of Reprimand in writing to the appropriate administrator no later than one week from when the Appointing Authority determines that the employee committed the infraction.
- C. Once the appropriate administrator approves the issuance of a Letter of Reprimand, the Appointing Authority (or designee) must develop a written Performance Improvement Plan (Attachment C) detailing what steps the employee must take to rectify the issue in an attempt to return the employee to effective service. The Performance Improvement Plan will include:
  - 1. A description of the problem;

Chapter	Subject	Policy#	Page
PERSONNEL	EMPLOYEE PROGRESSIVE DISCIPLINE	3.80	5 of 10

2. A description of what the Appointing Authority considers satisfactory performance regarding the relevant problem;
  3. The steps the employee must take to correct the problem;
  4. The time period allowed for the employee to show satisfactory improvement; and
  5. A schedule of on-going, follow-up status briefings.
- D. The Appointing Authority (or designee) will then meet with the employee face-to-face and:
1. Give the employee the Letter of Reprimand and discuss the work-related problem and the need for the employee to correct that problem;
  2. Give the employee the Performance Improvement Plan and review the Plan with the employee;
  3. Have the employee sign both the Letter of Reprimand and the PIP; and
  4. Retain a copy of the signed Letter of Reprimand and the PIP.
- E. The Appointing Authority will place a copy of the Letter of Reprimand and the PIP in the employee's productivity file and will send a copy of those documents to the Office of Human Resources, Employee Relations/EEO Section.
- F. The Letter of Reprimand and PIP will be incorporated in the employee's performance evaluation.
- G. If the employee does not correct the problem, further disciplinary actions may be taken.

**VI. ADVERSE ACTION:**

- A. General:
1. Adverse Action normally occurs when a Letter of Reprimand has failed to bring about a positive change in an employee's work attendance, performance, or conduct.
  2. However, an employee may receive Adverse Action without going through the progressive discipline process when a single problem is so severe that the application of the ordinary progressive discipline process is not an appropriate remedy.

Chapter	Subject	Policy#	Page
PERSONNEL	EMPLOYEE PROGRESSIVE DISCIPLINE	3.80	6 of 10

3. As part of the progressive discipline process, an employee may receive multiple Adverse Actions other than termination if appropriate to address the employee's problem.
- B. Adverse Actions may include suspension without pay (for 3, 5, or 10 days), a salary reduction (of 5% of the employee's salary for a period of 3 months, 6 months or 12 months,), involuntary demotion, or termination. Adverse Actions for FLSA exempt employees will be limited to suspensions without pay of five or 10 days, involuntary demotion, and termination. A request to impose an Adverse Action will be submitted by the Appointing Authority, through the chain-of-command, to the appropriate Deputy Commissioner. If a Deputy Commissioner or a person who directly reports to the Commissioner is the requesting party, then the request will be submitted to the Assistant Commissioner / Chief of Staff.
  - C. The Appointing Authority must submit a request to impose an Adverse Action on the "Recommended Adverse Action/Separation Action Decision Form" (Attachment D) to the appropriate Deputy Commissioner no later than one week from when the Appointing Authority determines that the employee committed the infraction. If the Appointing Authority requests to impose discipline out of the ordinary progressive disciplinary steps/measures, the request must explain why ordinary progressive discipline is not appropriate in that case.
  - D. The Deputy Commissioner will decide whether to impose Adverse Action and the type of Adverse Action based upon, but not limited to, the following factors:
    1. The nature and severity of the disciplinary issue;
    2. The proposed sanction (suspension, demotion, or salary reduction);
    3. The facts and any mitigating or aggravating circumstances related to the case, including employee improvement;
    4. The previous disciplinary record of the employee; and
    5. Previous actions taken by the Department under similar circumstances.
  - E. The Deputy Commissioner's decision is final unless review by the Office of Legal Services is required by this Policy.
  - F. Review by the Office of Legal Services.
    1. The Deputy Commissioner will submit the proposed Adverse Action to the Office of Legal Services for review if the proposed action involves:

Chapter	Subject	Policy#	Page
PERSONNEL	EMPLOYEE PROGRESSIVE DISCIPLINE	3.80	7 of 10

- a) Suspension without pay for 5 or 10 days;
  - b) Salary reduction of 5% of the employee's salary for a period of 6 or 12 months;
  - c) Involuntary Demotion; or
  - d) Termination.
2. The request to the Office of Legal Services will include:
- a) Any Letter of Concern;
  - b) Any Letter of Reprimand;
  - c) Any Performance Improvement Plan and the outcome of that Plan; and
  - d) Any other relevant documentation that will support the Adverse Action request (such as any SIR related to the current problem).
3. In making the review, the Office of Legal Services will determine:
- a) Whether a reasonable administrator could find that the infraction happened;
  - b) Whether a reasonable administrator could impose the proposed Adverse Action; and
  - c) Whether the proposed Adverse Action is consistent with Department policies and practice.
4. If the Office of Legal Services concurs in a recommended termination, it will draft a proposed termination letter for the Deputy Commissioner.
5. After receiving the opinion from the Office of Legal Services, the Deputy Commissioner will make the final decision.
- G. Once the Deputy Commissioner approves an Adverse Action other than termination, the Appointing Authority must develop a revised Performance Improvement Plan in a further attempt to return the employee to effective service.
- H. Termination:

Chapter	Subject	Policy#	Page
PERSONNEL	EMPLOYEE PROGRESSIVE DISCIPLINE	3.80	8 of 10

1. Termination normally occurs when lesser progressive disciplinary steps/measures, including lesser Adverse Actions, have failed to bring about a positive change in an employee's work attendance, performance, and/or conduct.
2. However, termination may occur when a single problem is so severe that the application of the progressive discipline process is not an appropriate remedy/alternative.

I. For Adverse Action other than Termination:

1. The Appointing Authority (or designee), along with their supervisor or supervisor's designee, will then meet with the employee face-to-face and:
  - a) Give the employee the Adverse Action Form and discuss the work-related problem and the need for the employee to correct that problem;
  - b) Give the employee the revised Performance Improvement Plan and review the Plan with the employee.
  - c) Have the employee sign both the Adverse Action Form and the PIP; and
  - d) Retain a copy of the signed Adverse Action Form and the PIP
2. An employee who receives an Adverse Action may not transfer until the Appointing Authority deems the employee's performance to be satisfactory and the improvement is reflected on the Performance Evaluation.
  - a) An employee involuntarily demoted is ineligible for transfer or promotion for twelve (12) months from the effective date of their demotion; however, the employee may apply for positions at the demoted or lower pay grade.
  - b) For transfer or promotion of an employee under an adverse action and only after 12 months have passed the involuntary demotion, the appointing authority must include the employee's performance evaluation to show employees past performance deficiencies or misconduct has been corrected and is currently deemed as satisfactory.

Chapter	Subject	Policy#	Page
PERSONNEL	EMPLOYEE PROGRESSIVE DISCIPLINE	3.80	9 of 10

- c) Employees on Salary Deduction may apply for positions; however, their new pay will not be effective until the expiration of the deduction.
    - d) Upon written request from the Assistant Commissioner or affected Deputy Commissioner, the Assistant/Director of OHR may waive these provisions if it is deemed to be in the best interest of the Department.
  - 3. An Adverse Action and PIP will be incorporated in the employee's Performance Evaluation.
  - 4. The Adverse Action will go into effect immediately, however the employee will be reimbursed/made whole if the Adverse Action is overturned by the Commissioner's designee.
  - 5. If the employee does not correct the problem, the employee may receive additional Adverse Action, including Termination.
- J. The Appointing Authority will send a copy of the Adverse Action Form and the PIP to the Office of Human Resources, Employee Relations/EEO Section. These documents will be placed in the employee's official personnel file.
- K. Processing Terminations:
  - 1. Separations will occur in accordance with DJJ 3.83, Separation from Employment.
  - 2. A classified employee shall be provided at least fifteen days advance written notice of the proposed Adverse Action stating the specific charges or reasons for which the action is to be taken and reasonable time in which to refute such charges; and written determination of the final action.

**VII. APPEAL PROCESS:**

- A. An employee issued an Adverse Action may appeal if the Action is:
  - 1. Suspension without pay;
  - 2. Salary reduction;
  - 3. Involuntary Demotion; or
  - 4. Termination, when termination is the first Adverse Action imposed on the employee in the last twelve months.

Chapter	Subject	Policy#	Page
PERSONNEL	EMPLOYEE PROGRESSIVE DISCIPLINE	3.80	10 of 10

- B. The Commissioner's Designee for Adverse Action will decide any Appeal of an Adverse Action.
- C. The employee must submit the appeal to the Commissioner's Designee, in writing or by e-mail, within five business days of receipt of the Adverse Action.
- D. The Commissioner's Designee may affirm, reverse, modify, or delay the proposed action.
- E. The Commissioner's Designee must provide the employee with a written response within seven business days of receipt of the review request, unless there are extenuating circumstances. The Commissioner's Designee will also send a copy to the Deputy Commissioner who imposed the Adverse Action and to the employee's Appointing Authority.
- F. The decision of the Commissioner's Designee is final and no further action will be taken after a decision is rendered. Classified employees may appeal an Adverse Action through the provisions of State Personnel Board Rule 478-1-.27.
- G. The Department's failure to abide by the time frames or follow any other steps in the appeal process as set forth in this policy will not prevent the disciplinary action from being implemented or grant the employee with a private right of action under state or federal law.
- H. Personnel Action Forms:
  - 1. The Appointing Authority will forward the required Personnel Action (PA) Form(s) to the Office of Human Resources on the same workday that the final decision is received.
  - 2. For Adverse Action other than Termination, two PA forms are required: one to begin the sanction and the other to end it. The submission of the second PA will avoid a late return to duty or potential problems with the administering of the employee's salary.

**VIII. ALTERNATIVES TO PROGRESSIVE DISCIPLINE:**

- A. The Progressive Discipline process is intended to address the majority of disciplinary issues arising in the department's work units. However, exceptions may be made based on the unique circumstances of an individual case.
- B. A request for an exception must be approved by the Office of Human Resources with concurrence by the Office of Legal Services.
- C. As authorized by the Commissioner.

Chapter	Subject	Policy#	Page
PERSONNEL	EMPLOYEE PROGRESSIVE DISCIPLINE	3.80	11 of 10

**IX. LOCAL OPERATING PROCEDURES REQUIRED: NO**