

# Georgia Department of Public Safety

## Policy Manual

SUBJECT <b>DISCIPLINE</b>	POLICY NUMBER <b>8.01</b>
DISTRIBUTION <b>ALL EMPLOYEES</b>	REVISED DATE <b>10/7/2021</b>
	POLICY REVIEWED <b>10/7/2021</b>

### 8.01.1 Purpose

The purpose of this policy is to establish guidelines for managing employees who do not meet established standards of performance, conduct and conditions of employment. This policy creates an efficient and appropriate system of disciplining employees and promoting professional personnel management and does not create any rights or benefits for employees of the Department or for any other person.

### 8.01.2 Policy

- A. The Department of Public Safety is committed to treating its employees as mature, respected professionals. All personnel should understand the importance of their work and its impact on the work unit, the department and the community. All personnel should meet the established standards of performance and conduct, thereby creating a professional law enforcement organization and work environment.
- B. Where appropriate, progressive discipline should be utilized. Certain situations may require disciplinary action up to and including termination for a first offense dependent on the facts and circumstances of the incident. Conduct that may result in termination for a first offense includes, but is not limited to, domestic violence, driving under the influence, reporting to duty under the influence of drugs or alcohol, engaging in unlawful or prohibited harassment or discrimination, engaging in sexual relations of any kind while on duty or in uniform, negligence or inefficiency in the performance of duties, insubordination, theft, and violations of the oath of office.
- C. It is incumbent upon all supervisors to lead by example and to address unacceptable performance, conduct or conditions of employment by their employees. Subject to the provisions in this policy, supervisors are expected to choose the best available method to address unacceptable performance or conduct. Supervisors are also accountable for the fair and proper use of the disciplinary procedures.
- D. No disciplinary action shall be considered invalid for failure to follow any procedure contained in this policy.

### 8.01.3 Definitions

- A. Adverse Actions - An adverse action is any disciplinary action that affects the employee's salary, status or permanent rank, except a failure of working test. Adverse actions are suspension without pay, disciplinary salary reduction, involuntary demotion and involuntary termination or dismissal. Failure of a working test is not an adverse action and is not subject to this policy. A termination and dismissal,

demotion, suspension without pay or salary reduction resulting from a non-disciplinary reason (reorganization, budget reductions, discretionary personnel action, etc.) is not an adverse action and is not subject to this policy.

- B. Personnel File – The employment record for each employee that includes information such as the employee’s job application, resume, training records, performance-related documentation, salary history, and other employment-related information. The personnel file is also referred to as the “201” file and is maintained in the Human Resources Division.
- C. Working Test –A probationary period of employment during which the employee must demonstrate to the satisfaction of the appointing authority the knowledge, ability, aptitude, and other necessary qualities to perform satisfactorily the duties of the position in which employed. The working test is eighteen (18) months for a trooper and a Motor Carrier Officer 1. The working test is twelve (12) months for all other positions.
- D. Appointing Authority – A person who is authorized by law or by delegated authority to make appointments to fill positions or to propose adverse actions.
- E. Commissioner or Commissioner of Public Safety - The ultimate Appointing Authority for all employees of the Department of Public Safety.
- F. Department –Department of Public Safety. The terms “Department,” “Department of Public Safety,” and “DPS” are used interchangeably.
- G. Limited Appointing Authority - Anyone who has been delegated some appointing authority by the Commissioner. The following are limited Appointing Authorities for the positions reporting to them: the Lt. Colonels, Chief of Staff, MCCD Adjutant, GSP North Adjutant, GSP South Adjutant, Headquarters Adjutant, Support Operations Adjutant, Capitol Police Adjutant, Director of Legal Services, Director of Human Resources and the Chief Financial Officer/Comptroller. In the Appointing Authority’s absence, the Appointing Authority may name a designee.
- H. Supervisor - Managers who are not limited Appointing Authorities. Supervisors may impose any disciplinary action up to a Letter of Concern but may not propose an adverse action.
- I. Reviewing Official – The Department member assigned the responsibility of reviewing proposed adverse actions.
- J. Charges - A formal accusation in adverse actions for classified employees.
- K. Days –Calendar days unless otherwise specified.
- L. Employment File – A file maintained to document employee performance at the local office or post. The employment file is also referred to as the post file.
- M. Verbal Warning - An unwritten interaction between an employee and his or her supervisor that illustrates minor improper or unwarranted conduct or poor performance and what action is required to perform properly. Verbal warnings should be documented and maintained permanently in the employment file.
- N. Letter of Instruction – An informal written memorandum or directive that documents corrective instructions related to minor employment problems. A letter of Instruction

may be issued by any supervisor. There is no appeal or review of a letter of instruction.

- O. Corrective Interview – A formal written document issued on form DPS-532 addressing deficiencies in performance, violations of policy, or other employment related problems. There are two types of corrective interviews: (1) the letter of concern and (2) the letter of reprimand (or written reprimand).
- P. Letter of Concern – A Corrective Interview that may be issued by any supervisor.
- Q. Letter of Reprimand – Corrective Interview that may be issued by appointing authorities (limited or otherwise) or their designees.

## **8.01.4 Procedures**

### **A. Supervisors**

1. As part of their overall responsibility for their assigned responsibilities, supervisors are required to lead by example and to monitor the performance, conduct and adherence to the terms and conditions of employment of their subordinate employees.
2. If an employee's performance, conduct or adherence to the terms and conditions of employment has fallen below acceptable standards, the supervisor must gather the facts and relevant information, including written statements where appropriate. The type of investigation required depends on the nature of the issue and the possible disciplinary consequences. The supervisor should consider the employee's response and any extenuating factors that may have contributed to the deficiency.
3. After considering all relevant information, the supervisor should determine the appropriate method(s) to address the deficiency and/or employment problem(s).
  - a. When possible, supervisors are encouraged to take action that enables the employee to correct deficiencies through positive and constructive methods. Such action may include any or all of the following: providing advice, orientation, field training, classroom training, remedial training, coaching, verbal warning or referring the employee to other resources. Such measures are not a prerequisite to the imposition of discipline and may be required in combination with a disciplinary action where appropriate.
  - b. If a supervisor determines that a disciplinary action is warranted, the supervisor and/or the chain of command should consider the nature and severity of the violation, its impact on the activity of the unit involved and/or on the operation of DPS as a whole, the work history of the employee, other aggravating or mitigating circumstances and any other relevant factors when determining the appropriate level of discipline.
  - c. The Department follows the policy of progressive discipline where appropriate. Performance deficiencies and/or employment problems should be addressed as soon as possible, and with increasing sanctions for repeat offenses. While progressive discipline is the preferred method of discipline, certain situations may require disciplinary action up to and including termination for a first offense.

- d. The same offense need not always warrant the same punishment. Supervisors must evaluate the context of each incident individually, and apply discipline without personal favoritism. -Disciplinary actions should be directed at correcting, improving and training the employee toward proper performance.
  - 4. Unless unavoidable, instruction which may embarrass an employee should be conducted in the absence of the employee's peers.
- B. Working Test
- 1. Classified Employees on working test
    - a. Following a promotion into a higher classified position, a classified employee on working test can be returned to the last lower job in which the employee has permanent status if such action is determined appropriate by an appointing authority.
    - b. If the permanent status job is no longer used by the Department, the employee can be placed in an equivalent lower classified job for which the employee is qualified.
    - c. The demotion of a classified employee while on working test is not considered an adverse action subject to any review.
  - 2. Unclassified Employees on working test
    - a. Following an initial appointment (new hire or transfer from another state agency), transfer to a different position within the Department, or promotion, an unclassified employee on working test can be dismissed, demoted or transferred if such action is determined appropriate by an appointing authority.
    - b. The termination or dismissal, demotion, or transfer of an unclassified employee while on working test is not considered an adverse action subject to any review.
- C. Levels
- 1. Disciplinary Actions (verbal warnings, letters of instruction, letters of concern and written reprimands.)
    - a. Any supervisor may initiate a verbal warning, letter of instruction, or letter of concern to a subordinate employee.
    - b. A letter of instruction is maintained permanently in the employment file with other related documentation.
    - c. All Corrective Interviews shall be forwarded through the chain of command to the limited Appointing Authority for review and then to Human Resources for filing in the employee's personnel file. A copy shall be maintained permanently in the employment file with other related documentation.
    - d. If the action is in writing, the employee will be afforded an opportunity to prepare a written response.

- 1) A response to a letter of instruction is filed with the letter in the employment file.
  - 2) A response to a letter of concern or written reprimand must be submitted within ten days of receipt.
  - 3) Where a timely response to a letter of concern or written reprimand is submitted, the document and response will be forwarded through the chain of command to the employee's limited Appointing Authority or their designee for review. The reviewer can approve, disapprove or modify the action. After the action is reviewed, a copy shall be forwarded with the employee's response to the Director of Human Resources for filing in the employee's personnel file and to the Director of the Office of Professional Standards for filing.
- e. In some circumstances, someone other than the employee's immediate supervisor within the employee's chain of command can initiate disciplinary actions, other than adverse actions. In these situations, the employee will also be afforded an opportunity to prepare a written response.
  - f. Except as required by state law there will be no appeal and no hearing regarding the imposition of any disciplinary matter that is not an adverse action.
2. Adverse Actions -- Classified Employees
    - a. Adverse Actions (suspension without pay, disciplinary salary reduction, demotion and termination or dismissal) may be imposed only by an Appointing Authority. Limited Appointing Authorities may propose an adverse action against an employee holding permanent status in the Classified Service in accordance with the procedure set forth below:
      - 1) The Limited Appointing Authority initiates the action by proposing the adverse personnel action with charges against the employee. The proposed action with charges must be in writing and, except in emergency circumstances, must be given to the employee at least fifteen days before the effective date of the action.
      - 2) Before proposing an adverse action, the respective Limited Appointing Authority should confer with the Director of Human Resources and the Director of Legal Services or their designees.
      - 3) Copies of any proposed adverse action shall be forwarded to the Commissioner, the reviewing officer, the Director of Human Resources and the Director of Legal Services.
    - b. Intra-Agency Review
      - 1) Any employee subject to an adverse action may have the action reviewed by a reviewing official. Either of the Lt. Colonels or the Chief of Staff shall be the reviewing official for adverse actions proposed by appointing authorities who report to him or her, unless the Commissioner appoints a different reviewing official. The Commissioner will either conduct the review or appoint a reviewing official for actions proposed by appointing authorities who report directly to the Commissioner.

- 2) Unless otherwise stated in writing by the reviewing official, the requesting of a review will not delay the effective date of the adverse personnel action.
  - 3) If the employee wishes to have the matter reviewed but does not wish to have a personal meeting with the reviewing official, then the employee must serve a written request on the reviewing official which sets forth the employee's concerns and objections. The reviewing official must receive this request within ten days after the employee received the notice of adverse action.
  - 4) If the employee wishes to meet with the reviewing official, the employee must request a meeting with the reviewing official. The reviewing official must receive this request within ten days after the employee received the notice of the adverse action. Once the request is received, the reviewing official will schedule a meeting with the employee to hear his or her concerns and may meet with any other person or consider any other information.
  - 5) During the review, the employee may respond to the charges or may address any other concern, e.g. unlawful harassment, discrimination, retaliation, or other alleged inappropriate basis for the adverse action.
  - 6) The reviewing official has the authority to sustain, reverse, modify, or increase the proposed action.
  - 7) The reviewing official will issue the final adverse action when the decision is made to sustain, reverse, or modify the proposed action. If the reviewing official increases the action and the reviewing officer is someone other than the Commissioner, the reviewing official will issue a new proposed adverse action and the employee may request an additional review.
  - 8) If no review was requested in a timely fashion, the proposed action becomes the final adverse action of the Department and all further appeal rights including any appeal to the State Personnel Board are waived.
  - 9) Copies of the final adverse action will be forwarded to the Commissioner, the proposing appointing authority, the Director of the Office of Professional Standards, the Director of Legal Services, the Director of Human Resources, and the Chief Financial Officer.
  - 10) When a final adverse action is issued, there shall be no further review by the Department. Even though no employee may request any additional intra-departmental review of the Final Adverse Action, the Commissioner may, on his own initiative, set aside any final action or authorize an additional review.
3. Unclassified Employees (at-will employees)
- a. Adverse Actions (suspension without pay, disciplinary salary reduction, demotions and termination may be imposed only by an appointing authority as set forth below:
    - 1) A Limited Appointing Authority may propose an adverse action.

- 2) No charges will be made in the adverse action letter. However, the Appointing Authority must still serve a written adverse action letter on the employee advising the employee of the action's effective date and should include a general reason for the action.
- 3) Before proposing an adverse action, the respective limited Appointing Authority should confer with the Director of Human Resources and the Director of Legal Services or their designee.
- 4) Copies of the proposed adverse action shall be forwarded to the Commissioner, the reviewing official, the Director of Human Resources and the Director of Legal Services.

b. Intra-Agency Review

- 1) Any employee who is subject to an adverse action may have the action reviewed. Either of the Lt. Colonels or the Chief of Staff shall be the reviewing official for adverse actions proposed by appointing authorities who report to him or her, unless the Commissioner appoints a different reviewing official. The Commissioner will either conduct the review or appoint a reviewing official for actions proposed by appointing authorities who report directly to the Commissioner.
- 2) Unless otherwise stated in writing by the reviewing official, the requesting of a review will not delay the effective date of the adverse action.
- 3) If the employee wishes to meet with the reviewing official, the employee must request a meeting with the reviewing official. The reviewing official must receive this request within five days after the employee received the notice of the adverse action. Once the request is received, the reviewing official will schedule a meeting with the employee to hear his or her concerns and may meet with any other person or consider any other information.
- 4) If the employee wishes to have the matter reviewed but does not wish to have a personal meeting with the reviewing official the employee must serve a written request on the reviewing official which sets forth the employee's concerns and objections. The reviewing official must receive this request within five days after the employee received the proposed adverse action.
- 5) During the review, the employee may respond to the action or may address any other concern, e.g. unlawful harassment, discrimination, retaliation, or other alleged inappropriate basis for the adverse action.
- 6) The reviewing official will issue the final adverse action and has the authority to sustain, reverse, modify, or increase the proposed action.
- 7) If no review was requested in a timely manner, the proposed action becomes the final adverse action of the Department.
- 8) Copies of the final adverse action will be forwarded to the Commissioner, the proposing appointing authority, the Director of the Office of Professional Standards, the Director of Legal Services, the Director of Human Resources and the Chief Financial Officer.

- 9) When a final adverse action is issued, there shall be no further review. Even though no employee may request any additional review of the Final Adverse Action, the Commissioner may, on his own initiative, set aside any final action or authorize an additional review.
4. Suspension/Administrative Leave with Pay is not a disciplinary action.
    - a. A limited Appointing Authority has the authority to place an employee on suspension with pay pending a proposed demotion or dismissal.
    - b. A limited Appointing Authority has the authority to place an employee on administrative leave with pay or suspension with pay for investigative purposes.
    - c. Where a Troop/Region Commander, Post Commander or civilian equivalent supervisor determines that the retention of the employee in active duty status may result in damage to property or may be disruptive, detrimental or injurious to the employee, fellow workers, persons under the employee's charge or the public, the supervisor, may place the employee on suspension/administrative leave with pay. The Troop/Region Commander/Post Commander or the civilian equivalent supervisor must notify their Adjutant or Division Director through the chain-of-command as soon as practical and in no event greater than eight hours of any such action.
  5. If an adverse action results in dismissal, the Director of Human Resources or designee will provide information or documentation requested by the employee, including:
    - a. Status of fringe and retirement benefits after dismissal, and
    - b. Content of the employee's employment record relating to the dismissal.
  6. Emergency Adverse Actions
    - a. With the approval of the Commissioner, a limited appointing authority may take immediate final adverse action. The approval may be verbal, but should be reduced to writing by the Appointing Authority as soon as practical. Failure to place the approval in writing will not invalidate the action.
      - 1) Emergency situations
        - a) It is likely that the employee has committed a felony or other crime involving moral turpitude;
        - b) The retention of the employee in active duty status may result in damage to property or may be disruptive, detrimental or injurious to the employee, fellow workers, and persons under the employee's charge or the public; or
        - c) Immediate dismissal is required by law.
      - b. There is no intra-agency review available for an emergency final adverse action. Classified employees will be notified of their appeal rights as required in State Personnel Board Rule 478-1-.26.

## 7. Uniforms



Sworn members that have been demoted to a non-sworn position shall turn in all uniform items that identify them as a sworn officer.

- D. Disciplinary actions shall be entered into the Employee Tracking System (ETS) by the appropriate Troop/Region/Unit.