

Clark County Board of Mental Retardation and Developmental Disabilities
Personnel Manual
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CHAPTER 5 DISCIPLINARY PRACTICES

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Clark County Board of Mental Retardation and Developmental Disabilities

Policy:	Discipline	Application:	Program-wide
Policy Approved:	June 24, 1997	CARF Ref:	Section I: D(P)
Policy Revised:	11/20/01, 8/19/03 (Effective September 1, 2003)	Accred. Ref:	

Policy

Discipline, except for termination, should be viewed as constructive in nature; designed to improve the performances and behaviors of employees such that future incidents do not occur. It should be viewed as a means to ensure the safety and well being of employees, as well as individuals we serve. Each employee's performance and conduct are critical to the safeguarding of consumers' rights, providing a quality work environment for all employees and the Board's service quality

Supervisors are obligated to maintain standards in both performance and conduct of their assigned staff. When standards are not met, supervisors are expected to recommend disciplinary action to reflect the seriousness of offenses, harmful impact upon the individuals we serve, the Board and other mitigating circumstances.

The Board believes that certain basic principles, set forth below, must be consistently applied in order to effectively and fairly correct unsatisfactory job performance or conduct. These principles are not meant to be all-inclusive, but illustrations of expected behaviors.

- (a) Employees shall be advised of job expectations, the types of conduct that the Board has determined to be unacceptable, and the penalties for unacceptable job performance.
- (b) Prompt attention shall be given to infractions of policy, procedure or work rule after conducting an objective investigation of facts.
- (c) Discipline shall be applied uniformly and consistently.
- (d) Classified employees, upon completion of their probationary periods, shall be disciplined only with just cause.
- (e) Discipline shall usually be progressive, but depending on the severity of the offense, may proceed immediately to termination.
- (f) Management shall be responsible for administering discipline.

Classified employees may be reduced in pay or position; fined monetarily or through reduction of vacation; suspended with or without pay; or removed from their job for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of work rules, any other failure of good behavior, including a violation of any policy of the Board, any other acts of misfeasance, malfeasance, or nonfeasance in the job, or conviction of a felony. Grounds for discipline shall be listed within a disciplinary action.

Staff are obliged to be truthful at all time during the disciplinary process. Lying, withholding information (partially or completely) or refusal to give information may result in discipline, up to and including, termination.

Definitions

- (a) Reduction- changing an employee to a classification with a lower pay range, a change to a lower step within a salary range of one' current classification or the denial of an automatic step increase to which an employee would have been otherwise entitled; classified employees may appeal action to the State of Ohio Personnel Board of Review (SPBR). Appeal rights are outlined on SPBR's prescribed form. The record of the discipline may be removed from the active personnel file after three (3) years from the date of offense, upon written request by the employee, and at the discretion of the Superintendent/designee
- (b) Removal (termination) - permanent separation from county service. Appeal rights are outlined on the prescribed form from SPBR. A removal is a permanent notation to the personnel file.
- (c) Suspension- A suspension may be removed from the active personnel file, after two (2) years from date of the offense, upon the written request by the employee and at the discretion of the Superintendent/designee.
 - (1) Short term- suspension of three (3) working days or less; employee may not appeal action to the State of Ohio Personnel Board of Review.
 - (2) Long term- suspension of four (4) or more working days; employee may appeal action to the State of Ohio Personnel Board of Review (SPBR). Appeal rights are outlined on SPBR's prescribed form used for suspensions of four (4) or more working days.
 - (3) Unpaid Suspension – non-work, unpaid period of time
 - (4) Working Suspension:-An alternative to (unpaid, non-worked) suspensions. During a working suspension, the employee receives his/her regular rate of pay. Working suspensions may be either short-term or long-term.
- (d) Vacation Leave Reduction- An alternative to (unpaid, non-work) suspension. The employee's vacation balance may be reduced in lieu of a suspension and must be deducted from future vacation accruals not vacation earned prior to the date discipline was issued. The record of the discipline may be removed from the active personnel file after two (2) years from the date of offense, upon written request by the employee, and at the discretion of the Superintendent/designee.
- (e) Written Reprimand- the immediate supervisor is responsible to issue, after consultation with the Personnel Director, on the prescribed forms. An written reprimand may be removed from the active personnel file, after eighteen (18) months from date of the offense, upon the written request by the employee and at the discretion of the Personnel Director.

Clark County Board of Mental Retardation and Developmental Disabilities

Policy:	Discipline	Application:	Personnel Department
Procedure:	Attendance Review Committee	Application:	Program-wide
Procedure Revised:	12/19/00, 8/19/03 (Effective September 1, 2003)	CARF Ref:	Section 1:D (p)
		Accred. Ref:	

Definitions

- (a) Absence - time away from work; supervisors have the discretion and right to require proof of a valid reason for absence; the employee is responsible for providing the burden of proof.
- (b) Absenteeism - practice of an employee failing to report for work for a period of one or more days; OR failure to report by the prescribed time when he/she has been assigned to or scheduled for work; OR misuse or abuse of sick leave (including potential patterns).
- (c) Absent Without Leave (AWOL) - employee is away from work without prior supervisory approval; time is non-compensable and subject to appropriate progressive disciplinary action; employee does not earn sick or vacation time while in AWOL status.
- (d) Leave Without Pay (LWOP) - employee has advance permission to be away from work from the Department Director; occurs only when employee has exhausted all other applicable leave balances and must be off due to special circumstances; time is not compensable; employee does not earn sick or vacation time while in LWOP status.
- (e) No Call/No Show - employee is late beyond thirty (30) minutes of the designated start time or total failure to report to work, staff meeting, scheduled training or other previously arranged work-related activity without prior call-in according to Department procedures; a serious offense as it raises major concerns regarding program operations or effectiveness of support services, reflected in an initial higher level of discipline.
- (f) Rescheduled Time - typically for non-exempt staff; time may be periodically rescheduled at the discretion of the Department Director to meet operational needs of the program or support services.
- (g) Tardy - employee is expected to call in according to Department procedures if he/she anticipates being more than six minutes late; upon arrival, the employee should notify the supervisor/designee immediately and provide an explanation; valid explanations (e.g., traffic accident, ambulance, etc.) may result in the employee's ability to use leave or rescheduled time; the supervisor has the discretion of not accepting reasons as valid if patterns of tardiness can be demonstrated for same or similar explanations; invalid explanations subject to AWOL in increments of .1 hours to the greater 1/10th for any portion thereof.

Procedures

(a) Standing Committee Members/Responsibilities

The Personnel Director/designee shall serve as a permanent member of the committee as note-taker and facilitator. The Superintendent shall appoint one manager and one confidential employee to each serve a two-year term on the committee. Actions of the committee shall serve the purpose of a pre-disciplinary meeting.

The Attendance Review Committee may reconcile matters for classified employees relating to absenteeism, absences without leave, tardiness and no call/no show. This list is not considered to be all-inclusive. The committee will ensure that progressive discipline is followed as outlined by the levels of offenses in the discipline policy and the above definitions. The committee will use its discretion to vary from these guidelines under extenuating, non-precedent setting circumstances. It must, in these cases, fully document its reasoning in such variations. Matters at or above the level of long-term suspension shall be referred for a pre-disciplinary meeting with a hearing officer.

(b) Attendance Review Committee Meetings

Supervisors refer matters to the committee in a written request to the Personnel Director. The request fully outlines the charges, progressive discipline to date, a copy of the employee's attendance calendar and a list of 2-3 possible meeting dates for which both the supervisor and employee in question are available. Matters are to be referred in a timely manner.

The Personnel Director then contacts the standing committee members and will confirm a meeting date. The employee shall receive confirmation of this meeting and the issue to be discussed generally at least twenty-four (24) hours prior to the meeting. The employee may choose to bring a representative to the meeting. An employee may choose to waive the meeting. A failure to appear at the meeting will be considered a waiver of the opportunity to have a meeting. The employee may request one extension of the meeting at least eight (8) hours in advance. Only under emergency circumstances can a meeting be rescheduled a second time subject to the discretion of the Personnel Director.

During the meeting, the supervisor outlines the charges and circumstances surrounding the incident(s) in question. The employee and/or representative may present information during the meeting for consideration. Standing committee members may ask questions of the parties for clarification. Committee members will determine the appropriate disciplinary action with the permanent member serving as a Hearing Officer if necessary. If a suspension is to be issued, the date(s) of suspension will be confirmed during the meeting. The employee is not permitted to work overtime or extra hours during the pay period(s) in which the suspension is being served.

In addition to disciplinary action, the committee may choose to establish a special performance evaluation period for the employee, recommend or require a referral to the Employee Assistance Program (EAP), recommend a fitness for duty examination and/or any other behavior interventions. Any consideration that the committee may allow on behalf of the employee shall be held as non-precedent setting as said consideration is related to the specific situation of that employee.

At the conclusion of the meeting, the Personnel Director will obtain each person's signature on the official notes. The Personnel Director will summarize the meeting and provide copies to the employee and all levels of management up to the Department Director. A copy shall also be retained in the Personnel Department with the disciplinary action itself placed in the employee's personnel file.

Clark County Board of Mental Retardation and Developmental Disabilities

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Procedure:	Discipline	Application:	Program-wide
Procedure Revised:	11/20/01, 8/19/03, 4/19/05 (Effective May 1, 2005)	CARF Ref:	Section 1:D (p)
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Procedure

(a) General Information

Each supervisor, manager, coordinator or department director will counsel, admonish and commend employees when required and applicable. Counseling and taking corrective action should not be construed as disciplinary action.

The Superintendent/designee shall impose disciplinary action as appropriate. Each incident shall be investigated prior to implementing discipline including a discussion with the employee to determine what occurred. Employees being investigated have the right to be accompanied, represented and advised by a representative during an investigatory meeting if requested by the employee. During an investigation, management reserves the right to place an employee on “alternative assignment” or on administrative leave. The employee will maintain regular compensation. The work location or area will not be a detriment to the individuals served or services provided to individuals. Failure to cooperate in an investigation, including providing false or misleading information, will result in discipline up to and including removal from employment.

Discipline could be up to and including termination on a serious offense the first occurrence. Examples of serious offenses include, but are not limited to, abuse or neglect, slander or other illegal acts against individuals served, insubordination, gambling, stealing, fighting, coming to work under the influence, intentional destruction of Board property, dereliction (AWOL), or other serious failure of good behavior.

(b) Written Reprimands

A first offense will result in a minimum of a discussion between the involved employee and his/her immediate supervisor. Second offenses will result in a minimum of a written reprimand issued by the employee’s immediate supervisor. A third offense will result in a written reprimand or request for a pre-disciplinary meeting to consider a higher level of discipline. Consequences for future violations are explained in detail to the employee by his/her supervisor. An entry of said reprimand will become a part of the employee’s record, subject to review.

(c) Working Suspensions

Employees serving working suspensions are to work no overtime or extra hours during any week in which suspension days are being served. The supervisor may reassign duties during the working suspension.

Employees on a working suspension who call off for any reason will serve the working suspension on their first day of return to work. In addition, the employee may be subject to further disciplinary action. A doctor’s excuse from an actual visit to the doctor is required if sick leave is requested. Appropriate documentation for other reasons, such as jury duty, is required.

(d) Pre-disciplinary Meetings

Whenever the Department Director or designee determines that an employee may be reduced in pay or position, suspended or terminated, a pre-disciplinary meeting will be scheduled to give the employee an opportunity to explain his/her conduct and respond to the charges presented. The Human Resource Director/designee will conduct pre-disciplinary meetings.

Not less than twenty-four (24) hours prior to the scheduled starting time of the meeting, the Human Resource Director/designee will provide to the employee a brief summary of the alleged improper conduct, which is the basis for the charges. The written charges will be based upon fact-finding conducted by management/designee. The pre-disciplinary meeting will be scheduled as promptly as possible.

The employee has the right to either: 1) appear at the meeting to present an oral or written statement in his/her defense; or 2) appear at the meeting and have a chosen representative present an oral or written statement in defense of the employee; or 3) elect in writing to waive the opportunity to have a pre-disciplinary meeting. Failure to attend a scheduled pre-disciplinary meeting will be considered a waiver of the opportunity to have a pre-disciplinary meeting.

The employee may elect to have representation at the pre-disciplinary meeting. The Board reserves the right to also have representation present. The employee must inform the Human Resource Director/designee of the intent to have representation at least 3 hours prior to the scheduled meeting. While the meeting may be re-scheduled to accommodate attendees, it shall not be unduly delayed.

At the pre-disciplinary meeting, the supervisor/manager will present the alleged charges and information to support the allegations. The Human Resource Director/designee will ask the employee or his/her representative to respond to the allegations of misconduct, as outlined to the employee. Employees are not required to respond. Employees may be disciplined if they lie or fail to cooperate at the pre-disciplinary meeting.

At the meeting the employee may present any testimony or documents that explain whether or not the alleged conduct occurred. Any person he/she chooses may represent the employee.

The meeting shall be informal and the rules of evidence shall not apply. Any of the parties at the meeting may tape record the meeting. If the Superintendent/designee determines it is necessary or pertinent, he/she may call witnesses identified by either management or the employee. The employee does not have the right to call, confront, or cross-examine witnesses. The employee may provide written statements from witnesses. The Human Resource Director/designee will prepare a written conclusion as to whether or not the alleged conduct occurred. The Superintendent will decide what discipline, if any is appropriate, and notify the employee in writing. A copy of the written conclusion will be provided to the employee by the Superintendent with the notice of the Superintendent's decision.

In addition to disciplinary action, any cases of alleged illegal activity will be turned over to law enforcement for possible investigation.

(e) Due Process

Written reprimands, short-term suspensions, short-term vacation reductions and other fines of less than three (3) days are grievable according to the Board's policy/procedure. Long-term suspensions, long-term vacation reductions and other fines of more than three (3) days, reductions and removals may be appealed to the State Personnel Board of Review. Long-term items are to be signed by the Superintendent as a

written order. The order shall state the reasons for the disciplinary action. A copy shall be provided to the employee and copy(ies) filed in accordance with the law.

The State Personnel Board of Review maintains authority to decide whether an appeal warrants a hearing. When an appeal is heard, the State Personnel Board of Review may affirm, disaffirm or modify the personnel decisions made by the Superintendent or the Director of Administrative Services.

(f) Rights of Abused Individuals

Under circumstances of abuse, neglect, slander or other illegal acts, disciplinary action taken by the Board with the employee does not diminish the rights of the participant, parent/guardian, advocate or employee from exercising their rights to pursue legal recourse. If individuals we serve are involved in any staff disciplinary issue, the Compliance Unit shall represent the individual served.

(g) Responsibility to Report Abuse/Neglect

By law, any employee who suspects abuse or neglect of an individual we serve in any manner must report their suspicions per policies and procedures. Failure of an employee to make such reports as required by law will result in the employee being subject to disciplinary action. Failure to answer questions or present documentation as requested for the MUI (Major Unusual Incident) review will result in disciplinary action.

(h) Unclassified and Intermittent Employees

These provisions on discipline and removal do not apply to employees in the unclassified service or intermittent employees.