

**Idaho Department of  
Juvenile Corrections  
Administrative  
Policy/Procedure**

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**SUBJECT: CORRECTIVE AND DISCIPLINARY ACTION FOR  
IDJC EMPLOYEES**

**CATEGORY: HUMAN RESOURCES**

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**Policy**

All Idaho Department of Juvenile Corrections (IDJC) supervisors are to coach their employees by being positive role models, communicating, and treating everyone with respect, consideration and fairness. Great coaches look for opportunities to praise good performance as well as providing counseling on how to improve. However, there are times when corrective and disciplinary processes must be utilized.

Corrective and disciplinary processes are intended to correct unsatisfactory performance, behavior or conduct at the earliest possible opportunity. The IDJC utilizes a two-phase approach which includes corrective or disciplinary action. The use of one or both of these actions are intended to correct unsatisfactory employee behavior or job performance and to provide the employee with the guidance, tools, and information they need to be successful in their job. Included in this process is setting clear expectations and communicating consequences if the employee does not make the necessary changes to their behavior, conduct, or job performance.

It is therefore the policy of the IDJC to provide a corrective action process for addressing issues regarding an employee's job performance and a process for disciplinary actions, such as dismissals, suspensions, demotions, and involuntary transfers for classified employees, as set forth in Section 67-5303, Idaho Code, and IDAPA Rule 190, section 15.04.01.

**Operating Procedures**

**I. Basis for Corrective and/or Disciplinary Action**

The decision to administer any form of corrective or disciplinary action will be based on facts that are verifiable through various investigative methods such as observed behavior, eyewitness accounts, and/or documentation.

Corrective or disciplinary action will not be used to punish or otherwise retaliate against an employee for exercising their legal rights under federal or state law or IDJC policies. Legal rights include, but are not limited to:

- The legitimate and lawful use of paid leaves;

- Exercising rights with respect to the Family and Medical Leave Act (FMLA) [see Family and Medical Leave Act (FMLA) Leave (352) policy and procedure]; workers' compensation [see Work-Related Employee Injury or Illness (375) policy and procedure]; or the Americans with Disabilities Act (ADA) (42 USC 12101 et seq.); and under any other state or federal law; and
- Exercising the right to ensure discrimination and harassment are identified and reported pursuant to the Harassment and Discrimination (307) policy and procedure.

Whenever practical, progressive corrective and disciplinary steps are followed. However, depending on the situation, any step may be repeated, omitted, or taken out of sequence. The IDJC reserves the right to effect dismissal should the situation be warranted. Each case is considered on an individual basis. The normal progression of corrective and disciplinary actions is:

1. Counseling,
2. Verbal warning,
3. Written warning, and
4. Due process actions such as reduction of hourly wage, reduction of work hours, suspension without pay, demotion, or dismissal.

Supervisors document all discussions regarding performance, conduct or behavior with a follow-up clarification e-mail sent to the employee. Human Resources (HR) has provided a Performance Tracking Sheet, available on the IDJC Intranet, which may be used to keep a record of coaching and counseling conversations between an employee and supervisor.

The Division Administrator/Superintendent will outline the necessary steps for managerial consultation and/or approval when supervisors may be contemplating corrective or disciplinary action.

Corrective or disciplinary action will be fair, reasonable, and appropriate for the performance deficiency or unsatisfactory behavior. The underlying principle of a sound progressive corrective and disciplinary action is to use the least severe action necessary to correct unsatisfactory performance or unwanted behavior, and to progress to more severe actions if the performance or behavior issues persist, or if the circumstances warrant more severe action.

Factors that will be considered in determining the nature and severity of corrective or disciplinary action include:

- The nature of the unsatisfactory performance or unwanted behavior and the seriousness with which it affects the operations of the area in which the employee works;

- The level of authority and responsibility of the employee;
- The employee's work record, including past performance, length of service, and previous corrective and/or disciplinary actions; and
- Previous efforts made to help the employee succeed.

## II. Due process

Due process is a procedure which requires the IDJC to provide the employee with notice and an opportunity to be heard in order to protect a legal right that could be taken away due to failure to improve performance. Before such a decision is made, all state employees who are classified and have attained permanent status (satisfactory completion of the probationary period) are entitled to due process before the IDJC makes any disciplinary decision to dismiss, demote, suspend, reduce hourly rate, or involuntarily transfer an employee.

## III. Optional mediation step per Idaho Division of Human Resources (IDHR) rule

The IDJC and employee may mutually agree to engage in mediation during due process after Notice of Contemplated Action (NOCA) has been provided. Mediation is not possible unless both the agency and employee agree on mediation and the mediator.

If both parties agree, the time limitations for the opportunity to respond and the Department's decision will be suspended pending mediation. It is the responsibility of HR to arrange for and facilitate the use of a mediator.

## IV. Documentation

- A. Supervisor File. It is recommended that each supervisor maintain a confidential and secure electronic or paper supervisor file for each of their employees. The supervisor file may contain items such as accomplishments, communications between supervisor and employee, complaints, performance evaluations, performance information, or attendance tracking sheet. As appropriate, documents should be dated and include author's name and pertinent facts.

Supervisor files are to contain only information that has been discussed with the employee or information of which the employee is aware.

Supervisor files are not to contain any medical information related to any employee. All medical information, e.g., doctor notes, medical progress notes, and family medical leave documentation, are to be forwarded to HR to be filed in the central employee medical file.

- B. The Performance Tracking Sheet is a tool recommended to be used to document conversations with the employee.

- C. The *Unscheduled Absences Calendar*, available on the IDJC Intranet, is a tool recommended to be used to track attendance, particularly unexcused absences. I-time is not an accurate accounting of absences. For example, if an employee is out due to illness on Monday and records eight hours of sick leave for that day but works any overtime that week, the sick leave would be adjusted by the number of hours of overtime. Therefore, it is important to establish an attendance tracking method that allows supervisors to accurately record absences.
- D. Employee Performance Evaluation. Any corrective or disciplinary action taken against an employee will be documented on the employee's next annual performance review. Once a corrective or disciplinary action has been documented on an employee's annual performance review, that particular corrective or disciplinary action will not be mentioned on any subsequent annual performance reviews, unless the issue recurs.

V. Corrective actions

When appropriate, corrective action interventions may be utilized to resolve issues with the employee's job performance prior to applying disciplinary actions. It is advisable that a supervisor confers with their supervisor or others in the chain of command as appropriate prior to corrective action being taken.

Corrective action may include informal counseling, verbal warning, written warning, or a performance improvement plan (PIP). The IDJC has no obligation to utilize corrective action, particularly where circumstances warrant more severe action.

A. Informal counseling

As the initial level of corrective action, informal counseling includes verbal actions taken by an employee's supervisor that are designed to improve an employee's performance. Informal counseling should be appropriately documented by the employee's supervisor, with a follow-up email to the employee to ensure mutual understanding.

B. Verbal warning

Typically a verbal warning is used as the next step for issues generally seen as too serious to warrant an informal counseling or for which informal counseling has already been completed. Both the problem and the needed correction must be described in specific and objective terms. The employee will also be notified that failure to correct the performance or behavior issue may result in further corrective or disciplinary action being taken, up to and including dismissal. This action:

- Does not require HR review;
- Is maintained in the supervisor file;
- Is documented by the immediate supervisor and a follow-up summary email sent to the employee; and

- Is to be noted in the next performance evaluation.

#### C. Written warning

If an informal counseling or verbal warning does not result in improvement of an employee's behavior or if a more severe corrective action is deemed appropriate by the supervisor, a written warning, Written Warning Record (DJC-038) form, may be issued. HR must review the written warning prior to issue to the employee.

This document is signed by both the supervisor and the employee and describes the infraction, including dates, any verbal warnings issued, relevant policies, expected correction, and anticipated consequences if behavior is not corrected. Should the employee refuse to sign the document, the supervisor will have another supervisor or manager sign the document with a notation indicating that the employee has reviewed it and refused to sign. A copy of the written warning is sent to HR for inclusion in the employee's permanent personnel file. The next performance evaluation will include information regarding the written warning in each rating area affected by the warning.

#### D. Performance Improvement Plan

A Performance Improvement Plan (PIP) is an optional tool to assist supervisors in helping employees be successful. It can be used in conjunction with any corrective or disciplinary action and any performance evaluation in which one or more "does not achieve" ratings are given.

The PIP is designed to:

- Describe an employee's unsatisfactory performance or behavioral issues;
- Identify goals related to areas of needed improvement;
- List activities, coaching, measures, and resources that will help the employee reach those goals; and
- Provide timeframes for those goals to be reached.

The PIP will also affirm to the employee that failure to correct the performance or behavior issue within the guidelines of the PIP may result in further corrective or disciplinary action being taken, up to and including dismissal.

When the PIP is used in conjunction with any corrective or disciplinary action, the supervisor will meet regularly with the employee to discuss progress or status and provide feedback on meeting the expectations outlined in the PIP. At the end of the designated timeframe, the supervisor will provide a written summary of the progress made during the PIP period. This will provide documentation and will provide a conclusion to the PIP.

When the PIP is used in conjunction with a performance evaluation, at the end of the PIP a special performance evaluation may be completed. See Performance Management (365) policy and procedure. If a special evaluation

is completed, this changes future performance review dates as the next performance evaluation would then be due one year from the date of the special performance evaluation, unless otherwise noted.

Consult with HR prior to issuing a PIP and at the conclusion of the PIP. This will ensure consistent and fair treatment of employees across the IDJC.

## VI. Disciplinary (Due Process) actions

If unsatisfactory performance or unwanted behavior continues after completing the corrective action phase or an employee commits an offense of such magnitude as to warrant severe sanctions or the employee commits a new offense, the IDJC may consider disciplinary action against the employee. Disciplinary actions vary, and like corrective actions, will be carried out in a manner consistent with the nature of the offense. Supervisors will work with HR when pursuing disciplinary actions.

Facts detailing the performance issue or unacceptable behavior are clearly defined, along with the specific law, rule, policy, or procedure that was violated. The employee is notified that failure to correct the performance or behavior issue might result in further disciplinary action being taken, up to and including dismissal.

Copies of all documents and correspondence relating to the action will be sent to HR for placement in employee's permanent personnel file, maintained at Headquarters, unless otherwise noted. Additionally, a copy should be maintained in the supervisor file. HR is responsible to send required documentation to the Idaho Division of Human Resources Administrator.

The following are the types of disciplinary action, in no particular order of severity:

### A. Reduction in pay

A disciplinary action taken against an employee whereby their pay is reduced by a set amount over a period of time as a means of effectively suspending them without pay, but without having them miss any work.

### B. Suspension without pay

A disciplinary action taken against an employee whereby the employee is not permitted to report to work for a set period of time and cannot claim vacation, sick, on-call or compensatory time hours for that period.

### C. Demotion

A disciplinary action taken against an employee whereby they are reassigned to a position in another classification in a lower pay grade.

### D. Involuntary transfer

A significant change in work location, shift or organizational unit made as a result of a management decision as opposed to an employee's request or

agreement to transfer. It can be used as a form of discipline in specific cases where a transfer is deemed an appropriate solution to an employee's unacceptable performance or behavior.

Not every transfer, particularly with shift work is a disciplinary action. While an involuntary transfer requires notice and an opportunity to be heard (Section 67-5315, Idaho Code), it is not an appealable action (Section 67-5316, Idaho Code).

#### E. Dismissal

The separation of an employee from classified service for cause due to an ongoing and uncorrected performance or behavior issue, or for an offense of such magnitude as to warrant immediate separation.

### VII. Due process steps

#### A. Step One: Notice

Notice of Contemplated Action (NOCA): The NOCA is a memorandum or letter to a permanent classified employee from the Director or Division Administrator/Superintendent, as delegated by the Director.

The NOCA provides the employee with notice that the IDJC is contemplating one of the due process actions (VI, A–E above). HR works closely with the Division Administrator, managers, supervisors, and/or Legal to compose the NOCA.

1. Basis for the Contemplated Action: The NOCA provides the basis or reasons for the contemplated action. The basis of the contemplated action is the for-cause reason and corresponding legal citation which supports the action against a permanent classified employee. The for-cause reasons are listed in Section 67-5309(n), Idaho Code and in DHR Rule 15.04.04.190.01, as follows:

- Failure to perform the duties and carry out the obligations imposed by the state Constitution, state statutes, rules of the IDJC or rules of the IDHR and the Idaho Personnel Commission.
- Inefficiency, incompetence, or negligence in performing duties or job performance that fails to meet established standards.
- Physical or mental incapability for performing assigned duties, if a reasonable accommodation cannot be made for the disabling condition.
- Refusal to accept a reasonable and proper assignment from an authorized supervisor.
- Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the IDJC.

- Intoxication on duty.
- Careless, negligent, or improper use or unlawful conversion of state property, equipment, or funds.
- Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage.
- Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude.
- Acceptance of gifts in exchange for influence or favors given in an official capacity.
- Habitual pattern of failure to report for duty at the assigned time and place.
- Habitual improper use of sick leave privileges.
- Unauthorized disclosure of confidential information from official records.
- Absence without leave.
- Misstatement or deception in application for employment.
- Failure to obtain or maintain a current license or certificate lawfully required as a condition in performance of duties.
- Prohibited participation in political activities.

Should Section 67-5309, Idaho Code or DHR Rule 15.04.01.190.01 be amended in regards to the basis for a contemplated action, such amendments shall automatically be reflected in this policy.

2. Explanation of Evidence: The IDJC will provide an explanation of the information or evidence pertinent to the contemplated action. This could include an explanation of statements made by other employees, an explanation of documents, or an explanation of events leading to the notice.
3. Time to Respond: The IDJC will set a time to respond, but in no event may that time period exceed ten working days after the employee has received notice unless both the IDJC and the employee agree otherwise in writing. For example, a notice might specify, "You have an opportunity to respond no later than five working days after the date of this notice."



The NOCA is emailed, mailed, or delivered to the employee in person. A copy of the notice is included in the employee's permanent personnel file.

Should the employee be placed on administrative leave with pay (ADT) pending the IDJC's decision pursuant to the Special Leaves Policy (334) policy and procedure, the employee is expected to remain off of IDJC premises and refrain from conducting any official IDJC business, contacting staff employed by the IDJC, contacting juveniles in IDJC custody, or otherwise engaging in any conduct detrimental to the good order and discipline of the IDJC. An employee placed on administrative leave is expected to be available during normal business hours to return to work or to meet with IDJC representatives or conduct IDJC business as specifically requested.

#### B. Step Two: Opportunity to respond

An employee who receives a NOCA is entitled to an opportunity to respond to the notice, in person or in writing, to the Division Administrator and to present their reason(s) why the contemplated action should not be taken. The employee may accept the opportunity to respond within the time period given, may reject the opportunity by failing to respond within the time period given, or may waive the opportunity.

1. Time to Respond: The NOCA will contain a time period selected by the IDJC within which an employee may respond. The Division Administrator, in consultation with HR, Legal, and the Director makes a final decision after the employee has responded, failed to respond, or otherwise waived the opportunity to respond in writing.
2. Right to Representation: The law provides an employee with a right to be represented by a person of their choosing during the opportunity to respond.

#### C. Step Three: Letter of Disciplinary Action (LODA)

The IDJC issues a letter of disciplinary action (LODA) to notify the employee of its decision no later than ten working days after the employee has responded, failed to respond, or otherwise waived their right to respond in writing. The IDJC's final decision is emailed, mailed, or delivered to the employee in person by the Division Administrator. The due process procedure ends when the employee is notified of the final decision.

### VIII. Right to appeal

If a disciplinary sanction, other than involuntary transfer under Section 67-5316(i), Idaho Code, is imposed, the employee has the right to appeal the IDJC's decision to the Idaho Personnel Commission within 35 calendar days. Any such appeal does not stay the action.

### IX. Resignation in lieu of disciplinary action

An employee may choose to resign from the IDJC before the letter of disciplinary action has been issued to the employee. If the employee resigns, the disciplinary

process is suspended at that point and the employee's work record will indicate that they resigned. Due process documents issued to the employee up to that point in time remain in the employee's permanent personnel file unless otherwise agreed upon with the employee.

<i>Reference:</i>	<a href="#"><i>Glossary of Terms and Acronyms</i></a> <i>Americans with Disabilities Act (ADA), 42 USC 1210, et seq.</i> <i>Sections 67-5303, 67-5309, <a href="#">67-5315</a>, <a href="#">67-5316</a>, <a href="#">Idaho Code IDAPA 15.04.01.190.01, 200 and 201, DHR Rules</a></i> <a href="#"><i>Records Retention Schedules</i></a> <a href="#"><i>Records Destruction Logs</i></a>
<i>Desk Manual:</i>	<i>None</i>
<i>Related Policies:</i>	<a href="#"><i>Harassment and Discrimination</i></a> (307) <a href="#"><i>Special Leaves</i></a> (334) <a href="#"><i>Americans with Disabilities Act</i></a> (301) <a href="#"><i>Family and Medical Leave Act (FMLA) Leave</i></a> (352) <a href="#"><i>Ethics and Standards of Conduct</i></a> (324) <a href="#"><i>Performance Management</i></a> (365) <a href="#"><i>Work-Related Employee Injury or Illness</i></a> (375) <a href="#"><i>Investigations—Administrative</i></a> (910) <a href="#"><i>Records Management Program</i></a> (117) <a href="#"><i>Public Records</i></a> (901)
<i>Related Forms:</i>	<a href="#"><i>Written Warning Record</i></a> (DJC-038) <i>Current-Year Unscheduled Absences Calendar</i> ( <a href="#"><i>DJC Intranet HR Tab</i></a> ) <i>Performance Tracking Sheet</i> ( <a href="#"><i>DJC Intranet HR Tab</i></a> ) <a href="#"><i>Records Destruction Worksheet</i></a> (DJC-279)