2.4.1 COUNSELLING AND DISCIPLINARY ACTIONS

A. Purpose
The purpose of this policy is to explain different types of discipline, when to discipline, how to properly handle disciplinary actions, and how to avoid the need for disciplinary action for classified employees.

B. Authority and Definitions
Authority for disciplinary action derives from Chapter 12 of the Civil Service Rules and Article X, Section 8 of the State Constitution. Discipline is defined as adverse action taken to punish the employee and to correct, improve, prevent or stop unacceptable employee job performance or behavior. It should normally be progressive in nature, moving from suspension for the first offense to termination. The State Constitution states that no permanent classified employee “...shall be subjected to disciplinary action except for cause expressed in writing.” The employee “...shall have the right of appeal” for such action. “Cause” for disciplinary actions has been repeatedly defined by the courts as “conduct which impairs the efficiency of the public service which conduct bears a real and substantial relationship to the efficiency and orderly operation of the public service in which the employee is engaged.”

C. Burden of Proof
The burden of proof as to the facts in support of a disciplinary action is on the institution to show by a preponderance (superiority in weight, quantity, power, importance, etc.) of evidence that cause for the disciplinary action existed. However, in appeals charging discrimination on the basis of political or religious beliefs, sex or race, or other non-merit factors, the burden of proof on appeal, as to the facts, is on the employee.

D. Alternatives to Discipline
There are many ways to attempt to correct an employee’s performance or behavior which do not adversely affect the employee and therefore are not disciplinary actions. Counseling sessions and/or warnings are among the methods available. The purpose of these types of methods is to alert the employee of that behavior or performance which is not acceptable, and to help the employee improve in an effort to reach an acceptable level.

The purpose of a counseling session or a warning is not to punish the employee. Counseling sessions should be documented in an employee’s productivity file maintained by the employee’s immediate supervisor so that the supervisor will have a basis on which to gauge whether the employee is improving. Also, if the employee does not improve and disciplinary action has to be taken later, the employee would have difficulty proving that prior notice had not been given to him or her.
Documentation of counseling sessions and warnings will not be placed in the employee's official personnel file maintained in the Department of Human Resource Management because the placement of this type of documentation in the official record could adversely impact the employee's future employment potential.

If the purpose of the action is only to improve the employee's behavior or performance, an alternative to disciplinary action should be considered. However, if the purpose of the action is to punish the employee as well as to improve behavior or performance, a disciplinary action should be considered.

E. Disciplinary Actions

The extent or severity of a disciplinary action should fit the severity of the situation that prompted the action. Discipline should normally be progressive in nature, starting with a less severe action and progressing to more severe action. However, progressive steps are not mandatory if the first (i.e. termination) disciplinary action taken against an employee is for an extreme offense. Various disciplinary actions are listed below. They may be used separately or may be combined.

1. A reassignment (Civil Service Rules 1.33 and 12.2b) moves an employee out of his/her position and into a different job that has the same pay range as the employee's former job.

   For example, moving an Accounting Clerk to a different position that is allocated as a Buyer 1 would be a reassignment because both jobs are in pay range GS-8. A reassignment is the only disciplinary action that does not (in and of itself) affect the employee's pay.

2. A disciplinary suspension (Civil Service Rules 1.40 and 12.2b) temporarily excludes an employee from work, without pay, for known disciplinary reasons such as misconduct.

3. A reduction in pay (Civil Service Rules 1.33.02 and 12.2b) reduces an employee’s pay within the pay range assigned to the job; the employee’s job does not change. It may be imposed on a one-time basis (like a fine); it may be imposed for a limited period of time (i.e., a reduction of $25 per pay check for 8 pay periods); or it may be imposed indefinitely (i.e., a 4% reduction beginning on a certain date.)

4. An involuntary demotion (Civil Service Rules 1.1 1 and 12.2b) moves an employee out of his/her position into a different job that has a lower minimum. The employee’s pay must be reduced (Rule 6.10) unless the Commission grants an exception under Rule 6.10(d).

5. A dismissal/termination (Civil Service Rules 1.14.1.1 and 12.2b) separates an employee from employment for disciplinary reasons that are considered to be the employee's fault - misconduct, repeated refusal to adhere to policy or to comply with directives, failure to perform job as expected, etc.

F. Aids in Discipline For supervisors

1. Be sure all employees know the rules, policies, and their work performance standards.
2. Be consistent in enforcing the rules. Be firm, but fair to all.
3. Get all the facts before taking an action.
5. Take disciplinary action in private.
6. Give the employee a reasonable chance to correct the problem.

G. General Procedures by Which Supervisors Handle a Disciplinary Action
1. Get all the facts
   a. Obtain detailed and complete statements of the incident, preferably in writing, by interviewing privately and separately each person who actually saw or heard what occurred and who therefore has firsthand information. Remember that hearsay in a normal appeal is not admissible.
   b. If written statements are not secured, record the information obtained during or immediately after each interview.
   c. Interview the accused employee and obtain from that employee a written or verbal statement in which there is an admission or denial, or an explanation of the alleged improper action(s).
   d. Make every effort to reconcile conflicting statements.
   e. Examine pertinent records and written information prior to a decision on discipline.

2. Prepare a report
   Prepare a complete, accurate and unbiased report setting forth the information obtained on the alleged improper action. All names, places, dates, times and other pertinent data should be included.

3. Weigh the Evidence
   Review the report and weigh the evidence to determine whether the allegation is or is not substantiated. Disciplinary action should be taken for actions determined to be in clear violation of policy. Doubtful points should be resolved in favor of the employee.

4. Decide on Course of Action
   If it is decided that disciplinary action is required, your written recommendations which include all statements and reports are to be sent to the Assistant Director of Human Resource Management for Employee Relations for review. A prompt review will take place to determine the appropriate action to be taken.

H. Forms
The Employee Warning Record is provided to standardize disciplinary actions. (Copy Attached). The form is prepared in triplicate. The form is presented to the employee for acknowledgment and signature. If the employee refuses to sign the form, please note time and date given this opportunity and any comments made by the employee. Once signed or refusal noted, the employee should be given the second duplicate. The first duplicate is for the department’s records. The original, along with all readable and legible supporting data and statements, is sent to the Department of Human Resource Management, as noted above. The Employee Warning Record is a stock item and should be ordered through the General Service Store.
EMPLOYEE WARNING RECORD

Employee Name: ________________________  Department: ________________________  Division: ________________________

SSN: ________________________  Date Issued: ________________________

Date: ________________________  NATURE  Warning  ________________________
Time: ________________________  OF  ☐ Substandard Work  ☐ Conduct  ☐ Tardiness
Place: ________________________  VIOLATION  Other: ________________________

UNIVERSITY REMARKS

Has employee been warned previously?
☐ Yes  ☐ No

Form of Warning

When Warned and By Whom

<table>
<thead>
<tr>
<th>Form of Warning</th>
<th>1st Warning</th>
<th>2nd Warning</th>
<th>3rd Warning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Verbal</td>
<td></td>
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</tr>
<tr>
<td>Written</td>
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</tbody>
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EMPLOYEE’S REMARKS

The absence of any statement on the part of the EMPLOYEE indicates his/her agreement with the report as stated.

I have entered my version of the matter above.

Employee’s Signature: ________________________  Date: ________________________

ACTION TO BE TAKEN

Approved by: ________________________

Name

Title  Date

I have read this “warning” and understand it.

Employee’s Signature: ________________________  Date: ________________________

Supervisor’s Signature: ________________________  Date: ________________________