

KANSAS ADJUTANT GENERAL'S DEPARTMENT

MEMORANDUM FOR ALL STATE EMPLOYEES

FROM: TAG-SHRO

SUBJECT: Progressive Discipline
TAG Policy No. 034-09

EFFECTIVE DATE: July 10, 2017

POLICY STATEMENT: Managers and supervisors of The Adjutant General's Department shall initiate disciplinary action for all employees in a fair, consistent, expedient, and nondiscriminatory manner in accordance with all State and Federal laws.

DEFINITIONS:

Civil Service Act. A system of personnel administration adopted under K.S.A. 75-1925 *et seq.* which includes policies for hiring, job classification, compensation, retirement, benefits, discipline, and termination for Classified Employees of the State of Kansas is the Civil Service Act.

Classified Employees. Employees hired into a Classified Position are subject to the provisions of the Civil Service Act as Classified Employees. Classified Positions may be regular or temporary, benefits eligible or non-benefits eligible.

Formal Disciplinary Actions. Dismissal, Suspension without pay, or involuntary Demotion of an employee for reasons of work performance or personal conduct are Formal Disciplinary Actions.

Informal Disciplinary Actions. Corrective counseling, Performance Improvement Plans, and Written Warnings are Informal Disciplinary Actions.

Performance Improvement Plan. A formal agreement which outlines employee deficiencies in work performance, what he/she can do to meet improvement expectations, a reasonable time frame for improvement, and the consequences of not meeting those improvement expectations is a Performance Improvement Plan.

Performance Management Process. A process designed to encourage open, ongoing communication between the employee and the Supervisor related to the employee's performance on the job, is the Performance Management process.

Personnel File. A confidential file maintained by the State Human Resource Office which contains all transactions related to an employee's employment with the State except for documents specifically excluded by state and federal laws, regulation. Or policy, is a Personnel File.

Probation Period. An identified time period which is considered a working ‘test’ of the employee’s ability to successfully perform the duties and responsibilities of the position to which the employee was hired, is a Probation Period.

Progressive Discipline. A multi-step process for addressing job related performance or behavior that does not meet expected and communicated performance standards is Progressive Discipline.

Suspension. A temporary stop of paid employment is a Suspension.

Supervisor File. A working file which documents the day-to-day coaching and counseling that occurs is a Supervisor File. This information is a record or account of situations that occur during a review period and should be documented in the employee’s performance review as examples of work performance and behavior.

Unclassified Employees. Employees hired into the Unclassified Service are ‘at will’ employees and not subject to the provisions of the Civil Service Act.

Unclassified Service. Positions that are exempt from the provisions of the Civil Service Act make up the Unclassified Service. Unclassified positions may be benefits eligible or non-benefits eligible, depending on duration and funding.

PROCESS GUIDELINES:

Prohibition of Non-merit Discipline

Employees shall not be disciplined for political, religious, gender, race, sexual preference, or other ‘non-merit’ reasons.

Progressive Discipline

Progressive Discipline is a process which allows managers and supervisors to provide notice to employees who are not meeting expected or communicated standards of job performance, behavior, and/or compliance with policies and procedures. The intent of Progressive Discipline is to support employees in the correction of problems and encourage them to become successful and productive employees.

Progressive Discipline provides a consistent and fair process for addressing disciplinary issues while protecting the legal rights of the employee and employer, by providing clear and constructive feedback through a series of increasingly formal steps.

Progressive Discipline Process

Disciplinary action for employees is rarely a ‘one-size-fits-all’ process. While some issues are corrected with counseling; others, depending upon the nature and severity of the issue, may subject an employee to immediate termination. It is for that reason managers and supervisors must use reasonable judgement to decide what step or combination of steps, up to and including termination, should be used to address employee issues, and consult with the State Human Resource Director when questions arise.

- 1. Verbal Counseling(s):** Often referred to as ‘when you see it, say it’, Verbal Counseling is informal and typically intended to put the employee on notice that an improvement is needed in the employee’s

work performance and/or behavior. A confidential meeting with the employee is often enough to make corrections quickly by allowing the employee the opportunity to explain their actions, remind the employee of the expectation(s), and reinforce the supervisor's commitment to the success of the employee.

Written account regarding the issue, date of occurrence, and the agreed upon corrective action should be made and maintained in the Supervisory File as documentation and/or follow-up action.

2. **Written Warning(s):** A Written Warning provides notice to an employee regarding continued work performance issues and/or inappropriate workplace behavior not resolved as a result of Verbal Counseling. The Written Warning should include information regarding the issue(s) date of occurrence, and the required performance and/or behavior expected from the employee.

Following a confidential meeting with the employee to discuss the issue(s) and provide the Written Warning to the employee, the employee should be asked to sign the Written Warning as indication that he/she has heard and understands the expectations. If the employee refuses to sign, the supervisor will note on the Written Warning 'employee refused to sign' along with date and initials. Refusal of the employee to sign the Warning does not relieve the employee from the requirements of the Warning. The original Written Warning shall be placed in the employee's Personnel File, a copy shall be given to the employee, and a copy placed in the Supervisory File as documentation for follow-up action if needed.

3. **Performance Improvement Plan (PIP):** The Performance Improvement Plan is a formal written plan used by the supervisor as an attempt to resolve a serious performance/behavior issue that has not been addressed by the employee following verbal and/or written counseling and/or warnings. A PIP provides the employee with a specific timeline for improvement, and outlines the consequences for not meeting the required outcomes as identified. (TAG Form #004)

A PIP should be specific to the performance issue(s) and/or behavior(s) that need to be addressed and corrected during the PIP period, and include key information related to the employee's issues, including all prior verbal/written counseling, written warnings, and supporting documents. The PIP is given for a specific time period, usually 30 or 60 days; however, the timeline must be reasonable and the expectations attainable.

Following a confidential meeting with the employee to discuss the issue(s) and provide the Performance Improvement Plan (PIP), the employee should be asked to sign the PIP as indication that he/she has heard and understands the expectations and consequences. If the employee refuses to sign, the supervisor will note on the PIP, 'employee refused to sign' along with date and initials. The original PIP shall be placed in the employee's Personnel File, a copy shall be given to the employee, and a copy placed in the Supervisory File as documentation for follow-up action if needed.

At the end of the timeline for the PIP, the supervisor shall meet with the employee to discuss the outcome of the Plan. Should the employee successfully meet the requirements of the PIP, the supervisor will:

- meet with the employee to discuss and review the work performance and/or behavior issues, action taken by supervisor to help employee succeed, progress made by employee, and outcome of the Performance Improvement Plan.

- remind employee of the importance of maintaining performance and/or behavioral expectations and that the employee may be subject to disciplinary action if the same or other performance and/or behavior issues arise in the future.

Should the employee fail to meet the documented requirements of the Performance Improvement Plan, the supervisor will follow through with the consequences as identified in the Plan by:

- meeting with the employee to discuss and review the work performance and/or behavior issues, action taken by supervisor to help employee succeed, progress made by employee, and outcome of the Performance Improvement Plan.
- review with the employee the documented consequences of not meeting the expectations as identified in the Plan.
- advise the employee of any request for discipline that will be sent to the State Human Resources Manager for further action.

4. **Formal Disciplinary Action:** Formal Disciplinary Actions include dismissal, suspension without pay, or involuntary demotion of an employee for reasons of work performance or personal conduct. Formal Disciplinary Action affects the pay and/or employment of the employee.

All requests for Formal Discipline shall be made to the State Human Resource Director, who will make recommendation(s) to the Adjutant General. The Adjutant General's has sole authority to approve and take Formal Disciplinary action against a benefits eligible employee of the Agency.

Classified Employees

Only Classified Employees in a regular position are eligible to appeal a proposed Formal Disciplinary Action by responding in person, in writing, or both, to the TAG or designated Hearing Officer, at a designated time and location. Classified employees have the right to representation during the appeal process for proposed Formal Discipline. The employee shall be responsible for securing representation for this process.

Employees may not appeal or file a grievance related to Informal Disciplinary actions.

Classified Employees in a regular position have appeal rights to the State of Kansas Civil Service Board. All requests to appeal a Formal Disciplinary Action must be made in writing and filed with the Director, Office of Personnel Services, Department of Administration, within 30 calendar days after the effective date of the Formal Disciplinary Action. No employee shall be retaliated against because of the employee's proper use of the appeal process.

Responsibilities

Managers shall be responsible for ensuring that Progressive Discipline is administered promptly, consistently, and fairly for all employees working for them in accordance with this policy.

Supervisors shall be responsible for ensuring that all employees who report to them are aware of performance expectations, have been given instruction and the tools needed to perform their job, and provide the necessary training to allow the employee to perform their job successfully.

Employees shall be responsible for participating in the successful performance of the work they were hired to do in a manner that is appropriate and professional.

AUTHORATIVE REFERENCES:

K.S.A. 75-2935 "Civil Service Act" Amended-July 1, 2015
K.S.A. 75-2949 "Dismissals, demotions and suspensions"
K.A.R. 197910. "Performance Reviews"