

CORRECTIVE AND DISCIPLINARY ACTIONS

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“CORRECTIVE AND DISCIPLINARY ACTIONS”

PURPOSE

The purpose of corrective action is to assist and motivate employees to change their performance or behavior. This requires that the employees have adequate information about their current performance or behavior. When disciplining or terminating an employee, you decrease your legal risk if you can show that you had previously warned and/or counseled the employee, making clear to the employee what she was doing wrong and what she was required to do in order to meet the County's expectations. This is a good employment practice, and judges and juries will generally give great weight to such evidence when an employee claims that she was improperly discharged.

BEFORE YOU BEGIN A CORRECTIVE ACTION PLAN OR TAKE DISCIPLINARY ACTION

An Administrative Officer's decision relating to corrective action or discipline will normally be upheld by a career service council or court if it is based on "just cause." Establishing "just cause" means having legitimate reason to invoke formal discipline. Seven elements have developed over the years which have set the standard of cause. All must be present in order for just cause to exist. Disciplinary actions are frequently overturned completely or reduced to a lesser level if even one of these elements does not exist.

Determine if Cause Exists:

Answer yes or no to each question on the audit. More information about each element is available by selecting the appropriate heading. A "yes" response to all seven questions indicates that just cause for discipline does exist.

1. **Adequate warning**
Did the employee know or should the employee have known that the behavior could result in disciplinary action?
2. **Reasonable, related rules**
Was the rule or order reasonable, safe, and related to county needs?
3. **Fair investigation**
Did you conduct a thorough investigation of the facts and circumstances- including the employee's explanation and/or evidence - prior to administering corrective action?
4. **Substantial proof**
Is there substantial proof for your case?
5. **Equitable treatment and past practice**
Have the rules, orders, and penalties been consistently applied to this and other employees in the past?
6. **Appropriateness of discipline**
Was the discipline related to the seriousness of the offense, to the employee's record, and to the employee's level of responsibility within the county?

7. **Pre-determination meeting**

Was the employee provided an opportunity to have a pre-determination meeting to present evidence, give statements, etc., prior to making a final disciplinary determination?

DISCIPLINARY INVESTIGATIONS

Counties are forced to defend themselves against large numbers of charges and lawsuits, many of which could be avoided by prompt and effective internal investigations. A primary goal of any human resource officer should be to have an effective mechanism for allowing work-related complaints to be resolved internally. Having such an internal mechanism can avoid (or at least reduce) the time and money you spend defending yourself with outside agencies or perhaps ultimately litigation. Equally important is the fact that having a mechanism is just good human resource practice. Additionally, it can be a defense if you do face litigation and the employee has failed to take advantage of the internal grievance or complaint procedure this section will discuss some of the measures you should consider when conducting all internal investigation.

FUNDAMENTAL STEPS OF AN EFFECTIVE INVESTIGATION

Initially, you need to decide who will perform the investigation. This can be a supervisor or a member of human resources, or an outside investigator, depending on the scope of the investigation. Regardless of who your procedure deems to be the investigator, you should ensure that that person is impartial and well-versed in your investigation procedure. To ensure uniformity, it can be helpful to have your internal investigation procedure in writing. Of course, you should be sure that any written procedure is followed consistently.

1. **Get the complaint in writing.** If you are investigating a complaint by an other employee, or even by a supervisor, ask the employee to place that complaint in writing and sign it. Consider using a standard internal complaint form. That protects both you and the employee should questions arise later about the nature and details of the complaint and your investigation. However, forcing employees to put their complaints in writing before you investigate could be a bad move. You have an affirmative obligation to investigate complaints of discrimination and harassment once you have been put on notice of such claims. So, even if an employee refuses to put the complaint in writing, you should still do a thorough investigation.
2. **Interview the complaining employee.** After you have reviewed the complaint, interview the complaining employee. Recognize that the written complaints usually will simply scratch the surface of the problem. Allow *sufficient, uninterrupted* time for the interview.
3. **Inform those with a need to know of the complaint.** In dealing with harassment or disciplinary complaints when both the accuser and the accused

are non-management employees, generally you should inform both of their supervisors of the pending complaint. Explain the specific allegations and ask whether the supervisors have seen or heard anything that would support them. You should instruct the supervisors to be on alert to observe if any of the alleged conduct is going on or if any type of retaliatory action is taken against the complaining employee. As with all communications about the complaint, emphasize the confidential nature of the matter and instruct the supervisors not to discuss it with anyone else. If you are performing a disciplinary investigation, be sure to inform only those who need to know.

4. **Interview the complaining employee*s witnesses.** The most logical place to start generally will be with witnesses identified by the complaining employee. Those employees should be contacted and individually *in private*. If you tape record any interviews, be sure you inform the employees that they will be recorded.
5. **Locate any physical evidence.** Your interview of witnesses should include questions about whether there is any physical evidence relevant to the internal complaint, such as notes, e-mail, drawings, photographs, or tape recordings. If the complaint concerns graffiti, you should have a photograph taken of the graffiti, documenting the date, time, location, and witnesses to the photographing. If possible, retain the original of any item of evidence, but if the person won't relinquish it, at least make a number of legible photocopies.
6. **Collect all electronic evidence.** Do not overlook e-mail and other electronic evidence. For example, if you are investigating a sexual harassment charge, you may want to find out whether the harasser has sent any harassing e-mails on your computer system.
7. **Interview the alleged perpetrator.** After completing the investigation of the complaining employee's allegations and evidence, meet with the accused employee (see Garrity Warning).
8. **Interview the alleged perpetrator*s witnesses.** If the alleged perpetrator has identified any witnesses, you'll need to interview them.
9. **Conduct any necessary follow-up.** After completing your interviews of the complaining employee, the accused, and any witnesses, you may need to do some follow up interviews.

TYPES OF CORRECTIVE ACTION

There are four general types of disciplinary action available when employees fail to meet expected levels of performance or conduct.

1. **Verbal counseling.** This is generally the first step. An employee might receive several verbal warnings before progressing to the next step. However, for a serious problem, skip this step. Verbal warnings should always be done calmly, objectively, and privately. If the supervisor is angry with the employee, make sure she waits until she has cooled down to talk with the employee. It is a good idea to have a second supervisor present during the verbal counseling as a witness. Verbal counseling sessions should be documented by a formal or informal note in the employee's personnel file.
2. **Written warning.** This is generally preceded by a verbal warning. The manager or supervisor should meet with the employee and his representative, as in a verbal counseling session, but the employee should be given and allowed to review a formal written warning. As with verbal counseling, a second person can be present as a witness. The written warning should have a place for the employee to sign acknowledging that he or she has received the warning, regardless of whether he or she agrees with the contents of the warning. If the employee refuses to sign, another supervisor or supervisor should be called as a witness to observe that the employee has been presented with the warning and refused to sign it, and that witness should sign the warning.

An adequate written warning should include, at a minimum, the following elements:

- A. The date of the warning
- B. The employee's name
- C. The name of the manager or supervisor administering the warning
- D. A description of the misconduct or inadequate performance
- E. The date of the misconduct or poor performance (if appropriate)
- F. A signature line for the manager or supervisor
- G. A signature line for the employee, with a notation such as the following:
"The employee's signature indicates only that the warning was received. It does not necessarily indicate that the employee agrees with the contents of the warning."
- H. A signature line for a witness, if the employee refuses to sign
- I. You may also attach or include a formal "action plan," depending upon the nature and severity of the offense. In addition to the standard elements of a written warning, a formal action plan may include the following additional elements:
 - A statement of the policy, rule, or practice that was violated.

- The steps which the employee agrees to follow in order to Correct the problem or meet the desired level of performance, attendance, or behavior.
- Any commitments of assistance or support that the manager or supervisor has made.
- The time frame to be followed in achieving the goal of improved performance, attendance, or behavior; and
- The consequences that will occur if the performance, attendance, or behavior is not improved within the specified time frame.

When describing the desired level of performance or conduct, draft the language sufficiently broadly to include conduct that is reasonably related to the conduct in question. For example, if the employee is being warned cursing at his immediate supervisor, you should not write in the action plan that the employee must “stop cursing at his immediate supervisor.” Instead, you should consider writing something such as, “the employee must control his temper and avoid unprofessional outbursts at work.”

Establishing a specific time frame in an action plan indicates that “something will happen” at the end of the specified period. If the employees performance or conduct has not reached the expected level, you should administer further discipline, unless there are mitigating circumstances. If the employee’s attendance or performance meets the expected level within the specified time frame, no further discipline should be administered unless the employee suffers a “relapse” in the future. If you specify a time frame for correction of a particular problem, you should not take any action against the employee for that problem during that time frame. For example, if you warn an employee that he must improve his performance within 30 days, you should not discipline or discharge him for his performance during, that 30-day period. You can discipline him for a different type of infraction, though, such as tardiness or absenteeism. If you implement an action plan, make sure that the supervisor follows up with the employee after 30 days to see if he met his goal or not.

3. **Suspension.** This may range from one day to two weeks or more, depending upon the circumstances, and is almost always unpaid. In unusual circumstances, some employers will place employees on one day of paid “decision-making” leave, as a way of encouraging the employee to think about the future of his employment. Paid suspensions, however, can be perceived as a “reward” for poor behavior, and may therefore have an adverse effect. For this reason, most employers prefer unpaid suspensions. Some employers will progress immediately from the first suspension to termination for the next offense, while others will attempt to correct the employee’s performance or behavior with multiple suspensions of increasing length (e.g., 1-day, 3-day, 5-day, 10-day, etc).

As a general rule, each suspension should be longer than the last, with termination as the final result. When suspending an employee, if it is your intention to terminate the employee for a subsequent offense, you should state this in the written warning or action plan accompanying the suspension. Otherwise, the employee may claim that the employee assumed that the next offense would simply result in a longer suspension.

4. **Termination.** Before terminating an employee (in some counties you may not terminate without human resources approval), you should review the personnel file and all relevant documents in order to determine if the termination is appropriate – and defensible in a subsequent lawsuit – given the facts and circumstances. In addition, you should ensure that similarly situated employees have been treated similarly in the past. Some behavior may warrant automatic dismissal. Examples include:
 - Violent behavior or threats of violence;
 - Drug and alcohol use on duty;
 - Carrying a weapon on County property;
 - Disregarding safety rules;
 - Theft, destruction of County property, or falsifying documents;
 - Insubordination;
 - Abandonment of job (no call, no show for three consecutive days).
5. **Other forms of discipline.** In addition to the steps outlined above, it is worthwhile to explore other forms of discipline, such as demotion, transfer, and reduced raises or bonuses.

SUPPORTING DOCUMENTS

There are four general types of formal supporting documents that may prove valuable in formulating corrective action plans or in taking disciplinary action. They are written performance reviews, written records of counseling, incident reports, and warning letters.

Written Performance Appraisals. Performance appraisals can help or hinder an employer in defending a claim of unlawful discrimination, depending on how consistently they are used. Performance reviews, or performance appraisals, will be discussed in detail later in this section.

Records of Counseling Efforts. Usually with progressive discipline programs, an employee's discipline begins with an oral warning. If the employee doesn't improve, a written warning may follow. It is a good idea for a supervisor to write a memo noting the oral counseling for future reference. When the memo is based on oral counseling, it does not have to be given to the employee. However, when an employee is issued a written warning, the county should allow the employee to have a copy of the warning, review the warning, and comment on it. The following principles should be kept in mind during the counseling process.

- **Reference to previous counseling.** Any written record should “grandfather in” previous verbal counseling. Thus, a written counseling record should make reference to any earlier verbal counseling, together with the general topics covered and the dates on which such verbal counseling occurred.
- **Timeliness.** Alerting an employee to performance deficiencies should occur within a reasonable time after the deficiency is noticed. The failure to promptly deal with a performance deficiency leads to the employee, or a jury, thinking that the employer condoned the deficiency, or did not believe it to be serious.
- **Employee response.** Any written documentation should be shown to the employee and the employee given an opportunity to comment upon her version of the events. First, it is desirable for an employer to be in possession of any document that the employee may later rely on in a lawsuit. If the employee requests permission to place a written rebuttal in his or her personnel file or to comment upon a written review, there is an excellent chance that he or she will prepare the document whether the employer grants the request or not. So who’s going to see it? The employee’s lawyer – that’s who. Consequently, many written reprimand forms have a place for employee statements. Second, if an employee is given a written reprimand and is allowed an opportunity to recite his or her version of events, but does not, the employee is arguably conceding that the employer’s version is correct. Should subsequent litigation ensue, the company lawyer will be able to argue that the employee agreed with the performance deficiency. At the very least, the County will be able to effectively cross-examine the employee. Third, oftentimes employees will admit the misconduct in the rebuttal, by giving an excuse (i.e., I was late, but it wasn’t my fault because . . .).
- **Employee version.** A written version by the employee pins down the employee on his or her version of events and makes it more difficult for the employee to change his or her story at a later date. Moreover, this type of document often results in better employee relations. It shows that you are treating the employee fairly, which is especially significant in a wrongful termination lawsuit tried before a jury.

Incident Reports. A variation on the counseling record that some employers use is the incident or disciplinary action report. Rather than a record of a separate counseling session, this documents an incident that required an immediate disciplinary action. Minor incidents may be recorded only in the supervisor's notebook, but more serious occurrences can be formally recorded. Such documentation should provide:

- Details and description of time incident;
- Employee's version or comments;
- Names of any witnesses;
- Proposed action; and
- Acknowledgment by employee.

Written Warnings. The employer may wish to consider mailing a copy of the warning letter to the employee's home by certified mail, return receipt requested.

PERFORMANCE IMPROVEMENT PLAN CRITERIA

1. Define the problem. This is the deficiency statement. Determine if the problem is a performance problem (employee has not been able to demonstrate mastery of skills/tasks) or a behavior problem (employee may perform the tasks but creates an environment that disrupts the workplace).
2. Define the duties or behaviors where improvement is required.
 - < What are the aspects of performance required to successfully perform these duties?
 - < Which skills need improvement?
 - < What changes need to be made in application of skills an employee has already demonstrated.
 - < What behaviors need to be modified?
3. Establish the priorities of the duties.
 - < What are the possible consequences of errors associated with these duties?
 - < How frequently are these duties performed?
 - < How do they relate when compared with other duties?
4. Identify the standards upon which performance will be measured for each of the duties identified.
 - < Are they reasonable?
5. Establish short-range and long-range goals and timetables for accomplishing change in performance/behavior with employee.
 - < Are they reasonable?

6. Develop an action plan.
 - < What will the manager do to help the employee accomplish the goals within the desired time frame?
 - < What will the employee do to facilitate improvement of the product or process?
 - < Are the items reasonable?
 - < Can the items be accomplished?
 - < Are the items flexible?
7. Establish periodic review dates.
 - < Are the employee and the manager both aware of what will be reviewed at each of these meetings?
8. Measure actual performance against the standards to determine if expectations were:
 - < not met
 - < met
 - < exceeded
9. Establish a Performance Improvement Plan file for the employee.
 - < Does the file contain documentation which identifies both improvements and/or continued deficiencies?
 - < Is the employee encouraged to review this file periodically?
10. Put the Performance Improvement Plan in writing.
 - < Has plain and simple language been used?
 - < Have specific references been used to identify areas of deficiency?
 - < Have specific examples been used in periodic reviews which clearly identify accomplishments or continuing deficiencies?
 - < Have you chosen an easy-to-read format such as a table or a duty by duty listing?
 - < Have the Terms of Agreement been included in the Performance Improvement Plan?

THE SPECIAL CASE OF INSUBORDINATION

Insubordination is an over-used and misused word. In the work environment it has a very narrow definition with serious consequences to the work and to the employee.

What is insubordination?

- < Insubordination is a deliberate and inexcusable refusal to obey a reasonable order which relates to an employees job function.
- < The refusal may be openly stated or it may be a silent withholding of services.

- < Merely protesting an assignment is not insubordination.
- < Employees may not decide for themselves which instructions they will follow and which they will not.
- < Employees must first follow the order and then turn to the grievance procedure if they feel the order was improper. In other words, the rule is "work now, grieve later."
- < The employee is responsible for telling you why the order is being refused.

What to do if you believe insubordination has occurred?

Rephrase the assignment as a specific requirement, not as a mere request.

It must be clear that the employee was told to do something, not just asked. (Note: Do not interpret this to mean that you should give all instructions in the form of commands. Phrasing instructions as requests is polite and motivating to most employees. If there is a problem with getting a particular instruction obeyed, then put it in the form of a specific requirement.)

State that noncompliance will result in discipline.

Tell the employee that refusal to fulfill a specific job requirement can lead to discipline up to and including discharge. Ask why the order was not followed.

Correct or attempt to correct unsafe or illegal conditions.

If assistance is needed to correct or to determine how to correct an unsafe condition, contact the County Safety Director. Consult Human Resources or County Attorney's Office if there is uncertainty about the legality of the order.

If the order is still refused select appropriate disciplinary action.

Answer the following questions to determine the action to take:

- < "What is the employee's work record? Any similar offenses?
- < What were the consequences of the insubordination to the employer and other employees?
- < Were there any mitigating factors, factors that either caused or helped to explain the employee's actions?
- < What discipline was given in similar cases?
- < What level of discipline is needed to assure that the action does not occur again?

Generally, insubordination is considered a major offense. It may be appropriate to skip one or more of the early steps of the progressive discipline process.

**PRE-TERMINATION HEARINGS
(LOUDERMILL HEARINGS)**

1. When Loudermill Applies.

A career service employee who is entitled to just cause protection by virtue of State law or County policy, is entitled to due process protection. The process due a career service employee is not determined by the County's policy, but rather by the constitutional due process clause. In order to determine what process is due, courts balance the interests at stake in a particular case. In public employment discharge cases, the following factors are considered:

- T *The employee's interests.* The employee's interests in retaining employment;
- T *The employer's interests.* The governmental interest in the expeditious removal of unsatisfactory employees; and
- T *Preventing mistakes.* The risk of an erroneous termination.

2. What Loudermill Requires.

In Cleveland Board of Education v. Loudermill, the U.S. Supreme Court balanced the factors described above and concluded that a pre-termination hearing was required before the discharge of a public employee. The Court held that due process required the following:

- T *Reasonable notice.* The career service employee is entitled to oral or written notice of the charges against him and an explanation of the employer's evidence. The notice must be reasonable and must include the time for responding. For example, a letter sent to a sheriff deputy's home giving him four days to respond to allegations of excessive force was deemed sufficient notice. The notice should also include a description of the consequences for failing to respond. For proof reasons and to avoid misunderstandings, it is generally appropriate to give notice in writing.
- T *An opportunity to respond.* The employee must be given an opportunity to present reasons, either in person or in writing, why the proposed actions should not be taken. This opportunity to respond must be prior to the termination. This opportunity may be satisfied by an informal conference. It does not require any type of formal hearing.
- T *Failure to respond.* Loudermill may also be satisfied when the employer provides an adequate opportunity to respond but the employee fails to utilize that opportunity.

3. **Scope of Loudermill Hearing.**

- T *Intent of Loudermill.* Under Loudermill, a pre-determination hearing is not meant to resolve all the issues, but merely to give the employee an opportunity to respond to the facts upon which a charge is based, since a post-termination hearing would still be available to address more subtle or complex issues.
- T *Effect of a Loudermill violation.* Even if a court finds that an employer improperly denied a worker his or her Loudermill hearing, the court still needs to decide whether a pre-determination hearing would have prevented the discharge. If a pre-determination hearing would “within reasonable probabilities” have prevented the discharge, then an employee may be entitled to reinstatement and back pay. However, if the court finds the pre-termination hearing would not have prevented the discharge, then an employee's remedy, if any, would merely be the damages proximately caused by the lack of a proper pre-termination hearing. The conduct of a pre-termination hearing or conference should be set forth in the County's Personnel Manual.
- T *Conduct of pre-termination conferences.* The conduct of pre-termination conferences is usually set forth in the Manual.

EXHIBIT "1"
SAMPLE PERFORMANCE IMPROVEMENT PLAN FOR EMPLOYEE

Deficiency Statement: Employee fails to complete tasks in order of their priority often resulting in very low priority work being accomplished, while high priority work remains incomplete and overtime is incurred. In some cases overtime has been worked without supervisory permission.

Duty 1

Assigned work is completed on time and in order of most important to least important tasks.

- **Priority:** High Priority. Failure to complete work in the appropriate time creates problems for students as well as faculty.
- **Performance Standard:**
 - Priority 1 Tasks:
 - Priority 2 Tasks:
 - Priority 3 Tasks:
- **Goals and Timetables:** At the end of each week, work in-progress will be reviewed. Unless some unusual situation has occurred and been modified and approved by your immediate supervisor, no Priority 1 work will have remained incomplete for more than one day from its receipt by you. Priority 2 and 3 work in-progress will be acceptable only if it has been discontinued to complete a Priority 1 task.
- **Action Plans:** Employee and supervisor will devise a Work Log for use by employee in logging work to be done, identifying the time and date received, the number of the priority, date completed, and name of person generating the work. The Work Log will be reviewed by employee and supervisor weekly to identify areas where problems are occurring and to devise alternative plans when necessary.

As soon as possible, employee will attend a seminar on time management.

Duty 2

When more work is assigned than can be completed, employee requests assistance from immediate supervisor.

- **Priority:** High Priority. Ensures that deadlines are met when work load is overwhelming.

- **Performance Standard:** You must notify your immediate supervisor that you may be unable to complete the task within the assigned time. Notice to your supervisor must be given a minimum of two working hours before the assignment is due to be completed.
- **Goals and Timetables:** Reduce your failure to make the appropriate notification to your supervisor to no more than three times during the first month; twice during the second month; and once during each succeeding month.
- **Action Plan:** When priority assignments overlap, you will bring work with due dates appropriately identified to your supervisor. Immediate supervisor will consult with the individuals generating the work and arrange to amend the priority of the work to be performed.

Duty 3

Overtime will be worked ONLY when assigned and authorized by management.

- **Priority:** High priority. Reduce labor costs to the County.
- **Performance Standard:** No overtime will be worked without permission and authorization of your immediate supervisor or that person's supervisor.
- **Goals and Timetables:** Beginning immediately no overtime will be incurred without proper authorization.
- **Action Plans:** All requests for overtime will be generated by your immediate supervisor.

Exhibit "2"
Weber County Corrective Action Report

Name: _____ Date: _____

Department: _____ Position: _____

Reason for Corrective Action:

<input type="checkbox"/> Tardiness	<input type="checkbox"/> Absenteeism	<input type="checkbox"/> Poor quality of work
<input type="checkbox"/> Damaged equipment	<input type="checkbox"/> Incorrect filing	<input type="checkbox"/> Code of Conduct
<input type="checkbox"/> Rudeness	<input type="checkbox"/> Volume of work produced	<input type="checkbox"/> Careless or unsafe act
<input type="checkbox"/> Violation of County policy or procedure	<input type="checkbox"/> Sub-standard job performance	<input type="checkbox"/> Refusal to work designated shift
<input type="checkbox"/> Other (Explain below) _____		

Details of incident, exactly what happened? (Date, time, location, action): _____

What policy, procedure or standard was not followed? _____

Has the employee been counseled on this or a similar incident before? ☐ Yes ☐ No
☐ Verbal, date: _____ ☐ Written, date: _____ ☐ Other, date: _____

What should the employee do in the future to avoid a similar incident? (Include objectives, goals, and follow-up date, if applicable):

Conference Results:

☐ Introductory Period Warning ☐ Documented Verbal Warning ☐ Written Warning
☐ Final Written Warning ☐ Suspension (Must have Human Resources Director approval)
☐ Separation (Must have Human Resources Director approval)

What may be the result of a similar incident in the future? *May check more than one box:*

☐ Written Warning ☐ Final Written Warning ☐ Termination

Employee Comments: _____

I have read this Corrective Action Report and have been given the opportunity to discuss it with my supervisor. I have made comments I feel appropriate to the incident. I acknowledge that I know the County policy, procedure or standard associated with this incident. I understand this report will be retained in my personnel file. My signature below indicates that I am in receipt of this notice. (A witness must sign if the employee refused to sign.)

Employee Signature Date Supervisor Date

Human Resources Director Date Witness (as applicable) Date

Exhibit "3"
DISCIPLINARY INTERVIEW - NOTICE OF RIGHTS
ADMINISTRATIVE PROCEEDINGS WARNING

TO:

FROM:

DATE OF INCIDENT:

INQUIRY CONCERNS: Include facts, times, names and dates
relating to the incident in question).

The purpose of this document is to inform you that you are being questioned or are required to testify as part of an official investigation. This inquiry involves the above-described incident.

THIS IS NOT A CRIMINAL INVESTIGATION. YOU MUST ANSWER QUESTIONS RELATED TO YOUR KNOWLEDGE OF THE FACTS SURROUNDING THIS INCIDENT. REFUSAL TO ANSWER QUESTIONS OR TO TESTIFY TO MATTERS RELATED TO THIS INCIDENT IMPLIES THAT YOU ARE GUILTY OF MISCONDUCT AND/OR VIOLATIONS OF DEPARTMENTAL POLICY. SUCH REFUSAL IS CAUSE FOR DISCIPLINARY ACTION, INCLUDING TERMINATION OF EMPLOYMENT.

You are entitled to all the rights and privileges guaranteed by the laws and the constitutions of the State and of the United States, including the Fifth Amendment right not to be compelled to incriminate yourself. If you answer the questions, neither your statements nor any information or evidence which is gained by such statements can be used against you in any subsequent criminal proceedings. However, these statements may be used against you in subsequent administrative personnel proceedings.

ACKNOWLEDGMENT OF WARNING

I HAVE READ AND UNDERSTAND THE ABOVE NOTICE AND WARNING. I UNDERSTAND THAT I AM REQUIRED TO ANSWER QUESTIONS RELATED TO THE INCIDENT NOTED ABOVE OR I WILL BE SUBJECT TO DISCIPLINARY ACTION. I ALSO UNDERSTAND THAT ANY STATEMENT I GIVE MAY NOT BE USED AGAINST ME FOR PROSECUTION OF CRIMINAL OFFENSES.

Signature

Date

Exhibit "4"
Disciplinary Considerations

1. Seriousness of offense: _____
2. Employee*s past record: _____
3. Knowledge of rules: _____
4. Past warnings: _____
5. Rank: _____
6. Length of service: _____
7. Lax enforcement: _____
8. Unequal treatment: _____
9. Past practices: _____
10. Adverse impact: _____
11. Attitude: _____
12. Aggravating circumstances: _____
13. Mitigating circumstances: _____
14. Results of Loudermill Interview: _____

After full consideration of this matter, my decision for disciplinary action is: