

Wood County Board of Developmental Disabilities

PROCEDURE

Procedure #: 02-ALL-ALL-0337 (HR)
Effective Date: 04-01-91
Person Responsible: Human Resources Coordinator

Subject: Progressive Discipline/Corrective Action
Last Revision: 12-18-2024

Approvals/Date: Brent Olson 1/14/25 Julie Sprague 1/14/25
Superintendent, WCBDD Date Department Director/Coordinator Date

The following definitions will apply:

Administrative Leave With Pay – Administrative leave may be given pending the outcome of an investigation. This leave is granted by the Appointing Authority.

Administrative Leave Without Pay – Administrative leave may be given pending the outcome of an investigation. If an employee that has been placed on Administrative Leave with Pay is unavailable during their paid working hours or refuses to comply with supervisor requests for meetings and availability during that time, the Appointing Authority may place the employee on Administrative Leave without Pay for as long as is necessary to complete the investigation and to inform the employee of the decision regarding disciplinary action.

Classified – A non-management employee who is an employee under civil service guidelines per Senate Bill 155 (June 1988).

Creating a Disturbance – among fellow employees (gossip in nature, harassment, threats or abusive language).

Day – For the purpose of disciplinary action, a day is the number of hours a person would normally have been scheduled to work on a specific date.

Leadership Member/Designee – The designated individual who by appointment maintains the first/foremost position over one of the major administrative/executive divisions of the agency as approved on the table of organization. More specifically: The Superintendent, Human Resources Coordinator, Director of School Services, Director of Fiscal Services, Director of Health Supports and Provider Relations, Administrative Assistant Supervisor, Communications & Community Engagement Manager, Health and Safety Coordinator, and the Director of Service and Support Administration, or any other newly appointed Department Director after the effective date of this procedure, shall constitute the designated Leadership Member/Designee as applicable to this procedure.

Discourteous Treatment of the Public – Employee acts or reacts inappropriately in a public setting or situation.

Dishonesty – Disposition to lie, cheat or defraud; untrustworthy; lack of integrity.

Drunkness – The condition of a person whose mind is affected by the immediate use of intoxicating drinks or controlled substances; the state of one who is "drunk" or "high". The effect produced upon the mind or body by drinking intoxicating liquors or ingesting other intoxicating substances to such an extent that the normal condition of the subject is changed and his/her capacity for rational action and conduct is substantially lessened. State of intoxication.

Due Process/Due Process Conference – Pre-disciplinary procedures mandated by a collective bargaining agreement, statute-including ORC Section 5126.23, or the United States Constitution to assess whether there is probably cause to suspend, reduce or terminate an employee. Due process entitles the employee the right to receive oral or written notice of the charges against him/her; an explanation of the employer's evidence; and an opportunity to present his/her side of the story.

Enrollee/Abuse Neglect – Verbal abuse/physical abuse or mistreatment of enrollees including failure to report such acts of other employees whether or not the health, safety and welfare of enrollees are jeopardized.

Exempt Employee – A position of employment which is paid to the employee on a salary basis for duties and responsibilities in accordance to The Fair Labor Standards Act and the administrative regulations established by the Wage & Hour Division of The U.S. Department of Labor. Exempt positions must be classified as "Executive", "Administrative", "Professional", "Technology", or "Outside Sales". An employee holding an Exempt position is not compensated at premium rates for excessive hours worked in a workweek.

Failure of Good Behavior – including discourteous treatment of the public, intentional falsification, bringing on to board property any ordnance (weapons, equipment) or any other items which could be interpreted as a deadly weapon that could endanger the safety of persons or property (or be used to inflict bodily injury), Revised Code 2923.11; theft, solicitation, fighting, loss or serious damage to property resulting in an insurance claim, and intentional destruction of property.

Failure to Follow Work Rule – A failure that is not deliberate to follow Board policy and procedure, or any other administrative regulations or law.

Incompetency – Lack of ability, qualification, or fitness to do things required of an employee.

Inefficiency – Quality of being incapable or indisposed to do the things required of an employee within reasonable standards.

Insubordination – State of being unwilling to do the things required of an employee. Refusal to obey an order issued by the employee's immediate supervisor or other staff person having authority to direct the employee.

Last Chance Agreement – An agreement signed by both the Appointing Authority and employee of the organization that describes the behavior or circumstances that, if it occurs, will automatically lead to the removal of the employee without the right of appeal to the State Personnel Board of the Review or the appropriate commission.

Malfeasance – Intentional wrongdoing or misconduct.

Misfeasance – The performance of a lawful action in a negligent or improper manner.

Moral (conduct) – Pertains to character, conduct, intention, social relations, etc. Pertains to or relates to the conscience or moral sense or to the general principles of right conduct. Cognizable or enforceable only by the conscience or by the principles of right conduct, as distinguished from positive law. All governmental employees are expected to conduct themselves, both on and off the job in a manner which will elicit pride, confidence and respect from citizens. (ORC 124:34).

Neglect of Duty – To omit or fail to do a thing that can be done, or that is required to be done. An absence of care or attention in the doing; An omission of given act; A designed refusal or unwillingness to perform one's duty.

Non-Exempt Employee – A position of employment which does not qualify for an overtime exemption as defined by The Fair Labor Standards Act and the administrative regulations established by the Wage & Hour Division of The U.S. Department of Labor. An employee holding a non-exempt position shall be compensated for all actual worked hours in excess of 40 hours per week.

Nonfeasance – Failure to do what ought to be done.

Pre-Disciplinary Facilitator

A. Classified – A person selected by the appointing authority who conducts the conference and submits results of the hearing along with his/her recommendation to the Superintendent. The Hearing Officer need not be under the jurisdiction of the Board of DD.

B. Unclassified – In situations where discipline is directed against a management employee the conference shall be held by the Superintendent. If discipline is directed against the Superintendent, the hearing shall be held by the members of the Board or their designee.

Reduction– A change in classification to one having a lower base pay range or change to a lower step within the pay range for a given classification or any decrease in compensation. If department/division is governed by a union contract, the procedures outlined in the contract shall be followed.

Removal– The termination of employee's employment for the reasons outlined in ORC Section 124.34 or 5126.23.

Supervisor – The individual who has been authorized by the Superintendent to oversee and direct the work of certain employees on a daily basis and who effectively recommends actions such as hiring, transfers, suspensions, promotions, discharge, rewards, lay-off, recall or discipline. If department/division is governed by a union contract, the procedures outlined in the contract shall be followed.

Suspension – Relieving an employee from duty with or without pay.

Working Suspension - A paid suspension in which you are still required to report to work. It has the same effect as a suspension without pay for the purpose of recording disciplinary actions.

Theft– The act of stealing; robbery; larceny. This shall include the theft of computer data.

Unclassified – A management employee defined by SB 155 (June 1988) whose employment is not governed by civil service guidelines in relation to disciplinary hearings or contract status. Employees in management positions prior to June 1988 are grand fathered unclassified employees with continuing contract status.

Verbal Reprimand – This is a disciplinary action. A formal reprimand (reprove) given verbally to an employee in fault and documented in which an offense is reviewed and discussed with the employee and is a statement of formal censure imposed by the immediate supervisor. The documentation for the verbal reprimand will be placed in employee's personnel file.

Written Reprimand – This is a disciplinary action of a greater magnitude than a verbal reprimand. A formal reprimand for an offense, which is reviewed and discussed verbally with an employee in fault and also presented to employee in written form. The documentation of written, formal censure (the written reprimand form) will be placed in employee's personnel file.

I. DISCIPLINARY PRINCIPLES

A. The Board believes that certain basic principles, set forth below, must consistently be applied in order to effectively and fairly corrects unsatisfactory job performance or conduct.

1. Employees shall be advised of job expectations, the type of conduct that the Board has determined to be unacceptable, and the penalties for unacceptable job performance or conduct.
2. Immediate attention shall be given to policy/procedure infractions.
3. Discipline shall be applied uniformly and consistently.
4. Each offense shall be dealt with objectively.
5. The employee's corrective action history shall be taken into full consideration when rendering a decision on progressive corrective action.
6. Discipline shall be progressive, but depending on the severity and type of the offense, may proceed immediately to termination. Normally, discipline will be progressive in nature as noted below:

- 1st Verbal Reprimand
- 2nd Written Reprimand (not eligible for promotion within six months of receiving reprimand)
- 3rd Working Suspension (not eligible for promotion within a year of receiving suspension)
- Last Chance Agreement/Termination

Serious infractions can result in immediate discharge without intermediate discipline. Examples of such offenses include but are not limited to:

- Intoxication on Board property during work hours
- Possession of intoxicants or illegal substances on Board property for use during work hours

- Gambling on Board property
 - Fighting on Board property
 - Harassment
 - Theft
 - Immoral behavioral
 - Destruction of property
 - Insubordination
 - Conviction of criminal charge
 - Dishonesty
 - Possession of unauthorized firearms on Board property
 - Personal harassment
 - Falsification of attendance and/or time records or sick leave abuse
 - Unauthorized leave of absence
7. The Appointing Authority may require an employee who is suspended to report to work to serve the suspension. An employee serving a suspension in this manner shall continue to be compensated at the employee's regular rate of pay for hours worked. Such disciplinary action shall be recorded in the employee's personnel file in the same manner as other disciplinary actions and has the same effect as a suspension without pay for the purpose of recording disciplinary actions.
 8. An employee's immediate supervisor, Department Director and the Superintendent shall be responsible for administering/processing discipline.
 9. Supervisors are encouraged to coach or counsel their respective staff/employees as issues/concerns arise. This should be deemed as normal supervisor/employee assistance/growth.

II. EIR

- A. Upon an incident where an action is considered inappropriate, and/or contrary to governing policy/procedure, work rules, an Employee Incident Report, form 03-ALL-ALL-0384, may be initiated by a supervisor, in a timely manner. The supervisor completes Section 1 of the EIR. If applicable, the person(s) involved complete the incident statement section and witnesses will complete employee statement section. Administrative leave with pay may be authorized by the Superintendent based on the severity of the incident and pending results of evidence. Should the employee not comply with supervisor requests for meetings and availability during their regularly scheduled work hours, the Superintendent may place the employee on Administrative Leave Without Pay. Administrative Leave Without Pay may continue for as long as reasonably necessary to complete the investigation and to inform the employee of the decision regarding disciplinary action.
- B. A meeting with the employee will be conducted in person as soon as possible. The supervisor will restate the alleged incident. The employee will sign section II acknowledging receipt with signature.
- C. Following the meeting, the immediate supervisor completes Section III. The EIR is then forwarded up the chain of command.
 1. Each supervisor reviews the EIR and states in a written fashion their recommendation in Section IV and completes section IV based on the Table of Organization. This continues up the chain of command to the Superintendent.
 2. If progressive discipline/corrective action is recommended the progressive discipline/corrective action will be utilized.
- D. The Superintendent (appointing authority) has the responsibility and the authority (per ORC 124.01) to make the final decision.
- E. The report is forwarded to the Department Director who communicates the decision to the immediate supervisor, unless a pre-disciplinary/fact finding conference is ordered.
- F. The immediate supervisor informs the employee the decision rendered
 1. If a verbal or written reprimand is ordered (forms 03-ALL-ALL-0143 and 03-ALL-ALL-0144), the immediate supervisor will complete the form and meet with the employee to discuss proactive measure that will prevent the offense from reoccurring.

III. FOR CLASSIFIED EMPLOYEES

- A. Employees in their probationary period are not entitled to a pre-disciplinary conference.
- B. If a pre-disciplinary conference is ordered:
 1. The Superintendent notifies the Facilitator and respective Department Director.
 2. The **Leadership Member/Designee** will notify the employee of the pre-disciplinary conference at least 72 hours in advance.
 3. The pre-disciplinary conference shall be held to provide the employee an opportunity to refute the charges against him/her.
 4. If the employee does not show up for the scheduled pre-disciplinary conference, this action will constitute a waiver of the employee's pre-disciplinary conference opportunity.
 5. The Facilitator upon completion of the conference will render his/her findings to the Superintendent. The information will be based on relevancy, truth, circumstances of alleged incident, as well as any supportive evidence of prior corrective action.
 6. Based on the facts and recommendation(s) of the Facilitator, the Superintendent will render a decision and forward the

decision to the Department Director and the supervisor, within 2 working days, if possible, of receipt. If a suspension order is authorized the employee will be notified in writing by the Superintendent.

7. The immediate supervisor will meet with the employee to discuss the decision and confirm employment arrangements if deemed necessary.
 8. For removal or suspensions of more than three (3) days, appeals may be made through the State Personnel Board of Review. Probationary removals are not appealable. (ORC 124.27(c))
- C. If no action is taken the employee is notified by the immediate supervisor and the EIR is placed in the employee's personnel file along with the resolution.
- D. All disciplinary action taken will be in accordance with ORC Section 124.34.
- E. Any employee concerns may be addressed to the Superintendent or designee.

IV. FOR UNCLASSIFIED EMPLOYEES – Management Employee or Superintendent

- A. Employees in their probationary period are not entitled to a pre-disciplinary conference.
- B. If a pre-disciplinary conference is ordered for a management employee on limited or continuing contracts:
- a. The Superintendent/designee notifies the employee of the specifics of the conference (date, time, place) by issuing a formal notice to the affected employee 72 hour prior to scheduled conference (copies forwarded appropriately). Notice shall specify charges upon which disciplinary conference action is based as references in ORC 5126.23 (specific charges against employee).
 - b. The pre-disciplinary conference shall be held to provide the employee an opportunity to refute the charges against him/her.
 - c. Within 15 days after the conference, the superintendent shall notify the employee in writing of his/her decision with respect to the charges. The EIR and decision will reflect the charges. The report and decision will be based on relevancy, truth, circumstances or alleged incident, as well as any supportive evidence of prior corrective action.
 - d. The recommendations/findings and decision will be forwarded as appropriate to Department Directors and supervisor.
 - e. If a suspension is warranted for an exempt employee, the suspension cannot be for less than five (5) working days, in accordance with the Department of Labor, Wage & Hour Division. Prospectively withholding vacation leave that has not yet been earned may be substituted as an appropriate course of corrective action in lieu of suspension.
 - f. If the removal, suspension, or demotion action is directed against a Superintendent, the conference shall be held by the members of the Board or their designees, and the Board shall notify the Superintendent within 15 days after the conference of its decision with respect to the charges.
 - g. Within 15 days after receiving notification of the results of the pre-disciplinary conference, an employee may file with the Board a written demand for a hearing before the Board or before the referee, and the Board shall set a time for the hearing, which shall be within 30 days from the date of receipt of the written demand and the Board shall give the employee at least 20 days notice in writing of the time and place of the hearing.
 - i. If the employee (or the Board) chooses a referee to conduct the hearing such demand shall be met by compliance to ORC 5126.23 (F) referees for the hearings shall be selected from a list compiled by the Superintendent of public instruction pursuant to ORC 3319.161. A referee shall file his report within 10 days after the termination of the hearing.
 - ii. The hearing shall be confined to the charges enumerated at the pre-disciplinary conference.
 - h. A record will be made of the proceedings and will be made available to the employee.
 - i. After consideration of the referee's report or after a hearing held by the Board, by majority vote, may enter its determination upon its minutes.
 - j. If the decision is in favor of the employee, the charges and the record of the hearing shall be physically expunged from the minutes and, if the employee has suffered any loss of salary by reason of suspension et.al, he/she shall be paid his full salary for the period in questions.
 - k. Any employee affected by the disciplinary determination of the Board (majority vote) may appeal to the court of common pleas of the County in which Board is located, within 30 days after receipt of notice of the entry of such determination.
 - i. Upon final hearing the court shall render the decision.
 - l. Following this process, the Board or employee may make further appeal from the decision of the Court of Common Pleas pursuant to the rules of Appellate Procedure and to the extent not in conflict with those rules, ORC Chapter 2505.
- C. If no Action is taken the employee is notified and the EIR is placed in the employee's Personnel file along with the resolution.

V. FOR ALL EMPLOYEES

- A. At any time through this process honest and direct discourse is encouraged. Pre-disciplinary conferences are designed for the benefit of employees.
- B. The original EIR, the reprimand, or any other course of discipline (if initiated), are placed in the employee's personnel file.
- C. The employee may choose to request an expungement/cease to have force and effect of certain records according to procedure 02-ALL-ALL-0325.

References: Black's Law Dictionary
Ohio Attorney General's Office, "Employment Law News", Fall 1996
Wage & Hour Division of the US Dept. of Labor
The Fair Labor Standards Act
ORC 124.01, 124.27, 124.34, 3319.161; 5126.23, Chapter 2505
SB 155

Policies: 01-ALL-ALL-0064; 01-ALL-ALL-0082

Procedures: 02-ALL-ALL-0054; 02-ALL-ALL-0287; 02-ALL-ALL-0325; 02-ALL-ALL-0499

Forms: 03-ALL-ALL-0143; 03-ALL-ALL-0144; 03-ALL-ALL-0384

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