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|  <p>State of Connecticut<br/>Department of Correction</p> <p><b>ADMINISTRATIVE<br/>DIRECTIVE</b></p> | Directive Number<br>2.6                            | Effective Date<br>09/26/14 | Page 1 of 8 |
|   | Supersedes<br>Employee Discipline, dated 4/01/2011 |                            |             |
| Approved By:<br><br>Interim Commissioner Scott Semple  | Title<br><br>Employee Discipline                   |                            |             |

1. **Policy.** The Department of Correction shall exercise consistent and equitable discipline.
  
2. **Authority and Reference.**
  - A. Public Law 108-79, Prison Rape Elimination Act.
  - B. 28 C.F.R., 115, Prison Rape Elimination Act National Standards.
  - C. Connecticut General Statutes, Sections 5-201, 5-202, 5-240, 5-266a and 18-81.
  - D. Regulations of Connecticut State Agencies, Sections 5-201-1 through 5-201-3, 5-240-1 through 5-240-3, 5-240-5a and 5-266a-1.
  - E. Collective Bargaining Contracts:
    1. New England Health Care Employees Union, District 1199 (P-1 and NP-6) Bargaining Unit, July 2009, Article 33.
    2. American Federation of State, County and Municipal Employees (P-2) Bargaining Unit, July 2009, Article 16.
    3. Connecticut State Employees Association (P-3B) Bargaining Unit, July 2011, Article 15.
    4. Connecticut State Employees Association (P-4) Bargaining Unit, July 2009, Article 15.
    5. Administrative and Residual Employees Union (P-5) Bargaining Unit, July 2008, Article 14.
    6. Connecticut Employees Union Independent (NP-2) Bargaining Unit, July 2009, Article 17.
    7. American Federation of State, County and Municipal Employees (NP-3) Bargaining Unit, July 2009, Article 16.
    8. American Federation of State, County and Municipal Employees (NP-4) Bargaining Unit, July 2011, Article 13.
    9. Connecticut State Employees Association (NP-8) Bargaining Unit, July 2012, Article 18.
  - F. Administrative Directives 1.10, Investigations; 1.13, Code of Ethics; 2.1, Equal Employment Opportunity and Affirmative Action; 2.2, Sexual Harassment; 2.17, Employee Conduct, 6.6, Reporting of Incidents and 6.12 Inmate Sexual Abuse/Sexual Harassment Prevention and Intervention.
  - G. American Correctional Association, Standards for the Administration of Correctional Agencies, Second Edition, April 1993, Standards 2-CO-1C-01, 2-CO-1C-04 and 2-CO-1C-20.
  - H. American Correctional Association, Standards for Adult Correctional Institutions, Fourth Edition, January 2003, Standards 4-4048 and 4-4063.
  - I. American Correctional Association, Performance-Based Standards for Adult Local Detention Facilities, Fourth Edition, June 2004, Standards 4-ALDF-7C-01, 4-ALDF-7E-01 and 4-ALDF-7E-04.
  - J. American Correctional Association, Standards for Adult Probation and Parole Field Services, Third Edition, August 1998, Standards 3-3047 and 3-3060.

|                              |                            |             |
|------------------------------|----------------------------|-------------|
| Directive Number<br>2.6      | Effective Date<br>09/26/14 | Page 2 of 8 |
| Title<br>Employee Discipline |                            |             |

K. American Correctional Association, Standards for Correctional Training Academies, First Edition, May 1993, Standards 1-CTA-1C-01 and 1-CTA-1C-07.

3. Definitions. For the purposes stated herein, the following definitions apply:

- A. Appointment. An appointment to a position in the classified or unclassified service.
- B. Burden of Proof. The responsibility placed upon one of the parties to prove the correctness or truth of the allegations made.
- C. Classified Employee. An individual holding a position in the classified service of the state, whether full time or part time, for which compensation is paid, who has been appointed to that position following successful completion of a working test period.
- D. Confidential Employee. A public employee who would have access to confidential information used in collective bargaining.
- E. Contract Employee. An individual working under the terms of a personal services agreement or for an employee who has a contract to provide services.
- F. Grievance Procedure. The steps prescribed in the various collective bargaining agreements, state regulations and the State Personnel Act for the handling of a grievance. The intent of the process is to resolve a complaint, customarily an allegation that the contract has been misinterpreted or misapplied.
- G. Initial Investigation. An inquiry into an alleged incident in which the findings may be sufficient to take disciplinary action or result in a more formal investigation.
- H. Just Cause. Rationale sufficient to substantiate disciplinary action upon an employee.
- I. Past Practice. A mutually recognized and consistent employer response to a given set of workplace circumstances over an extended period of time.
- J. Sexual Abuse. For purposes of this Directive, sexual abuse shall be defined in accordance with the definition set forth in Administrative Directive 6.12.
- K. Sexual Harassment. For purposes of this Directive, sexual harassment shall be defined in accordance with the definition set forth in Administrative Directive 6.12.
- L. Unclassified Employee. An individual holding a position in the unclassified service of the state.
- M. Unfair Labor Practice. Conduct on the part of either union or management that violates provisions of national or state labor relations acts.
- N. Working Test Period. A probationary period used to determine whether or not an employee merits permanent appointment.

4. Supervisor Responsibilities. Each supervisor shall be responsible for maintaining proper discipline within the supervisor's work unit. Discipline shall be used only to correct problems, maintain the unit's order and/or deter negative behavior. Disciplinary problems shall be dealt with promptly when they arise. Discipline shall be administered on the basis of substantiated findings. Any disciplinary action taken shall be related to the offense. The Unit Administrator shall ensure that a written record of the incident is maintained. Prior to the imposition of discipline, an investigation and pre-disciplinary conference for a permanent employee shall be conducted. Disciplinary action shall be taken

|                              |                            |             |
|------------------------------|----------------------------|-------------|
| Directive Number<br>2.6      | Effective Date<br>09/26/14 | Page 3 of 8 |
| Title<br>Employee Discipline |                            |             |

consistent with this Directive and any applicable collective bargaining agreement, federal or state law, regulation, policy or procedure.

5. Non-Disciplinary Resolution. Informal discussions, coaching and formal counseling shall be used whenever practicable and shall not be considered disciplinary action. Additional training may be considered if it appears the employee could benefit and performance is likely to improve. However, disciplinary action shall be taken when it is determined further training and counseling would not be effective or the incident is of such magnitude that disciplinary action is required. Records of coachings and counselings may be maintained by supervisors for evaluation purposes. Records of coachings and counselings shall not be placed in employee personnel files.
6. Disciplinary Actions. In accordance with the principles of progressive discipline, disciplinary actions shall include:
  - A. Written Reprimand. A written reprimand shall normally be used when a first offense warrants some form of disciplinary action. The purpose of reprimand shall be to correct the specific act or omission that is the subject of the reprimand and to place the employee on notice that continued misconduct may result in more severe discipline. A written reprimand shall be documented in the employee's personnel file.
  - B. Suspension. Suspension shall be imposed for a specific and serious breach of work rules for reasons which may include, but are not restricted to, misconduct, insubordination, or neglect of duty. A suspension may be warranted for a first offense which is a serious breach of rules or following the issuance of a written reprimand.
  - C. Demotion. A demotion should be considered when an employee, based on work performance, inefficiency, incompetence or misconduct, cannot carry out the duties and responsibilities of the assigned position yet may demonstrate satisfactory performance in a less demanding assignment. An unsatisfactory service rating may result in a demotion. An involuntary demotion based on work performance, inefficiency or incompetence shall not be made earlier than three (3) months after a permanent appointment.
  - D. Dismissal. Dismissal is the most severe action in the employee disciplinary process and shall be reserved for situations when an employee has repeatedly demonstrated an inability to follow Department and/or unit directives, procedures or orders or when other forms of disciplinary action have been exhausted or for first offenses which threaten the security or integrity of the unit or conduct of such a serious nature that dismissal is warranted, including, but not limited to those offenses outlined in Section 10 of this Directive.
7. Disciplinary Factors. In determining what disciplinary action to take, the following shall be considered:
  - A. The employee's past work record including disciplinary history, years of service and probationary status.
  - B. The effect of the offense on the organization's efficient operation.
  - C. The seriousness or type of the offense relative to the employee's duties and responsibilities within the organization including the possible impact on other employees.
  - D. Any mitigating or aggravating circumstances surrounding the offense.

|                              |                            |             |
|------------------------------|----------------------------|-------------|
| Directive Number<br>2.6      | Effective Date<br>09/26/14 | Page 4 of 8 |
| Title<br>Employee Discipline |                            |             |

- E. The uniformity of enforcement.
  - F. The timeliness of the disciplinary action.
  - G. The nature of the work rule(s) the employee violated.
8. Offenses Resulting in Reprimand. The following offenses shall normally result in a reprimand for the first offense:
- A. Failure to follow an order, direction or instruction.
  - B. Failure to remain alert to surroundings - no consequences.
  - C. Failure to conduct a proper count - no consequences.
  - D. Leaving security door unlocked - no outside access/no escape.
  - E. Lost or misplaced operational keys -no consequences.
9. Offenses Resulting in Suspension and/or Disciplinary Demotion. The following offenses shall normally result in a suspension and/or disciplinary demotion for the first offense or repeated lesser offenses:
- A. Inattentiveness to duty.
  - B. Excessive use of force with mitigating circumstances.
  - C. Failure to complete required security tours - no consequences.
  - D. Lost restricted, security, or emergency keys.
  - E. Incarceration for less than five days (non-felony offense).
10. Offenses Resulting in Dismissal. The following offenses or repeated lesser offenses shall normally result in dismissal:
- A. Sexual abuse of another person, regardless of gender.
  - B. Failure to follow a direct order.
  - C. Sleeping on duty.
  - D. Excessive use of force with no mitigating circumstances.
  - E. Conviction of a felony.
  - F. Conviction of a misdemeanor committed while on duty.
  - G. Conviction of a misdemeanor committed off-duty which could impact upon the performance of job responsibilities.
  - H. Offensive or abusive conduct toward the public, co-workers, or inmates.
  - I. Negligence resulting in an escape.
  - J. Fraud or collusion in connection with any examination or appointment in the classified service.
  - K. Theft, willful neglect or misuse of any state funds, property, equipment, material or supplies.
  - L. Deliberate violation of any federal or state statute or regulation or Department rule depending upon severity of offense or place of occurrence.
  - M. Absence without leave for five (5) or more working days or failure to return to duty within five (5) working days following authorized leave.
  - N. Possession of, use of and/or intoxication from alcohol or illegal drugs while on duty.
  - O. Insubordination, including but not limited to failure to work overtime if directed to do so.
  - P. Engaging in any activity which is detrimental to the best interests of the Department or of the state.
  - Q. Inappropriate relationship/undue familiarity with an inmate who is under the jurisdiction of the Department including Parole and Community Services as defined in Administrative Directive 2.17, Employee Conduct.
  - R. Lying or providing false information regarding an incident.

|                              |                            |             |
|------------------------------|----------------------------|-------------|
| Directive Number<br>2.6      | Effective Date<br>09/26/14 | Page 5 of 8 |
| Title<br>Employee Discipline |                            |             |

- S. Falsification or alteration of documents (to include medical documents), records or evidence.
  - T. Failure to complete required security tours or population counts with resulting consequences.
  - U. Two (2) consecutive unsatisfactory service ratings.
  - V. Criminal charges involving drugs corroborated by an independent investigation.
  - W. Gross neglect of duty/misconduct.
  - X. Incarceration for more than five days.
  - Y. Workers' compensation fraud.
11. Offenses Resulting in Variable Penalties, up to and including Dismissal. The penalties imposed for the following offenses shall be determined by, among other factors, the severity of the violation.
- A. Failure to report an incident in a timely manner.
  - B. Failure to report any arrest or off-duty misconduct.
  - C. Loss of security equipment.
  - D. Neglect of duty or other employment related misconduct.
  - E. Sexual harassment.
  - F. Workplace violence.
  - G. Leaving post/facility without authorization.
  - H. Verbal altercation with another employee.
  - I. Conveyance of unauthorized items into a facility.
  - J. Poor judgment.
  - K. Fraudulent use of sick time.
  - L. Violation of the code of ethics and conflict of interest law and policy.
  - M. Multiple occasions of off-duty, misdemeanor criminal activity filed against the employee.
12. Off-Duty Employee Misconduct. An employee may be disciplined up to and including dismissal for off-duty misconduct that could in any manner reflect negatively on the Department. Discipline may occur when:
- A. the conduct affects the employee's ability to perform the job;
  - B. the conduct causes a disruptive effect on the operations of the Department;
  - C. the Department is harmed, either directly or indirectly, as a result of the employee's conduct; or,
  - D. An employee charged with a criminal offense while in his/her initial working test period shall be subject to separation if the misconduct is corroborated. An employee serving in a promotional working test period shall be subject to being dropped during his/her working test period, to his/her former classification, if an investigation determines the employee has engaged in non-dismissible off-duty misconduct that results in an arrest.

The Department shall conduct an investigation into off-duty misconduct in accordance with Administrative Directive 1.10, Investigations. The outcome of the Department's investigation and the Department's decision to impose discipline shall not be dependent upon the finding of any criminal court concerning the employee's guilt.

The employee shall report any off-duty misconduct, as defined in this section to an appropriate supervisor within 48 hours of the misconduct. An incident report shall be completed by the employee in accordance with Administrative Directive 6.6, Reporting of Incidents. Failure to report an

|                              |                            |             |
|------------------------------|----------------------------|-------------|
| Directive Number<br>2.6      | Effective Date<br>09/26/14 | Page 6 of 8 |
| Title<br>Employee Discipline |                            |             |

arrest or other off-duty misconduct within 48 hours shall subject the employee to discipline.

13. Standards for Disciplinary Proceedings. Disciplinary action involving permanent, classified employees shall be taken in accordance with the applicable collective bargaining agreement or state statute. However, all disciplinary action shall be undertaken in accordance with the following principles:
- A. Reasonable Work Rules. The Department's directives and procedures shall be reasonably related to the orderly, efficient and safe operation of the Department's business.
  - B. Fair Application of Rules. The Department shall apply its directives, procedures and orders fairly and without discrimination.
  - C. Fair Notice. The Department shall provide the employee with information concerning probable or possible disciplinary consequences for the employee's conduct.
  - D. Investigation. The Department, before disciplining an employee, shall conduct an appropriate investigation in accordance with Administrative Directive 1.10, Investigations, to determine whether the employee committed an offense as defined in Sections 8 through 12 of this Directive.
  - E. Sufficient Evidence. The decision to initiate the disciplinary action shall be based upon substantial proof of employee act(s) or omission(s) in accordance with Administrative Directive 1.10, Investigations.
  - F. Degree of Discipline. Discipline imposed shall be related to the seriousness of the employee's offense and its impact upon the orderly, efficient and safe operation of the unit.
14. Pre-Disciplinary Conference. Upon completion of the investigation, a pre-disciplinary conference shall be held for any permanent, classified employee. The conference shall be conducted by a Unit Administrator or designee who has a significant role in the decision making process.
- A. Scope. At, or prior to, the conference, the employee shall be provided:
    - 1. an oral or written notice of charges;
    - 2. an explanation of the evidence obtained during the investigation; and,
    - 3. an opportunity to present the employee's case concerning the disciplinary charges.
  - B. Notice. If written notice is given, it may be mailed, return receipt requested, or hand delivered to the employee at work. If the notice is mailed, the time of the conference when the employee shall be given an opportunity to respond to the charges shall be no sooner than five (5) business days following the mailing of the notice unless mutually agreed upon by the parties. If the notice is hand delivered to the employee at work or given orally, the time of the conference when the employee shall be given an opportunity to respond to the charges may be any time following receipt of the notice, including immediately following the receipt of the notice unless the complexity of the charges requires additional time. In such case the employee may request and be granted a reasonable amount of time before being required to respond, normally within 48 hours of the notice. If an employee declines or fails to attend the

|                              |                            |             |
|------------------------------|----------------------------|-------------|
| Directive Number<br>2.6      | Effective Date<br>09/26/14 | Page 7 of 8 |
| Title<br>Employee Discipline |                            |             |

pre-disciplinary conference, the Department may proceed with disciplinary action consistent with the notice provided under this Directive.

- C. Representation. An employee who receives notice of a pre-disciplinary conference may choose to have representation. Under certain collective bargaining agreements, the employee must be notified of the employee's right to have representation. The employee may choose the union representative but cannot insist upon a specific representative who may not be available through no fault of the employer. The employee shall be permitted time before the conference to consult with the employee's representative. If a bargaining unit employee wishes to utilize a representative outside of the union, the employee shall obtain a waiver of union representation from the union in accordance with the applicable collective bargaining agreement.
  - D. Employee Representative Functions. The representative may reasonably assist the employee during the conference. However, a representative cannot attempt to transform the conference into an adversarial proceeding through unduly provocative questions or by the tone or manner of the representative's conduct. The employer has no duty to bargain with a representative.
15. Leave of Absence Pending an Investigation and/or Pre-disciplinary Conference. A leave of absence pending an investigation and/or pre-disciplinary conference shall be in accordance with applicable collective bargaining agreement or state statute.
16. Decision. The Commissioner of Correction, upon the recommendation of the appropriate Division Head, shall have responsibility for approving all dismissals, demotions, suspensions (in excess of 15 days), all Commissioner of Correction initiated Security Division investigation recommendations, and all Affirmative Action investigation recommendations. The Unit Administrator, with the review and concurrence of the Director of Human Resources or designee, shall have responsibility to recommend all formal disciplinary actions. All possible employee pre-disciplinary conferences and resulting action(s) shall normally be completed within 30 working days from receipt of the original, or amended, investigation report.
17. Appeals. Once a final decision has been reached to reprimand, suspend, involuntarily demote, or dismiss an employee, the Unit Administrator shall provide written notice to the employee. The notice shall state the decision, the reasons for the decision, the effective date of the decision, and shall inform the employee of any right to further review or appeal.

Collective bargaining agreements give permanent, classified employees the right to file a grievance when they are disciplined. Any employee who is not included in any collective bargaining unit of state employees and who has achieved a permanent appointment may appeal to the employees' review board if said employee receives an unsatisfactory performance evaluation or is demoted, suspended or dismissed, or is aggrieved as a result of alleged discrimination, or unsafe or unhealthy working conditions or violations involving the interpretation and application of a specific state personnel statute or regulation.

|                              |                            |             |
|------------------------------|----------------------------|-------------|
| Directive Number<br>2.6      | Effective Date<br>09/26/14 | Page 8 of 8 |
| Title<br>Employee Discipline |                            |             |

Appointed officials may not avail themselves of the grievance procedures referenced herein.

Employees may file an affirmative action grievance or complaint based on alleged discrimination or sexual harassment through the grievance procedure outlined in the Affirmative Action Policy statement in accordance with Administrative Directives 2.1, Equal Employment Opportunity and Affirmative Action, and 2.2, Sexual Harassment.

18. Effective Dates of Discipline. Disciplinary action shall be effective as follows:

- A. Dismissal. The effective date of a dismissal shall not be earlier than two (2) weeks from the date of the dismissal letter, except in cases of serious misconduct by an employee affecting the public, or affecting the welfare, health or safety of inmates or facilities, or of state employees, or the protection of state property, in which case the Commissioner of Correction or designee may make the dismissal effective immediately upon the close of the pre-disciplinary conference. Less than two (2) weeks notice may also be given to bargaining unit employees if such notice is permitted by the collective bargaining unit. The Commissioner of Correction or designee shall state the specific reason for imposing immediate dismissal at the close of the pre-disciplinary conference and in the subsequent written notice of discipline.
- B. Demotion. The effective date of a demotion shall not be earlier than two (2) weeks from the date of the notice of demotion.
- C. Suspension. The effective date of a suspension shall be at a time determined by the Commissioner of Correction or designee, commencing after written notice of the determination to impose a suspension.

19. Drop During Initial Working Test Period. An employee dropped during an initial working test period may not appeal the separation through the grievance procedure, but such employee may file a request in writing to the Director of Human Resources to seek reinstatement. A review shall be scheduled within 30 days of receipt by a three (3) member panel appointed by the Deputy Commissioner of Administration. The panel shall consist of a staff member from the Human Resources Unit at or above the level of Human Resources Associate, an Affirmative Action Unit representative and one (1) other manager. The panel shall submit its recommendation to the Director of Human Resources for final approval. The employee shall receive notification of the Department's decision within 15 business days of receipt of the recommendation by the Director of Human Resources.

20. Exceptions. Any exceptions to the procedures in this Administrative Directive shall require prior written approval from the Commissioner of Correction.