

November 24, 2015

NOTICE OF RULE DEVELOPMENT

DEPARTMENT OF CORRECTIONS

RULE NO.: RULE TITLE:

33-208.003 Range of Disciplinary Actions

PURPOSE AND EFFECT: The purpose and effect of the amendment is to update disciplinary standards to current Department expectations for members.

SUBJECT AREA TO BE ADDRESSED: Discipline of Department members

RULEMAKING AUTHORITY: 944.09 FS

LAWS IMPLEMENTED: 110.227, 112.0455, 944.09, 944.14, 944.35, 944.36, 944.37, 944.38, 944.39, 944.47 FS

IF REQUESTED IN WRITING AND NOT DEEMED UNNECESSARY BY THE AGENCY HEAD, A RULE DEVELOPMENT WORKSHOP WILL BE NOTICED IN THE NEXT AVAILABLE FLORIDA

ADMINISTRATIVE REGISTER. THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND TO OBTAIN A COPY OF THE PRELIMINARY DRAFT IS: Adam Stallard, 501 South Calhoun Street, Tallahassee, Florida 32399.

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS AS FOLLOWS:

33-208.003 Range of Disciplinary Actions.

Violations of the foregoing Rules of Conduct as well as other departmental and institutional policies will result in disciplinary actions, which may be by ~~oral reprimand~~, written reprimand, suspension, ~~reduction in pay~~, demotion or dismissal.

Any employee who feels that unjust disciplinary action ~~such as an oral or written reprimand~~ has been given has the right to submit a grievance as established by the grievance procedures of the Department of Corrections. For disciplinary actions involving, suspension, ~~reduction in pay~~, demotion, or dismissal, permanent Career Service employees have the right to appeal to the Public Employees Relations Commission. Violation of more than one rule shall be considered in the application of discipline and may result in greater discipline than specified for one offense alone. Any questions regarding these rules and personnel procedures should be referred to the employee's circuit administrator, warden or personnel officer ~~Personnel Officer~~.

The preceding section titled Rules of Conduct and the following list of offenses and work deficiencies with their ranges of disciplinary actions will be used by this Department in administering an effective disciplinary program. The severity of penalties may vary depending upon the frequency and nature of a particular offense and the circumstances surrounding each case. While the following guidelines are not a substitute for impartial supervision and effective management, and do not set absolute minimum and maximum penalties, it is expected that all Disciplinary Authorities will consider them, the seriousness of the offense, and an employee's entire work history in reaching disciplinary decisions.

~~THE SEVERITY OF PENALTIES MAY VARY DEPENDING UPON THE FREQUENCY AND NATURE OF A PARTICULAR OFFENSE AND THE CIRCUMSTANCES SURROUNDING EACH CASE. WHILE THE FOLLOWING GUIDELINES ARE NOT A SUBSTITUTE FOR IMPARTIAL SUPERVISION AND EFFECTIVE MANAGEMENT, AND DO NOT SET ABSOLUTE MINIMUM AND MAXIMUM PENALTIES, IT IS EXPECTED THAT ALL SUPERVISORS WILL CONSIDER THEM IN REACHING DISCIPLINARY DECISIONS.~~

Suspensions shall not exceed eighty work hours.

Offense or Deficiency	First Occurrence	Second Occurrence	Third Occurrence	Fourth Occurrence
(1) Gambling <u>during work time</u>	Oral or Written Reprimand	Written Reprimand, or up to 10 day Suspension	Up to 30 days Suspension, Demotion, or Dismissal dismissal	Dismissal
(2) <u>Wrestling or Horseplay during work time</u> Horseplay or Fighting	Suspension, Demotion, Dismissal Same	Dismissal Same	Dismissal Same	Dismissal Same
(3) <u>Inappropriate Idleness while working</u> Loafing	Written Reprimand, Suspension Same	Written Reprimand, Suspension, Demotion, Dismissal Same	Suspension, Demotion, Dismissal Same	Dismissal Same
(4) Tardiness (within a 2 month period)	Written Reprimand Same	Suspension Same	Suspension, Demotion, Dismissal Same	Dismissal Same
(5) Excessive Absenteeism	Written Reprimand Same	Suspension Same	Suspension, Demotion, Dismissal Same	Dismissal Same

(6) Malicious Use of Profane or Abusive Language Toward Inmates, Visitors, or Persons Under Supervision	<u>Written Reprimand, Suspension, Demotion, Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u> Same
(7) Absence Without Authorized Leave	<u>Suspension, Demotion, Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u> Same
(8) Unauthorized Distribution of Written or Printed Material of any Description <u>While on FDC property or during work time</u>	<u>Written Reprimand</u> Same	<u>Written Reprimand, Suspension</u> Same	<u>Suspension, Demotion, Dismissal</u> Same	<u>Dismissal</u> Same
(9) Unauthorized Solicitations or Sales <u>While on FDC property or during work time on DC Premises or While on Duty</u>	<u>Written Reprimand</u> Same	<u>Written Reprimand, Suspension</u> Same	<u>Suspension, Demotion, Dismissal</u> Same	<u>Dismissal</u> Same
(10) Substandard Quality and/or Quantity of Work	<u>Written Reprimand</u> Same	<u>Written Reprimand, Suspension</u> Same	<u>Suspension, Demotion, Dismissal</u> Same	<u>Dismissal</u> Same
(11) Reporting to Work Improperly Dressed for Job Assignment	<u>Written Reprimand</u> Same	<u>Written Reprimand, Suspension</u> Same	<u>Suspension, Demotion, Dismissal</u> Same	<u>Dismissal</u> Same
(12) Sleeping on <u>the Job</u>	<u>Suspension, Demotion, Dismissal</u> Written Reprimand, up to 30 days Suspension or Dismissal	Dismissal	<u>Dismissal</u>	<u>Dismissal</u>
(13) Negligence (<u>Job Related</u>)	<u>Written Reprimand, Suspension, Demotion, Dismissal</u> Same	<u>Written Reprimand, Suspension, Demotion, Dismissal</u> Same	<u>Suspension, Demotion, Dismissal</u>	<u>Dismissal</u>
(14) Revealing Confidential Information in DC records to unauthorized <u>person(s)</u> person	<u>Suspension, Demotion, Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u>	<u>Dismissal</u>

(15) Possession of an Unauthorized Intoxicant, Narcotic, Barbiturate, Hallucinogenic drug, Central nervous system stimulant, Weapon or Firearm on DC Property	<u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u>	<u>Dismissal</u>
(16 [±]) Reporting to Work under the Influence of an Intoxicant, Narcotic, Barbiturate, Hallucinogenic drug, or Central nervous system stimulant	<u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u>	<u>Dismissal</u>
(17 [±]) Drinking an Intoxicant or using a Narcotic, Barbiturate, Hallucinogenic drug, or Central nervous system stimulant on the job	<u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u>	<u>Dismissal</u>
(18) Failure to maintain direct (sight) supervision of assigned medium, close or maximum custody inmates while outside the institution security perimeter	Written Reprimand, up to 30 days of <u>Suspension,</u> <u>Demotion,</u> or <u>Dismissal</u>	<u>Dismissal</u>	<u>Dismissal</u>	<u>Dismissal</u>
(19) Leaving the Assigned Work Station without Authorization	<u>Written Reprimand,</u> <u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u>	<u>Dismissal</u>
(20) Use of Corporal Punishment or Hazing, Verbal or Physical Abuse of an Inmate	<u>Written Reprimand,</u> <u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u>	<u>Dismissal</u>
(21) Falsification of <u>Documents (Job Related) Forms or Records</u>	<u>Written Reprimand,</u> <u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u>	<u>Dismissal</u>
(22) Conduct Unbecoming a Public Employee or <u>Failing to Maintain a Proper Level of Professionalism</u>	<u>Written Reprimand,</u> <u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Written Reprimand,</u> <u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Suspension, Demotion,</u> <u>Dismissal</u>	<u>Dismissal</u>
(23) Theft of State <u>Stealing DC Property, or Property of Another an Inmate Visitor or Employee</u>	<u>Written Reprimand,</u> <u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u>	<u>Dismissal</u>

(24) Willful Violation of Rules, <u>Procedures, Post Orders, Regulations, Directives, or Policy Statements</u>	<u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u>	<u>Dismissal</u>
(25) Unauthorized Use of <u>State DC</u> Equipment, Property, or Weapons	<u>Written</u> <u>Reprimand,</u> <u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u>	<u>Dismissal</u>
(26) Insubordination	<u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u>	<u>Dismissal</u>
(27) Destruction or Abuse of <u>State DC</u> Property or Equipment	<u>Written</u> <u>Reprimand,</u> <u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Dismissal</u>	<u>Dismissal</u>
(28) Destruction of Evidence, or Giving False Testimony <u>or False Statements and/or Coercion of Others to do the same</u>	<u>Suspension,</u> <u>Demotion,</u> or <u>Dismissal</u> <u>Written</u> <u>Reprimand, up to</u> <u>30 days</u>	<u>Dismissal</u>	<u>Dismissal</u>	<u>Dismissal</u>
(29) Unlawfully Obtaining <u>Items of Value Money</u> from or on behalf of an Inmate or Person under <u>FDC</u> Supervision	<u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u>	<u>Dismissal</u>
(30) Failure to Report and Turn in Without Delay all Property Found, Seized, or Taken <u>in One's Official Capacity as an Employee Officially</u>	<u>Written</u> <u>Reprimand,</u> <u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u>	<u>Dismissal</u>
(31) Failure to Submit to a Required Physical Exam	<u>Written</u> <u>Reprimand,</u> <u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u>	<u>Dismissal</u>
(32) Failure to follow Oral or Written Instructions	<u>Written</u> <u>Reprimand,</u> <u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Written</u> <u>Reprimand,</u> <u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Suspension, Demotion,</u> <u>Dismissal</u>	<u>Dismissal</u>
(33) Abuse of Sick Leave Privileges	<u>Written</u> <u>Reprimand,</u> <u>Suspension,</u> <u>Demotion,</u> <u>Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u>	<u>Dismissal</u>
(34) Careless or Unsafe Handling of Firearms or Other Weapons (<u>Job Related</u>)	<u>Written</u> <u>Reprimand,</u> <u>Suspension,</u> <u>Demotion,</u>	<u>Dismissal</u> Same	<u>Dismissal</u>	<u>Dismissal</u>

	<u>Dismissal</u> Same			
(35) Cowardice <u>on the Job</u>	<u>Written Reprimand, Suspension, Demotion, Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u>	<u>Dismissal</u>
(36) Failure to report for duty when instructed to do so in time of emergency or potential emergency	<u>Written Reprimand, Suspension, Demotion, Dismissal</u> Same	<u>Dismissal</u> Same	<u>Dismissal</u>	<u>Dismissal</u>
(37) Violation of Law, whether or not on the job (conviction not required, not including civil infractions)	<u>Written Reprimand, Suspension, Demotion, Dismissal</u>	<u>Written Reprimand, Suspension, Demotion, Dismissal</u>	<u>Suspension, Demotion, Dismissal</u>	<u>Dismissal</u>
(38) Disruptive Conduct on the Job	<u>Written Reprimand, Suspension, Demotion, Dismissal</u>	<u>Written Reprimand, Suspension, Demotion, Dismissal</u>	<u>Suspension, Demotion, Dismissal</u>	<u>Dismissal</u>
(39) Discrimination and/or Harassment on the Job	<u>Dismissal</u>	<u>Dismissal</u>	<u>Dismissal</u>	<u>Dismissal</u>
(40) Failure to Remain Mentally Alert on the Job	<u>Written Reprimand, Suspension, Demotion, Dismissal</u>	<u>Written Reprimand, Suspension, Demotion, Dismissal</u>	<u>Suspension, Demotion, Dismissal</u>	<u>Dismissal</u>

Rulemaking Authority 944.09 FS. Law Implemented 110.227, 112.0455, 944.09, 944.14, 944.35, 944.36, 944.37, 944.38, 944.39, 944.47 FS. History–New 10-8-76, Formerly 33-4.03, Amended 1-30-96, Formerly 33-4.003, Amended 8-5-07, 11-13-07, 1-31-10,_____.