



GUIDELINES TO THE
DISCIPLINARY PROCESS
FOR CLASSIFIED EMPLOYEES

OFFICE OF HUMAN RESOURCES

WILLIAM PATERSON UNIVERSITY
GUIDELINES TO THE DISCIPLINARY PROCESS FOR CLASSIFIED EMPLOYEES
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OVERVIEW AND INTRODUCTION

Employees must be informed about performance expectations and appropriate conduct or behaviors in the workplace. This information can be transmitted through a variety of sources/ approaches including performance appraisals, position descriptions, coaching, training, counseling and informal discussions.

When expectations are not met, implementation of formal disciplinary proceedings may be an appropriate next step. The University takes a corrective and progressive approach to performance and behavioral improvement. Once performance problems or inappropriate behaviors are identified, the supervisor or manager must determine the appropriate and most effective approach to resolving the issues. This determination can involve complex issues and require consideration of a variety of factors.

Progressive discipline, as the term implies, takes a measured approach to the severity of sanctions imposed. Generally, the least severe sanction believed appropriate to correct the performance or behavior should be imposed first. Subsequent infractions should result in progressively more severe sanctions to achieve the desired behavior modification or performance improvement. To be effective, the imposition of disciplinary action must be timely, appropriate, and directly related to the seriousness of the infraction committed by the employee.

Although the University's philosophy is that sanctions are to be corrective and progressive in nature, there may be instances where the first infraction of serious misconduct, performance problems, violation of laws, University policies, procedures or practices may warrant the imposition of a more severe sanction, up to and including termination.

Although there may be hesitancy to initiate disciplinary measures, it is a managerial responsibility that should not and cannot be avoided. Supervisors and managers must execute this duty without regard to race, creed, color, national origin, nationality, ancestry, age, sex/gender (including pregnancy), marital status, civil union status, domestic partnership status, familial status, religion, affectional or sexual orientation, gender identity or expression, atypical hereditary cellular or blood trait, genetic information, liability for service in the Armed Forces of the United States, or disability;

and regardless of an employee's political or union affiliation, or an employee's utilization of the Conscientious Employee Protection Act (CEPA).

The Guidelines to the Disciplinary process for Classified Employees have been established to assist supervisors and managers in carrying out their responsibilities regarding disciplinary actions. Guidelines are intended to provide general direction in the administration of the disciplinary process and serve as an informational source. These guidelines are not to be considered binding on the University. They include examples of common grounds for disciplinary action and are not to be considered all-inclusive since other circumstances may present just cause to impose disciplinary action.

PART ONE: DISCIPLINARY SANCTIONS

The sanction for the first violation will usually fall within the range of the first infraction and progress to the next step for recurrence of the same violation. However, the first incident of a particular violation may be so egregious that it results in a disciplinary action that warrants sanction beyond the range of first infraction.

If an employee has previous disciplinary violations on his/her record that are unrelated in nature to the current violation, the previous record may be grounds for utilizing the higher end of the range of disciplinary action.

Note: When a particular violation involves conduct of a criminal nature, consultation with the Office of Human Resources is required before any action is taken.

Legend for Disciplinary Sanction

<u>Symbol</u>	<u>Type of Action</u>	<u>Description of Action</u>
C	Counseling	Informs the employee of the need to correct his/her behavior to comply with rules and/or performance. Advises employee of potential disciplinary action(s) if the unacceptable conduct or performance is repeated. It is accompanied by a written memorandum detailing the specifics of the counseling session. This is not an official discipline and is not subject to appeal by the employee. However, it is a forewarning.
WR	Written Reprimand	A written notice to the employee that the conduct or performance is unsatisfactory for a specific reason. The notice must state that it is a reprimand and should warn the employee that any recurrence may result in more severe disciplinary action, including, where appropriate, the possibility of separation from employment with the University.
Days	Number of working days of suspension	Suspension without pay (may include a holiday which will also be without pay and count as one (1) suspension day).
Demotion	Demotion	A downgrade in title.
Removal	Removal	Permanent separation from employment.
Fine	Fine	Fines can be imposed as a means of restitution or in lieu of a suspension without pay where attendance is at issue.

Supervisors should consult with the Office of Human Resources before initiating any disciplinary action.

PART TWO: DISCIPLINARY PROCEDURES

I. PURPOSE

The following procedures and guidelines for discipline apply to all classified employees at William Paterson University who have completed the probationary period. These procedures are designed to address issues that have caused behavioral or performance problems and enable employees to continue being effective. They are also intended to provide an equitable process for adjudicating allegations of violation of University policies or procedures, or applicable state or federal laws or regulations. The application of these procedures shall at all times be consistent with New Jersey Civil Service Commission regulations, state and federal law and applicable state collective bargaining unit agreements.

II. DISCIPLINARY VIOLATIONS

Violations of University policies or procedures, or applicable state or federal laws or regulations shall be considered disciplinary violations and employees shall be subject to formal disciplinary action.

III. DUE PROCESS

Employees charged with violations of University policies or procedures, or applicable state or federal laws or regulations have the right to “due process.” This right entitles each employee to a fair and objective hearing, and the right to appeal formal disciplinary decisions as stipulated in these procedures.

IV. PRINCIPLE OF PROGRESSIVE DISCIPLINE

The principle of progressive discipline is based on the belief that:

- A. All discipline should be designed to be corrective and developmental.
- B. The level of an assigned sanction should be proportionate to the severity of the violation.
- C. When there is a pattern of violations, progressively more severe sanctions should be issued at each occurrence.

Where appropriate in the context of due process, William Paterson University shall apply progressive discipline to address performance violations and/or inappropriate conduct on the part of the employee.

Please note that referral to the Employee Assistance Program (EAP) may be used for employees who have failed to respond to other forms of constructive action or for employees whose performance is adequate and suddenly becomes unsatisfactory. This unsatisfactory job performance

may be due to personal problems (drugs, alcohol, family, etc.) or untreated health issues. The cause of the unsatisfactory job performance is irrelevant. A supervisor's job is to ensure that the employee does his/her job.

A referral to EAP is usually used in conjunction with employee counseling, written reprimand and other forms of constructive discipline.

EAP shall also provide access to counseling, rehabilitative and/or community services for a University employee who: 1) has received an unsatisfactory final performance rating, 2) is experiencing personal problems which affect job performance, 3) has a family member who is experiencing personal problems which affect the employee's job performance.

V. LEVELS OF DISCIPLINARY SANCTION

The level of sanction and/or amount of fine assessed to employees for disciplinary violations shall be determined on a case by case basis and shall be governed by the severity of the violation, the surrounding circumstances and the disciplinary history. The types of violations and recommended sanctions included in Part Three herein will serve as a guide in assessing the appropriate sanctions. While William Paterson University subscribes to the principles of progressive discipline, nothing in this procedure shall preclude the issuance of higher level sanctions (including removal from employment) for serious violations, even if they constitute first violations. The following are examples of disciplinary sanctions:

- Employee Counseling
- Written Reprimand (First Level of Official Discipline)
- Record Suspension
- Suspension Without Pay
- Demotion
- Removal
- Fine

(See Legend for Disciplinary Sanction on page 7 for definitions.)

VI. RESPONSIBILITY OF SUPERVISOR

Supervisors are required to initiate meetings with employees who show signs of unsatisfactory conduct or performance as indicated herein and attempt to resolve any issues, and if necessary and/or appropriate, offer assistance.

To that end, supervisors are responsible for timely documenting and reporting all performance and conduct issues to the Office of Human Resources and to department heads. In consultation with the Office of Human Resources staff, supervisors and department heads shall then address job performance and behavioral issues through early intervention and corrective actions consistent with these procedures.

VII. PRELIMINARY INVESTIGATION/FACT FINDING

Upon receiving a written report alleging performance deficiencies or conduct violations from a supervisor, the department head or a designee will conduct a preliminary investigation to determine the facts of the case. In conjunction with the preliminary investigation, the investigating officer may interview the involved parties for the purpose of collective questioning (Fact-Finding Meeting) or may speak with the parties individually. The employee who is alleged to have committed the violation shall be afforded the opportunity for union representation during the interview. Both the supervisor and the employee in question will have an opportunity to respond to the allegations and present evidence to the investigating officer in support of their positions. Based on the statements and evidence presented by the parties in the preliminary investigation, the investigating officer may determine to either dismiss the charges or forward a recommendation to initiate disciplinary action to the Office of Human Resources. After review of the charges and supporting documentation, the Office of Human Resources will make a determination to issue a notice of formal charges.

Participants and Roles in Preliminary Investigation:

- A. Supervisor: offers testimony and documentation to support the alleged charges.
- B. Employee: testifies on his/her own behalf and presents evidence to support his/her defense.
- C. Union Representative: counsels the employee and acts as an observer to ensure that the employee's rights of "due process" are honored. In the fact-finding stage, the union representatives may not speak in lieu of the employee, and may not cross-examine witnesses.
- D. Investigating Officer (Department Head or a designee): represents the University. He/she hears each party's account, questions the parties for purposes of clarification and ensures the integrity of the fact-finding process.

VIII. OUTCOME OF PRELIMINARY INVESTIGATION

The preliminary investigation may result in one of the following outcomes:

- A. Dismissal of Allegations:
If the department head or a designee determines that there is insufficient evidence to support the claim of alleged violation(s), the case is dismissed and no further action is taken.
- B. Issuance of Formal Disciplinary Charges:
If the department head determines that there is sufficient evidence to support the claim, he/she will issue a recommendation of disciplinary action proportionate to the severity of the violation(s). The recommendation will be forwarded to the Office of Human

Resources for final review and issuance of formal notice of the disciplinary charges and recommended sanctions, if warranted.

Although charges should be issued as soon as possible, charges may be issued within one year of the date the University knew or should have known of the alleged violation. For employees in law enforcement titles, charges must be issued within 45 days.

All notices of charges shall include:

- A. a brief description of the violation(s) (See Appendix II: N.J.A.C. 4A:2-2.3.), which include:
 - 1. Incompetence, inefficiency, or failure to perform duties.
 - 2. Insubordination.
 - 3. Inability to perform duties.
 - 4. Chronic or excessive absenteeism.
 - 5. Conviction of a crime.
 - 6. Conduct unbecoming a public employee.
 - 7. Neglect of duty.
 - 8. Misuse of public property.
 - 9. Discrimination that affects equal employment opportunity, including sexual harassment.
 - 10. Violation of Federal regulations concerning drug and alcohol use by and testing of employees who perform functions related to the operation of commercial motor vehicles, and State and local policies issued thereunder.
 - 11. Other sufficient cause;
- B. the underlying facts that support the charge (specification);
- C. the corresponding Administrative Code and/or NJ statute reference;
- D. the investigator's recommended sanction.

IX. RIGHT TO APPEAL

After receiving the formal notice of disciplinary action resulting from the preliminary investigation, the employee has the option of accepting the sanction(s) or filing an appeal. Appeals must be filed in accordance with contractually stipulated timeframes. Said timeframes may be extended by mutual agreement of the parties.

X. FORMAL DISCIPLINARY HEARING

The formal disciplinary hearing provides the employee a second venue to refute the charges or argue for reduced sanctions.

Participants and Roles:

- A. Management Representative – presents evidence that supports the charges filed against the employee. At the formal hearing stage, the University representative may call and cross-examine witnesses.
- B. Employee – testifies in his/her own defense and presents evidence which refutes the charges.
- C. Union Representative or Attorney (as prescribed by collective bargaining agreement) – represents and advocates for the employee; ensures adherence to contract stipulations. At the formal hearing stage, the union representative may call and cross-examine witnesses.
- D. Investigating Officer – testifies and presents evidence obtained in the fact-finding phase of the investigation.
- E. Hearing Officer – conducts the hearing, reviews all evidence and makes a determination to sustain, alter or dismiss the recommended sanction.

XI. OUTCOME OF FORMAL DISCIPLINARY HEARING

The formal disciplinary hearing will result in one of the following outcomes:

A. Determination to Sustain Recommendation

The Hearing Officer determines that the evidence and testimony supports the original disciplinary recommendation and sustains the sanctions proposed by the investigating officer.

B. Issue Alternative Sanctions

The Hearing Officer may impose an alternative sanction based on the evidence and testimony presented. Alternative sanctions may be of lesser or greater severity.

C. Dismiss the Recommendation

The Hearing Officer determines that there is insufficient evidence to support the allegations and dismisses the original disciplinary recommendation.

XII. APPEAL PROCESS

If the Hearing Officer sustains the original disciplinary recommendation, the employee may exercise the option to appeal the action. Appeals shall be filed within applicable timeframes established by the respective collective bargaining agreements.

PART THREE: TYPES OF VIOLATIONS AND RECOMMENDED SANCTIONS

The following guidelines specify the type of violation followed by a brief definition.

Recommended sanctions from the first infraction to the fourth infraction appear below the definition.

I. ATTENDANCE

Employees are expected to be at their work station or work site during all scheduled work shifts and must comply with official starting and ending times, meal breaks, and rest periods. Each employee should be informed of these official work hours immediately upon assignment to a work unit and/or reassignment to another work unit or a new supervisor.

Violations in this category disrupt work schedules, reduce productivity and require duplication of effort in rescheduling work, and may result in delay and/or failure to provide necessary emergency and other high priority services.

A. Unauthorized Absence

Absence from a scheduled work shift without permission, including planned overtime once accepted, and with or without giving proper notice of intended absence, including failure to provide documentation when requested. This includes situations where employees report to work, leave without permission, and fail to return to work, as well as employees who fail to observe working hours such as taking extended breaks and lunches.

In instances where an employee is required to document an absence due to an illness, he/she must meet the requirements of William Paterson University Sick Leave Policy or any “preexisting supervisory directives.”

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>	<u>4th Infraction</u>
<i>WR-2 days</i>	<i>3 days-5days</i>	<i>6 days-15 days</i>	<i>Removal</i>

Note: Should the first or second violation of unauthorized absence involve more than one (1) consecutive day, the incident should be treated as one event and the penalty should be the high end of the range. In subsequent unauthorized absences of multiple consecutive days, each day of unauthorized absence should be treated as a separate incident for the purpose of determining the appropriate penalty.

B. Job Abandonment

Absence without approval for five consecutive scheduled workdays or failure to tender a written resignation with 14 days notice. This is an administrative action and not considered to be a disciplinary action, but is included for information since it concerns an attendance problem. Processing should begin after five days. The employee is presumed to have resigned not in good standing.

C. Chronic or Excessive Absenteeism

Any employee who has exhausted his/her paid sick leave may be charged with chronic and/or excessive absenteeism, after written notice, depending upon the employee’s overall attendance record, the operational needs of the work unit and the reasons for the employee’s current absences without pay. This is applicable to either intermittent absences of short duration or repetitive long-term absences. Before action can be taken, employees must receive counseling and be placed on written notice regarding amount of absenteeism that will be considered chronic or excessive during a specified period of time before action can be taken. Consult the Office of

Human Resources for guidance and review of employee's attendance record. Also, if a supervisor believes that chronic and/or excessive absenteeism may be covered under a Family Medical Leave Act, the Office of Human Resources should be contacted before taking any action.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>	<u>4th Infraction</u>
<i>WR-1 day</i>	<i>2 days-5 days</i>	<i>6 days-15 days</i>	<i>Removal</i>

D. Tardiness

Failure to report to work on time. Factors to consider when determining appropriate disciplinary action include (but are not limited to) the amount of time late, effect of lateness on starting work assignment on time (delays and/or special transportation requirements), causing overtime on seven (7) day coverage jobs, causing rescheduling of daily assignments, and amount of time between infractions (decreasing, constant, or increasing interval). Employees who are more than 15 minutes late may, at the discretion of the supervisor and with prior written notice, be denied the opportunity to work the balance of the work shift and placed on authorized absence without pay.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>	<u>4th Infraction</u>
<i>C-1 day</i>	<i>2 days-5 days</i>	<i>6 days-15 days</i>	<i>20 days-Removal</i>

E. Refusal to Work Regular or Emergency Overtime

Employees with reasonable excuses shall be excused from overtime unless excuses become excessive. "Excessive" must be clearly defined by the University and/or the Department and based on operational needs. If the employee provides no reasonable excuse, disciplinary action may be taken.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>	<u>4th Infraction</u>
<i>WR-2 days</i>	<i>5 days-15 days</i>	<i>15 days-Removal</i>	<i>Removal</i>

F. Failure to be Available for Emergency Overtime

Employees involved in emergency work operations are expected to be available to work emergency overtime as a condition of employment. Employees who are scheduled to be available for emergency work for specified periods, (such as a weekly, biweekly or monthly period) must request to be excused from a particular assignment 24 hours in advance of the start of the assignment so that the request can be evaluated in terms of the University’s needs. Once a request to be excused is approved, and emergency overtime work is actually scheduled and worked for the employees’ emergency work shift, the employee shall be treated as if he/she rejected an offer of overtime for purposes of equalization of overtime. If such a request is denied, the employee must be available for emergency work.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>	<u>4th Infraction</u>
<i>WR-2 days</i>	<i>3 days-5 days</i>	<i>6 day-15 days</i>	<i>15 days-Removal</i>

G. Leaving Assigned Work Area Without Permission

Employees must be at their assigned work station or work site and must request permission to leave the area. Factors considered regarding this type of violation are the amount of time absent from the work area, where the employee went in terms of distance, whether alone or with others in his/her charge, whether using University equipment, and nature of work abandoned.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>	<u>4th Infraction</u>
<i>C-2 days</i>	<i>1 day-5 days</i>	<i>6 days-15 days</i>	<i>15 days-Removal</i>

II. PERFORMANCE

A. Inability to Perform Duties

The employee must be unable (physically, intellectually, psychologically, etc.) to perform the duties of the position. Although this condition is considered to be non-disciplinary in nature, the due process for resolving the problem may require charges being filed and affording the employee the right to a formal hearing. Since medical or psychological evidence is usually required, this matter must be referred to the Office of Human Resources for evaluation of such evidence and review of alternatives, if available.

Infraction

Demotion-Removal

B. Incompetence, Inefficiency or Failure to Perform Duties

This type of breach concerns an employee's inability to perform at a satisfactory level without any evidence of the cause being medically related. Performance documents and other records are required to initiate this type of disciplinary action.

1st Infraction

2nd Infraction

3rd Infraction

C-Demotion/Removal

WR-Demotion/Removal

Demotion/Removal

C. Insubordination

This violation is considered to be refusal or failure to carry out a specific legitimate order. Being disrespectful through obscene language or behavior is also considered insubordination. Discussion with the Office of Human Resources may be necessary to ascertain an appropriate sanction.

1. Refusal to carry out an order, resisting authority, disrespect or use of insulting or abusive language or gestures to a superior.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>
<i>WR-15 days</i>	<i>15 days-Removal</i>	<i>Removal</i>

2. An unreasonable delay in carrying out a specific, legitimate order.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>	<u>4th Infraction</u>
<i>C-1 day</i>	<i>1 day-5 days</i>	<i>6 days-15 days</i>	<i>15 days-Removal</i>

D. Physical Assault of a Supervisor

Threatening a supervisor with violence and/or committing a violent/physical act against a supervisor could result in removal for a first violation depending upon the circumstances surrounding the incident including provocation, extent of physical contact, and injury to a supervisor.

<u>1st Infraction</u>	<u>2nd Infraction</u>
<i>15 days-Removal</i>	<i>Removal</i>

E. Neglect of Duty

Failure to perform or complete tasks normally assigned by a supervisor and associated with the responsibilities of the position (Note: This is in contrast to insubordination which is the refusal or failure to carry out a specific order). When neglect of duty creates potential danger to persons or property or actual personal injury, property damage or loss, the warranted disciplinary action should be more severe.

1st Infraction 2nd Infraction 3rd Infraction 4th Infraction

C-5 days 1 day-15 days 30 days Demotion/Removal

F. Idleness/Loafing

Failure to work, without good reason, when active work is underway or failure to work at a minimally acceptable pace.

1st Infraction 2nd Infraction 3rd Infraction 4th Infraction

C-5 days 6 days-15 days 30 days Demotion/Removal

G. Inattention to Duty/Excessive Fatigue/Sleeping on the Job

Any instance of inattention to duty, excessive fatigue or sleeping on the job is a violation. However, if this violation occurs when the employee has an obligation to be alert such as when operating equipment (shop, vehicles, boilers, etc.), or has an obligation for security of assets or safety of others, severe disciplinary action is warranted.

1st Infraction 2nd Infraction 3rd Infraction

C-5 days 6 days-15 days 15 days-Removal

H. Failure to Report Loss, Theft or Damage

This includes failure to notify management of a motor vehicle accident in a University vehicle within the required time frame. If failure to report is a result of an employee trying to avoid personal responsibility, disciplinary action beyond the normal first step of the range for this violation should be taken.

1st Infraction 2nd Infraction 3rd Infraction 4th Infraction

WR-5 days 1 day-15 days 3 days-Removal Removal

I. Unauthorized Use of University Vehicles, Equipment or Facilities

This violation involves the use of University assets without authorization. Factors that warrant more severe disciplinary action include (but are not limited to): when other employees are passengers and are prevented from performing their assignments; excessive time and/or mileage of unauthorized use; taking equipment or vehicles to public areas not in immediate vicinity of work site; large amount of unauthorized work (i.e. copies) produced on equipment (shop or office).

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>
<i>WR-5 days</i>	<i>5 days-15 days</i>	<i>20 days-Removal</i>

J. Unauthorized or Inappropriate Use of Office Equipment Systems

Violations include the inappropriate or unauthorized use of PCs, the Internet, fax machines, mobile phones, pagers, copy machines, or any other electronic communication device. Examples of inappropriate uses include sending, receiving, or photocopying any material that is not directly related to University business, use of these devices for unlawful activities, using abusive or objectionable language in either public or private messages, misrepresenting oneself or the University, lobbying public officials, sending chain letters, playing computer games, using public distribution lists to distribute personal information, accessing non-business related Internet sites, or any other activity that could cause congestion or disruption to University communication network. Examples of unauthorized uses include any attempt to access computer systems or data for which access rights have not been provided and for not exercising reasonable caution to ensure personal passwords remain confidential.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>
<i>C-5 days</i>	<i>5 days-15 days</i>	<i>20 days-Removal</i>

K. Waste of Materials or Supplies

Violations include using more materials or supplies than prudent or necessary in the performance of one's job. If the action of the employee is deliberate and/or malicious, more severe disciplinary action is warranted.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>	<u>4th Infraction</u>
<i>C-WR</i>	<i>WR-2 days</i>	<i>3 day-5 days</i>	<i>15 days-Removal</i>

L. Suspension of Driver's License When Such is Required for the Position

If an employee immediately informs his/her supervisor of the suspension and can perform productive work in current job title without driving for a limited time, no action is necessary. If suspension of the driver's license is for more than two months but less than six months, a demotion to a non-driving title or assignment for the period of suspension may be appropriate. If demotion is appropriate, the employee shall be requested to submit a voluntary request for demotion due to the suspension of the driver's license.

If voluntary demotion is not submitted in writing or if the employee fails to report the suspension, then a disciplinary demotion action is required which may include one or both of the related charges described below in subsections M and N.

If the driver's license suspension will be in effect longer than six months, the matter must be discussed with the Office of Human Resources since termination for inability to perform their duties may be appropriate.

M. Failure to Report Suspension of Driver's License

Employees whose position requires a driver's license must report the suspension of driving privileges to their supervisor as soon as they are aware of the suspension. A

demotion may be considered and made retroactive for those employees who fail to notify their supervisor in a timely fashion of the loss of their driving privileges.

All employees who are required to possess a driver’s license have a responsibility to ensure that the Motor Vehicle Commission has their most recent address on file.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>
<i>2 days</i>	<i>15 days</i>	<i>Removal</i>

N. Driving on the Job While Driver’s License is Suspended

The University will not condone any instance of driving on the job with a suspended license. Factors to be considered in determining disciplinary action include (but are not limited to) length of time license was suspended and the number of times a vehicle was driven during the suspension.

<u>1st Infraction</u>	<u>2nd Infraction</u>
<i>5 days-15 days</i>	<i>Removal</i>

O. Failure to follow University Policies and Procedures, and/or Department Rules and Regulations

If an employee fails to follow a particular department work rule, or a William Paterson University policy and/or procedure and there is no specific infraction covered in this Part Three of this document, the following penalties should be utilized.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>	<u>4th Infraction</u>
<i>C-3 days</i>	<i>WR-3 days</i>	<i>3 days-5 days</i>	<i>10 days-Removal</i>

Coordination with the Office of Human Resources is necessary to determine the severity of the violation.

Note: If the violation of policy, rules or procedures results in personal gain for the employee, creates an unsafe situation or the potential for liability, more severe discipline should be considered including fine for restitution.

III. PERSONAL CONDUCT

A. Theft or Misappropriation (attempted or actual) of Personal or University Property
This violation is an extremely serious matter that warrants major disciplinary action, up to an including removal. A violation of this nature must be referred to the Office of Human Resources.

B. Possession of Stolen Property

Possession of stolen property on University premises warrants the following actions in addition to referral to the Office of Human Resources and appropriate law enforcement officials. Possession of stolen University property, on or off premises, warrants more severe disciplinary action.

<u>1st Infraction</u>	<u>2nd Infraction</u>
<i>5 days-Removal</i>	<i>Removal</i>

C. Conviction of a Crime

Due to the complexity and scope of this violation, immediate referral to the Office of Human Resources is required. Appropriate disciplinary action can vary from resignation to removal. Under State law, an employee automatically forfeits his/her position if he/she is convicted of a crime involving dishonesty, a crime of third degree or above, or a violation that touches and concerns his/her employment. Immediate suspension with or without pay may be in order, pending removal charges.

D. Assault and/or Battery

1. Assault and/or battery involves physical contact where blows are struck. Use of a weapon or object to inflict bodily injury or if injuries require medical treatment or property damage result, more severe disciplinary action is warranted. Campus Police must be notified immediately.

Infraction

15 days-Removal

2. Brandishing any object or tool which could potentially be a lethal weapon in a threatening manner. Campus Police must be notified immediately.

1st Infraction 2nd Infraction

15 days-Removal Removal

3. Physical contact in the form of pushing or shoving, with no blows struck. More severe action is warranted for same reasons listed in 1. Campus Police must be notified immediately.

1st Infraction 2nd Infraction 3rd Infraction

1 day-15 days 5 days-Removal Removal

4. Verbal threats of violence, intimidation, coercion or interference. Campus Police must be notified immediately.

1st Infraction 2nd Infraction 3rd Infraction

WR-5 days 6 days-15 days Removal

E. Sexual Harassment

Sexual Harassment is defined as any unwelcome sexual advance(s), request for

sexual favors(s), including repeated offensive sexual flirtation, proposition(s), continual or repeated abuse of a sexual nature, verbal or written sexually related comments about an individual's body, display of sexually suggestive objects or pictures, or any uninvited physical contact or touching , such as patting, pinching, or constant brushing against another's body. Unwelcome sexual advance(s), request(s) for sexual favor(s) and other verbal or physical conduct of a sexual nature also constitutes sexual harassment when:

1. Submission to unwelcome sexual advances, requests for sexual favors and/ or other verbal or physical conduct, based on the gender of the employee, has either explicitly or implicitly been made a term or condition of the targeted employee's employment.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>
<i>5 days-Removal</i>	<i>30 days-Removal</i>	<i>Removal</i>

2. Submission to or rejection of unwelcome sexual advances, requests for sexual favors and/or other verbal or physical conduct, based on the gender of the employee, has been used as the basis for employment decisions affecting the targeted employee.

<u>1st Infraction</u>	<u>2nd Infraction</u>
<i>30 days-Removal</i>	<i>Removal</i>

3. Unwelcome sexual advances, requests for sexual favors and/or other verbal or physical conduct, based on the gender of the employee, has been used for the purpose of or has had the affect of unreasonably interfering with the targeted employee's work or performance or created an unreasonably intimidating, hostile or offensive working environment, which includes:
 - a. Generalized gender based remarks and behavior.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>
<i>C-1 day</i>	<i>WR-Removal</i>	<i>Removal</i>

b. Inappropriate unwanted, offensive physical or verbal sexual advances and comments.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>	<u>4th Infraction</u>
<i>WR -10 days</i>	<i>5 days-Removal</i>	<i>10 days-Removal</i>	<i>Removal</i>

c. Solicitation of sexual activity or other sex linked behavior by promise of reward.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>	<u>4th Infraction</u>
<i>WR-10 days</i>	<i>10 days-30 days</i>	<i>30 days-Removal</i>	<i>Removal</i>

d. Coercion of sexual activity by threat of punishment.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>
<i>5 days-Removal</i>	<i>30 days-Removal</i>	<i>Removal</i>

e. Gross sexual imposition such as touching, fondling, grabbing or assault.

<u>1st Infraction</u>	<u>2nd Infraction</u>
<i>30 days-Removal</i>	<i>Removal</i>

f. Other conduct

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>
<i>C - Removal</i>	<i>5 days-Removal</i>	<i>Removal</i>

Due to the complexity and scope of this violation, immediate referral to the Office of Human Resources and to the Office of Employment Equity and Diversity is required. Appropriate action can vary from written reprimand to removal. Temporary reassignment or suspension may be in order pending a fact finding hearing.

F. Discrimination

Discrimination, based on race, sex/gender, color, age, national origin, disability, sexual orientation, religion, marital status, civil union status, domestic partnership status, gender identity or expression, or any other protected category, overt or covert, in the form of racial slurs, ethnic slurs, name-calling, comments on physical appearance, or other like behavior, is a violation. Overt discrimination may include the circulation of racially offensive material, the writing or displaying of sexually oriented material in public view, etc., or racial/ethnic jokes and comments, with or without intent to be malicious. Covert discrimination may take the form of differential treatment in work assignments, promotional opportunities, hiring practices, etc. Among the factors to be considered when determining penalties for discrimination are intent, malice, past-practice, impact, etc.

Violations must be immediately referred to the Office of Human Resources and to the Office of Employment Equity and Diversity. Appropriate action can vary from written reprimand to removal. Temporary reassignment or suspension may be in order pending a fact finding hearing.

G. Falsification

Falsification is intentional misstatement or omission of a material fact in connection with employment application, attendance, or in any record, report, investigation or other proceeding. This category also includes tampering with or altering any public database or University record. If the employee is attempting to benefit

personally or to hide or obscure his or her personal involvement in this violation or criminal act, the disciplinary action to be taken should be very severe.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>
<i>WR-Removal</i>	<i>20 days-Removal</i>	<i>Removal</i>

H. Willful Damage to University Property, Property of Employees or Visitors on University Premises

This category includes damage which is intentional or deliberate.

Fines as restitution to recover the value of University property are appropriate in addition to other concurrent disciplinary action.

<u>1st Infraction</u>	<u>2nd Infraction</u>
<i>WR-Removal + fine</i>	<i>15 days-Removal + fine (restitution)</i>

I. Negligent Damage/Loss to University Property

This section differs from willful damage in that the damage/loss was not intentional or deliberate. Accidental damage/loss is defined as that which could have been prevented if employee had used proper caution or followed safety requirements.

Fines as restitution to recover value of University property are appropriate.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>
<i>C-WR + fine</i>	<i>WR-5days + fine</i>	<i>5 days-15 day + fine</i>
		<i>15 days-Removal + fine</i>

J. Divulging Confidential Information Without Authorization

This violation must be referred to the Office of Human Resources for investigation and determination of appropriate action. Removal may be appropriate for the first violation.

1st Infraction 2nd Infraction

C-Removal Removal

K. Conduct Unbecoming a Public Employee

Immoral or indecent conduct unbecoming an employee is a serious violation which normally is cause for removal unless there are substantial mitigating circumstances.

Any improper conduct in view of the general public that may reflect poorly on the University, although seemingly minor, may also have serious implications.

Any act committed by a supervisor which is either an abuse of their official position, or violates the State of New Jersey Uniform Ethics Code, is included herein.

1. Immoral, Indecent or Other Serious Acts of Misconduct

1st Infraction 2nd Infraction

15 days-Removal Removal

2. Engaging in Improper Conduct, Horseplay or Rudeness/Discourteousness to the Public

1st Infraction 2nd Infraction 3rd Infraction

C-3 days 3 days-15 days 5 days-Removal

3. Ethics Violations

Written reprimand to removal depending upon the nature and extent of the infraction. Any ethics violation should be referred to the Office of Human Resources. Fines as restitution may be appropriate.

Infraction

WR-Removal + fine

L. Inappropriate and/or Continual Use of Obscene Language

Violations include use of obscene language not reasonably associated with workplace standards.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>	<u>4th Infraction</u>
<i>C-WR</i>	<i>WR-5 days</i>	<i>10 days-Removal</i>	<i>Removal</i>

M. Engaging in Any Form of Political Activity During Working Hours

Questions regarding political activity and ethical standards should be referred to the Office of Human Resources.

<u>1st Infraction</u>	<u>2nd Infraction</u>
<i>C-WR</i>	<i>Removal</i>

N. Neglect of Supervisory Responsibilities

This category would include any negligent behavior by a supervisor. Such acts serve to erode employee morale and discipline, damage management credibility and reflect negatively on the professionalism of the employee and the image of the University. Due to the complexity and scope of this violation, immediate referral to the Office of Human Resources is required. Appropriate action can vary from counseling to removal.

O. Unauthorized and/or Abusive Use of the University Radio Communication System

Disruptive transmissions, obscene language, “cat” calls, or unauthorized rebroadcast of commercial stations, all adversely affect the University’s ability to effectively communicate with employees and disrupt field operations. Such improper use of the radio system is a violation of Federal Communication Regulations and is punishable by a \$10,000 fine and/or imprisonment. Uncontrolled use by individuals could

result in revocation of the University’s license. This violation may result in removal after the first offense.

<u>1st Infraction</u>	<u>2nd Infraction</u>
<i>5 days-Removal</i>	<i>Removal</i>

P. Unhygienic Personal Habits

Counseling is mandatory as a first step to correct this behavior. Efforts to correct the problem should be coordinated with the Office of Human Resources to ensure that the problem is not health related.

<u>1st Infraction</u>	<u>2nd Infraction</u>	<u>3rd Infraction</u>	<u>4th Infraction</u>
C-WR	WR-5 days	3 days-15 days	15 days-Removal

IV. ALCOHOL AND DRUG USE

A. Inability to Perform Due to Impairment

This violation applies to those circumstances where an employee either reports for work or is actually on duty when he or she cannot safely, efficiently, or effectively perform normal assignment duties due to any impairment caused by substance abuse, including alcohol.

If the employee serves in a title requiring a Commercial Driver’s License (CDL), the University’s drug and alcohol testing procedure should be followed including completion of the “Reasonable Suspicion-Supervisor’s Observation Report Form” (See page 35) and required testing.

If the employee serves in a title other than one requiring a CDL, the supervisor should complete the aforementioned observation report form, notify management,

and have the employee immediately transported to the nearest authorized medical facility for evaluation.

In circumstances where the “Reasonable Suspicion” standard has been met, the employee should be suspended immediately. Arrangements are to be made for a relative or friend to transport the employee off University premises because he/she will not be permitted to drive his/her personal vehicle. If unable to arrange transportation by family or friend, the University will authorize supervision to transport the employee off University premises to the appropriate destination (depending on circumstances) at the earliest possible time. Where the circumstance has the potential to cause physical harm to the employee or others, the recommended discipline should be more severe.

<u>1st Infraction</u>	<u>2nd Infraction</u>
<i>2 months-Removal</i>	<i>Removal</i>

B. Use of Alcoholic Beverages While on the Job

Employees are not permitted to consume alcoholic beverages during work hours.

<u>1st Infraction</u>	<u>2nd Infraction</u>
<i>1 month-6 months</i>	<i>Removal</i>

C. Possession, Distribution and/or Selling of Alcoholic Beverages

Employees are not permitted to possess, distribute and/or sell alcoholic beverages in University vehicles or anywhere on University property, including but not limited to work sites, shops, yards, offices or student facilities, including residence halls. Violations on University premises may be cause for removal for first offense.

<u>1st Infraction</u>	<u>2nd Infraction</u>
<i>1 month-Removal</i>	<i>Removal</i>

D. Drug Use and/or Possession of Illegal Drugs

The use and/or possession of illegal drugs in the workplace are among the most serious breaches of discipline and will result in immediate suspension pending removal charges, as this activity will be cause for removal on the first offense. Immediate notification to Campus Police is required.

E. Selling and/or Distributing Illegal Drugs on University Premises

This violation is cause for immediate suspension, pending removal charges, as this activity will be cause for removal on the first violation. Immediate notification to Campus Police is required.

F. Refusal to Take a Federal Highway Administration (FHWA) Drug or Alcohol Test.

Any employee holding a commercial driver's license (CDL) who is directed to take either a drug or alcohol test and refuses to cooperate and participate in the testing process will be suspended without pay immediately as this activity will be cause for removal on the first violation.

G. Operating University Vehicles While Impaired

Any employee who operates a University vehicle of any type or any powered/motorized equipment while impaired due to either alcohol or illegal drug use will be suspended without pay, pending removal charges, as this activity will be cause for removal on the first violation.

H. Operating Powered Equipment While Impaired

Any employee who operates powered equipment while impaired due to either alcohol or illegal drug use will be severely disciplined up to and including removal.

I. Accident in University Vehicle While Impaired

Any employee who operates a University vehicle who either causes or is involved in an accident while impaired by illegal drugs or alcohol use will be suspended without pay, pending removal charges, as this activity will be cause for removal on the first violation. Campus Police should be notified immediately.

Reasonable Suspicion-Supervisor's Observation Report Form

Complete this checklist when you have reasonable suspicion that an employee is under the influence of a prohibited drug or alcohol.

Employee Name	Banner ID #	Day/Time of Incident or Observation
Immediate Supervisor		Telephone
Senior Supervisor		Telephone

Check those behaviors and symptoms that led to your decision to request a drug or alcohol test.
Check any category and circle the appropriate symptom(s).

Nature of Incident/Cause for Suspicion	Behavioral Indicators Noted
1. Illicit Behavior (observed) or (reported) possession, use, transaction or "under the influence" behavior of a prohibited substance.	1. Speech Behavior (verbally abusive) (rambling and nonsensical). Specify _____
2. Under Influence (observed) or (reported) apparent "under the influence" behavior.	2. Physical Behavior (extreme aggressiveness) (agitation) (physical abusiveness). Specify _____
3. Erratic Behavior (observed) or (reported) abnormal or erratic behavior.	3. Attitude (withdrawn) (depressed) (tearful) (secretive) (unresponsive). Specify _____
4. Other (e.g., flagrant violation of safety or serious misconduct, accident or "near miss," fighting or argumentative abusive language, unauthorized absence on the job). Specify _____ _____ _____	4. Other Erratic or inappropriate behavior (e.g., hallucinating, disoriented, excessive euphoria, talkativeness, confused, frequent absences). Specify _____ _____ _____

Physical Signs or Symptoms	
1. Eyes (red) (pupils dilated) (pupils constricted).	7. Pulse Rate (rapid) (slow).
2. Nose (runny) (sores in nostrils) (red and inflamed).	8. Physical Control (gait unsteady) (poor coordination) (tremors) (twitching).
3. Skin (flushed and sweating) (pale) (blood spots and needle marks).	9. Muscle Tone (rigid) (shakes and tremors) (limp).
4. Salivation (dry mouth) (hyper salivation).	10. Speech (rapid) (slurred).
5. Breath (odor of alcohol) (solvents) (marijuana)	11. Mental State (confusion) (hyperactive) (lackadaisical).
6. Breathing Rate (rapid) (shallow)	12. Other Please specify _____ _____

Long Term Indicator Checklist

QUALITY AND QUANTITY OF WORK

- | | |
|--|--|
| <ul style="list-style-type: none"> • Clear refusal to do assigned tasks • Significant increase in errors • Repeated errors in spite of increased guidance • Reduced quantity of work • Inconsistent, "up and down" quality and quantity of work • Behavior that disrupts work flow | <ul style="list-style-type: none"> • Procrastination on significant decisions or tasks • More than usual supervision necessary • Frequent, unsupported explanations for poor work performance • Noticeable change in written or verbal communication • Other (please specify) _____ |
|--|--|

INTERPERSONAL WORK RELATIONSHIPS

- Significant change in relationships with co-workers, supervisors
- Major change in physical health
- Concerns about sexual behavior or sexual harassment
- Frequent or intense arguments
- Verbal abusiveness
- Physical abusiveness
- Passive-aggressive attitude or behavior, doing things "behind your back"
- Intentional avoidance of supervisor
- Expressions of frustration or discontent
- Change in frequency or nature of complaints
- Cynical "distrustful of human nature" comments
- Unusual sensitivity to advice or critique of work
- Unpredictable response to supervision
- Persistently withdrawn or less involved with people

GENERAL JOB PERFORMANCE

- Excessive number of unauthorized absences in last 12 months
- Excessive authorized absences in last 12 months
- Excessive use of sick leave in last 12 months
- Frequent Monday/Friday absence or other pattern
- Excessive "extensions" of breaks or lunch
- Frequently left work early
- Increased concern about, or actual incidents of, safety offenses involving the employee
- Experienced or caused job accidents
- Major change in duties or responsibilities
- Interfered with or ignored established procedures
- Inability to follow through on job performance

PERSONAL MATTERS

- Changes in or unusual personal appearances (dress, hygiene)
- Changes in or unusual speech (incoherent, stuttering, loud)
- Changes in or unusual topics of conversation
- Changes in or unusual facial expressions
- Concerns about sexual behavior or sexual harassment
- Demanding, rigid, inflexible
- Increasingly irritable or tearful
- Excessive fatigue
- Frequent colds, flu, or other illness
- Major change in physical health
- Temper tantrums or angry outbursts
- Persistently boisterous or rambunctious
- Unpredictable or out-of-context displays of emotion or fears
- Lack appropriate caution
- Secretive or furtive
- Makes unreliable or false statements
- Unrealistic self-appraisal or grandiose statements
- Engages in detailed discussions about death, suicide, or harming someone
- Has personal relationship problems
- Has received professional assistance for emotional or physical problems
- Makes unfounded accusations toward others; i.e., has feelings of persecution
- Changes in or unusual level of activity -significantly reduced or increased

WRITTEN SUMMARY

Please summarize the facts and circumstances of the incident, employee response, supervisor actions taken, and any other pertinent information not previously noted. Please note the date, time, and location of reasonable cause testing or note if employee refused test. Attach additional sheets as needed.

Signature of Immediate Supervisor	Date/Time	Signature of Next Supervisor in Line	Date/Time
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V. SAFETY AND SECURITY

A. Failure to Comply with Prescribed Safety Practices

This violation entails a failure to use appropriate safety devices and personal safety gear when available, as well as a failure to comply with prescribed safety practices as outlined in safety manuals or operations bulletins. Potentially serious breaches of discipline which could result in removal for first violation include willful operation of equipment and/or vehicles while intoxicated by alcohol or illegal drugs.

1st Infraction	2nd Infraction	3rd Infraction	4th Infraction
<i>C-WR + defensive driving classes</i>	<i>WR-5 days</i>	<i>5 days-15 days</i>	<i>15 days-Removal</i>

B. Operating Vehicle and/or Equipment in a Negligent Manner

Violations include vehicle accidents deemed preventable or violations of State motor vehicle laws while on duty. More than one (1) preventable accident in a one (1) year period will require mandatory attendance in a defensive driving program. Fines may be appropriate to recover costs for damaged property. Repeated incidents of negligent operation may result in suspension or removal.

1st Infraction	2nd Infraction	3rd Infraction	4th Infraction
<i>C-WR + defensive driving classes</i>	<i>WR-5 days</i>	<i>5 days-15 days</i>	<i>15 days-Removal</i>

Note: If the negligence involves damage to vehicle or equipment refer to Section III. I. Pg. 28.

C. Failure to Secure Facilities

Employees who are deemed responsible to secure facilities by lockup or other means must ensure that this task is completed as directed.

1st Infraction 2nd Infraction 3rd Infraction

C-15 days 15 days-Removal Removal

D. Loss or Careless Control of Keys

Employees who are entrusted with University keys (to premises, vehicles, and equipment, etc.) must carefully safeguard such at all times.

1st Infraction 2nd Infraction 3rd Infraction 4th Infraction

C-3 days WR-15 days 5 days-Removal Removal

E. Improper Possession or Use of Firearms and/or Other Weapons

Weapons such as firearms, knives or other types of implements, whose designed purpose is to inflict injury on persons, are prohibited on University premises, work sites, and University vehicles. This serious violation warrants disciplinary action up to and including removal and must be referred to appropriate law enforcement officials. Excluded from this prohibition are authorized law enforcement personnel.

1st Infraction 2nd Infraction

WR-Removal Removal

F. Failure to Cooperate With Official Investigations

Employees must cooperate and respond to questions concerning their official duties during the conduct of official investigations.

1st Infraction 2nd Infraction 3rd Infraction

WR-5 days 3 days-15 days Removal

CHAPTER 2. APPEALS, DISCIPLINE AND SEPARATIONS

SUBCHAPTER 2. MAJOR DISCIPLINE

4A:2-2.1. Employees covered

4A:2-2.2. Types of discipline

4A:2-2.3. General causes

4A:2-2.4. Limitations on suspensions and fines

4A:2-2.5. Opportunity for hearing before the appointing authority

4A:2-2.6. Hearings before the appointing authority

4A:2-2.7. Actions involving criminal matters

4A:2-2.1 Employees covered

(a) This subchapter applies only to permanent employees in the career service or a person serving a working test period.

(b) Appointing authorities may establish major discipline procedures for other employees.

(c) When the State of New Jersey and the majority representative have agreed pursuant to the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.3, to a procedure for appointing authority review before a disciplinary action is taken against a permanent employee in the career service or an employee serving a working test period, such procedure shall be the exclusive procedure for review before the appointing authority.

(d) When the State of New Jersey and the majority representative have agreed pursuant to the New Jersey Employer-Employee Relations Act, N.J.S.A. 34:13A-5.3, to a disciplinary review procedure that provides for binding arbitration of disputes involving a disciplinary action which would be otherwise appealable to the Board under N.J.A.C. 4A:2-2.8, of a permanent employee in the career service or a person serving a working test period, such procedure shall be the exclusive procedure for any appeal of such disciplinary action.

4A:2-2.2 Types of discipline

(a) Major discipline shall include:

1. Removal;

2. Disciplinary demotion;

3. Suspension or fine for more than five working days at any one time;

(b) See N.J.A.C. 4A:2-2.9 for minor disciplinary matters that are subject to a hearing, and N.J.A.C. 4A:2-3 for all other minor disciplinary matters.

(c) The length of a suspension in a Final Notice of Disciplinary Action, a Board decision or a settlement, when expressed in “days,” shall mean working days, unless otherwise stated.

4A:2-2.3 General causes

(a) An employee may be subject to discipline for:

1. Incompetency, inefficiency or failure to perform duties;
2. Insubordination;
3. Inability to perform duties;
4. Chronic or excessive absenteeism or lateness;
5. Conviction of a crime;
6. Conduct unbecoming a public employee;
7. Neglect of duty;
8. Misuse of public property, including motor vehicles;
9. Discrimination that affects equal employment opportunity (as defined in N.J.A.C. 4A:7-1.1), including sexual harassment;
10. Violation of Federal regulations concerning drug and alcohol use and testing of employees who perform functions related to the operation of commercial motor vehicles, and State and local policies issued thereunder; and
11. Other sufficient cause.

4A:2-2.4 Limitations on suspensions and fines

(a) No suspension or fine shall exceed six months except for suspensions pending criminal complaint or indictment. See N.J.A.C. 4A:2-2.7.

(b) In local service, the appointing authority may provide that a suspension be with or without pay. In State service, suspensions shall be without pay unless directly authorized to be with pay by the department head. In both local and State service, a suspension on the record may be imposed in accordance with (e) below.

(c) An appointing authority may only impose a fine as follows:

1. As a form of restitution;
2. In lieu of a suspension, when the appointing authority establishes that a suspension of the employee would be detrimental to the public health, safety or welfare; or
3. Where an employee has agreed to a fine as a disciplinary option.

(d) An employee may pay a fine of more than five days salary in a lump sum or through installments. Unless otherwise agreed to by the employee, an installment may not be more than five percent of the gross salary per pay for a fine under \$500.00; 10 percent of gross salary per pay period for a fine between \$500.00 and \$1,000; or 15 percent of gross salary per pay period for a fine over \$1,000.

(e) An appointing authority may impose a suspension on the record when the appointing authority and the employee, or, where the employee is covered by a collective negotiations agreement, the employee's majority representative, agree in writing that, for purposes of progressive discipline, the employee will receive a suspension on the record and that it will have the same force and effect for purposes of future disciplinary actions as a suspension actually served by the employee.

4A:2-2.5 Opportunity for hearing before the appointing authority

(a) An employee must be served with a Preliminary Notice of Disciplinary Action setting forth the charges and statement of facts supporting the charges (specifications), and afforded the opportunity for a hearing prior to imposition of major discipline, except:

1. An employee may be suspended immediately and prior to a hearing where it is determined that the employee is unfit for duty or is a hazard to any person if permitted to remain on the job, or that an immediate suspension is necessary to maintain safety, health, order or effective direction of public services. However, a Preliminary Notice of Disciplinary Action with opportunity for a hearing must be served in person or by certified mail within five days following the immediate suspension.

2. An employee may be suspended immediately when the employee is formally charged with a crime of the first, second or third degree, or a crime of the fourth degree on the job or directly related to the job. See N.J.A.C. 4A:2-2.7.

(b) Where suspension is immediate under (a)1 and (a)2 above, and is without pay, the employee must first be apprised either orally or in writing, of why an immediate suspension is sought, the charges and general evidence in support of the charges and provided with sufficient opportunity to review the charges and the evidence in order to respond to the charges before a representative of the appointing authority. The response may be oral or in writing, at the discretion of the appointing authority.

(c) The employee may request a departmental hearing within five days of receipt of the Preliminary Notice. If no request is made within this time or such additional time as agreed to by the appointing authority or as provided in a negotiated agreement, the departmental hearing may be considered to have been waived and the appointing authority may issue a Final Notice of Disciplinary Action.

(d) A departmental hearing, if requested, shall be held within 30 days of the Preliminary Notice of Disciplinary Action unless waived by the employee or a later date as agreed to by the parties. See N.J.A.C. 4A:2-2.13 for hearings regarding removal appeals by certain law enforcement officers and firefighters.

(e) Appeals concerning violations of this section may be presented to the Civil Service Commission through a petition for interim relief. See N.J.A.C. 4A:2-1.2.

4A:2-2.6 Hearings before the appointing authority

(a) The hearing shall be held before the appointing authority or its designated representative.

(b) The employee may be represented by an attorney or authorized union representative.

(c) The parties shall have the opportunity to review the evidence supporting the charges and present and examine witnesses. The employee shall not be required to testify, but an employee who does testify will be subject to cross-examination.

(d) Within 20 days of the hearing, or such additional time as agreed to by the parties, the appointing authority shall make a decision on the charges and furnish the employee either by personal service or certified mail with a Final Notice of Disciplinary Action. See N.J.A.C. 4A:2-2.13 for the issuance of a Final Notice in removal appeals by certain law enforcement officers and firefighters.

4A:2-2.7 Actions involving criminal matters

(a) When an appointing authority suspends an employee based on a pending criminal complaint or indictment, the employee must be served with a Preliminary Notice of Disciplinary Action. The notice should include a statement that N.J.S.A. 2C:51-2 may apply to the employee, and that the employee may choose to consult with an attorney concerning the provisions of that statute.

1. The employee may request a departmental hearing within five days of receipt of the Notice. If no request is made within this time, or such additional time as agreed to by the appointing authority or as provided in a negotiated agreement, the appointing authority may then issue a Final Notice of Disciplinary Action under (a)3 below. A hearing shall be limited to the issue of whether the public interest would best be served by suspending the employee until disposition of the criminal complaint or indictment. The standard for determining that issue shall be whether the employee is unfit for duty or is a hazard to any person if permitted to remain on the job, or that an immediate suspension is necessary to maintain safety, health, order or effective direction of public services.
2. The appointing authority may impose an indefinite suspension to extend beyond six months where an employee is subject to criminal charges as set forth in N.J.A.C. 4A:2-2.5(a)2, but not beyond the disposition of the criminal complaint or indictment.
 - i. Where an employee who has been indefinitely suspended enters Pre-Trial Intervention (PTI) or has received a conditional discharge, the criminal complaint or indictment shall not be deemed disposed of until completion of PTI or until dismissal of the charges due to the employee's satisfaction of the conditions in a conditional discharge, as the case may be.

- ii. An appointing authority may continue an indefinite suspension until completion of PTI or until satisfaction of the conditions imposed in a conditional discharge. If an appointing authority chooses not to continue an indefinite suspension during the PTI period or during the period of conditional discharge, it may restore the employee to employment or initiate disciplinary action against the employee.
3. Where the appointing authority determines that an indefinite suspension should be imposed, a Final Notice of Disciplinary Action shall be issued stating that the employee has been indefinitely suspended pending disposition of the criminal complaint or indictment.
- (b) When a court has entered an order of forfeiture pursuant to N.J.S.A. 2C:51-2, the appointing authority shall notify the employee in writing of the forfeiture and record the forfeiture in the employee's personnel records. The appointing authority shall also forward a copy of this notification to the Department of Personnel.
1. If the criminal action does not result in an order of forfeiture issued by the court pursuant to N.J.S.A. 2C:51-2, the appointing authority shall issue a second Preliminary Notice of Disciplinary Action specifying any remaining charges against the employee upon final disposition of the criminal complaint or indictment. The appointing authority shall then proceed under N.J.A.C. 4A:2-2.5 and 2.6.

(c) Where an employee has pled guilty or been convicted of a crime or offense which is cause for forfeiture of employment under N.J.S.A. 2C:51-2 but the court has not entered an order of forfeiture, the appointing authority may seek forfeiture by applying to the court for an order of forfeiture. The appointing authority shall not hold a departmental hearing regarding the issue of the applicability of N.J.S.A. 2C:51-2. If the court declines to enter an order of forfeiture in response to the appointing authority's application, the appointing authority may hold a departmental hearing regarding other disciplinary charges, if any, as provided in (b)1 above.

SUBCHAPTER 3. MINOR DISCIPLINE AND GRIEVANCES

- 4A:2-3.1. General provisions
- 4A:2-3.2. Minor discipline appeal to appointing authority: State service
- 4A:2-3.7 Appeals from appointing authority decisions: State service

4A:2-3.1 General provisions

(a) Minor discipline is a formal written reprimand or a suspension or fine of five working days or less.

(b) A grievance is an employee complaint regarding any term or condition which is beyond the employee's control and is remedial by management.

(c) The causes for minor disciplinary actions shall be the same as for major disciplinary actions. See N.J.A.C. 4A:2-2.3.

(d) This subchapter shall not apply to local service, where an appointing authority may establish procedures for processing minor discipline and grievances.

(e) In State service, this subchapter shall only apply to:

1. Minor discipline appeals of permanent employees in the career service or persons serving a working test period. Appointing authorities may establish procedures for other employees.

2. Grievance appeals of any employees in the career or unclassified services.

(f) Grievance procedures shall not be used to address any matter for which there is another specific type of appeal to the Commissioner or Board.

(g) These rules shall not be utilized to review a matter exclusively covered by a negotiated labor agreement.

4A:2-3.2 Minor discipline appeal to appointing authority: State service

(a) Where departmental minor discipline appeal procedures are established by a negotiated agreement, such agreement shall be the applicable appeal process.

(b) Employees not covered by a negotiated agreement or covered by an agreement that does not address a minor discipline appeal process shall request a departmental hearing within five days of receipt of a notice of discipline or such additional time as may be agreed to by the appointing authority.

1. The departmental hearing shall be conducted within 30 days of such request unless adjourned by the consent of the parties.

2. The burden of proof shall be on the appointing authority.

3. The department shall make a final written disposition of the charges within 20 days of the hearing on Appeal of Minor Discipline Action form, unless the parties have consented to a time extension. The lack of response by the department within this period shall be considered a denial of the appeal.

(c) See N.J.A.C. 4A:2-3.6 for conduct and scheduling and 4A:2-3.7 for appeal to the Board.

4A:2-3.7 Appeals from appointing authority decisions: State service

(a) Minor discipline may be appealed to the Board under a negotiated labor agreement or within 20 days of the conclusion of departmental proceedings under this subchapter, provided any further appeal rights to mechanisms under the agreement are waived.

1. The Commissioner shall review the appeal upon a written record or such other proceeding as the Commissioner directs and determine if the appeal presents issues of

general applicability in the interpretation of law, rule, or policy. If such issues or evidence are not fully presented, the appeal may be dismissed and the commissioner's decision will be a final administrative decision.

2. Where such issues or evidence under (a)1 above are presented, the Board will render a final administrative decision upon a written record or such other proceeding as the Board directs.

(b) Grievances may be appealed to the Commissioner within 20 days of the conclusion of Step Two procedures under these rules or the conclusion of departmental procedures under a negotiated agreement.

1. The Commissioner shall review the appeal on a written record or such other proceeding as the Commissioner directs and render the final administrative decision.

2. Grievance appeals must present issues of general applicability in the interpretation of law, rule, or policy.

(c) Appeals shall include:

1. A copy of the Appeal of Minor Discipline Action form or Department of Personnel grievances form and all written records and decisions established during departmental reviews; and

2. Written argument and documentation.

(d) A copy of all material submitted to the Department of Personnel must be served on the employee's appointing authority.

(e) Failure to submit the material specified in (c) above may result in dismissal.

(f) In Commissioner or Board reviews, the employee shall present issues of general applicability in the interpretation of law, rule or policy (see (a)1 and (b)2 above). If that standard is met:

1. In grievance matters, the employee shall have the burden of proof.

2. In minor disciplinary matters, the appointing authority shall have the burden of proof.

SUBCHAPTER 6. RESIGNATIONS

- 4A:2-6.1. Resignation in good standing
- 4A:2-6.2. Resignation not in good standing

4A:2-6.1 Resignation in good standing

Any permanent employee in the career service may resign in good standing by giving the appointing authority at least 14 days' written or verbal notice, unless the appointing authority consents to a shorter notice.

(b) The resignation shall be considered accepted by the appointing authority upon receipt of the notice of resignation.

(c) A request to rescind the resignation prior to its effective date may be consented to by the appointing authority.

(d) Where it is alleged that a resignation was the result of duress or coercion, an appeal may be made to the Board under N.J.A.C. 4A:2-1.1.

4A:2-6.2 Resignation not in good standing

(a) If an employee resigns without complying with the required notice in N.J.A.C. 4A:2-6.1, he or she shall be held as having resigned not in good standing.

(b) Any employee who is absent from duty for five or more consecutive business days without the approval of his or her superior shall be considered to have abandoned his or her position and shall be recorded as a resignation not in good standing. Approval of the absence shall not be unreasonably denied.

(c) An employee who has not returned to duty for five or more consecutive business days following an approved leave of absence shall be considered to have abandoned his or her position and shall be recorded as a resignation not in good standing. A request for extension of leave shall not be unreasonably denied.

(d) Where an employee is resigned not in good standing under (a), (b), or (c), the employee shall be provided with notice and an opportunity for a departmental hearing under N.J.A.C. 4A:2-2.5, and Final Notice and a right to appeal to the Board under N.J.A.C. 4A:2-2.8. An employee shall be in unpaid status pending the departmental decision. Should an employee seek to return to employment pending the departmental decision, a review under N.J.A.C. 4A:2-2.5(b) shall be conducted prior to continuation of the unpaid status.

(e) Where the resignation is reversed, the employee shall be entitled to remedies under N.J.A.C. 4A:2-2.10.

(f) The appointing authority or the Board may modify the resignation not in good standing to an appropriate penalty or to a resignation in good standing.

Preliminary Notice of Disciplinary Action (31-A)
Civil Service Commission – State of New Jersey

Instructions for employer: This notice must be served on a permanent employee or an employee serving a working test period in the career service against whom one of the following types of disciplinary action is contemplated: (a) suspension or fine for more than five working days at any one time; (b) suspension or fine for five working days or less where the aggregate number of days suspended or fined in any one calendar year is 15 working days or more; (c) the last suspension or fine where an employee receives more than three suspensions or fines of five working days or less in a calendar year; (d) disciplinary demotion from a title in which the employee has permanent status or received a regular appointment; (e) removal; or (f) resignation not in good standing. A copy of this notice must be sent to the Civil Service Commission. Subsequent to the hearing by the appointing authority, the employee and the Civil Service Commission must be served with the Final Notice of Disciplinary Action.

FROM:	Employing Agency Name	Address/Phone Number	Date
	Attorney representing your agency should this matter be appealed	Address/Phone number/Email address	
TO:	Employee Name	Permanent Civil Service Title	Social Security Number
	Address/Phone Number		

You are hereby notified that the following charge(s) have been made against you: *(If necessary, use additional sheets and attach)*

<p>Charges:</p> <p><input type="checkbox"/> <i>If checked, charges are continued on attached page.</i></p>	<p>Incident(s) giving rise to the charge(s) and the date(s) on which it/they occurred:</p> <p><input type="checkbox"/> <i>If checked, incidents are continued on attached page.</i></p>
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You are hereby suspended effective _____ *(Check box to indicate if employee is suspended pending final disposition of the matter)*

If you desire a departmental hearing before the appointing authority on the above charge(s), notify it within _____ ***days of receipt of this form. If you request a hearing it will be held on** _____ **at (time)** _____ **at (place of hearing)** _____

**Must be a minimum of five days*

The following disciplinary action may be taken against you:

Suspension for _____ working days, beginning _____ and ending _____

Indefinite suspension pending criminal charges effective (date) _____

Removal, effective (date) _____

Demotion to position of _____ effective (date) _____

Resignation not in good standing, effective (date) _____ Other Disciplinary Action

Fine _____ which is equal to _____ (number of working days)
amount number

Appointing authority or authorized agent's signature and title.

Signature _____ Title _____

This form must be personally served on the employee or sent by certified or registered mail.

Certified or Registered Mail **Receipt Number** _____

Signature of Server _____ **Date of personal service** _____

DPF-31A Revised 11-18-09 DISTRIBUTION: Employee, Union Representative or Attorney, Management, Civil Service Commission.
 When using a form downloaded from the internet you still must provide the indicated above number of copies to all parties.

Final Notice of Disciplinary Action (31-B) Civil Service Commission – State of New Jersey

Instructions for employer: This notice must be served on a permanent employee or an employee serving a working test period in the career service after a Departmental hearing (if one is requested) if one of the following types of disciplinary actions is taken: (a) suspension or fine for more than five working days at any one time; (b) suspension or fine for five working days or less where the aggregate number of days suspended or fined in any one calendar year is 15 working days or more; (c) the last suspension or fine where an employee receives more than three suspensions or fines of five working days or less in a calendar year; (d) disciplinary demotion from a title in which the employee has permanent status or received a regular appointment; (e) removal; or (f) resignation not in good standing. If the employee does not request or does not appear at the Departmental hearing, this notice must be served as the final action. A copy of this notice must be sent to the Civil Service Commission and served on the employee by personal service or by certified or registered mail.

FROM:	Employing Agency Name	Address/Phone Number	Date
	Attorney representing your agency should this matter be appealed	Address/Phone number/Email address	
TO:	Employee Name	Permanent Civil Service Title	Social Security Number
	Address/Phone Number		

On _____ you were served with a Preliminary Notice of Disciplinary Action (31A) and notified of the pending disciplinary action.

- You requested a hearing which was held on _____
- You did not request a hearing
- You requested a hearing and did not appear at the designated time and place

<p>Sustained Charges:</p> <input type="checkbox"/> <i>If checked, charges are continued on attached page.</i>	<p>incident(s) giving rise to the charge(s) and the date(s) on which it/they occurred:</p> <input type="checkbox"/> <i>If checked, incidents are continued on attached page.</i>
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The following disciplinary action has been taken against you:

- Suspension for _____ working days, beginning _____ and ending _____
- Indefinite suspension pending criminal charges effective (date) _____
- Removal, effective (date) _____
- Demotion to position of _____ effective (date) _____
- Resignation not in good standing, effective (date) _____ Other Disciplinary Action
- Fine amount _____ which is equal to number _____ (number of working days)

Appointing authority or authorized agent's signature and title.

Signature _____ Title _____

This form must be personally served on the employee or sent by certified or registered mail.

- Certified or Registered Mail Receipt Number _____
- Signature of Server _____ Date of personal service _____

APPEAL PROCEDURE TO THE EMPLOYEE: You have the right to appeal **WITHIN 20 DAYS FROM RECEIPT** of this form. **ALL appeals must include a copy of this form and must be sent to the Civil Service Commission, 44 S. Clinton Avenue, PO Box 312, Trenton, NJ 08625-0312.** Your appeal cannot be processed until a copy of this form is received. **DO NOT GIVE YOUR APPEAL TO YOUR PERSONNEL OFFICE FOR FORWARDING TO THE CIVIL SERVICE COMMISSION. ANY APPEAL POSTMARKED AFTER THE 20 DAY STATUTORY TIME LIMIT WILL BE DENIED.** We recommend sending your appeal by certified mail to prove your filing in the event of lost or misdirected mail.

For more information on the rules that govern Major Discipline and the appeals process, please visit our website at: www.state.nj.us/csc.

MAJOR DISCIPLINARY APPEAL FORM

New Jersey Civil Service Commission - Division of Merit System Practices and Labor Relations

Use this form to submit an appeal of a major disciplinary action to the Civil Service Commission

1. Your Name: _____
Address: _____

Daytime Telephone: () _____
(City) (State) (Zip Code)
Email: _____

2. Will you be represented by a lawyer or union representative at the hearing? YES NO
If YES, complete Section 2.
Representative Name: _____
Union or Law Firm: _____
Address: _____

Telephone: () _____
(City) (State) (Zip Code)
Email: _____

3. Give a copy of this form and attachments to your Personnel Officer/Employer Representative
Personnel Officer's/
Employer Representative's Name: _____
Address: _____

Telephone: () _____
(City) (State) (Zip Code)
Email: (if known) _____

4. Your or your representative's signature
▶ _____ Date: _____

5. ATTACH the following to this form:
1. Preliminary Notice of Disciplinary Action.
2. Final Notice of Disciplinary Action.

NOTE: Your appeal will NOT be processed unless Sections 1-4 are completed and the two documents listed in Section 5 are included. If you have been suspended or removed, you should seek alternate employment. In case your penalty is reduced, failure to seek alternate employment could reduce your back pay award.

Mail to: Civil Service Commission
Merit System Practices
and Labor Relations
Hearings Unit - Unit H
P.O. Box 312
Trenton, NJ 08625 - 0312

Appendix V:

APPEAL OF MINOR DISCIPLINARY ACTION

NEW JERSEY CIVIL SERVICE COMMISSION - STATE SERVICE

INSTRUCTIONS:

Employer: Provide this form to all permanent employees or employees serving in a working test period with the issuance of any notice of suspension or fine of five days or less or an official written reprimand.

Employee: To appeal this charge, complete Part I and submit this form to your appointing authority/designee within five calendar days of receipt of this form or within such time frame as provided in your union contract.

PART 1 - Employee Appeal to Management:

NAME OF EMPLOYEE:		MAILING ADDRESS: ----- ----- -----	
SOCIAL SECURITY NUMBER:			
DEPARTMENT:	DIVISION, INSTITUTION, OR AGENCY:	TITLE OF YOUR POSITION:	
Charges Appealed:		REPRESENTATION (Check One) <input type="checkbox"/> I will represent myself <input type="checkbox"/> My representative will be: Name: ▶ _____ Title/Union: ▶ _____	
Penalty Recommended:		Employee Signature: _____	
		Date: _____	

EMPLOYEE DO NOT WRITE IN PART II - For Management Decision

Part II - Management Decision on Employee's Appeal:

Appointing Authority/ Designee Signature: _____ Date: _____

MANAGEMENT
 Check here if decision is attached.

Section Below to be Completed by Employee After Management Decision

Part III - Further Appeal: If the charges have been upheld by Management in Part II, you have a further right to appeal. Please check block A, B, or C below to indicate your decision with respect to further appeal and return this form to the appointing authority/designee. Please note, if you are a permanent employee in a Law Enforcement Unit and have selected option B, submit this form to your union president.

- A. I will not appeal the management decision.
- B. I wish to appeal this minor discipline under the provisions of my union contract. This option is available only to permanent employees covered by a union contract who receive a fine or suspension of five days or less. Check union contract for time period to file appeal.
- C. I request a review of my appeal by the New Jersey Civil Service Commission. This option is available to permanent employees or employees serving in a working test period who receive a fine or suspension of five days or less or an official written reprimand. This appeal must be filed within 20 calendar days of receipt of this form and present an issue of general applicability concerning a law, rule, regulation or policy.

Employee Signature: _____ Date: _____