

<b>DOUGLAS COUNTY SHERIFF'S OFFICE</b>		<b>Policy and Procedure</b>
<b>Personnel Investigations</b>		<b>P&amp;P-I-102</b>
<b>Disciplinary / Corrective Action</b>		
Effective Date: 03-14-22 Supersedes: 01-02-20	Approval: Sheriff	Number of Pages: 5
References: PP-I-100	Reevaluation Date: Annually	Standards: CALEA LE 26.1.4, LE 26.1.5, LE 26.1.6, LE 26.1.7, COM 1.4.8, 3.6.5, 3.6.6, 3.6.7, 3.6.8, ACA 7E-01, 7E-04

## **I. POLICY**

It is the policy of the Sheriff's Office to correct inappropriate behavior or unsatisfactory performance of its members through reasonable and appropriate disciplinary sanctions when necessary to maintain the effectiveness of the Sheriff's Office and to maintain the public trust. The Sheriff's Office may invoke disciplinary sanctions for violations of law, rule, policy, and procedure, or for actions or failure to act which are in conflict with the Sheriff's Office's vision, mission, goals, values and management principles.

Discipline will be administered in a manner that gives members an opportunity to improve or correct performance or conduct prior to termination, unless the conduct is so egregious that termination is deemed necessary. <LE 26.1.4c><7E-01><7E-04> <COM3.6.5c>

## **II. GROUNDS FOR DISCIPLINARY ACTION OR DISMISSAL**

- A. Because it is impossible to establish rules of conduct that apply to every situation a member may encounter, disciplinary sanctions may be imposed for acts or omissions that contribute to the lack of good order and discipline within the organization. A member may be disciplined, demoted or terminated for any violation of Sheriff's Office manuals, orders, and memoranda or other authorized written instruction, rules, regulation or policies; for violations of federal, state or local law, resolution or ordinance; or any act or omission, which contributes to a lack of order and discipline or effectiveness of the Sheriff's Office. Employment with the County and the Sheriff's Office is at will (Please refer to [P&P-I-100](#) for information on at will termination).
- B. All members are subject to the provisions of this policy except:
1. Probationary employees,
  2. Term employees, and
  3. Temporary employees.

These employees may be disciplined, terminated, or have their conditional offer of employment withdrawn, without cause or prior notice upon the review and approval of an executive officer. These employees will be so notified at the time of their hire.

## **III. DISCIPLINARY ACTION RANGES** <LE 26.1.4c> <COM 3.6.5c>

- A. The Sheriff's Office may sanction members for their acts of misconduct to enforce discipline within the agency. The specific sanction may depend upon a variety of factors amounting to the totality of the circumstances surrounding acts or omissions. Factors included in disciplinary decisions include whether the act is malfeasance,

misfeasance or nonfeasance; the severity of the violation; the degree of risk or harm to the agency or the public, etc.; however, discipline may not be used to discriminate against a person or class of people. When administering discipline, supervisors are to consider all available information, including but not limited to; the nature and circumstances of the situation, aggravating factors, mitigating factors, past violations and work history. Disciplinary Sanctions can range from (and are not limited to):

1. Letter of Reprimand (which may carry with it the loss of promotional opportunities);
2. Restitution (e.g. for damage to county property, etc.);
3. Probation;
4. Suspension;
5. Demotion;
6. Termination.

Repeated violations are indicative of an employee's disregard for his duties and may be cause for termination. <LE 26.1.4>

Any form of disciplinary or corrective action imposed will be administered within thirty (30) calendar days of the final appeal. If the discipline administered is greater than three (3) working days, the member's badge, identification, access card and keys may be obtained from the member and secured by the member's chief deputy or division captain.

#### **IV. CORRECTIVE ACTION RANGES**

- A. Internal Affairs or PCR investigations may carry, but are not limited to, any of the following corrective actions, or combination thereof:
1. Supervisory discussion and supervisory / coaching notes; <26.1.4b> <3.6.5b>
  2. Letter of counsel; <LE 26.1.4b> <COM 3.6.5b>
  3. Remedial training; <LE 26.1.4a> <COM 3.6.5a>
  4. Any other corrective action reasonably intended to narrowly and specifically address an identified performance-related issue.

#### **V. ADMINISTRATIVE LEAVE PENDING INVESTIGATION OUTCOME**<COM 1.4.8>

- A. Any supervisor may place a subordinate employee on administrative leave for up to one day with notification up the chain of command to the Sheriff.
- B. An executive officer, division captain or functional equivalent may place any employee on administrative leave status for up to thirty (30) calendar days pending the outcome of an investigation of any allegation of employee misconduct. The Sheriff may extend such periods of administrative leave at his discretion.

#### **VI. DISCIPLINARY AUTHORITY OF SUPERVISORS** <LE 26.1.5> <COM 3.6.6>

Discipline should be administered at the lowest level authorized to mete out the intended discipline. The division captain or functional equivalent shall consider the attendant circumstances and determine who in the member's chain of command has the responsibility of imposing discipline.

1. A SERGEANT or equivalent noncommissioned supervisor may impose written reprimands and may recommend more severe discipline up to and including termination.
2. A LIEUTENANT or equivalent noncommissioned supervisor may impose written reprimands and/or suspensions without pay for up to three (3) working days and may recommend more severe discipline up to and including termination.
3. A CAPTAIN may impose written reprimands and/or suspensions without pay for up to five (5) working days, transfer from a particular assignment and may recommend more severe discipline up to and including termination.
4. A CHIEF DEPUTY may impose written reprimands and/or suspension without pay for up to ten (10) working days, demotion in rank, and transfer from a particular assignment and may recommend termination.
5. The UNDERSHERIFF may impose discipline up to and including termination.

## **VII. IMPOSING DISCIPLINE**

- A. Prior to imposing a suspension, the supervisor must prepare a written statement of administrative insight identifying the contemplated discipline and documenting the grounds on which the disciplinary action is based.
- B. Pre-Disciplinary Hearings: The supervisor initiating any discipline which involves a 2-year letter of reprimand, restitution, probation, demotion, termination, or any suspension days, shall provide the affected member with written notice of the pre-disciplinary hearing at least 24 hours before the hearing time. The written notice must include the nature of the charge(s) sustained against the member and a description of the intended sanctions. The pre-disciplinary 24-hour notice may be voluntarily waived by the employee. This must be documented at the beginning of the actual pre-disciplinary hearing.
  1. Employees have no right to have witnesses or counsel present at a pre-disciplinary hearing but may present verbal or written statements from witnesses. Supervisors conducting pre-disciplinary hearings may exercise discretion in conducting the hearing and may permit witnesses if they believe it is necessary in the interest of obtaining a reasonable understanding of the facts.
  2. Discipline is finalized only after the employee has had an opportunity to reply to the charges, and present mitigating information. The employee's response to the charges must be weighed by the supervisor in the decision-making process.
  3. Pre-disciplinary hearings shall be audio recorded.
  4. After the pre-disciplinary hearing and review of the employee's response to the charges, the responsible supervisor must prepare, and provide to the employee, written notice stating the final disciplinary decision. A copy must accompany the original investigative documents to the Internal Affairs Division.
  5. A written reprimand must state the grounds on which it is based.
  6. If an executive officer demotes or terminates an employee, the date the demotion or termination is to take effect shall be stated in the disciplinary action letter provided to the affected employee by the executive officer. (The date shall be no earlier than one (1) business day past the five business days that the member has to file an appeal.) <LE 26.1.7b> The letter shall also contain a statement citing the

reason(s) for demotion or termination. <LE 26.1.7a><COM 3.6.8ab> In the event the employee is terminated, the letter shall also notify them that Douglas County Human Resources will contact them directly with regard to their fringe and retirement benefits. <LE 26.1.7c><COM 3.6.8c> A supervisor can be relieved of their supervisory authority and / or rank prior to the appeal process, if determined by a chief deputy or above, to be in the best interest of the Office.

7. The executive officer must also address in writing what the employee's seniority status shall be upon demotion. This determination will be made based on the totality of the circumstances. The range of options are based on the rank the employee will assume upon demotion, and are as follows:
  - a. Demotion to the rank of sergeant or above:
    - Seniority will revert back to the member's initial promotion to that rank.
  - b. Demotion to deputy. If the demotion is to the rank of deputy, the member's seniority shall be determined by their OSN.

### **VIII. APPEAL PROCEDURES** <LE 26.1.6><COM 3.6.7>

Appeals of written reprimands, discipline and punitive sanctions are conducted in accordance with the following procedures:

- A. Letter of Counsel and Supervisor / Coaching Notes. Although there is no appeal for a letter of counsel or supervisor / coaching notes, the employee has the right to respond in a written memorandum within five (5) business days of receiving the counseling or coaching notes. The written response will be reviewed by the member's immediate chain of command then attached to and filed in the employee's Guardian Tracking
- B. Employees may appeal a Disciplinary Sanction by filing that appeal with the supervisor in the chain of command who is one rank above the supervisor who issued the Disciplinary Sanction. The appeal must be in writing and must be received by the Internal Affairs Commander within five (5) business days of the date of the discipline. The Internal Affairs Commander will document the receipt of an appeal by attaching the appeal document(s) to the file in IAPro and forward the appeal and all documents to the appropriate appellate authority. If the appellate authority is a lieutenant, captain, or chief deputy the appeal will be heard within three (3) business days. If the appellate authority is the Undersheriff or Sheriff, the appeal will be heard within ten (10) business days.
- C. General Appeal Guidelines
  1. Appeals must state the reasons why the discipline should be reversed or modified.
  2. Sanctions will not be imposed until the employee waives appeal or after the appeal deadline, whichever comes first.
  3. Hearing deadlines may be extended due to scheduling conflicts when the appellant or commander set to hear the appeal are unavailable. Extensions must be approved by the appellant's Chief Deputy or the Internal Affairs Commander. Failure of an appellant to appear or participate in scheduled hearings constitutes a waiver of an appeal hearing and the commander (appellate) set to hear the appeal may proceed without the appellant. The following are the only issues that are up

for consideration on an appeal, all of which shall be reviewed and should be addressed in the appellant's written submitted appeal:

- a. Whether the appeal has brought forward new information or evidence that was not available for consideration prior to the imposition of the discipline.
  - b. If the original findings were inconsistent with the evidence, or the evidence presented by the appellant reasonably support a reversal or modification of the sanctions.
  - c. If the sanctions imposed are reasonable and appropriate in view of the misconduct.
4. The appellate may affirm the findings and sanction, or modify them, based upon these criteria. The appellate shall not, however, increase a sanction based solely of the fact that the member filed an appeal under this process.
  5. An employee may continue an appeal of Disciplinary Sanction two levels above the issuing supervisor's chain of command. If a second appeal is filed, the decision of the supervisor reviewing the second appeal is final. The Sheriff's decision on any appeal, including a demotion or termination, is always deemed to be final.
  6. The appellate will then notify the member of his/her decision regarding the appeal, to include any modifications to the imposed discipline. This notification will be made in the form of a written memorandum. A copy of the memorandum will be provided to the affected employee's immediate supervisor. A copy will also be forwarded to the Internal Affairs Division, along with all other documents, for inclusion in the IA/PCR file.
  7. Upon completion of the appeal process, the IA/PCR file will be forwarded to the next supervisor in the member's chain of command for review. The reviewing command staff member will document their review of the file, along with any comments, in the comments box in Blue Team. After review by the chain of command, all documents will be archived by the Internal Affairs Division.
  8. Unlike the disciplinary process itself, appeals from discipline imposed are not a compulsory part of an employee's job functions. As such, time spent preparing an appeal is not compensable time.

By Order of the Sheriff