

<p style="text-align: center;">GEORGIA DEPARTMENT OF CORRECTIONS Standard Operating Procedures</p>		
Policy Name: Adverse Actions (Unclassified Employees)		
Policy Number: 104.65	Effective Date: 5/1/2020	Page Number: 1 of 6
Authority: Commissioner	Originating Division: Administration & Finance Division (Human Resources)	Access Listing: Level I: All Access

- I. Introduction and Summary:** All unclassified employees are employed at-will and serve at the discretion of the Department of Corrections (GDC). Adverse Actions may be taken against Unclassified Employees in a consistent manner according to this procedure.
- II. Authority:**
- A. State Personnel Board Rule: 478-1-.15;
 - B. GDC Standard Operating Procedures (SOPs): 104.01 Delegation of Authority, 104.29 Salary Regulations, and 104.28 Suspension Without Pay; and
 - C. ACA Standards: 2-CO-1C-01, 1-CTA-1C-01, 5-ACI-1C-01 (ref. 4-4048), 4-ACRS-7E-10, and 4-ALDF-7E-04.
- III. Definitions:**
- A. Adverse Action** - An action that results in the suspension without pay, demotion, reduction in salary, or dismissal of an employee. Adverse Actions do not include staff reductions taken due to lack of work, lack of funds, economic slowdowns, technological or structural changes in the agency's operations, or to ensure the financial health and viability of the agency.
 - B. Appointing Authority** - The person authorized to make employment decisions (such as hiring or adverse actions). In this Department, the Commissioner is the Appointing Authority and any person designated by the Commissioner pursuant to SOP 104.01 ("Delegation of Authority").
 - C. Business Days** - Monday through Friday with the exception of holidays.
 - D. Commissioner's Designee for Adverse Actions (CDAA)** - The Commissioner's specific Designee will be responsible for processing the proposed adverse action, gathering evidence from the appointing authority, receiving evidence from the employee, reviewing a proposed Adverse Action with a representative from the Office of Legal Services (Legal Representative), and, if needed, preparing this material for review by the Disciplinary Panel.
 - E. Disciplinary Panel** (The Panel) - A committee charged with reviewing disciplinary issues within the agency and making final determinations on them.

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The Panel will consist of the Field Appointing Authority from all divisions, except Facilities, the Regional Director for the facility at which the employee is assigned, an attorney from the Office of Legal Services, and the CDAA. If the CDAA is excused for any reason, the Deputy Director of HR will serve in that capacity unless otherwise directed by the Commissioner. If the Region Director is excused for any reason, the Facilities Operations Director will serve in that capacity unless otherwise directed by the Commissioner.

F. Field Appointing Authority - Wardens and individuals specifically designated by the Commissioner to approve personnel actions for employees and applicants for employment within their respective facilities or offices.

G. Unclassified Employee - An employee in the unclassified service. This is defined as employment-at-will and includes all employees except those in the classified service.

IV. Statement of Policy and Applicable Procedures:

A. The GDC recognizes three (3) types of Adverse Actions regarding Unclassified Employees:

- (1) Adverse Actions based upon misconduct that are subject to review;
- (2) Terminations for criminal misconduct for which the Unclassified Employee was arrested by the Office of Professional Standards or at a GDC facility, terminations for dismissal from Basic Correctional Officer Training, and terminations for failure to meet job qualifications; and
- (3) At-will dismissals.

B. Adverse Actions based upon misconduct for which the Unclassified Employee was not arrested by the Office of Professional Standards or at a GDC facility shall adhere to this policy unless the Commissioner, in his or her discretion, authorizes the use of another procedure. Failure to follow this or any other authorized procedure will not invalidate an adverse action.

C. Terminations for criminal misconduct for which the Unclassified Employee was arrested by the Office of Professional Standards or at a GDC facility, terminations for dismissal from Basic Correctional Officer Training, and

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terminations for failure to meet job qualifications are not subject to appeal and are final upon issuance by the Field Appointing Authority.

- D.** An Unclassified Employee may be dismissed according to his or her at-will employment relationship with the Department. At-will dismissals are made as deemed necessary to meet the needs of the agency. At-will dismissals are not subject to appeal and are final upon issuance by the Director of Human Resources.
- E.** Adverse Actions for misconduct may be taken against an Unclassified Employee based on the employee's behavior or actions.
 - a. Examples of these behaviors or acts that may result in adverse action include:
 - a) Negligence in performing assigned duties;
 - b) Inefficiency in performing assigned duties;
 - c) Inability to perform assigned duties;
 - d) Unfitness to perform assigned duties;
 - e) Insubordination;
 - f) Misconduct;
 - g) Conduct reflecting discredit on the Department;
 - h) Commission of a felony or other crime involving moral turpitude;
 - i) Chronic Tardiness;
 - j) Chronic Absenteeism;
 - k) Failure to report for work;
 - l) Failure to remain at work;
 - m) Failure to timely process Performance Management Reviews; or
 - n) Political activity in violation of Rule 3 of the State Personnel Board.
 - b. A Field Appointing Authority shall effectuate a proposed Adverse Action regarding an employee's behaviors or actions as follows:
 - i. The Field Appointing Authority or Designee will enter the Adverse Action in SCRIBE, which must include the following information:
 - 1) Name, job title, position, employee identification number, hire date of the employee and employment status (i.e. unclassified);

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- 2) Description of the incident, including the date of the incident, any witnesses to the incident, and any policies or procedures violated by the incident;
 - 3) Summary of prior disciplinary actions involving this employee; and
 - 4) Recommended Adverse Action.
- ii. The Field Appointing Authority or Designee will forward all supporting documentation to the CDAA and the Office of Legal Services.

F. Issuing the Adverse Action:

1. A proposed Adverse Action based on an employee's behavior or acts shall **briefly** reference the behavior resulting in discipline (e.g. failure to return from a leave of absence; insubordination; chronic absenteeism).
2. The Field Appointing Authority will give the employee written notice of the proposed Adverse Action. This Notice of Proposed Adverse Action will include:
 - a. A notice that the employee may submit additional information and/or evidence concerning his or her personal response by contacting the CDAA **within three Business Days of the receipt** of the Notice of Proposed Adverse Action;
 - b. The signature of the Field Appointing Authority proposing the action; and
 - c. A blank line for the employee's signature and date notice was received.

NOTE: If the employee refuses to sign and date the notice, the Field Appointing Authority or a witness will date and sign the notice and indicate the employee refused to sign.

G. Employee Response: The employee may submit his or her response to the proposed adverse action and any supporting documents or evidence that he or she wishes to be considered by the Panel by mailing/faxing/emailing this material to

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the CDAA within three (3) Business Days of the employee's receipt of the Notice of Proposed Adverse Action.

H. Final Determination:

1. The CDAA and the Legal Representative will review the Adverse Action and issue a Notice of Final Determination within five (5) Business Days of the review. The CDAA and the Legal Representative may request additional evidence from the Field Appointing Authority or the Unclassified Employee, if needed. The decision of the CDAA and the Legal Representative must be unanimous as to the sufficiency of the evidence of the alleged misconduct and the Adverse Action to be imposed for the alleged misconduct. The CDAA and Legal Representative may uphold, reverse or modify the proposed Adverse Action. The decision of the CDAA, Legal Representative, and/or The Panel is final.
2. In the event the CDAA and the Legal Representative are unable to agree on the sufficiency of the evidence submitted by the Appointing Authority, the proper Adverse Action to impose, or if the proposed Adverse Action involves misconduct for which the Commissioner has designated that a review by the Panel is appropriate, the proposed Adverse Action will be referred to the Panel. The Panel will meet, as needed, at a time and location designated by the CDAA to make final decisions on proposed adverse actions. The Panel may uphold, reverse or modify the proposed Adverse Action. The Panel's decision shall be based upon a majority vote of the members present. The Panel's decision shall be final.
3. The CDAA will issue a Notice of Final Determination, which must include the:
 - a. Final action;
 - b. Brief reference to the behavior for which action is taken; and
 - c. The effective date of the Adverse Action.
4. A Copy of the Notice of Final Determination will be forwarded to:

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- a. Appropriate Assistant Commissioner (Chief of Staff for those Units reporting directly to the Commissioner);
 - b. Department Human Resources Director;
 - c. Appropriate Region Director (if applicable);
 - d. CDAA;
 - e. Legal Services Office;
 - f. CHRM Adverse Action Coordinator; and
 - g. Director of the Certification Division, POST Council (for POST Certified employees).
5. The Field Appointing Authority must also submit a personnel action with the appropriate action/reason codes to the CHRM Adverse Action Coordinator, who will take action necessary to effectuate the Adverse Action.

NOTE: If the Adverse Action is time limited, the Field Appointing Authority is also required to submit a personnel action to return the employee to the original status.

V. Attachment:

Attachment 1: Notice of Proposed Adverse Action Sample Letter
Attachment 2: Notice of Termination Sample Letter

VI. Record Retention of Forms Relevant to this Policy:

Attachment 1 and 2 are examples. Upon completion, the actual letter shall be retained permanently in the employee's official and local personnel files.