# **Skills for Successful Supervision**

# Day Three Employee Relations Handouts

Rev. 7/18/16



# **Policy Website**

 $\underline{http://www.odis.dhr.state.ga.us/1000\_adm/1300\_ohrmd/MAN1300.doc}$ 

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# **Employee Relations Values**

- 1. We value accountability on the part of all employees, and believe that accountability is best achieved through mutual understanding of responsibilities and the commitment to execute. (Lack of accountability = organizational failure)
- 2. We value actions and decisions that are based on a full understanding of the facts that are presented. (Factual integrity)
- 3. We value the perspectives and interests of employee, supervisor and manager on employee relations issues, but we advocate for what is in the best interest of the organization. (Organizational interest, not personal advocacy)
- 4. We value supporting the agency in accomplishing its mission and objectives through high quality, timely service. (Support, Customer Service)
- 5. We value honest employee input, even if that input identifies significant deficiencies in the organization, and the presentation of that input without fear of retaliation. (Improvement comes with open discussion)
- 6. We value the professional, respectful and fair treatment of each employee regardless of circumstances. (Actions and decisions are business-related, not personal)
- 7. We value compliance with employment laws, but our actions are not driven by fear of the legal environment. (Value may entail some legal risk)
- 8. We value early intervention by supervisors when employee concerns are identified. (Pro-activity, prevention, confidence that problems will be addressed)
- 9. We value diversity in the workplace, while also valuing consistency of treatment for similar situations. (Variety in contributions, predictability in treatment)
- 10. As resources are limited, we value assignment of resources in a manner that maximizes the value added. (Screening process to identify issues without merit as quickly as possible)
- 11. Unless an offense requires immediate dismissal, we value a reasonable, fair opportunity for performance improvement. (Preserve resources if the employee commits to corrective action)



### EXCERPTS FROM LEAVE POLICY #1006

### ANNUAL LEAVE

- Unless an emergency situation exists, employees must request and receive approval from their supervisors before using annual leave.
- Annual leave may be used for any purpose.
- Employees are responsible for planning time off well in advance and notifying their supervisors as soon as possible
- Employees are not required to give specific reasons for requesting annual leave unless a situation such as the following applies: the leave is for an unscheduled or emergency absence, the DHS organizational unit is short staffed or has a major assignment pending, or the employees are under the restrictions of an Attendance Plan.
- Employees are required to use FLSA compensatory time before using annual leave.

### SCHEDULING ANNUAL LEAVE

- Supervisors are responsible for scheduling annual leave. Should consider such factors as: work loads, deadlines, priorities, office coverage, and leave requested by other employees.
- Supervisors should make reasonable efforts to grant employees' annual leave requests; however, supervisors are not required to grant requested annual leave when the leave would: disrupt work schedules, leave an office uncovered, inconvenience the work force or public, or contribute to employees' not meeting performance expectations.
- Emergency annual leave requests reviewed on a case-by-case basis; supervisors determine whether the absence will be charged to annual leave or unauthorized leave without pay.

### SICK LEAVE

- Upon receiving supervisory approval, an employee may use sick leave for absences due to the following: Personal illness or disability; exposure to contagious disease, when attendance on duty would endanger the health of others; dental or medical care; and, dental or medical care, illness, accident or death in the immediate family which requires the employee's presence. "Immediate family" includes the employee's spouse, child, parent, brother and sister. "Immediate family" also includes any other person who resides in the employee's house AND is recognized by law as a dependent of the employee
- NOTE: Generally, sick leave due to the death of a family member should not exceed five (5) work days unless the employee is under the care of a health care provider due to a serious health condition (i.e., depression, etc.).
- Sick leave for medical or dental care should be limited to the time necessary for the appointment(s) and related travel.
- Employees who are injured/ill for at least three (3) work days during a period of annual leave may substitute sick leave for annual leave during the period of injury/illness.
- In order to substitute sick leave for annual leave, employees must submit a request to their supervisor within two (2) weeks of returning to work.
- A statement from their health care provider that justifies the use of sick leave may be required.
- Employees who are **receiving** Short-term or Long-term Disability Insurance benefits through the Flexible Benefits Program **cannot use sick leave** at the same time.

- (Employees may use sick leave during the qualifying period.) Employees must request to use annual or personal leave or request to be placed in a leave without pay status in order to receive Short-term or Long-term Disability Insurance payments.
- Employees may request to use FLSA compensatory time in lieu of sick leave. Employees are not, however, required to use FLSA compensatory time prior to sick leave.

### SICK LEAVE REQUESTS

- Employees are to contact their supervisor or other designated official as soon as possible when sick leave is needed. When employees are incapacitated, supervisors may accept calls regarding the employees' status from other individuals.
- DHS organizational units may establish procedures for requesting use of sick leave. Employees may be required to report each day by telephone to their supervisor or other designated official and to provide satisfactory evidence for use of sick leave.
  - Satisfactory evidence may include a CERTIFICATION OF SERIOUS HEALTH
     CONDITION Form, or other medical statement with similar information, completed by
     the attending health care provider when the reason for leave qualifies as a serious
     health condition under family and medical leave.
- Employees cannot be required to provide evidence for use of fewer than 17 hours of sick leave in a 30 calendar day period, **unless** they have demonstrated excessive or abusive use of sick leave.
- Excessive and/or abusive use of sick leave is considered a pattern of intermittent, short-term use of sick leave. Establishment of this pattern includes, but is not limited to:
  - Frequent use of sick leave in conjunction with holidays, scheduled off days or distribution of pay checks;
  - o Frequent use of sick leave when scheduled for undesirable temporary shifts or assignments, or during periods of peak work load;
  - Requesting sick leave for an absence for which annual leave has previously been denied:
  - Frequent occurrences of illness during the work day;
  - o Peculiar and increasingly improbable excuses;
  - o Repetitive use of fewer than 17 hours of sick leave in 30 calendar day periods;
  - O Prior written notification of failure to adhere to procedures for approval of leave, inappropriate attendance, or inappropriate use of leave (e.g., Attendance Plan).

### SICK LEAVE DENIAL

- Sick leave may be denied for reasons including, but not limited to, the following:
  - o Excessive or abusive use of sick leave
  - Failure to follow procedures for reporting the absence or requesting the use of leave;
     or.
  - Falsification of documents (falsification of documents should result in disciplinary action)
  - O Supervisors should carefully review the request prior to denying the sick leave, and should be able to support the decision to deny the request

### PERSONAL LEAVE

- Normally, employees will need to provide at least 24 hours advance notice of intent to use personal leave.
- Employees are not required to give specific reasons for requesting personal leave, unless a situation such as the following applies:
  - o The leave is for an unscheduled/emergency absence,
  - The DHS organizational unit is short staffed or has a major assignment pending,
  - o The employees are under the restrictions on an Attendance Plan.
- Supervisors must make every reasonable effort to grant requests for personal leave



### LEAVE POLICY CHECKLIST

- 1. Do I understand that employees have the right to earn annual leave, but that leave may be taken only with supervisory approval and do I communicate this to my employees?
- 2. Do I accept my responsibility to approve leave on a case by case basis by considering the following factors: the leave balance of the employee, work loads, deadlines, priorities, office coverage, and leave requested by other employees?
- 3. Do I make reasonable efforts to grant employees' annual leave requests except when the leave would disrupt work schedules, leave an office uncovered, inconvenience the work force or public, or contribute to employees' not meeting performance expectations?
- 4. Do I review emergency annual leave requests on a case-by-case basis and charge the absence to **unauthorized leave without pay** when appropriate?
- 5. Do I make it clear to employees that instances of unauthorized leave without pay may result in disciplinary action?
- 6. Do I encourage my employees to maintain reasonable leave balances to protect themselves against income loss due to accident or illness, without establishing rigid minimum balances?
- 7. Do I counsel employees who are frequently tardy or absent and place them on attendance plans if determined appropriate?
- 8. Do I closely monitor employees who are on attendance plans and strictly enforce the requirements of the attendance plan?
- 9. Do I approve sick leave for absences due to the following:
  - a. personal illness or disability;
  - b. exposure to contagious disease, when attendance on duty would endanger the health of others;

- c. dental or medical care; and
- d. dental or medical care, illness, accident or death in the immediate family which **requires the employee's presence**. "Immediate family" includes the employee's spouse, child, parent, brother and sister. "Immediate family" also includes any other person who resides in the employee's house AND is recognized by law as a dependent of the employee.
- 10. Do I approve sick leave without requiring documentation when employees use fewer than 17 hours of sick leave in a 30 calendar day period, **unless** they have demonstrated a pattern of excessive or abusive use of sick leave?
- 11. Do I determine if use of sick leave is excessive or abusive by following the following guidelines:
  - a. Pattern of intermittent, short-term use of sick leave.
  - b. Frequent use of sick leave in conjunction with holidays, scheduled off days or distribution of pay checks;
  - c. Frequent use of sick leave when scheduled for undesirable temporary shifts or assignments, or during periods of peak work load;
  - d. Requesting sick leave for an absence for which annual leave has previously been denied;
  - e. Frequent occurrences of illness during the work day;
  - f. Peculiar and increasingly improbable excuses;
  - g. Repetitive use of fewer than 17 hours of sick leave in 30 calendar day periods
  - h. Use of 10 hours per month of unscheduled leave may be considered excessive, depending on the circumstances.
- 12. Do I carefully consider the following factors before denying sick leave?
  - a. Excessive or abusive use of sick leave;
  - b. Failure to follow procedures for reporting the absence or requesting the use of leave; or
  - c. Falsification of documents. Falsification of documents may result in disciplinary action up to and including dismissal.
- 13. When I deny sick leave, am I prepared to support my decision and explain my reasoning?

# SAMPLE ATTENDANCE PLAN

Pι	ıt on lett	erhead			
		Hand delivered			
Μŧ	morandun	1			
	(Date)				
	TO:				
	From	·			
	Subje	ct: Attendance Plan			
	Based on a careful review of your attendance record, I have concluded that you have established a pattern of excessive/abusive use of leave. I have also determined that your excessive use of leave has had, and continues to have, a serious detrimental effect on the operation of the department. As a result, the following expectations and standards are effective immediately, until further notice.				
	1. Sic	ck leave will be approved only if the following conditions are fully satisfied:			
	a.	You must comply with the following procedure for reporting your absence.			
		In the event that you are absent from work due to an illness, you must speak to me personally or to to report your illness by on the day of your illness. Messages left with other staff members are not acceptable. Upon your return to work, you must provide a note from your doctor.			
	b.	You must supply a statement from your physician verifying that you were seen by a doctor or other appropriate health care provider, and that, for the specific period of absence, <b>you were unable to perform your assigned duties</b> , or that your presence was required due to the illness, accident, death, or medical care of a member of your immediate family, as defined in DHS HR/Personnel Policy #1006.  This statement should be the original, not a copy.			
	c.	The statement described in paragraph b., above, must be submitted toon the first day that you work following the absence in question.			

- 2. If you have exhausted sick leave, annual leave **will no longer** be approved on a routine basis for absences relating to illness. You must comply with the terms outlined in Section 1, Subsections a, b and c, above.
- 3. Annual leave may be requested in advance, but approval will be at the discretion of the supervisor and will be contingent on the needs of the unit, unit coverage, the pattern of prior absenteeism, the status of your work and your consistent compliance with all unit rules, practices, policies and standards.
- 4. Unscheduled annual leave will be approved only for emergency circumstances. Whether a particular situation constitutes an emergency will be determined by me on a case-by-case- basis
- 5. All unapproved absences will result in unauthorized leave without pay. Instances of unauthorized leave without pay are grounds for disciplinary action.
- 6. If you have exhausted sick and annual leave, additional absence will be regarded as unauthorized leave without pay, unless your absence has been approved as family and medical leave under FMLA.

You are hereby warned that failure to follow the terms of this attendance plan will result in your being placed on unauthorized leave without pay and subject to appropriate disciplinary action, up to and including separation from employment.

Please see me immediately should you have questions regarding this attendance plan.

cc: Productivity File

### **WHAT IS MISCONDUCT?**

# **Violations of Key Behavioral Policies**

- #1201 Standards of Conduct
- #1205 Workplace Violence
- #1203 Other Employment
- #1205 Use of State Property
- #1301 Drug-free Work Place
- # 102 Sexual Harassment

### **Failure to comply with Core Competencies**

- Customer Service
- Teamwork and Cooperation
- Results Orientation
- Accountability
- Judgment and Decision Making

### Misconduct includes such behavior or areas as:

- Inappropriate, unprofessional, argumentative, or disruptive behavior
- Lying and falsification
- Client Abuse and neglect
- Loud, rude, profane or offensive language
- Conflict of Interest
- Violence or threats of violence
- Release of confidential information
- Fighting or loud altercations
- Not getting along with co-workers
- Resistance to supervision
- Sexually explicit remarks or E-mails
- Racial slurs
- Offensive religious, national origin, age, sex, or disability related remarks
- Offensive or inflammatory clothing
- Prohibited political activity
- Bringing children to work
- Failing to notify supervisor of arrest within 5 days
- Engaging in non work related activities during business hours
- Abuse of telephone and Internet/E-mail privileges
- Use of alcohol or drugs at work or coming to work under the influence



### EXCERPTS FROM POLICY # 1201- STANDARDS OF CONDUCT

- 1. Employees must conduct themselves in a manner that prevents all forms of impropriety, placement of self-interest above public interest, partiality, prejudice, threats, favoritism and undue influence.
- 2. Employees must be alert in conducting business with employees and nonemployees to avoid even the appearance of misconduct, personal or financial gain, or conflict of interest.
- 3. Off duty conduct becomes a legitimate concern when it affects departmental operations or reflects discredit on the department.
- 4. Employees shall afford all constituents fair and equal opportunity to express their concerns and ideas regarding state programs without regard to their political affiliations, sophistication, or influence. Recommendations made by employees in the performance of their duties shall be made without bias.
- 5. Employees shall continually monitor, evaluate and manage their personal, financial, and professional affairs to ensure the absence of conflicts of interest or appearance of conflicts of interest.
- 6. A conflict of interest may exist where employees engage in activities which may financially or otherwise enhance themselves, their relatives, or individuals with whom they are personally or financially involved as a result of knowledge, information, or action taken in an official capacity as departmental employees. Its elements are the opportunity for enhancement by a transaction, and opportunity to influence that transaction as an employee.
- 7. Employees are to make every effort to avoid even the appearance of a conflict of interest.
- 8. The release of any privileged or confidential information, financial or otherwise, is not authorized to any person who does not have a legitimate need to know.
- 9. Employees are required to notify their supervisor or human resource/personnel representative of any arrests and/or convictions within five calendar days of the date of the arrest or conviction. A determination of appropriate action will be made on a case by case basis.
- 10. Employees are prohibited from involvement in official activities in which a client, patient or customer is a relative or in-law (or) is a personal acquaintance when the relationship creates a conflict or perception of conflict of interest.
- 11. Employees must conduct themselves in a positive and courteous manner at all times towards clients, patients and customers. Mistreatment of clients, patients or customers in any form is a matter of concern at all supervisory levels and will not be tolerated. (Employees are prohibited from)...engaging in rude, argumentative, hostile or otherwise unprofessional behavior toward clients, patients, or customers.

- 12. Employees must comply with all instructions from supervisors and managers
- 13. DHR employees are required to cooperate fully and truthfully and provide assistance with any type of investigation regarding alleged criminal or administrative misconduct or other personnel issues.
- 14. Employees are not to engage in activities other than official business during working hours.
- 15. Employees are not authorized to tape record conversations at work unless work-related and specifically approved by the supervisor of the organizational unit....Supervisors should consult with OHRMD prior to taping or authorizing the taping of conversations.
- 16. Employees are prohibited from falsifying records (e.g. time cards, sign-in/sign-out sheets, case management and/or client, patient or customer records) or any other documents prepared during the course of business.
- 17. Possession or consumption of alcohol or illegal drugs; and/or reporting to work or being on duty with the presence of drugs or alcohol is prohibited.
- 18. In order to minimize interference with normal operations and to avoid potential hazards and liability for the Department, visitors (e.g. children, other relatives, friends, or acquaintances of employees) in the workplace during working hours are discouraged. Babysitting of children by employees while on duty is prohibited.
- 19. Offices, work stations, and office furniture are State property and are reserved for work-related activities. (Personal items) ...must not be offensive or inflammatory or otherwise inconsistent with the Department's work setting.
- 20. Voice mail and fax transmittals should convey professional, business-like messages.
- 21. Use of the Internet for non-work-related reasons is permitted on a basis similar to that applied to local telephone calls ...i.e. the use is infrequent, of short duration, and does not interfere with work.
- 22. No employee has a privacy interest in any information contained in a state computer.
- 23. Employees are expected to be clean and neat in appearance at all times ... (and) should present a business-like professional image. ... If lettered or illustrated attire is worn, it should not promote a particular political, moral, religious, personal or other opinion. Attire which is obscene, vulgar, offensive, or inflammatory is prohibited.



# **Elements of Effective Discipline**

### **Early Intervention**

Intervene in all areas: performance, attendance, conduct

### Communication

"NEW" formula

Notice, expectations, warning

### Coaching

Essence of supervision

Direction, guidance and training

Foster understanding and commit to necessary improvements

### **Fact Finding**

Investigate all complaints

Interview all involves

Get written statements if necessary

Review appropriate documents

Determine witness credibility

Get employee's side of the story

### **Documentation**

Complete, clear, concise, accurate

Descriptive and behaviorally based

### Consistency

All issues addressed

Every case is different

Consider

Severity of the offense

Impact on clients

Prior disciplinary history

Performance evaluations

Length of Service

Mitigating Circumstances

Evidence of intent

### **Progressive Discipline**

Start with the least severe penalty that will have the desired process

Hold employees accountable for meeting expectations

Give sufficient time for improvement

Move forward in the process if expectations are not met



### PROGRESSIVE DISCIPLINE BASICS Excerpts from #1601 and #1602

### **GENERAL GUIDELINES**

Supervisors have a responsibility to inform employees about job expectations and any relevant information that will assist employees in carrying out job duties. Employees have a responsibility to satisfactorily perform job duties and be familiar with the rules, policies and standards of the workplace.

All rules, policies and standards should be consistently enforced. Consistency in enforcement does not mean that the penalty for violation must be precisely the same in every instance. The penalty may vary because of the severity of the offense, presence or absence of intent, the previous work record of the employee or other relevant factors. Similar situations should be handled in a similar manner.

Supervisors and employees should be aware that it is not necessary or required that every step of progressive discipline be followed in every situation. Over a period of time, it may be appropriate to use several approaches to address an employee's problem(s). Some situations, on the other hand, require immediate dismissal or separation.

When a violation of a rule, policy or standard occurs, supervisors should:

- Research the facts and circumstances before deciding on the appropriate disciplinary action.
- In a minor case, a one-time observation may be a sufficient basis for determining the type of disciplinary action that should be taken.
- In a serious case, an extensive investigation may be necessary to determine the full extent of the offense before deciding on the type of disciplinary action.
- Determine the appropriate disciplinary action by considering several factors including but not limited to: the seriousness of the offense; whether it was deliberate or unintentional; the employee's work record of behavior and performance; and, applicable rules, policies and standards.
- Take appropriate action promptly, observing the correct procedural requirements

### GROUNDS FOR DISCIPLINARY ACTIONS

- Negligence or inefficiency in performing assigned duties;
- Inability or unfitness to perform assigned duties;
- Insubordination;
- Misconduct:

- Conduct reflecting discredit on the department;
- Commission of a felony or other crime involving moral turpitude;
- Chronic tardiness or absenteeism;
- Failure to report for or remain at work without justifiable cause;
- Failure to process performance appraisals in a timely manner; or
- Political activity in violation of the Rules of the State Personnel Board Rule 3.

### **CORRECTIVE ACTIONS**

- Attendance Plan In cases where an employee does not meet attendance requirements (e.g., chronic tardiness, absenteeism or abuse of leave), a formal Attendance Plan may be implemented which outlines specific expectations required of the employee, including documentation of absences. If attendance standards are not met, disciplinary action may be taken.
- Unauthorized Leave Without Pay An employee who is absent without approval of the supervisor may be placed on Unauthorized Leave Without Pay for the period of absence, up to a maximum of fifteen (15) calendar days. This unauthorized absence may be used as a basis for disciplinary action.
- Work Plan A Work Plan is a written statement of specific work expectations. The plan is designed to give the employee the opportunity to raise performance to an acceptable level. If performance standards are not met, disciplinary action may be taken.
- **Memo of Concern and Expectations** A Memo of Concern and Expectations may be issued to an employee to outline concerns with the employee's current behavior and/or performance. The letter should indicate the improvement(s) expected.
- **Denial of Salary Increase** An employee who receives an overall performance evaluation rating of "Did Not Meet Expectations" in either the *Responsibilities* section or the *Terms & Conditions* section of the PMF will not receive a performance based salary increase.

### SUSPENSIONS WITH PAY

While it is not a disciplinary action, a Suspension with Pay may often precede or accompany a disciplinary action. With the approval of OHRMD, this is used as follows:

- During an investigation of alleged misconduct.
- During the period of notice of separation while on working test, reduction in force, or proposed adverse action.
- During the period between the arrest or indictment of the employee on a criminal charge and the disposition of the charge.
- For alleged unfitness to perform assigned duties where the alleged unfitness creates the potential for harm to the employee, co-workers, or others.

### DISCIPLINARY ACTIONS

**Reprimand -** a written reprimand or a written reprimand/final warning may be issued to an employee due to significant or continuing inappropriate behavior or performance deficiencies. Reprimands should contain: the date, time and/or place of the inappropriate behavior or performance deficiency; a description of the behavior or deficiency; future expectations of the employee; and, the consequences should the inappropriate behavior or performance deficiency continue. Classified employees may request a reprimand review.

**Suspension without pay-** employees may be suspended without pay for disciplinary purposes. The timeframe for a Suspension without Pay for disciplinary purposes should be appropriate for the offense and cannot exceed thirty (30) calendar days. Suspensions without pay are primarily used for classified employees who may appeal these actions to the State Personnel Board. For FLSA exempt employees, Suspensions without Pay must be administered in full FLSA work periods and cannot cover parts of two (2) FLSA work periods. (used primarily in classified service)

**Salary Reduction -** Salaries of FLSA non-exempt employees may be reduced for disciplinary purposes. Salary as a result of Disciplinary Salary Reduction should be reduced by an amount equal to at least five percent (5%), and should normally be in increments of 5%. A Disciplinary Salary Reduction may be permanent, indefinite or for a specified period of time conditional upon the employee's achievement of fully satisfactory performance and appropriate/acceptable behavior. Disciplinary Salary Reductions cannot be taken against FLSA exempt employees due to provisions of the Fair Labor Standards Act. (used primarily in classified service)

**Demotion -** Employees may be involuntarily demoted to a lower job for disciplinary reasons. The salary of an employee who is involuntarily demoted is to be reduced by an amount equal to at least five percent (5%). The salary cannot be less than the job minimum or exceed the pay grade maximum for the job to which the employee is demoted.

**Dismissal/Separation -** Employees may be dismissed (classified) or separated (unclassified) when all other courses of action have been unsuccessful or when the situation is so serious that termination is necessary. Dismissal/Separation is required in certain situations, including but not limited to, drug or alcohol testing violations, criminal history records, criminal drug offenses, etc.

### **ADVERSE ACTIONS**

Suspension without pay, disciplinary salary reduction, demotion and dismissal are considered adverse actions. (Other than demotion and the fact that unclassified employees are separated, not dismissed), these actions are used primarily for classified employees and may be appealed to the State Personnel Board by classified employees. The Rules of the State Personnel Board outline specific procedural requirements for Adverse Actions for classified employees. The appropriate OHRMD Regional Manager **must** be consulted in advance to discuss and determine the appropriate Adverse Action.

### **Corrective or Disciplinary Action Check List**

- 1. Was the employee aware of the expectations, rules, standards and/or policies which were violated or ignored?
- 2. Has there been consistent enforcement of the relevant expectation, rule, standard or policy considering the severity of the offense, presence or absence of intent, the previous work record of the employee or other relevant factors?
- 3. If appropriate, have the steps of progressive discipline been followed?
- 4. Have the facts and circumstances been researched appropriately?
- 5. Have I considered all relevant factors including but not limited to: the seriousness of the offense; whether it was deliberate or unintentional; the employee's work record of behavior and performance; and, applicable rules, policies and standards.
- 6. How long has it been since the violation occurred? If there has been a delay, why?
- 7. Have I determined whether a corrective action or a disciplinary action is the most appropriate?
- 8. Have I cleared this with my supervisor and manager?
- 9. Have I sought assistance from OHRMD?
- 10. Have I reviewed the last annual and interim performance evaluations and copies of any prior counseling notes, corrective actions and disciplinary actions?
- 11. Are the evaluations consistent with the disciplinary action to be taken?
- 12. Have I carefully considered which of the following actions are appropriate or if I need to move on to the disciplinary actions listed in the next paragraph?
  - a. **Attendance Plan** In cases where an employee does not meet attendance requirements (e.g., chronic tardiness, absenteeism or abuse of leave), a formal Attendance Plan may be implemented which outlines specific expectations required of the employee, including documentation of absences. If attendance standards are not met, disciplinary action may be taken.
  - b. **Unauthorized Leave Without Pay** An employee who is absent without approval of the supervisor may be placed on Unauthorized Leave Without Pay for the period of absence, up to a maximum of fifteen (15) calendar days. This unauthorized absence may be used as a basis for disciplinary action.
  - c. **Work Plan** A Work Plan is a written statement of specific work expectations. The plan is designed to give the employee the opportunity to raise performance to an acceptable level. If performance standards are not met, disciplinary action may be taken.

- d. **Memo of Concern and Expectations** A Memo of Concern and Expectations
- e. may be issued to an employee to outline concerns with the employee's current behavior and/or performance. The letter should indicate the improvement(s) expected.
- 13. If corrective actions have already been done and the same problem still persists (or if it is a serious infraction) do I understand that I need to move forward to a disciplinary action?
- 14. Do I obtain assistance from my assigned HR contact(s) in determining which of the disciplinary actions below are appropriate?
  - a. Reprimand/Reprimand-Final Warning- a written reprimand or a written reprimand/final warning may be issued to an employee due to significant or continuing inappropriate behavior or performance deficiencies. Reprimands should contain: the date, time and/or place of the inappropriate behavior or performance deficiency; a description of the behavior or deficiency; future expectations of the employee; and, the consequences should the inappropriate behavior or performance deficiency continue. Classified employees may request a reprimand review.
  - b. **Demotion -** Employees may be involuntarily demoted to a lower job for disciplinary reasons. The salary of an employee who is involuntarily demoted is to be reduced by an amount equal to at least five percent (5%). The salary cannot be less than the job minimum or exceed the pay grade maximum for the job to which the employee is demoted.
  - c. **Dismissal/Separation -** Employees may be dismissed (classified) or separated (unclassified) when all other courses of action have been unsuccessful or when the situation is so serious that termination is necessary. Dismissal/Separation is required in certain situations, including but not limited to, drug or alcohol testing violations, criminal history records, criminal drug offenses, etc.
- 15. Do I understand what an adverse action is and when to use it?
  - a. Suspension without pay, disciplinary salary reduction, demotion and dismissal are considered adverse actions. These actions are used primarily for classified employees (although demotions may appropriate for unclassified employees).
  - b. Classified employees may be appeal adverse actions to the State Personnel Board. The Rules of the State Personnel Board outline specific procedural requirements for Adverse Actions for classified employees.
  - c. OHRMD **must** be consulted in advance to discuss and determine the appropriate Adverse Action.

### The Language of Progressive Discipline

### **Memo of Concern & Expectations:**

The purpose of this memorandum is to advise you of several concerns regarding your recent work performance and behavior and to set forth expectations regarding necessary improvement. My intention is to give you a fair opportunity to correct the problems that have been observed, so that disciplinary action will not be necessary.

### (List Concerns)

Having stated these concern(s), I will now turn to my expectations for addressing and resolving them/it:

(List Expectations)

I am optimistic that you will use this memorandum to improve, and further action will not be necessary. I must inform you, however, that should there be a recurrence of the identified concerns and/or the stated expectations are not met; you will be subject to disciplinary action, up to and including dismissal/separation.

Note: Memos of Concern are placed in the productivity file only not in the official personnel file

### Written Reprimand:

This letter constitutes a written reprimand for (charges/grounds\*) and will be placed in your personnel file.

In determining the appropriate disciplinary action to be taken, your work history with the department was considered and reviewed. Specifically, your work history includes the following:

### (List previous corrective and disciplinary actions)

This reprimand is based on the following:

(List Charges)

In the future I expect that:

### (List Expectations)

I hope this reprimand will be instrumental in improving your performance to the expected level. Any further (charges) or violation of DHR, Office/Division, or unit policies, procedures, rules and standards will result in further disciplinary action, up to and including separation from your position in the unclassified service ( or dismissal from your position in the classified service).

### **Written Reprimand/Final Warning:**

This letter constitutes a written reprimand and <u>Final Warning</u> regarding your (charges/grounds) in the performance of assigned duties and will become a part of your official personnel file.

In determining the appropriate disciplinary action to be taken, your work history with the department was considered and reviewed. Specifically, your work history includes the following:

(List previous disciplinary and corrective actions, if any)

This reprimand is based on the following:

(List Charges)

In the future I expect that:

(List Expectations)

I hope this reprimand will be instrumental in raising your performance to the expected level. You are hereby given a **Final Warning** and are advised that if you fail to comply with the expectations set forth above, or if you violate any Office/Division, or DHS policies, procedures, standards, rules, or regulations, you will be subject to further disciplinary action up to and including, separation from your position in the unclassified service. (*Or dismissal from your position in the classified service*).

You must understand the seriousness of this <u>Final Warning</u> and the consequences of your failure to adhere to the expectations for your behavior. If you do not clearly understand these expectations, or if you have any questions regarding the consequences of your failure to fully comply with these expectations, please discuss your concerns with me immediately.

If any of the above items need clarification, please discuss them with me without delay.

### \*Charges/grounds for disciplinary action

- 1. Chronic absenteeism
- 2. Chronic Tardiness
- 3. Failure to report for or remain at work without justifiable cause
- 4. Inability or unfitness to perform assigned duties
- 5. Negligence and inefficiency in the performance of assigned duties
- 6. Insubordination
- 7. Misconduct
- 8. Conduct reflecting discredit on the department
- 9. Commission of a felony or crime of moral turpitude\
- 10. Political activity in violation of State Personnel Board Rule 3
- 11. Failure to process performance appraisals in a timely manner

### AMERICANS WITH DISABILITIES ACT (ADA) CHECKLIST

Refer to DHS Policy # 1704 available at <a href="http://www.odis.dhr.state.ga.us/1000\_adm/1300\_ohrmd/MAN1300.doc">http://www.odis.dhr.state.ga.us/1000\_adm/1300\_ohrmd/MAN1300.doc</a>

- 1. Do I understand that it is the Department's position to accommodate all disabled employees who can perform the essential functions of their positions with restrictions that may be reasonably accommodated?
- 2. Have I told the employee requesting accommodation to submit a written request specifying the specific accommodation requested and its estimated duration?
- 3. Have I requested and received documentation from the employee from the attending health care provider which identifies the current disability being treated, any work-related limitations or restrictions, and their estimated or actual duration?
- 4. Have I met with the employee as soon as possible to initially discuss the reasonable accommodation request, without approving or denying the request?
- 5. Have I obtained permission for authorized DHS officials to communicate directly with the attending health care provider concerning the requested accommodation, if necessary, and had the employee voluntarily sign the *AUTHORIZATION FOR RELEASE OF INFORMATION* Form?
- 6. Did I confirm my discussion with the employee in writing within five (5) work days?
- 7. Did I handle any written materials resulting from discussions that identify employees' disabilities or medical conditions as directed in the DHS PROCEDURE FOR HANDLING MEDICAL INFORMATION IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT?
- 8. Have I consulted with appropriate HR and management staff and reviewed the request based on a careful assessment of the following: organizational needs, available resources, the impact of disabilities on essential functions of employee's position, and relevant medical information concerning disabilities to be accommodated?
- 9. If disabilities or medical conditions are apparent, have I allowed the employee to be placed in modified work environments, given modified duties, or be temporarily reassigned during the review period, if such accommodations are possible without undue hardship?
- 10. Did I make the determination, along with authorized officials within **fifteen (15) work days** of receiving requests for reasonable accommodation?
- 11. Did I provide written approval or denial of the reasonable accommodation request, including detailed documentation of accommodations considered and reasons for denial, if the request cannot be approved on the basis of undue hardship?

- 12. Have I received written approval from appropriate authorized officials before implementing reasonable accommodations resulting in a change in employment status, a change in the terms and conditions of employment, or a change in the essential functions of a position?
- 13. If I have determined that the employee cannot be reasonably accommodated without incurring an undue hardship on the organization and must be separated, have I considered the following factors?
  - a. no reasonable accommodation can be made in the current position and,
  - b. there is no other position in the same job (vacant or soon to be vacant) for which the employee qualifies, and into which the employee can be reassigned or is willing to accept reassignment; **and**,
  - c. there is no position in a different job on the same pay grade (vacant or soon to be vacant) for which the employee qualifies, and into which the employee can be reassigned or is willing to accept reassignment; and,
  - d. there is no position in a lower job (vacant or soon to be vacant) for which the employee qualifies, and into which the employee can be demoted or is willing to accept demotion; **and**,
  - e. additional leave options have been considered and are either determined not to be available, or cannot be approved without undue hardship **and**,
  - f. I have contacted the OHRMD Employee Relations Section and received approval to separate the employee
- 14. Do I understand that the ADA policy does not restrict the authority of management to discipline or separate employees based on failure to meet standards of performance or conduct, or failure to follow procedures for reporting and approval of absences?
- 15. Do I understand the following ADA definitions?

<u>Individual with a disability</u>: has a physical or mental impairment that substantially limits one or more major life activities **or** has a record of such impairment **or** is regarded as having such impairment

<u>Qualified employee:</u> an individual who, with or without reasonable accommodation can perform the essential functions of the position

<u>Reasonable Accommodation:</u> includes making existing facilities accessible and usable, job restructuring, modifying work schedules, reassignment to a vacant position, acquiring or modifying equipment or devices

<u>Undue Hardship</u>: action requiring significant difficulty or expense or when considered in light of factors such as the employer's size, financial resources, and the nature and structure of its operation. An employer is not required to lower quality or production standards to make an accommodation; nor is the employer obligated to provide personal use items such as glasses or hearing aids.

<u>Essential Functions of the Position:</u> the fundamental duties performed in a position, those duties which are the reason for the existence of the position, duties which, if not performed would not accomplish the purpose of the position

### FMLA CHECKLIST (HR Policy # 1005)

### Do I understand that:

- 1. I cannot refuse to approve FMLA leave as long as the employee is eligible and supplies the appropriate documentation?
- 2. FMLA is a federal law and an employee entitlement and that eligible employees have a right to FMLA as long as they meet the requirements of the law?
- 3. Supervisors or authorized officials who do not comply with the requirements of the policy are subject to disciplinary action?
- 4. It is unlawful to discharge or discriminate against employees for opposing any practice made unlawful by the FMLA or for involvement in any proceeding related to FMLA?
- 5. FMLA does not insulate an employee from disciplinary action based on conduct or performance deficiencies?
- 6. I should contact my HR Representative or OHRMD Regional Manager for consultation, final approval and issuance of FMLA approval or denial letters?
- 7. I should contact my OHRMD Regional Manager if I want to take action against an employee who has exercised, is exercising or plans to exercise his/her FMLA entitlement?
- 8. FML is up to 12 weeks of unpaid job-protected leave for eligible employees on a rolling year basis for pregnancy, adoption or foster care, their own serious health condition, or to care for specified family members for their serious health condition?
- 9. The eligibility requirements are: 1250 actual hours of work in past 12 months, 12 months of state service (not consecutive) and a qualifying reason?
- 10. A serious health condition is an illness, injury, impairment, or physical or mental condition which the employee's health care provider determines is a serious health condition based on the Certificate of Serious Health Condition Form definition?
- 11. Just because an employee has been out for three (3) days, has been to the doctor, and been prescribed medication does not necessarily mean it is a serious health condition?
- 12. Recertification of a serious health condition may be required every 30 days if the employee is on approved intermittent FML?
- 13. Annual, sick, or personal leave or FLSA compensatory time may be used in conjunction with FMLA?
- 14. In the case of pregnancy or care of an adopted or foster child, sick leave is appropriate only if the child is sick or the mother is ill from complications of or recovery from pregnancy?
- 15. FML requests must be responded to in writing within 15 calendar days.?
- 16. Employees must provide certification within 15 calendar days of the date FML is requested?
- 17. The differences between designated, conditional, and final FML approval?
- 18. I am required to designate FML for an employee if I become aware that the employee may be eligible for and have a qualifying reason for use of FML?
- 19. Intermittent leave has specific requirements but the same guarantees as regular FML?
- 20. I must follow the FML approval process determined by my organization which involves OHRMD input.

### FLSA SUPERVISORY CHECK LIST Refer to DHS Policy # 1001

- 1. Do I carefully monitor the arrival and departure times of non-exempt employees to ensure accurate records are maintained and to minimize overtime worked?
- 2. Do I insure that non-exempt employees are not allowed to occupy their work stations before their scheduled work day begins, during meal periods and after their work day ends?
- 3. Do I insure that non-exempt employees accurately sign in and out to the exact minute on their time sheets?
- 4. Do I insure that non-exempt employees who fail to correctly record actual work time are subjected to appropriate corrective or disciplinary action?
- 5. Do I understand that my failure to insure the accurate recording of work time and compliance with the FLSA subject me to disciplinary or corrective actions?
- 6. Do I review time worked by non-exempt employees prior to the end of the work period (when possible) to determine if overtime may occur and adjust non-exempt employees' work schedules within the work period to prevent overtime work?
- 7. Do I insure that completed time sheets are submitted to human resources or payroll in a timely manner?
- 8. Do I allow non-exempt employees who are rarely tardy to adjust the work schedule within the work period to make up the time if they are late?
- 9. Do I place the non-exempt employee who is frequently tardy on unauthorized leave without pay, an attendance plan, and/or take disciplinary or corrective action rather than allowing the time to be made up?
- 10. Do I insist that employees receive prior approval to work overtime except in unique or emergency situations, when prior approval may not be possible?
- 11. Do I insure that corrective action is taken against employees who work unauthorized overtime, while, at the same time insuring that they receive compensation for all time worked?
- 12. Do I carefully monitor all overtime granted for emergencies, unanticipated assignments or for special projects which cannot be completed during normal work hours?

- 13. Do I refrain from granting advance overtime approval for work which should normally be completed during the work day?
- 14. Do I insure that all overtime worked without prior approval is included on time sheets and that all overtime work, whether authorized or not is accurately recorded and compensated?
- 15. Do I insure that all time worked (as defined by the FLSA) is recorded and insure that employees do not receive the impression that they can work "off the clock", donate time, or fail to record overtime if it is not authorized?
- 16. Do I grant approval for the use of FLSA compensatory time when it is requested unless doing so would "unduly disrupt" the operations of the agency?
- 17. Do I insure that I allow employees to use FLSA compensatory time in lieu of sick leave at their request and insure that FLSA compensatory time is always used in lieu of annual leave?
- 18. Do I monitor the FLSA compensatory time balances of my staff to insure that they do not exceed 240 hours without receiving a "cash" payout?
- 19. Do I understand the difference between FLSA Compensatory Time and State Compensatory Time?
- 20. Do I understand that the definition of the FLSA work week or work period is a 7 day consecutive day period which has been pre-defined by the organization?
- 21. Do I frequently review FLSA requirements with new staff and at regularly scheduled staff meetings?
- 22. Do I carefully review time sheets before I sign them to insure that they are accurate, understanding that I am *certifying* the correctness of the time sheet?
- 23. Do I insure that **exempt** employees do not keep time sheets, (although there may be a sign-in and sign-out sheet used for the purpose of maintaining awareness of the employees' whereabouts)?
- 24. Am I thoroughly familiar with the FLSA policy and can interpret it to my employees using the FLSA Fact Sheet for Employees?

# FAIR LABOR STANDARDS ACT (FLSA) FACT SHEET FOR DHS EMPLOYEES

Refer to DHS Human Resource/Personnel Policy # 1001 available on the OHRMD Section of: http://www.odis.dhr.state.ga.us

- > FLSA is a Federal law and an employee entitlement. Failure to comply with the FLSA may result in considerable liability to the department.
- ➤ Both employees and supervisors/managers should be evaluated on their PMF for compliance with the FLSA.
- ➤ **Non-exempt** employees are eligible to earn time and a half compensatory time for hours *actually worked* in excess of 40 hours during their designated 7 day FLSA work period. (Exempt employees do not earn FLSA or State comp time).
- The work period is not the same as the work week or the pay period. A work period may be, for example, from Tuesday at 5:00 PM to the next Tuesday at 4:59 PM. Different units or groups of employees may have different FLSA work periods depending on their job assignments and work schedules.
- All non-exempt employees must keep accurate time sheets recording **all time** worked, entering starting, ending and meal break times at the exact time that they occurred. Time sheets should be completed to the minute and not rounded off.
- ➤ All time at the work station, work done at home, work done on meal breaks, unapproved overtime, work done on the employee's "own time" or at the "employee's choice" and all other work "suffered or permitted by the employer" (even if it has not been required or requested) is considered work time and must be accurately recorded.
- ➤ It is permissible for supervisors to allow employees to "flex out" their time within the work period in order to prevent them from earning overtime. Employees should not "flex out" without permission and it must be within the same work period.
- Meal periods must be taken away from the work station, last for a minimum of 30 uninterrupted minutes and be free from all work duties in order to be recorded as non-work time.
- Permission to earn overtime should be requested in advance, but if unapproved overtime is worked it must be recorded on the time sheet and it will be compensated. Employees who work unnecessary overtime without permission are subject to disciplinary action.
- Any available FLSA Compensatory Time must be used in lieu of annual leave and may be used in lieu of sick leave

FLSA Definitions of Time Worked (Time which must be recorded on time sheet) Anything that an employee does that benefits the department or serves a client, no matter when, why or where the employee does it (or whether or not the employee has been told to do it) is generally considered to be work time. This includes:

- 1. All time worked, to the minute
- 2. Any unauthorized over time, overtime worked which is not approved in advance, overtime worked without the supervisor's knowledge
- 3. Being present at the work station regardless of whether the employee is actually performing work duties

- 4. Traveling from the office to other work sites, traveling between home visits and work related appointments
- 5. After hours telephone calls from clients or calls related to work taken away from the office
- 6. Work done at home, including documentation or studying required training materials
- 7. Skipped meal breaks or meal breaks **not** taken away from the work station, **not** lasting at least 30 uninterrupted minutes and/or **not** free of all job duties
- 8. Job related travel other than commuting to and from work (travel associated with a one-day assignment at a different location must be considered time worked to the extent that the travel exceeds the time spent in the non-exempt employee's normal travel between home and work)
- 9. Being on call **if** actual calls are so frequent or the on-call conditions are so restrictive that non-exempt employees are not free to use the intervening periods effectively for personal benefit
- 10. All time spent actually performing work while on call no matter how brief

### **Special Points of Emphasis:**

- FLSA Regulations make no distinction between approved and unapproved overtime.
   Both are compensable. However, employees may be disciplined for working over time without approval even though they must be compensated for all time worked.
- All time that an employee is at the work station (generally considered the desk, the computer, the phone or the car being used for work related travel), whether the employee is actually working or not, is considered to be work time.
- Employees do not have a "choice" to work without compensation. They must be compensated for any time which the FLSA regulations define as work time.
- FLSA Compensatory time at time and a half is earned only when the employee physically works more than 40 hours during the established work period (the designated 7 day (168 hour) period that begins and ends the FLSA work week).
- The work period does not have to correspond to the calendar week. Flexing out in order to avoid overtime must be done within the same established work period.
- Although FLSA does not require that a lunch break be given, the lunch break, if given, is unpaid time and subject to FLSA Regulations. This break **must**:
  - Last a minimum of 30 uninterrupted minutes (less then 30 minutes does not count at all, lunch break starts over if it is interrupted)
  - Be away from the work station (generally considered the desk, the computer, the phone or the car being used for work related travel)
  - Be completely free from all work duties
- Use of FLSA Compensatory Time: the US Department of Labor has consistently
  interpreted its regulations as requiring employers to allow employees to use their
  comp time on the specified date(s) requested unless doing so would unduly
  interfere with the employer's operations.

FLSA regulations prohibit retaliation against employees who exercise their rights under the Fair Labor Standards Act

# **Employee Relations Key Policies**

http://www.odis.dhr.state.ga.us/1000 adm/1300 ohrmd/MAN1300.doc

```
# 101 EEO
# 102 Sexual Harassment
# 106 Assignment of Duties
# 107 Third Party Involvement
# 601 Employment Information
# 602 Open Records Act
# 701 Performance Management
# 1001 FLSA
# 1002 Official Hours and Work Schedules
# 1005 FMLA
# 1006 Annual, Sick, and Personal Leave
# 1007 Leave without Pay
# 1201 Standards of Conduct
# 1202 Political Activity
# 1203 Other Employment
#1501/1502 Grievance Procedure
#1503 Unlawful Discrimination Complaint Procedure
#1601 Disciplinary/Dismissal Actions-Classified
#1602 Disciplinary/Separation Actions-Unclassified
#1703 Modified Duty
#1704 Americans With Disabilities Act
```

# Employee Relations Best Practices

### Communicate and Document

- Nip it in the bud! Intervene early to correct problems when they first occur.
- Tell it like it is! Give on-going clear direction and feedback and have open lines of communication.
- Warn the employee! Let employee know consequences for poor performance.
- Write it down! (and date it) If it is not documented, it's hard to show it happened.
- Use the annual and interim performance evaluations system! Do timely
  plans and evaluations with specific expectations and standards. Be
  consistent with disciplinary actions. Do regular interim evaluations on
  employees with continual problems.

### Carefully Consider

- Remember our mission and goals! Always assess what the
  consequences of the behavior are or could be to our clients and
  families.
- Operate out of DHS Employee Relations values! Keep focused on our stated values for employee relations.
- Every case is different! Treat employees consistently but not exactly the same. Look at evaluations, prior corrective/disciplinary action, mitigating circumstances, evidence of intent, and length of employment.
- What did you do before! Consider agency history and precedents for the treatment of the same problem with employees who have a similar work history.
- Let the punishment fit the crime! Always consider the nature of the offense before determining the appropriate level of discipline.

### Take Action

- Call us early and often! Consult with OHRMD Regional Manager.
- **Be Thorough!** Be sure to discover all the facts before acting. Get written statements from witnesses.
- Do it promptly! Timely disciplinary action is the most effective.
- **Be progressive!** Use progressive discipline when appropriate; move through the process quickly if expectations are not met after adequate opportunity to correct behavior has been given.
- Be Aware! Consistently follow up on directives and instructions and monitor behavior of employees.

# DHS **Employee Relations Resources**

**OHRMD Regional Managers** 

West Region (1,3,4,8,10,11,13, 14, 15, RevMax)

Brenetia Adams-Robinson 404-206-5651

East Region (2,5,6,7,9,12,Communications Ctr OFI and DFCS Regional Accounting)

**Beverly Boone** 404-306-6520

DCSS (Statewide) and State Office

**Latatia West** 404-656-6753

# **Policy Website**

http://www.odis.dhr.state.ga.us/1000\_adm/1300\_ohrmd/MAN1300.doc

LMS on-line training: It's About Time (Leave and Attendance)

**Best Practices in Employee Relations** 

Other On-Line training: Sexual Harassment

**Standards of Conduct** 

Skills for Successful Supervision Course (for new supervisors; as space is available, other supervisors may enroll)

# **NOTES-**
