

GEORGIA DEPARTMENT OF CORRECTIONS Standard Operating Procedures		
Policy Name: Adverse Actions (Classified Employees)		
Policy Number: 104.64	Effective Date: 10/4/2017	Page Number: 1 of 6
Authority: Commissioner	Originating Division: Administration & Finance Division (Human Resources)	Access Listing: Level I: All Access

- I. Introduction and Summary:** Adverse actions (including suspensions without pay, demotions, salary reductions, or dismissals) may be taken against classified employees and will be handled consistent with this procedure and State Personnel Board Rules.
- II. Authority:**
- A. O.C.G.A. § 45-20-1 et seq;
 - B. State Personnel Board Rules: 26 Adverse Actions and Intra-Agency Appeals, 27 Appeals and Hearings;
 - C. GDC Standard Operating Procedures (SOPs); 104.01 Delegation of Authority, 104.24 Promotions and Demotions, and 104.28 Suspension Without Pay; and
 - D. ACA Standards: 2-CO-1C-01, 1-CTA-1C-01, and 4-4048.
- III. Definitions:**
- A. **Adverse Action** - A disciplinary action that results in the suspension without pay, demotion, reduction in salary, or dismissal of an employee. Adverse Actions do **not** include actions resulting from reduction in force, insufficient funds, decrease in funds, or change in departmental needs.
 - B. **Appointing Authority** - The person authorized by state law to take employment actions (such as hiring or dismissals) within a state agency. In this Department, that individual is the Commissioner and any person designated by the Commissioner pursuant to GDC SOP 104.01 Delegation of Authority.
 - C. **Classified Employee** - Means an employee who was in the classified service as of June 30, 1996, and who has remained in a classified position without a break in service since that date.
 - D. **Commissioner's Designee for Adverse Action** - The Commissioner's specific Designee who reviews adverse actions and has the authority to conduct further investigations, countermand or delay a proposed adverse action, and issue a Notice of Final Determination.
 - E. **Disciplinary Action** - The action taken against an employee for disciplinary purposes as a result of a specific behavior or act.

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F. **Field Appointing Authority** - Wardens and individuals specifically designated by the Commissioner.

IV. Statement of Policy and Applicable Procedures: Adverse actions regarding Classified Employees shall adhere to this policy unless the Commissioner, in his discretion, authorizes the use of another procedure. Failure to follow this or any other authorized procedure will not invalidate an adverse action.

A. An Appointing Authority may use an Adverse Action as discipline regarding a Classified Employee's behaviors or acts. Examples of behaviors or acts that may result in Adverse Action include:

- Negligence in performing assigned duties;
- Inefficiency in performing assigned duties;
- Inability to perform assigned duties;
- 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;
- Chronic Absenteeism;
- Failure to report for work without justifiable cause;
- Failure to remain at work without justifiable cause;
- Failure to process Performance Management Reviews in a timely manner; and
- Political activity in violation of Rule 3 of the State Personnel Board.

B. Proposed Adverse Action Determination

1. A Field Appointing Authority with sufficient reason to propose Adverse Action against a Classified Employee shall:

a. Enter the Adverse Action in SCRIBE including the following information:

- 1) Name, job title, employee identification number, hire date of the employee, and employment status (i.e. classified);
- 2) Description of the incident, including the date of the incident, any witnesses to the incident, and any policies or procedures violated during the incident;

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3) Summary of prior disciplinary actions involving this employee; and

4) Recommended Adverse Action.

b. The Field Appointing Authority (or Designee) will forward all supporting documentation to the appropriate Region Director who will make a recommendation and forward the documents to Legal Services. Legal Services will review the information and recommend an Adverse Action, if warranted. Divisions that do not fall under a Region will send documents directly to Legal Services.

NOTE: If a Field Appointing Authority disagrees with the Legal Services representative's recommendation, the Director, Human Resources will make the final determination.

c. When the appropriate Adverse Action has been determined, the Legal Services representative will draft charges to be included in the Notice of Proposed Adverse Action (Attachment 1).

C. Issuing the Proposed Adverse Action:

1. The Field Appointing Authority will give the Classified Employee written notice of the proposed Adverse Action **at least 15 calendar days** prior to the effective date of the Adverse Action. The Notice of Proposed Adverse Action must include:

a. The effective date of the Adverse Action;

NOTE 1: When calculating the effective date (minimum 15 days), do **not** count the date the notice was delivered. Day "**one**" will be the day following the day the notice of proposed adverse action was presented to or received by the employee.

NOTE 2: The proposed effective date for FLSA- exempt employees must be coordinated **directly** with the Corrections Human Resources Management (CHRM) Adverse Action Coordinator (except for dismissals).

b. The specific charges or reasons for the Adverse Action;

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- c. A notice that the employee has a right to respond to the charges by contacting the Commissioner's Designee for Adverse Action **within 10 calendar days of receipt**;
- d. A statement that failure to respond to the Commissioner's Designee for Adverse Action within 10 calendar days of receipt will result in the Adverse Action being final without any further departmental consideration and a waiver of all further appeal rights (including appeal to the State Personnel Board);
- e. The signature of the Appointing Authority taking the proposed action; and
- f. A blank line for the employee's signature including a line for the date the notice was received.

NOTE: If the employee refuses to sign and date the notice, the Appointing Authority or a witness will date and sign the proposed action indicating that the employee refused to sign.

2. In an emergency situation (as defined in State Personnel Board Rules 478.1.26), the Director, Human Resources, may take immediate Adverse Action against an employee.
3. A copy of the Notice of Proposed Adverse Action will be forwarded to:
 - Appropriate Assistant Commissioner (Chief of Staff for those Units reporting directly to the Commissioner);
 - Department Human Resources Director;
 - Appropriate Region Director (if applicable);
 - Commissioner's Designee for Adverse Action;
 - Legal Services Office;
 - Corrections Human Resources Management (CHRM) Adverse Action Coordinator; and
 - Director of the Certification Division, POST Council (for **POST Certified employees**).
4. The Field Appointing Authority must also submit a personnel action with the appropriate action/reason codes to the CHRM Adverse Action Coordinator.

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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 original status.

D. Employee Response:

1. The employee may file a response to the charges with the Commissioner's Designee for Adverse Action **within 10 calendar days** of the date the employee receives the notice of proposed Adverse Action. If a response is not filed within 10 calendar days with the Commissioner's Designee for Adverse Action, the proposed action will take effect on the date proposed and there will be no right to further appeal.
 - a. The response may be in writing, in person, or both;
 - b. The employee may submit affidavits to support the response; and
 - c. The Commissioner's Designee for Adverse Action may conduct further investigation as to the charges.
2. The Commissioner's Designee for Adverse Action has three calendar days after the date of the response to issue a Notice of Final Determination.
3. If the Commissioner's Designee for Adverse Action determines that more than three calendar days are needed to make a determination the period may be extended. The employee must be notified, in writing, of the extension period. The effective date of the Adverse Action will be delayed the same number of days as the length of the extension.

E. Final Determination:

1. The Commissioner's Designee for Adverse Action must determine whether the facts support the charge and whether the level of Adverse Action is appropriate based on a review of adverse actions imposed against employees in the past under similar circumstances.
2. The Commissioner's Designee for Adverse Action may uphold, reverse or modify the proposed adverse action. However, if the Commissioner's Designee for Adverse Action determines that additional charges, substantially different charges, or a more severe penalty are appropriate, the original action will be

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revoked by written notice to the employee and notification given to the Appointing Authority to institute a new action against the employee.

3. The Commissioner's Designee shall issue a Notice of Final Determination, which must include:
 - a. The final action;
 - b. The specific charges;
 - c. The effective date of the final action, which may not be earlier than the effective date in the proposed Adverse Action;
 - d. A statement that the employee may appeal the determination to the State Personnel Board, pursuant to State Personnel Board Rule 26, by filing an appeal in writing with the Office of State Administrative Hearings within 10 days of receipt of the Notice of Final Determination or within 10 days of the effective date of the action, whichever is later; and
 - e. A statement reminding the employee that the 10 calendar day appeal period includes Saturdays, Sundays and Holidays.
4. Copies of the Notice of Final Determination must be submitted as designated in IV.C.3. of this procedure.
5. The CHRM Adverse Action Coordinator will take action necessary to effectuate the adverse action.

V. **Attachments:**
Attachment 1, Notice of Proposed Adverse Action

VI. **Record Retention of Forms Relevant to this Policy:**
Attachment 1, Retain in the official and local personnel files.