Hardin County Board of Developmental Disabilities
POLICY

Policy Number: P-8	Page: 1	Of: 13
Title: Personnel – Discipline		
Regulatory Authority:		
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Reviewer/Job Title: Superintendent or designee		

PERSONNEL
DISCIPLINE

(A) DISCIPLINARY PRINCIPLES

(1) The HCBDD believe a clearly written discipline policy will serve to promote fairness and equality in the workplace, and will minimize potential misunderstandings among employees in disciplinary matters. Further, the HCBDD believes certain basic principles, set forth below, must consistently be applied in order to effectively and fairly correct unsatisfactory job behavior. These disciplinary principles apply to classified employees only, and unclassified employees are not subject to the provisions herein and serve at the pleasure of the HCBDD superintendent.

(a) Employees shall be advised of expected job behavior, the types of conduct that the HCBDD has determined to be unacceptable, and the penalties for such unacceptable behavior;

(b) Immediate attention, while considering all the facts, shall be given to policy infractions;

(c) Discipline shall normally be applied uniformly and consistently throughout the agency, and any deviation from standard procedures should be well justified and documented;

(d) Each offense shall be dealt with as objectively as possible; and

(e) An employee's immediate supervisor and/or the superintendent shall be responsible for administering discipline.

(B) PROGRESSIVE DISCIPLINE POLICY: CLASSIFIED EMPLOYEES

(1) While progressive discipline is not required by the Ohio Revised Code, the HCBDD and its supervisors shall normally follow an established system of progressive discipline as a means to prove "notice" when correcting job behavior, for all classified employees.
Unclassified employees are not subject to the provisions of this policy.

(2) This discipline policy provides standard penalties for specific offenses; however, the examples of specific offenses given in any grouping are not all inclusive, but serve merely as a guide.

(3) The standard penalties provided in this policy do not preclude the application of a more or less severe penalty for a given infraction when specific circumstances exist.

(4) The superintendent may issue working suspension under certain circumstances, for example, to discipline an FLSA (Fair Labor Standards Act)-exempt employee without jeopardizing the employee's exempt status, or to impose discipline when the HCBDD is understaffed.

(5) Records of discipline will be kept according to the HCBDD public record retention schedule.

(6) Only the superintendent has the authority to reduce in classification or pay, fine, suspend, or terminate an employee. Prior to such discipline, a pre-disciplinary conference must be held if it involves a classified employee.

(7) Suspensions of more than 24 hours' pay, reductions, or removals of classified employees not exempt from overtime must be filed with DAS (Department of Administrative Services, State of Ohio) on an Order of Removal, Suspension, or Reduction ADM 4055 form in accordance with the Ohio Revised Code. Requirements for overtime-exempt classified employees are "more than 40 hours."

(8) Reduction in classification or pay, suspension, fine, or removal of an unclassified employee does not require an ADM 4055 form and may be executed at the discretion of the superintendent. A written notice shall be provided to the employee. While a pre-disciplinary conference is not legally required for unclassified employees, it is recommended that the superintendent or designee meet with the employee to provide the employee with an opportunity to respond regarding the alleged infraction, prior to reducing, suspending, fining, or removing the employee from public service.

(9) The superintendent may place an employee on administrative leave with pay, in circumstances where the health or safety of the employee, other employees, or of any person or property entrusted to the employee's care could otherwise be adversely affected. The length of the leave shall not exceed the length of the situation for which the leave is granted. For example, in a disciplinary situation such leave might extend until the HCBDD completes an investigation of the matter, conducts a pre-disciplinary conference, and takes action, or decides not to do so.

(10) Compensation for administrative leave shall be equal to the employee's hourly rate of pay.

(C) PRE-DISCIPLINARY CONFERENCE

(1) Whenever the superintendent or designee determines that a classified employee may be disciplined for cause (including all suspensions, fines, reductions, or terminations), a pre-disciplinary conference will be scheduled to give the employee an opportunity to offer an explanation of the alleged conduct. The HCBDD must hold a pre-disciplinary conference prior to signing a last chance agreement also.

(2) Pre-disciplinary conferences will be conducted by the superintendent or designee.

(3) At the conference, the superintendent or designee will provide to the employee a written outline of the charges which may be the basis for disciplinary action.

(4) At the conference the employee must answer all questions truthfully. If it is proven in a subsequent hearing that the employee's responses to questions were not truthful, such dishonesty may result in disciplinary action. Employees refusing to answer direct questions may be subject to additional disciplinary action for insubordination.

(5) At the conference the employee may present testimony or documentation which explains whether or not the alleged misconduct occurred.

(6) The superintendent will decide what discipline, if any, is appropriate.

(D) GUIDELINES FOR DISCIPLINARY ACTION AND PENALTIES

(1) The Ohio Revised Code sets out the forms of misconduct which are the legal basis for reduction, suspension, or removal of a classified employee. Those forms of misconduct are:

(a) Neglect of duty;
(b) Incompetency;
(c) Inefficiency;
(d) Dishonesty;
(e) Drunkenness;
(f) Immoral conduct;
(g) Insubordination;
(h) Discourteous treatment of the public;
(i) Any other failure of good behavior;
(j) Any other acts of misfeasance, malfeasance, and nonfeasance;
(k) Violation of any policy or work rule of the HCBDD; and
(l) Conviction of a felony.

(2) The offenses set forth in Groups I, II, and III below are non-inclusive examples of the above forms of misconduct which the State Personnel Board Review (SPBR) has historically judged to warrant the penalties established for that group.

(3) In general, Group I offenses may be defined as those infractions which are of a relatively minor nature and which cause only a minimal disruption to productivity, efficiency, and/or morale. Group I offenses, if left undisciplined by proper authority, will usually cause only a temporary impact against the organization unless such acts are compounded over time.

(4) Group II offenses may be defined as those infractions which are of a more serious nature than the Group I offenses and which, in turn, cause a more serious and longer lasting disruption to the organization in terms of decreased organizational productivity, efficiency, and/or morale. Group II offenses, if left undisciplined by proper authority, can cause a serious and longer lasting impact against the organization than the Group I offenses.

(5) Group III offenses may be defined as those infractions which are of a very serious or possibly a criminal nature, and/or which cause a critical disruption to the organization in terms of decreased productivity, efficiency, and/or morale. Group III offenses, if left undisciplined by proper authority, may have a long-lasting and serious adverse impact on the organization.

(6) This discipline policy is a general guideline only. The following examples of specific offenses are not all inclusive, and are not intended to be binding on the HCBDD.

(7) GROUP I OFFENSES

First offense.....Verbal instruction and cautioning (verbal warning)

Second offense.....Written reprimand

Third offense..... A working suspension of 24 hours;
or a suspension without pay for 24 hours

Fourth offense.....Five (5) to fifteen (15) day working
suspension or suspension without pay

Fifth offense.....Up to and including termination

(8) Following are examples of Group I offenses. Following each offense in parentheses are the applicable the Ohio Revised Code misconduct types:

(a) Failure to properly and completely sign in or out when required (inefficiency, neglect of duty, or failure of good behavior).

(b) Failure to properly "report off" work for any absence or failure to timely notify the proper party of absence (neglect of duty, failure of good behavior, or nonfeasance).

(c) Creating or contributing to unsanitary or unsafe conditions or poor housekeeping (inefficiency, neglect of duty, or failure of good behavior).

(d) Failure to observe official safety rules (inefficiency, neglect of duty, failure of good behavior, or nonfeasance).

(e) Inattention to the needs of the public (discourteous treatment of public or failure of good behavior).

(f) Distracting the attention of others, unnecessary shouting, use of profane or other inappropriate language, or otherwise causing disruptions on the job (inefficiency, neglect of duty, or failure of good behavior).

(g) Malicious mischief, horseplay, wrestling, or other potentially harmful conduct (inefficiency, immoral conduct, discourteous treatment of public, or failure of good behavior).

(h) Interfering with the work performance of subordinates or other employees (inefficiency, neglect of duty, or failure of good behavior).

(i) Failure to cooperate with other employees (inefficiency, neglect of duty, failure of good behavior, or nonfeasance).

(j) Neglect of, or careless failure to observe, HCBDD rules, regulations, policies, and procedures (inefficiency, neglect of duty, failure of good behavior, or nonfeasance).

(k) Excessive garnishments (failure of good behavior or nonfeasance).

(l) Use or possession of another employee's working equipment or property without approval (dishonesty or failure of good behavior).

(m) Unauthorized use of the HCBDD's telephone for other than business purposes (inefficiency, neglect of duty, failure of good behavior, or nonfeasance).

(n) Obligating the HCBDD for any minor expense, service, or performance without prior authorization (dishonesty, neglect of duty, failure of good behavior, or misfeasance).

(o) Neglect of, or careless failure to care for, HCBDD property or equipment (inefficiency, neglect of duty, failure of good behavior, or nonfeasance).

(p) Disregarding job duties by neglect of work (e.g., reading for pleasure, playing cards, viewing T.V., etc.) during work hours (inefficiency, neglect of duty, failure of good behavior, or nonfeasance).

(q) Inefficiency (e.g., lack of application or effort on the job, unsatisfactory performance, failure to maintain required performance standards, etc.) (inefficiency, neglect of duty, failure of good behavior, or nonfeasance).

(r) Neglect of, or careless failure to, prepare required reports or documents (inefficiency, neglect of duty, failure of good behavior, or nonfeasance).

(s) Failure of a supervisor to administer discipline as provided herein or to otherwise enforce the rules, regulations, policies, and procedures of the HCBDD (inefficiency, neglect of duty, failure of good behavior, or nonfeasance).

(t) Violation of any other county HCBDD policy contained in this manual or otherwise.

(9) GROUP II OFFENSES

First offense.....A working suspension of less than 24 hours; or a suspension without pay for less than 24 hours

Second offense.....Five (5) to fifteen (15) day working suspension or suspension without pay

Third offense.....Up to and including termination

(10) Following are examples of Group II offenses. Following each offense in parentheses are the applicable Ohio Revised Code misconduct types:

(a) Sleeping during work hours (inefficiency, neglect of duty, failure of good behavior, or misfeasance);

(b) Reporting to work or working while unfit for duty (incompetence, or failure of good behavior);

(c) Failure to report for overtime work, without proper excuse, after being scheduled to work in accordance with overtime policy (inefficiency, neglect of duty, failure of good behavior, or nonfeasance);

(d) Leaving a post of continuous operations prior to being relieved by employee of incoming shift (neglect of duty or failure of good behavior);

(e) Willful refusal to sign in or out when required (inefficiency, neglect of duty, failure of good behavior, or nonfeasance);

(f) Performing private work on HCBDD time (inefficiency, neglect of duty, failure of good behavior, or misfeasance);

(g) Neglect or careless failure to observe official safety rules, or common safety practices (inefficiency, neglect of duty, failure of good behavior, or nonfeasance);

(h) Failure to report accidents (inefficiency, neglect of duty, failure of good behavior, or nonfeasance);

(i) Discourteous treatment of the public (discourteous treatment of public, or failure of good behavior);

(j) Threatening, intimidating, or coercing subordinates or other employees (inefficiency, neglect of duty, or failure of good behavior);

(k) Use of abusive or offensive language toward subordinates or other employees (immoral conduct, insubordination, failure of good behavior, or malfeasance);

(l) The making or publishing of false, vicious, or malicious statements concerning other employees, the HCBDD or its operations (dishonesty, failure of good behavior, or malfeasance);

(m) Solicitation or distribution on HCBDD property in violation of the solicitation and distribution policy (inefficiency, neglect of duty, failure of good behavior, or misfeasance);

(n) Willful disregard of the HCBDD's rules, regulations, policies, and procedures (inefficiency, neglect of duty, failure of good behavior, misfeasance, malfeasance, or nonfeasance);

(o) Negligent failure to obey a reasonable order of a supervisor or failure to carry out work assignments, including verbal instructions (inefficiency, neglect of duty, failure of good behavior, or misfeasance);

(p) Neglect or carelessness in the use of HCBDD property or equipment (inefficiency, neglect of duty, failure of good behavior, or nonfeasance);

(q) Obligating the HCBDD for a major expense, service, or performance without prior authorization (dishonesty, neglect of duty, failure of good behavior, or misfeasance);

(r) Unauthorized use of HCBDD property or equipment, including the unauthorized reproduction of this manual (inefficiency, neglect of duty, failure of good behavior, or misfeasance);

(s) Failure to report equipment damage (inefficiency, neglect of duty, failure of good behavior, or nonfeasance);

(t) A traffic violation or accident while driving an HCBDD vehicle which evidences recklessness by the employee (inefficiency, neglect of duty, failure of good behavior, or misfeasance);

(u) Refusing to provide testimony in court, during a public hearing (SPBR (State Personnel Board of Review), SERB (State Employee Relations Board), etc.), or any other official hearing, investigation, or proceeding involving the HCBDD (insubordination, failure of good behavior, or nonfeasance);

(v) Refusing to provide testimony or information concerning any investigation (insubordination, failure of good behavior, or nonfeasance);

(w) Possession or storage of alcoholic beverages on the HCBDD's premises (neglect of duty, drunkenness, failure of good behavior, or malfeasance);

(x) Unauthorized presence on the HCBDD's property (failure of good behavior or misfeasance);

(y) Habitual neglect of timely completion of required reports or documents (inefficiency, neglect of duty, failure of good behavior, or nonfeasance);

(z) Willful failure to timely complete required reports and documents (inefficiency, neglect of duty, failure of good behavior, or nonfeasance); and

(aa) Violation of any other county policy contained in this manual or otherwise.

(11) GROUP III OFFENSES

First offense.....Up to and including termination

(12) Following are examples of Group III offenses. Following each offense in parentheses are the applicable Ohio Revised Code misconduct types:

(a) Instigating, leading, or participating in any walkout, strike, sit-down, stand-in, sympathy strike, call-in, slowdown, refusal to return to work at the scheduled time for a scheduled shift, or other concerted curtailment, restriction, or interference with work in or about the HCBDD's premises in violation of Ohio Revised Code (neglect of duty, failure of good behavior, or misfeasance);

(b) Refusal, without legitimate reason, to work during emergency situations or conditions (insubordination, neglect of duty, failure of good behavior, or nonfeasance);

(c) Signing or altering other employees' time records, altering one's own time records, or having one's time records signed or altered by another, without authorization (dishonesty, failure of good behavior, or malfeasance);

(d) Knowingly concealing a communicable disease (e.g., TB, etc.) which may endanger others (neglect of duty, failure of good behavior, misfeasance, or malfeasance);

(e) Carrying or possessing firearms, explosives, or weapons on HCBDD property at any time in violation of law (failure of good behavior or malfeasance);

(f) Willfully withholding information which threatens the safety and security of the HCBDD, its operations, or employees (dishonesty, failure of good behavior, misfeasance, or malfeasance);

(g) Willfully demeaning, verbally abusing, and/or humiliating another person (discourteous treatment of the public, neglect of duty, failure of good behavior, or malfeasance);

(h) Committing an act of discrimination, sexual harassment, or engaging in conduct giving insult or offense on the basis of race, color, sex, age, religion, national origin, or disability (immoral conduct, neglect of duty, failure of good behavior, or malfeasance);

(i) Failure to report any act of discrimination, sexual harassment, or engaging in conduct giving insult or offense on the basis of race, color, sex, age, religion, military status, national origin, disability, genetic information, or other protected criteria (immoral conduct, neglect of duty, failure of good behavior, or malfeasance);

(j) Fighting with, or attempting to injure, other employees (discourteous treatment of the public, neglect of duty, failure of good behavior, or malfeasance);

(k) Insubordination by refusing to perform assigned work or to comply with the written or verbal instructions of a supervisor (insubordination, neglect of duty, failure of good behavior, or nonfeasance);

(l) Providing false testimony, statements, or information in any official HCBDD, court, or administrative investigation, hearing, or proceeding (dishonesty, failure of good behavior, malfeasance, or neglect of duty);

(m) Providing false information, making a false statement, committing a fraudulent act, or withholding pertinent information in the employment application process (dishonesty, failure of good behavior, misfeasance, or malfeasance);

(n) Violating the HCBDD's gambling policy as contained in this manual (inefficiency, neglect of duty, failure of good behavior, misfeasance, or malfeasance);

(o) Stealing or similar conduct, including destroying, damaging, concealing, or converting any property of the HCBDD or of other employees (dishonesty, failure of good behavior, or malfeasance);

(p) Dishonesty or dishonest action. Examples of "dishonesty" or "dishonest actions" are: theft, pilfering, making false statements to secure an excused absence or justify an absence or tardiness. These are examples only and do not limit the terms dishonesty and dishonest action (dishonesty or malfeasance);

(q) Engaging in political activity as prohibited by ORC section 124.57 and as provided in the political activity section of this manual (failure of good behavior, malfeasance);

(r) Wanton or willful neglect in the performance of assigned duties (inefficiency, neglect of duty, failure of good behavior, misfeasance, or malfeasance);

(s) The unlawful manufacture, distribution, dispensation, possession, use, or being under the influence of alcohol or a controlled substance which takes place in whole or in part in the workplace and/or a violation of the reporting requirements of the HCBDD's Drug Free Workplace Policy (drunkenness, immoral conduct, neglect of duty, failure of good behavior, or malfeasance);

(t) Driving a motor vehicle on duty or HCBDD business without a valid, applicable operator's license (dishonesty, failure of good behavior, malfeasance, or neglect of duty);

(u) Failure to obtain, maintain, and/or report the loss of required licenses, certifications, or other qualifications of an employee's position (dishonesty, failure of good behavior, malfeasance, or neglect of duty);

(v) Conviction of any violation of law which may adversely affect the public's trust in the employee's ability to perform the duties of the employee's position (dishonesty, failure of good behavior, or malfeasance);

(w) Intentional misuse of HCBDD or other public funds (dishonesty, neglect of duty, failure of good behavior, or malfeasance);

(x) Willful neglect or intentional misuse, abuse, or destruction of the property, equipment, or tools of the HCBDD or another employee (inefficiency, neglect of duty, failure of good behavior, misfeasance, or malfeasance);

(y) Soliciting or accepting a gift, gratuity, bribe, or reward for the private use of the employee; or otherwise using one's position, identification, name, photograph, or title for personal gain; or otherwise violating the HCBDD's Code of Conduct or Ohio's ethics laws for public employees (inefficiency, neglect of duty, failure of good behavior, misfeasance, or malfeasance);

(z) Engaging in off-duty employment activities which the HCBDD has determined to be an interest or time conflict (inefficiency, neglect of duty, failure of good behavior, or misfeasance);

(aa) Making false claims or misrepresentations in an attempt to obtain any benefit (dishonesty, failure of good behavior, neglect of duty, or malfeasance);

(bb) Misuse or removal of documents or information of a confidential nature or revealing such information without prior and appropriate authorization (dishonesty, neglect of duty, failure of good behavior, or malfeasance);

(cc) Misuse, removal, or destruction of HCBDD records without prior authorization (dishonesty, neglect of duty, failure of good behavior, or malfeasance);

(dd) Conviction of certain felonies;

(ee) Failure (neglect or otherwise) to report accidents or injuries;

(ff) Job abandonment of three days or more;

(gg) Intentional violation of the Tobacco/E-cigarette Policy;

(hh) Violation of social media policy (failure of good behavior, malfeasance); and

(ii) Violation of any HCBDD policy contained in this manual or otherwise.

(E) GUIDELINES FOR DISCIPLINARY ACTION AND PENALTIES PROCEDURE

(1) Multiple policy infractions should be dealt with by following the progressive discipline procedure set forth below:

(a) Multiple offenses which are <u>unrelated</u> are progressively disciplined in the groups in which the offenses are classified.

(b) Multiple offenses which are related are progressively disciplined regardless of the groups in which the offenses are classified and regardless of the order in which the offenses occurred.

(c) Multiple offenses which are closely related in time, even if unrelated or in different groups hereunder, may be combined to result in discipline which exceeds the severity of the total sum of the separate offenses.

(2) Examples of the difference between the treatment of related and unrelated offenses are as follows:

(a) If, as a first offense, an employee commits Group I offense #1, "failure to properly and completely sign in or out", the employee would normally receive a verbal warning. If within 24 months this employee commits an unrelated offense, Group II offense #18, "unauthorized use of HCBDD property or equipment", the employee would receive up to a one day suspension without pay. If, however, the second offense had been related to the first offense, such as Group II offense #5, "willful refusal to sign in or out when required", the employee would receive up to a 15 day suspension without pay.

(b) If, as a first offense, an employee commits Group III offense #2, "refusal without legitimate reason, to work during emergency situations or conditions", the employee would be disciplined up to termination. If the employee is not terminated, for whatever reason, and if within 24 months the employee commits an unrelated offense, Group II offense #6, "performing private work on HCBDD time", the employee would receive a one (1) to three (3) day suspension. If, however, the second offense had been related to the first offense, such as Group II offense #3, "failure to report for overtime work, without proper excuse, after being scheduled to work in accordance with overtime policy", the employee would be subject to termination.

(F) APPEALS OF PERSONNEL ACTIONS

(1) Personnel actions for classified employees such as a reduction; a suspension of more than 40 work hours in the case of an employee exempt from the payment of overtime compensation; a suspension of more than 24 hours in the case of an employee required to be paid overtime compensation; a fine of more than 40 hours' pay in the case of an employee exempt from the payment of overtime compensation; a fine of more than 24 hours' pay in the case of an employee required to be paid overtime compensation; removal, except for the reduction or removal of a probationary employee; and layoffs, may be appealed by an affected employee through the in-house complaint procedure. If necessary, the above listed personnel actions may be appealed by an affected employee to the State Personnel Board of Review. Disciplinary action based on conviction of a

"felony" within the meaning of the Ohio Revised Code may not be appealed to the State Personnel Board of Review.

(2) Appeals must be filed within 10 days after the employee is served the disciplinary order. Appeals from layoffs must be made within 10 days after receipt of the layoff notice or the date of displacement.

(3) The Ohio Revised Code does not apply to modifications or reductions in pay or workweek authorized by the Ohio Revised Code.

(4) The State Personnel Board of Review (SPBR) maintains authority to decide whether an appeal warrants a hearing. When an appeal is heard, the board may affirm, disaffirm, or modify personnel decisions made by the superintendent. However, in an appeal of a removal order based upon a violation of a last chance agreement, the board, commission, or trial board may only determine if the employee violated the agreement and thus affirm or disaffirm the judgment of the superintendent.

(5) Temporary, intermittent, and other employees serving in the unclassified service have no appeal rights to the SPBR. Probationary employees likewise may not appeal to the SPBR.

(6) Disciplinary action based on conviction of a "felony" within the meaning of the Ohio Revised Code 124.34 may not be appealed to the SPBR (State Personnel Board of Review).

(G) COMPLAINT PROCEDURE

(1) The HCBDD recognize that within any organization there will be occasional differences among its employees regarding interpretations of rules or other problems stemming from conditions of employment. Whenever differences or problems arise, employees should attempt to resolve the matter informally through proper channels.

(a) In the event a difference or problem cannot be resolved informally, the HCBDD provides the following complaint procedure by which an employee may seek a resolution of his or her grievance.

Step 1: Any employee having a complaint may file it in writing with his or her immediate supervisor. In order for the complaint to be recognized, it must be filed within five (5) working days from the date the alleged incident occurred. Within five (5) working days from the date the complainant first presented his or her issue, the supervisor will attempt to resolve the matter.

Step 2: If the issue is not resolved in Step 1, the complainant may pursue the matter by submitting the complaint in writing to the department head within five (5) working days from the reply received in Step 1. The department head shall, if it is deemed necessary, meet with those

concerned and otherwise attempt to resolve the matter within five (5) working days from the receipt of the complaint.

Step 3: If the matter is not resolved in Step 2, the complainant may pursue the matter by submitting the complaint in writing to the superintendent or designee within five (5) working days from the reply received in Step 2. The superintendent or designee shall respond in writing to the complainant within 10 working days following the conclusion of his or her investigation. The decision rendered in this Step 3 is final and binding.

(b) In the event of extenuating circumstances, a time limit may be extended by mutual agreement of both parties in writing.

(c) Complaints not processed to the next step of the procedure within the specified time limit, or any extension thereof, shall be considered to have been resolved on the basis of the decision at the previous step.

(d) Any complaint not answered within the prescribed time limit, or extension thereof, shall be considered to have been answered in the negative and may be advanced to the next step.

(e) Where the alleged complaint is of a nature that qualifies for appeal under rules of the State Personnel Board of Review, the complainant must appeal through the SPBR in accordance with the rules of that body.