

Office of Human Resources

***1601 Progressive Discipline***

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**Georgia Department of Human Services  
Human Resources Policy #1601**

**Progressive Discipline**

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**References:**

- Rules of State Personnel Board 478-1-.26 – Adverse Actions for Classified Employees
- DHS Human Resources Policy #504 – Criminal History Record Checks
- DHS Human Resources Policy #1006 – Absence from Work
- DHS Human Resources Policy #1101 – Classification and Compensation
- DHS Human Resources Policy #1201 – Conduct Standards and Ethics in Government
- DHS Human Resources Policy #1301 – Alcohol and Drug-Free Workplace
- DHS Human Resources Policy #1302 – Alcohol and Drug Testing Programs
- DHS Human Resources Policy #1504 – Reprimand Review Process
- DHS Human Resources Policy #1601 A1 – Progressive Discipline Guidelines
- DHS Human Resources Policy #1601 A2 – Classified Employee Disciplinary and Dismissal Actions
- DHS Human Resources Policy #1601 A3 – Unclassified Employee Disciplinary and Dismissal Actions
- DHS Human Resources Policy #1901 – Employment Separations
- O.C.G.A. §45-20-1 et seq. – Unclassified Service

The Department of Human Services (DHS) has established standards of performance, conduct, and conditions of employment (e.g., attendance, appropriate dress, etc.) that are reasonable, job-related, and non-discriminatory. The intent of the policy is to establish guidelines for correcting inappropriate conduct or performance deficiencies unless the offense committed is one for which dismissal is the immediate appropriate remedy. It is further designed to establish guidelines and procedures for managing discipline that are clear and understandable to both employees and supervisors.

## Section A: Scope

1. This policy applies to all DHS classified and unclassified employees. Procedures for Adverse Actions must be followed with “Classified Employees.” (See definitions of “Classified Employees” and “Unclassified Employee” below.) The procedures for Adverse Actions may be applied with “Unclassified Employees” but nothing in this policy alters the at-will status of such employees. All employees in unclassified positions serve at the will and pleasure of the appointing authority.

## Section B: Policy

1. All employees should understand the importance of their work and how the community and organization value it. It is our expectation and belief that all employees will live up to the established standards of performance and conduct.
2. Supervisors have a responsibility to inform employees about their job expectations and any rel-

evant information (i.e., rules, policies, standards, etc.) 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. At a minimum, this should include an initial orientation and review of assignments at frequent intervals. It is especially important that changes in duties or standards be communicated as soon as practicable.

3. Supervisors are responsible for achieving the highest performance possible from employees under their supervision. Therefore, it is incumbent upon all supervisors to lead by example and to address unacceptable performance, workplace conduct, or conditions of employment by their employees. Subject to the provisions in this policy, supervisors are expected to choose the best available method to address unacceptable performance or workplace conduct considering the overall circumstances. With these responsibilities, supervisors are accountable for implementing disciplinary action, where appropriate, that is fair, prompt, legally sufficient and that is applied uniformly and without malice, harassment, intimidation, bias, or favoritism.
4. 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 the intent, the previous work record of the employee, or other relevant factors. Similar situations should be handled in a comparable manner.
5. Supervisors and employees should be aware that it is not necessary or required to implement every step in the progressive disciplinary process in every situation (i.e., corrective action, written reprimand, adverse action). Over a period, it may be appropriate to use several approaches, including disciplinary action, to address an employee's problem(s). Some situations, on the other hand, may require immediate dismissal. The basic guideline in each situation should always be to use the form of discipline that is most appropriate for the inappropriate conduct or performance deficiency.
6. Discipline should not be imposed with the purpose of punishing the employee. The purpose of each action, except for dismissal, should be to effectively correct the inappropriate conduct or performance deficiency.

## Section C: Definitions

1. "Adverse Actions" are disciplinary actions that result in suspension without pay, reduction in salary, demotion, or dismissal of an employee. It does not include actions resulting from reduction in force, insufficient funds, decrease in funds, or change in departmental needs.
2. "Designee" is a person who is authorized by law or delegated authority by the Commissioner to make employment decisions.
3. "Classified Employee" means an employee with procedural appeal rights set forth in O.C.G.A. §§ 45-20-8 and 45-20-9 who was in a classified position on June 30, 1996 and who has remained in a classified position without a break in service since that date.
4. "Reviewing Official" means any official of DHS who has been assigned the responsibility of reviewing proposed adverse actions.
5. "Unclassified Employee" means officers and employees excluded from the classified service by law, including employees in all positions filled on or after July 1, 1996.

# Section D: Preliminary Considerations

1. Under progressive discipline, performance deficiencies and workplace conduct should always be addressed as soon as recognized by the appropriate authority, and with increasing severity for repeated offenses. While progressive discipline is the preferred method of correction, situations may warrant disciplinary action up to and including dismissal for a first offense, depending on the facts and circumstances. Employees serve “at will” and this policy neither confers any change in that status nor creates any entitlement to a job.
2. The corrective or disciplinary action imposed for each occurrence of an infraction should be the least severe action that is likely to correct the problem. Where a range of corrective or disciplinary action is set forth in the [Progressive Discipline Guidelines](#), attached to this policy, DHS supervisors will consider the following factors:
  - a. The nature and severity of the employee’s violation(s) including current and previous violations;
  - b. The impact of the violation(s) upon the ability of the employee and his/her co-workers to perform their assigned duties;
  - c. The overall work record of the employee; and
  - d. Which disciplinary action will effectively improve the employee’s conduct or performance.
3. When a violation of a DHS policy or standard occurs, supervisors, and managers should:
  - a. Report any knowledge of any ethics violation as outlined in DHS Policy #1201: Conduct Standards and Ethics in Government to both the DHS Inspector General and the DHS Ethics Officer.
    - I. Supervisors are responsible for reporting such violations and for forwarding any such reports from any member of the supervisor’s staff to the DHS Inspector General and the DHS Ethics Officer. The duty to report is mandatory under DHS ethics policies. Where an ethics violation is identified, the findings of fact by the DHS Inspector General and the recommendations by the DHS Ethics Officer should be considered in the determination of appropriate action.
  - b. Research the facts and circumstances before deciding on the appropriate disciplinary action.
    - I. In matters involving attendance and performance, a one-time observation may be sufficient basis for determining the type of disciplinary action that should be taken.
    - II. In matters involving conduct, an extensive investigation may be necessary to determine the full extent of the problem before deciding on the type of disciplinary action.
  - c. Determine the appropriate disciplinary action by considering several factors including but not limited to:
    - I. The nature of the offense;
    - II. The seriousness of the offense;
    - III. The employee’s work record of conduct and performance; and,
    - IV. Applicable rules, policies, practices, and standards.
4. Take appropriate action promptly, observing the correct procedural requirements.

5. The Progressive Discipline Guidelines ([Attachment #1](#)) should be reviewed by supervisors and managers in determining appropriate disciplinary actions.

## Section E: Corrective Measures

1. Supervisors are encouraged to take action that enables the employee to correct his or her deficiencies and contribute to the success of the organization. In addition, or prior to taking disciplinary action, corrective measures (e.g., coaching, counseling, verbal warnings) may be effective to correct attendance issues, inappropriate conduct, or work deficiencies. Some examples of corrective measures include the following:
  - a. **Attendance Plan** – In cases where an employee does not meet attendance requirements (e.g., chronic tardiness, absenteeism, or abuse of leave), an Attendance Plan may be implemented. An Attendance Plan outlines specific expectations required of the employee. Medical or other supporting documentation may be required if an employee has demonstrated excessive use of accrued leave banks. If attendance standards are not met, disciplinary action may be taken.
  - b. **Unauthorized Leave Without Pay** – An employee who is absent without documentation to support their need for leave and 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 leave without pay may be used as a basis for disciplinary action. The use of annual leave or personal leave is a privilege that may be used only upon approval.
  - c. **Work Plan** – A Work Plan (frequently called a “Corrective Action Plan” or Performance Improvement 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. The Plan should specify the period covered, factors and reasons for not meeting established work standard.
  - d. **Memo of Concern and Expectations** – A Memo of Concern and Expectations (MOC) may be issued to an employee to outline concerns and expectations with the employee’s current conduct and/or performance. The memo should specify the improvement(s) expected.
  - e. **Denial of Performance-Based Salary Increases** – An employee who received an annual performance evaluation rating of “Unsatisfactory Performer” in either the Section 1: Core/Individual Competencies, Section 2: Individual Goals, Section 3: Job Responsibilities, or Section 6: Overall Summary of the Performance Management Form (PMF) will not receive a performance-based salary increase. The employee is to be placed on an Attendance Plan or Work Plan, as appropriate.

## Section F: Reprimands

1. A **Written Reprimand and/or Written Reprimand Final Warning** are formal documents which must be placed in the official personnel file maintained by the **Office of Human Resources (OHR)**. The written reprimand and/or written reprimand final warning will be forwarded to the applicable Division/Office Director for review, then shared with the OHR Deputy Director or Director before issuance to the employee. After issuance, the written reprimand and/or written reprimand final warning should be sent to [OHRPersonnelRecords@dhs.ga.gov](mailto:OHRPersonnelRecords@dhs.ga.gov)

for placement in the employee's personnel file.

2. A **Written Reprimand and/or Written Reprimand Final Warning** should contain the following information:
  - a. The date, time and/or place of the inappropriate conduct, attendance, or performance deficiency;
  - b. Future expectations of the employee; and
  - c. The consequences should the inappropriate conduct, attendance, or performance deficiency continue to be repeated.
3. The employee will be issued a Written Reprimand and/or Written Reprimand Final Warning, and he/she should acknowledge having read and discussed the document by signing their name. If the employee fails to sign the document, the supervisor must make a notation on the reprimand that the **employee refused to sign** and indicate the **date the reprimand was presented to the employee for signature**. A copy of the reprimand must be given to the employee.
4. A Written Reprimand and/or Written Reprimand Final Warning is eligible for review under DHS Policy #1504: Reprimand Review Process.
5. Supervisors should always consult with their assigned HR Representative regarding the appropriateness of the action as well as the contents of the reprimand before issuing a Written Reprimand and/or Written Reprimand Final Warning to the employee.

## Section G: Suspension Without Pay and Dismissal

1. Suspension Without Pay and Dismissal are both formal actions which must be properly documented in the employee's official personnel file maintained by **OHR**. The request for Suspension Without Pay or Dismissal will be forwarded to the applicable Division/Office Director for review then shared with the OHR Deputy Director or Director before next steps are taken. Once the OHR Deputy Director or Director determines the next step, the Suspension Without Pay or Dismissal request will be forwarded to the OHR Deputy Commissioner for review and approval. After approval, the Suspension Without Pay or Dismissal should be sent to [OHRPersonnel-Records@dhs.ga.gov](mailto:OHRPersonnel-Records@dhs.ga.gov) for placement in the employee's personnel file.

For additional information or assistance, please contact your designated Human Resources Representative.

## 1601 A1 Progressive Discipline Guidelines



Georgia Department of Human Services  
Human Resources Policy #1601 A1

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**References:**

- Rules of State Personnel Board 478-1-.26 – Adverse Actions for Classified Employees
- DHS Human Resources Policy #504 – Criminal History Record Checks
- DHS Human Resources Policy #1006 – Absence from Work
- DHS Human Resources Policy #1101 – Classification and Compensation
- DHS Human Resources Policy #1201 – Conduct Standards and Ethics in Government
- DHS Human Resources Policy #1301 – Alcohol and Drug-Free Workplace
- DHS Human Resources Policy #1302 – Alcohol and Drug Testing Programs
- DHS Human Resources Policy #1504 – Reprimand Review Process
- DHS Human Resources Policy #1601 – Progressive Discipline
- DHS Human Resources Policy #1601 A2 – Classified Employee Disciplinary and Dismissal Actions
- DHS Human Resources Policy #1601 A3 – Unclassified Employee Disciplinary and Dismissal Actions
- DHS Human Resources Policy #1901 – Employment Separations

The following information is intended to serve as guidelines only and are being provided to help inform the supervisory decision about appropriate responses to inappropriate conduct or performance. The guidelines are **not** intended to dictate what disciplinary action, if any, is appropriate for every situation.

## Section A: General Information

1. The principle of progressive discipline involves informing the employee of the problem and allowing the employee an opportunity to correct. If not corrected, then increasingly severe disciplinary measures will be imposed if the current level of discipline fails to satisfactorily correct the problem(s).
2. The employee's leadership team shall administer disciplinary action, as needed, in an equitable and consistent manner. The guidelines for disciplinary actions below are provided to assist management in determining the appropriate disciplinary action. The guidelines are not intended to undermine management discretion or the use of judgment and consideration of an employee's overall work history.
3. To decide on the most appropriate action, consider the seriousness of the conduct, the existence of a relevant DHS policy, the employee's work record, the ability of the employee to self-correct, actions taken for similar conduct by other employees, and other applicable circumstances.

## Section B: Group 1 Infractions or Conduct

Infractions in this group are considered **less serious** than those outlined in Groups 2 and 3. Group 1 infractions or conduct may include but are not limited to:

1. Negligence, Inefficiency of Absenteeism – Inefficiency in performance of assigned duties, failing to complete work assignments or to meet established productivity standards. Infractions may include tardiness, leaving early, returning to work late after lunch or breaks, unscheduled time away from work area for non-job-related activities, excessive breaks, excessive number of absences from work, failure to complete tasks or sleeping on duty.



2. Non-Work-Related Activities – Engaging in non-job-related activities while on duty that interfere with work. Infractions may include extended personal visits and telephone calls on either state or personal phone and prohibited use of state issued equipment.
3. Misconduct – Conduct that may diminish the employee’s ability to perform his/her job. Infractions may include any conduct that adversely impacts the employee’s credibility, trustworthiness, or integrity. Some acts of misconduct may involve secondary employment, personal relationship with providers or recipients that are prohibited by law or DHS policy.

***Suggested Disciplinary Actions for Group 1 Infractions or Conduct:***

- Memo of Concern and Expectations
- Written Reprimand
- Written Reprimand Final Warning
- Suspension Without Pay
- Dismissal

## **Section C: Group 2 Infractions or Conduct**

Acts and conduct in this group generally are **more serious** than Group 1 or could be ongoing. Group 2 infractions include but are not limited to:

1. Inappropriate, Abusive or Destructive Conduct on Duty – These may be derogatory, disparaging or other insulting remarks or gestures; outbursts or loud verbal exchanges that amount to conduct unbecoming of a public employee. Other examples may be intentional abuse, damage or destruction of any state owned or leased property, equipment, or vehicles, intentional abuse, damage, or destruction of the property of a co-worker.
2. Insubordinate Conduct– This could include explicit refusal to follow or carry out work-related directives of a supervisor or manager through acts or verbal exchange; failure or refusal to follow supervisor’s instruction or to perform assigned work.
3. Conduct to Violation of Law or DHS Policy – May include a violation of any DHS policies, such as those related to confidentiality, ethics, use of state property, political activity, safety policies and guidelines, falsification of records, cooperation with investigations and the timely request for proper approval for absences from work.

***Suggested Disciplinary Actions for Group 2 Infractions or Conduct:***

- Written Reprimand
- Written Reprimand Final Warning
- Suspension Without Pay
- Dismissal

## **Section D: Group 3 Infractions or Conduct**

Acts and conduct in this group are of the **most serious** nature. Commission of infractions in this

group may result in immediate dismissal. Prior to any such adverse action, the supervisor must consult with OHR. Group 3 infractions include but are not limited to:

1. Alcohol or Illegal Drug Use on Duty or on State Property – Employees shall not be under the influence of alcohol or illegal drugs, possess, use, sell, transfer, or distribute illegal drugs or narcotics, or violate the DHS policy regarding possession of alcohol or alcoholic beverages.
2. Assault, Fighting or Threatening Conduct – Physically attacking another person which may inflict bodily harm including fighting, hitting, choking, punching, kicking, slapping, pushing, or shoving, touching in an aggressive or threatening manner, or any other form of personal violence.
3. Conduct to Violation of Law or DHS Policy – May include a violation of any DHS policies, such as those related to falsification of records.
4. Deliberate damage or destruction to State owned or leased property.
5. Gambling on State Property – Gambling on state property may consist of friendly wagers, office sports pools as well as high stakes forms of gambling including taking bets from other employees, playing games with cards or dice for money or online gambling. This provision does **not** apply to games sponsored by the Georgia Lottery Corporation.
6. Failing to promptly report an arrest or conviction.
7. Thefts or Stealing – Unauthorized or misappropriation of any materials, records, files, currency, or property of DHS.
8. Unlawful Discrimination/Sexual Harassment – These examples could include, but are not limited to, acts or conduct that is discriminatory based on race, sex, religion, color, age, national origin, handicap, political affiliation, or any other status or condition protected by applicable state or federal laws; unwelcome sexual advances or requests for sexual favors; creating a hostile, bullying, intimidating or offensive work environment.

***Suggested Disciplinary Actions for Group 3 Infractions or Conduct:***

- Suspension Without Pay
- Dismissal

For additional information or assistance, please contact your designated Human Resources Representative.

## **1601 A2 Classified Employee Disciplinary and Dismissal Actions**



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**References:** Rules of the State Personnel Board 478-1-.26 — Adverse Action for Classified Employees

**(Applicable to employees hired prior to July 1, 1996)**

The intent of this attachment is to establish a disciplinary procedure for classified employees that is fair, prompt, and complies with the requirements of laws, Rules of the State Personnel Board and Departmental policies. Classified employee includes all employees of state departments as defined in the law; those officers and employees excluded by the law shall not be included.

## **Section A: General Provision**

1. Supervisors have a responsibility to inform employees about job expectations and any relevant information (e.g., rules, policies, standards, etc.) 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. At a minimum, this should include an initial orientation and review of assignments at frequent intervals. It is especially important that changes in duties or standards be communicated as soon as possible.
2. 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.
3. Supervisors and employees should be aware that it is not necessary or required that every disciplinary action be followed in every situation. It may be appropriate to use several approaches, including disciplinary action, to address an employee's problem(s). Some situations, on the other hand, require immediate dismissal. The basic guideline in each situation should always be to use the form of discipline that is most appropriate for the inappropriate behavior or performance deficiency.
4. Discipline should not be administered with the purpose of punishing the employee. The purpose of each action, except for dismissal, should be to immediately correct the inappropriate behavior or performance deficiency.
5. Employees are responsible for reporting suspected criminal or administrative misconduct including fraud, waste, and abuse relating to any State program or operation. Employees who make false allegations and/or intentionally disclose confidential information may be disciplined.
6. Employees are required to cooperate fully, truthfully, and help, when appropriate, with any type of investigation regarding alleged criminal or administrative misconduct. This includes activities such as cooperating in interviews, answering questions related to the performance of official duties, and producing requested documents.

## Section B: Adverse Actions - Classified Employees

Adverse Actions are Suspension Without Pay, Disciplinary Salary Reduction, Demotion, and Dismissal.

### 1. Suspension Without Pay:

- a. The Rules of the State Personnel Board outline specific procedural requirements for Adverse Actions.
- b. Except in cases that warrant immediate dismissal, the supervisor should review the circumstances of the incident or offense, history of corrective measures and/or disciplinary actions previously taken against the employee **prior** to proposing an Adverse Action.
- c. OHR **MUST** be consulted in advance to discuss and determine the appropriate Adverse Action.
- d. In accordance with the Rules of the State Personnel Board, an Adverse Action may be taken against an employee for the following reasons:
  1. Negligence or inefficiency in performing assigned duties;
  2. Inability or unfitness to perform assigned duties;
  3. Insubordination;
  4. Misconduct;
  5. Conduct reflecting discredit on the department;
  6. Commission of a felony or other crime involving moral turpitude;
  7. Chronic tardiness or absenteeism; and,
  8. Failure to report for or remain at work without justifiable cause.
- e. Employees may be suspended without pay for disciplinary purposes. The timeframes for a Suspension Without Pay for disciplinary purposes should be appropriate for the offense and should not exceed **thirty (30) calendar days**.
- f. Employees may be suspended without pay for up to **thirty (30) calendar days** for failure to secure or maintain a license or certification required by law, regulatory authority, or DHS.
- g. Employees may be suspended without pay pending criminal court action until the disposition of the action.
  1. At the end of the Suspension Without Pay for pending criminal court action, the employee may be returned to duty or terminated in accordance with State Personnel Board Rules.
  2. If the disposition of the criminal court action does not include any penalty to the employee, the employee will be reinstated in accordance with the State Personnel Board – Rule 478-1-.26.
- h. For Fair Labor Standards Act (FLSA) exempt employees, Suspensions Without Pay must be administered in full FLSA work periods and cannot cover parts of two (2) FLSA work periods.

**(Example:** A full-time FLSA exempt employee with a work period of Friday 5:00 p.m. to the

following Friday 5:00 p.m. may be suspended without pay for 40 hours from Friday 5:00 p.m. to the following Friday 5:00 p.m. This employee cannot be suspended without pay for less than 40 hours or for a 40-hour period other than the FLSA work period.)

## 2. Disciplinary Salary Reduction

- a. Salaries of FLSA non-exempt employees may be reduced for disciplinary purposes.
- b. Employees' salaries that are reduced because of a Disciplinary Salary Reduction should be reduced by an amount equal to at least five percent (5%) and should normally be reduced by an amount equal to increments of 5% (e.g., 5%, 10%, etc.).
- c. A Disciplinary Salary Reduction may be permanent, indefinite, or for a specified period conditional upon the employee's achievement of fully satisfactory performance and appropriate conduct.
- d. Employees that retain eligibility for the salary received prior to the Disciplinary Salary Reduction may be restored on the first day of any pay period following the Disciplinary Salary Reduction provided:
  1. The employee's conduct is fully satisfactory;
  2. The employee's performance is fully satisfactory; and
  3. The employee has remained in the same position.
  4. The employee's work status has not changed.

## 3. Demotion

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

## 4. Dismissal

- a. Employees may be dismissed when all other courses of action have been unsuccessful or when the situation is so serious that termination is necessary.
  - b. Dismissal is required in certain situations, including but not limited to drug or alcohol testing violations, criminal history records, criminal drug offenses, etc.
5. Except in cases that warrant immediate dismissal, the supervisor should review the circumstances of the incident, history of corrective measures and/or disciplinary actions previously taken against the employee prior to proposing any Adverse Action.
6. OHR **MUST** be consulted in advance of proposing an Adverse Action to discuss and determine the appropriate Adverse Action.
7. State Personnel Board Rule (Adverse Actions for Classified Employees) outlines specific procedural requirements for Adverse Actions. In accordance with Rule 478-1-.26, an Adverse Action may be taken against a Classified Employee for the following reasons:
- a. negligence or inefficiency in performing assigned duties;
  - b. inability or unfitness to perform assigned duties;
  - c. insubordination;

- d. misconduct;
- e. conduct reflecting discredit on the department;
- f. commission of a felony or other crime involving moral turpitude;
- g. chronic tardiness or absenteeism; or,
- h. failure to report for or remain at work without justifiable cause.

## Section C: Procedures

1. Prior to initiating a proposed Adverse Action, the Deputy Commissioner for Human Resources must review the proposed Adverse Action letter to ensure it meets the procedural requirements.
2. The Appointing Authority must give a Classified Employee written notice of any proposed Adverse Action at least **fifteen (15) calendar days** prior to the effective date of the adverse action except for an emergency.
3. The notice of proposed Adverse Action must include the following:
  - a. The effective date of the Adverse Action which must be at least **fifteen (15) calendar days** after the date notice of the proposed action is presented to or received by the employee, or properly delivered to the employee's last known address via regular mail, certified mail, and personal email (if known);
  - b. The specific charges or reasons for the Adverse Action;
  - c. A statement advising that the employee has a right to respond to the charges or reasons in writing, or appear before the DHS Reviewing Official at an agreed time during regular business hours within the **ten (10) calendar days** response period;
  - d. A statement advising the employee that a failure to respond to the charges during the response period will result in the action being effective on the date specified without further notice; and
  - e. A warning that failure to respond by the date set forth in the notice will result in a waiver of all further appeal rights, including any appeal to the State Personnel Board under Rule 478-1-27, of an Adverse Action.
4. The Reviewing Official must be someone who has the authority or has been delegated the authority to revoke or delay the proposed action.
5. Employee Response
  - a. The employee response procedure is created to protect the employee from erroneous or arbitrary Adverse Action. It is also created to afford DHS an opportunity to re-evaluate its position on proposed Adverse Actions and to affirm or correct, if necessary.
  - b. The employee must respond within **ten (10) calendar days** from the date the notice of proposed action is received. If the employee does not respond by the date required in the notice of proposed Adverse Action, the employee waives all further appeal rights.
  - c. The employee response may be made in writing or in person, or both. The employee may submit affidavits or other documents to support the response.
6. Final Determination

- a. The Reviewing Official must issue a decision concerning the proposed Adverse Action no later than **three (3) calendar days** after the date of the employee's response.
- b. The last action may be different from, but not more severe than, the proposed action.
- c. The notice of the final Adverse Action must include:
  - I. The last action taken;
  - II. The specific charges for which the last action is taken;
  - III. The effective date of the last action (this date may not be any earlier than the effective date in the notice of proposed adverse action); and
  - IV. A statement advising that the employee may appeal the decision to the State Personnel Board pursuant to Rule 478-1-.27 by filing an appeal in writing with the Office of State Administrative Hearings within **ten (10) calendar days** from the date the employee receives written notice of the last action or decision; or the effective date of the action or decision, whichever is later.
- d. The Reviewing Official may conduct further investigation as to the charges prior to issuing a decision.
- e. If the Reviewing Official determines that more than **three (3) calendar days** are needed to consider the employee's response to the proposed adverse action; the Reviewing Official may extend the period of consideration for up to **seven (7) calendar days** by notifying the employee of the length of the extension. The extension notice shall also state that the effective date of the proposed action shall be delayed by the same number of days as the length of the period needed for consideration.
- f. If the Reviewing Official determines that charges in addition to, are substantially different from those enumerated in the notice of proposed Adverse Action, the Reviewing Official must revoke the notice by written notification to the employee. A new action, or other appropriate action, may then be initiated against the employee.

## 7. Emergency Situations

- a. The Appointing Authority may take immediate adverse action against any employee in any of the following circumstances if:
  - I. It is likely that the employee has committed a felony or other crime involving moral turpitude;
  - II. The retention of the employee in active status may result in damage to property or may be disruptive, detrimental, or injurious to the employee, coworkers, persons under the employee's supervision or the public.
- b. The notice of Adverse Action based on an emergency is the final determination and must include the same items required in the Procedures, as referenced in Paragraph E above.

## Section D: Employee Response Procedure

- 1. The employee response procedure is created to protect the employee from erroneous or arbitrary adverse action. It is also created to afford the agency an opportunity to re-evaluate its position on proposed adverse actions or forfeiture of position and to affirm or correct if necessary. The procedure does not require a full evidentiary hearing prior to the action. It requires

only that the employee be given an opportunity to respond to the charges before a responsible official of the department.

2. The procedure must meet the following minimum requirements:
  - a. The person to whom the response is to be made must be someone who has authority to countermand or delay the proposed action.
  - b. The employee must respond within **ten (10) calendar days** from the date the notice of proposed action is received. If there is no response by the employee by the date required in the notice of proposed action, the employee waives all further appeal rights. There can be no further appeal, including any appeal to the State Personnel Board.
  - c. The response may be made in writing, or in person, or both.
  - d. The employee may submit affidavits to support the response; and,
  - e. The official who reviews the response may conduct further investigation as to the charges.
  - f. The role of the official who reviews the response is to 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.

## Section E: Determination of Final Action

1. The official to whom the response is made shall issue a notice of determination of final action not later than **three (3) calendar days** after the date of response except as set forth in Section V of this policy. The notice shall include:
  - a. A statement upholding the proposed action, reducing the proposed action, or rescinding the proposed action.
  - b. The specific charges for which the final action is taken.
  - c. The effective date of the final action, which may not be any earlier than the effective date in the notice of proposed action.
  - d. A statement advising that the employee may appeal this determination to the state personnel board pursuant to rule 478-1-.27 (appeals and hearings for classified employees) by filing an appeal in writing with the Office of State Administrative Hearings within **ten (10) calendar days** from the date the employee receives written notice of the final action or decision, or the effective date of the action or decision, whichever is later; and,
  - e. A statement reminding the employee that the **ten (10) calendar days** appeal period includes Saturdays, Sundays, and holidays.

## Section F: Extension for Response Official

1. If the official to whom the response is made determines that more than **three (3) calendar days** are needed to consider the employee's response to the proposed action, said official may extend the period of consideration for up to **seven (7) calendar days** by notifying the employee as to the length of the extension. The extension notice shall also state that the effective date of the proposed action shall be delayed by at least the same number of days as the length of the period of extension for consideration.



## Section G: Change in The Charges or The Adverse Action

1. If the official to whom the response is made determines that charges in addition to, or substantially different from, those enumerated in the notice of proposed adverse action should be made, or that the adverse action should be more severe than the action specified in the notice of proposed adverse action, said official shall revoke the proposed adverse action by written notification to the employee. The appointing authority may then propose a new action against the employee in accordance with Section II of this policy.

## Section H: Employment Status During Notice Period

1. During a notice period of adverse action an employee is expected to perform assigned duties without disrupting fellow employees or the agency's activities.
2. Any action by the employee to the contrary will be considered an emergency situation as defined in Section VIII of this policy. DHS may by written notice to the employee suspend an employee with pay during the period of notice of proposed adverse action, if such suspension is in the best interest of the agency.

## Section I: Emergency Situations Resulting in Immediate Adverse Action

1. Employees may be subject to immediate adverse action if any of the following circumstances exist:
  - a. It is likely that the employee has committed a felony or other crime involving moral turpitude.
  - b. The retention of the employee in active-duty status may result in damage to property or may be disruptive, detrimental, or injurious to the employee, fellow workers, persons under the employee's charge or the general public; or,
  - c. Immediate dismissal is required by law.
2. The notice of adverse action under this section is the final determination of adverse action and must include the same items required in Provision 7 of the State Board Rule. It must also include a statement explaining the emergency situation that caused this section to be invoked.
3. If on appeal to the State Personnel Board it is determined that the adverse action was correct but there was no emergency situation, the Board may take appropriate steps necessary to remedy the situation. In the case of a dismissal, such action may include back pay for the normal notice period.
4. Immediate adverse action may be invoked only with the approval of the Deputy Commissioner of Human Resources or their designee.
5. The emergency provisions of this State Board Rule must **not** be used to circumvent the notice requirement of this policy. If an agency is found to have abused these provisions, the State Board may suspend the agency's authority to utilize the emergency provisions.

## Section J: Recommendation for Rehire

1. Circumstances surrounding dismissal should be reviewed to determine whether it is appropriate to code the employee as rehire not recommended.
  - a. In some circumstances, employees who are dismissed from employment may be ineligible for rehire by the Department.

### NOTE

See DHS Policies #504: Criminal History Record Checks, #1301: Alcohol and Drug-Free Workplace and #1302: Alcohol and Drug Testing Programs for mandatory disqualifications from rehire.

- b. Each circumstance, other than those requiring mandatory disqualification from rehire, is to be reviewed on a case-by-case basis.
- c. If it is determined appropriate to enter a recommendation that an employee is ineligible for rehire, “No Rehire” is to be selected on the Electronic Personnel Action Request Form (ePAR).
- d. Documentation of the reason(s) supporting the request for “No Rehire” must be available upon request. Questions regarding the reasons for entering a “No Rehire” code should be discussed with OHR.

## Section K: Dismissal Based on Retirement Law

1. Employees, who **first established** membership in the Employees' Retirement System (ERS) prior to **April 1, 1972**, and who have a minimum of eighteen **(18) years** of service with the State, have involuntary dismissal rights under the Retirement System Law.
2. Specific procedures provided in law must be followed to separate an employee with involuntary dismissal rights.
3. Because of the legal requirements associated with dismissals under this law, any time a long-term (18 years or more) employee is being considered for dismissals, a thorough review should be conducted to determine if the employee first established membership in ERS prior to April 1, 1972.
4. When possible, prior to separating an employee under this law, the employee should be warned, in writing, that further inappropriate behavior or performance deficiencies could result in dismissal and possible loss of retirement benefits.
5. In all cases, employees who meet or who may meet the qualifying requirements listed above must not be separated without prior consultation with the Deputy Commissioner of Human Resources.

## Section L: Appeals

1. Refer to State Personnel Board Rule 478-1-.27 — Appeals and Hearings for Classified Employees, which outlines the basis on which a classified employee may file an appeal to the State Personnel Board.

## Section M: Dismissal/Termination Settlement Agreement

1. If an employee is dismissed/terminated, as a condition of a settlement agreement, the settlement agreement should be added to the employee's personnel file. If the settlement agreement requires that certain documents from the employee's file be purged, the following procedures must be followed.
  - a. The appropriate Human Resources Representative assigned to the Operations, Benefits, and Data Analysis team shall ensure that the specified document(s) are stapled together with the completed Purged Record Notification form as the cover sheet. This will indicate to anyone reviewing the personnel file that these records are no longer applicable to the employee's work history, per the settlement agreement. Please see DHS Policy #603: Official Personnel Files Attachment #3 to access the form.
  - b. Such notation shall be disclosed to any subsequent governmental entity seeking information on the former employee's work history for the sole purpose of making a hiring decision.

For additional information or assistance, please contact your designated Human Resources Representative.

## 1601 A3 Unclassified Employee Disciplinary and Dismissal Actions



### Georgia Department of Human Services Human Resources Policy #1601 A3

#### Unclassified Employee Disciplinary and Dismissal Actions

**Release Date:** March 31, 2024

**Revised Date:** August 30, 2024

**Next Review Date:** August 29, 2026

**References:** O.C.G.A. §45-20-1 et seq. — Unclassified Service  
O.C.G.A. §47-2-2 and §47-2-123 — Retirement Law  
DHS Human Resources Policy #1904 — Involuntary Separation Retirement Benefits

### (Applicable to employees hired after July 1, 1996)

The intent of this attachment is to establish a disciplinary procedure for unclassified employees that is fair and prompt. The Department of Human Services (DHS) recognizes that Georgia is an “employment-at-will” state. As such, unclassified employees serve at the discretion of the Department.

## Section A: General Provisions

1. Applicants and classified employees who are offered unclassified positions should be advised of the unclassified status. An Unclassified Employment Acknowledgement form, which indicates the terms of accepting a position in the unclassified service, should be signed. Please see DHS Policy #302: Classified to Unclassified Employment Attachment #1 to access this form.
2. Unclassified employees are covered by the Rules of the State Personnel Board, but they do not have appeal rights to the State Personnel Board.
3. In accordance with DHS Policy #1502: Unclassified Employee Complaint Procedure disciplinary actions and dismissal actions are not grievable.
4. Supervisors or Leadership must consult with OHR prior to taking a disciplinary or dismissal action against unclassified employees regardless of their length of service.

## Section B: Approval

1. Any decision to separate, demote, suspend without pay or reduce the salary of an unclassified employee for disciplinary reasons must be **approved in writing** by the Deputy Commissioner of Human Resources or their designee **prior to the action being taken**.
2. The requirement for written approval on disciplinary actions and dismissal actions **does not apply** to unclassified temporary employees or rehired retirees. Written approval is also not required for unclassified employees who are separated at the expiration of a time-limited appointment. However, any additional executive directives to this policy must also be followed.

## Section C: Adverse Actions – Unclassified Employees (At-Will Employees)

1. Unclassified Employees have no appeal rights under State Personnel Board Rules. Use of the guidelines outlined in this policy for Unclassified Employees is intended to provide consistency in implementing discipline; however, it does not alter the at-will status of such employees.
2. Supervisors must follow the procedures outlined in Paragraph D below when imposing an Adverse Action on an Unclassified Employee employed for twelve (12) months or more unless the action taken is in accordance with other procedures outlined by the Commissioner.
3. Prior to suspending a Fair Labor Standards Act (FLSA) exempt employee without pay, the agency should determine whether such action would result in the loss of the FLSA exemption.
  - a. 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. The FLSA work period should be determined prior to finalizing the dates for the suspension without pay action.
4. Prior to reducing an FLSA exempt employee's salary for disciplinary reasons, the agency should determine whether such action would result in the loss of the FLSA exemption.
5. Adverse Actions are Suspension Without Pay, Disciplinary Salary Reduction, Demotion, and Dismissal.
6. Procedures

- a. The employee's leadership team must provide written notice to their HR Representative of the intent to initiate Adverse Action.
- b. The notice must contain the reason(s) for the proposed action and documentation to support the action being proposed.
- c. The HR Representative will submit a recommendation to the division/office director based upon information obtained during the review.
- d. The Deputy Commissioner of Human Resources or their designee will approve or disapprove the recommended Adverse Action.
- e. If the Adverse Action is approved, the employee's leadership team will issue the letter to the employee.
- f. For Adverse Actions, other than dismissals, the notice to the employee should include information regarding the inappropriate conduct or performance deficiency. A copy of the notice must be sent to [OHRPersonnelRecords@dhs.ga.gov](mailto:OHRPersonnelRecords@dhs.ga.gov) for placement in the employee's personnel file.
- g. For Adverse Actions resulting in dismissal of an Unclassified Employee for inappropriate conduct or performance deficiencies, reasons are not required to be provided in the notice of dismissal.
  - I. Unclassified Employees may be dismissed for reasons other than inappropriate conduct or performance deficiencies, including but not limited to:
    - Budgetary constraints or reduction;
    - Downsizing;
    - Reorganization; or
    - Termination of program.

## **Section D: Involuntary Separation Based on Retirement Law**

1. Employees, who first established membership in the Employees' Retirement System (ERS) prior to April 1, 1972, and who have a minimum of 18 years of State employment, have involuntary separation rights under the Retirement System Law.
2. State Law requires that specific procedures be followed to separate employees with involuntary separation rights.
3. In all cases, employees who meet or may meet the qualifying requirements listed above must not be separated without prior consultation with the Deputy Commissioner of Human Resources.

## **Section E: Recommendation for Rehire**

1. In some circumstances, employees who are dismissed from employment may not be rehired. Each circumstance, other than those requiring mandatory disqualification, will be reviewed on a case-by-case basis, in consultation with OHR.

**NOTE**

See DHS Policy #504: Criminal History Records Checks, DHS Policy #1301: Alcohol and Drug-Free Workplace, and DHS Policy #1302: Alcohol and Drug Testing Programs for additional guidance.

2. If the recommendation to not rehire an employee is considered, DHS Policy #1901: Employment Separations must be referenced.

## Section F: Discipline Documentation Policy

1. In order to ensure DHS OHR has the most detailed and organized files, to increase the agency's ability to respond to claims, and to know at a future point how an employee was treated or how an issue was resolved, all discipline should be documented in writing, including any of the following actions that were exercised for disciplinary purposes (i.e., Verbal/written warnings, transfers, suspensions, demotions, salary reductions, work plans, performance plans, etc.).
2. The purpose of documenting all forms of discipline is as follows:
  - a. To clearly communicate the disciplinary action and the reason for the discipline to the employee;
  - b. To clearly communicate the disciplinary action and the reason for the disciplinary action to any future supervisor of the employee;
  - c. To provide a benchmark for future discipline if the employee's conduct does not improve;
  - d. To provide a reference point for disciplining other employees so that there will be consistency within the organization; and
  - e. To explain what discipline was imposed and why should the issue escalate in a legal context.
3. The format for documenting discipline which is the written record of the discipline should include the following:
  - a. The date on which the discipline was imposed;
  - b. A description of the incident, activity, event, or failure to act that led to the discipline;
  - c. What rules, policies, or procedures were violated by the employee,
  - d. A description of the discipline; and
  - e. What could happen if there is a similar event.

For additional information or assistance, please contact your designated Human Resources Representative.