

Approved:

  
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Policy: 17-015 (P)

Effective: January 29, 2024

Responsible Division: Human Resources

Supersedes Policy 17-015(P) Dated June 13, 2022

## **WORK RULES AND DISCIPLINE**

### **POLICY STATEMENT:**

To provide all employees with a clear understanding of ODOT's general code of conduct and to standardize the rules of employee conduct so that they are applied fairly and understood by all employees and to ensure adequate forewarning of the potential consequences of violations.

### **AUTHORITY:**

*Ohio Revised Code 124.34, 5501.20*

Contract between the State of Ohio and OCSEA

*Ohio Administrative Code 123:1, 5501-2-02*

### **SCOPE:**

Disciplining an employee who violates work rules or the Ohio Revised Code is necessary if order and efficiency are to prevail in the work place. All employees are expected to perform their work efficiently and effectively and to conduct themselves in a professional manner. The objective of imposing discipline is to correct undesired behavior that adversely affects the mission and integrity of ODOT and/or the health, safety, morale and productivity of other employees. It is of equal importance that disciplinary actions be administered fairly and consistently throughout this Agency. This policy will give supervisory staff the necessary guidelines that should be followed when disciplinary action is contemplated.

ODOT is dedicated to the policy of progressive constructive discipline. Disciplinary actions should be imposed at the lowest level possible with the intent of giving the employee the opportunity to correct his/her behavior so long as the discipline is commensurate with the infraction. If this does not occur, discipline should become more severe up to and including removal. Certain offenses by their nature warrant severe disciplinary action on the first offense.

### **TRAINING:**

Not applicable.

**FISCAL ANALYSIS:**

Not applicable.

**TYPE OF DISCIPLINARY ACTION:**

The following are the types of disciplinary actions that will be utilized in this department. Variations of these actions are not authorized.

- I. **Written Reprimand:** A written document presented to the employee stating the date and nature of the offense. A copy is placed in the employee's personnel file.
- II. **Suspensions:**
  - A. **Suspension:** An employee does not report to work for a specified period of time with loss of pay and applicable benefits.
  - B. **Working Suspension:** Equal in weight and retention to a regular suspension, but differs in that the employee continues to work and receive pay, i.e., a "paper suspension".
  - C. Non-bargaining unit employee suspensions, reductions or fines are governed by *OAC 123:1-31, ORC 124.34 or 5501.20*.
- III. **Reduction/Demotion:** Non-bargaining unit employees may be reduced in pay and/or position for violations of *ORC 124.34 or 5501.20*.
- IV. **Fine:** Non-bargaining unit employees may receive a fine in the amount of one (1) to five (5) days' pay in place of a suspension.
- V. **Removal:** Termination of employment.
- VI. **Leave Reduction:** If an employee receives discipline which includes lost wages or fines, the Agency may offer the following option. Have the employee deplete his/her personal leave, vacation, or compensatory leave banks of hours, or a combination of any of these banks under such terms as may be mutually agreed to between the Agency, Employee, and the Union (if applicable).

## **LAST CHANCE AGREEMENTS:**

At management's discretion, an employee may be offered a Last Chance Agreement.

## **APPEALS:**

Bargaining Unit Employees: Refer to Collective Bargaining Agreement Article 25.

Classified Exempt Employees: Refer to *Ohio Revised Code 124.34* and *Ohio Administrative Code Chapter 124*.

Career Professional Exempt Employees: Refer to *Ohio Administrative Code 5501-2-02* or *Ohio Revised Code 5501.20*.

## **ADMINISTRATION OF DISCIPLINARY ACTIONS:**

All supervisors have the responsibility of enforcing the work rules and initiating the appropriate disciplinary action. Supervisors are expected to provide documentation and initiate disciplinary measures through the supervisory chain of command. No disciplinary action (or counseling) shall be imposed upon any employee without first consulting with the appropriate Labor Relations Officer.

Labor Relations staff are responsible for providing advice, guidance, and assistance. Labor Relations staff are the Agency's designated management advocates and the Agency Designee for Union Contract Administration.

It is important when disciplinary action is taken or proposed that the correct administrative actions are implemented. The following administrative actions will be taken whenever the specific discipline is proposed and reviewed by Central Office Labor Relations.

- I. **Written Reprimands:** The reprimand should reference the specific violation(s) of this policy for which the reprimand is being given. Non-bargaining unit employees being reprimanded shall be also charged under *ORC 124.34*.

The reprimand will be signed by the issuing supervisor and by the employee acknowledging that he/she received a copy. If the employee refuses to sign, this should be witnessed by another non-bargaining unit employee (if possible) or a notation should be made of the employee's refusal to sign and the employee should be given a copy of the reprimand. A copy of the reprimand will be placed in the employee's personnel file. A copy shall also be sent to the appropriate Labor Relations Officer.

- II. **Suspensions, Fines, Working Suspensions, Leave Reductions, Reductions, and Removals:** Supervisors will thoroughly document the incident in question and forward the documentation to the next higher authority and/or the Labor Relations Officer. A recommendation will be made by the appropriate Deputy Director to Central Office Labor Relations for final review by the Director/designee.

The degree of seriousness of the offense(s) will determine which appropriate disciplinary action will be imposed. Discipline does not have to be for the same/similar offense to be progressive.

### **INVESTIGATIONS:**

Allegations of misconduct will be investigated as needed. During an investigation, employees may be placed on administrative leave or reassigned to less sensitive duties at the discretion of the Director or designee.

During the course of an official investigation, employees are under an affirmative duty to cooperate fully with investigators by answering all inquiries truthfully and by providing all pertinent information. An employee who provides false or misleading information or refuses to answer questions or disclose information, may be subject to discipline up to and including removal.

Employees under investigation are prohibited from discussing the investigation, other than with an investigator or the employee's representative, while the investigation is ongoing. Witnesses to an incident under investigation are prohibited from discussing the investigation, other than with an investigator or the employee's representative. All employees are prohibited from taking retaliatory action against anyone because of an investigation or the outcome of an investigation. An employee who discusses an investigation in violation of this policy or retaliates in any way, will be subject to discipline, up to and including removal.

Actions which may constitute criminal wrongdoing may also be investigated by the Office of the Inspector General and/or the State Highway Patrol and result in criminal prosecution as well as disciplinary action.

### **PRE-DISCIPLINARY HEARINGS:**

Any classified or bargaining unit ODOT employee charged with an offense for which that employee may be disciplined, and the recommended discipline is a suspension or greater, shall have a right to a hearing prior to the imposition of discipline.

**PROGRESSIVE CONSTRUCTIVE DISCIPLINE:**

Uniform guidelines have been developed to assist in complying with this policy. These guidelines will serve to notify employees of the type of discipline that will be given for specific violations of the rules and regulations of the State of Ohio and of the Department of Transportation.

**OHIO DEPARTMENT OF TRANSPORTATION DISCIPLINARY GUIDELINES:**

**NOTE: THIS SECTION SHOULD BE VIEWED AS A GUIDELINE. THIS LIST OF OFFENSES IS MERELY ILLUSTRATIVE AND IS NOT MEANT TO BE ALL-INCLUSIVE. THE FORMS OF DISCIPLINE LISTED WITH THESE OFFENSES ONLY PROVIDE A SUGGESTED RANGE OF APPROPRIATE ACTION. THE DIRECTOR MAY IMPOSE LESSER OR GREATER DISCIPLINE AS THE SITUATION DICTATES.**

SEE ATTACHED GRID

<b><u>Violation</u></b>		<b>1<sup>st</sup> Offense</b>	<b>2<sup>nd</sup> Offense</b>	<b>3<sup>rd</sup> Offense</b>	<b>4<sup>th</sup> Offense</b>
<b>1. Neglect of Duty</b>					
<b>A.</b>	Poor, careless, or incomplete work.	Reprimand/ Suspension	Suspension/ Removal	Suspension/ Removal	Removal
<b>B.</b>	Failing to meet work standards, deadlines, or failing to comply with performance improvement plans.	Reprimand/ Suspension	Suspension/ Removal	Suspension/ Removal	Removal
<b>C.</b>	Failure to supervise, to appropriately manage employee(s) or enforce work rules.	Reprimand/ Removal	Suspension/ Removal	Removal	
<b>D.</b>	Sleeping on duty.	Reprimand/ Suspension	Suspension	Suspension/ Removal	Removal
<b>E.</b>	Any other general neglect of duty.	Reprimand/ Removal	Suspension/ Removal	Suspension/ Removal	Removal
<b>F.</b>	Failure to carry out an assignment.	Reprimand/ Suspension	Suspension	Suspension/ Removal	Removal
<b>G.</b>	Disobedience/refusal of an order or assignment by a superior.	Suspension/ Removal	Suspension/ Removal	Removal	
<b>H.</b>	Failure to report secondary employment, as required by ODOT procedure.	Reprimand/ Removal	Suspension/ Removal	Removal	
<b>I.</b>	Failure to follow policies or procedures of the Director, Districts or offices.	Reprimand/ Suspension	Suspension	Suspension/ Removal	Removal
<b>J.</b>	Interfering with and/or failing to cooperate in an official investigation or inquiry.	Suspension/ Removal	Removal		
<b>2. Safety</b>					
<b>A.</b>	Carelessness with tools, keys and equipment or vehicle resulting in loss, damage or an unsafe act.	Reprimand/ Suspension	Suspension/ Removal	Suspension/ Removal	Removal
<b>B.</b>	Failure to follow safety policies and procedures.	Reprimand/ Suspension	Suspension	Removal	
<b>C.</b>	Unsafe act(s)/improper work method which endangers the health and life of self or others.	Suspension/ Removal	Removal		
<b>3. Attendance</b>					
<b>A.</b>	Unexcused tardiness/unauthorized absence of thirty minutes or less, leaving early and/or extended lunch or break period.	Reprimand	Reprimand/ Suspension	Suspension	Removal
<b>B.</b>	Unauthorized absence in excess of 30 minutes.	Reprimand/ Suspension	Suspension	Suspension/ Removal	Removal
<b>C.</b>	Unauthorized absence of 3 or more consecutive days.	Suspension/ Removal	Removal		
<b>D.</b>	Job abandonment.	Removal			
<b>E.</b>	Misuse of leave (including but not limited to misuse of sick leave, FMLA, workers compensation or disability). Misuse includes engaging in activities for personal profit.	Suspension/ Removal	Removal		

<b>F.</b>	Working unauthorized overtime.	Reprimand/ Suspension	Suspension	Suspension/ Removal	Removal
<b>G.</b>	Failure to work mandatory overtime.	Suspension	Suspension/ Removal	Removal	
<b>H.</b>	Consistent refusal of overtime.	Refer to Consistent Refusal MOU for Progression			
<b>I.</b>	Leaving the work area without the permission of the supervisor.	Reprimand/ Suspension	Suspension/ Removal	Suspension/ Removal	Removal
<b>4. Failure of Good Behavior</b>					
<b>A.</b>	Posting, displaying, sending or sharing obscene or insulting material and/or using obscene, abusing or insulting language or gestures.	Reprimand/ Suspension	Suspension/ Removal	Suspension/ Removal	Removal
<b>B.</b>	Acts of sexual harassment, discrimination, insult, intimidation or harassment on the basis of membership in a protected class; or retaliation for engaging in a protected activity.	Reprimand/ Removal	Suspension/ Removal	Removal	
<b>C.</b>	Insolence - rude or disrespectful conduct	Reprimand/ Suspension	Suspension/ Removal	Suspension/ Removal	Removal
<b>D.</b>	Involvement in "horse-play" or conduct disrupting the workplace on ODOT time or property.	Reprimand/ Suspension	Suspension/ Removal	Suspension/ Removal	Removal
<b>E.</b>	Unauthorized/misuse of State equipment or vehicle or property.	Reprimand/ Suspension	Suspension/ Removal	Suspension/ Removal	Removal
<b>F.</b>	Disclosure of confidential information or records to unauthorized persons.	Reprimand/ Removal	Suspension/ Removal	Removal	
<b>G.</b>	Unauthorized use of recording devices.	Reprimand/ Removal	Suspension/ Removal	Removal	
<b>H.</b>	Failure to maintain appropriate personal hygiene.	Reprimand	Reprimand/ Suspension	Suspension/ Removal	Removal
<b>I.</b>	Any act that may discredit, embarrass, undermine or interfere with the mission of the Agency, including, but not limited to, that appearing on social media.	Suspension/ Removal	Removal		
<b>5. Dishonesty</b>					
<b>A.</b>	Intentional statements, actions or omissions intended to mislead others.	Suspension	Suspension/ Removal	Removal	
<b>B.</b>	Falsifying any official document related to employment (including electronic documents).	Suspension/ Removal	Removal		
<b>6. Drug &amp; Alcohol (Possession or Testing) Violation</b>					
<b>A.</b>	Sale, consumption, or possession of alcoholic beverages while on duty or on state property, including state vehicles.	Suspension/ Removal	Removal		

	<b>B.</b>	Sale, consumption, or possession of restricted substances, as defined in the ODOT Drug Free Workplace Policy, while on duty or on state property, including state vehicles.	Removal			
	<b>C.</b>	Reporting to work under the influence of any restricted substance, as defined in the ODOT Drug Free Workplace Policy, or a positive drug or alcohol test.	Removal			
	<b>D.</b>	Alcohol test results of 0.02-0.0399	Reprimand/ Removal	Removal		
	<b>E.</b>	Employees holding a commercial driver's license, failure to report a controlled substance and/or alcohol testing program violation, as required by 49 CFR §382.415	Removal			
<b>7.</b>		Exercising poor judgment in carrying out work assignments.	Reprimand	Reprimand/ Suspension	Suspension/ Removal	Removal
<b>8.</b>		Violation of Ohio Ethics Laws and related statutes, O.R.C. Chapter 102 and Sections 2921.42, 2921.43.	Suspension/ Removal	Removal		
<b>9.</b>		Engaging in political activity as prohibited in Ohio Revised Code 124.57	Suspension/ Removal	Removal		
<b>10.</b>		Engaging in activities for personal profit during paid work hours, including break times.	Suspension/ Removal	Removal		
<b>11.</b>		Violations of Section 124.34 of the Ohio Revised Code.	Reprimand/ Removal	Suspension/ Removal	Removal	
<b>12.</b>		Theft, in or out of employment (nexus established).	Removal			
<b>13.</b>		Intentional misuse of Federal or State funds and/or resources.	Suspension/ Removal	Removal		
<b>14.</b>		Misuse of State time.	Reprimand/ Suspension	Suspension/ Removal	Suspension/ Removal	Removal
<b>15.</b>		Felonies				
	<b>A.</b>	Felony Convictions	Removal			
	<b>B.</b>	Failure to immediately report felony charges/indictments and/or failure to update ODOT of felony court proceedings (including but not limited to orders and/or restrictions that would impact employment).	Reprimand/ Removal	Removal		



16.	ODOT employees are prohibited from possessing weapons on their person while on duty and/or while on state owned property, in a state building or state vehicle. Weapons include firearms, knives (except folding knives with a blade of 3” or less), clubs, tasers, bombs, and any other actually or potentially dangerous object(s). Employees are permitted to carry small canisters of personal protective spray. Employees who are “Qualifying Adults” under R.C. 2923.111(A)(2) are permitted to keep their firearm secured and out of view inside their personal vehicle. An employee is prohibited from accessing their firearm in their personal vehicle during their scheduled work hours/shift and/or while the vehicle is on state owned property.	Suspension/ Removal	Removal		
17.	Fighting with, striking, or threatening a fellow employee or non-employee on State time or State property. Threatening a superior, fellow employee, or non-employee.	Suspension/ Removal	Removal		
18.	Other actions that could harm or potentially harm the employee, a fellow employee or a member or members of the general public.	Reprimand/ Removal	Suspension/ Removal	Removal	
19.	Other actions that could compromise or impair the ability of the employee to effectively carry out his/her duties as a public employee.	Reprimand/ Removal	Suspension/ Removal	Removal	
20.	Termination / Ineligibility of Vehicle Liability Coverage pursuant to the State of Ohio Motor Vehicle Fleet policy (for positions requiring driving).	Removal			
<b>21. Work Stoppage</b>					
	<b>A.</b> Participation in a work stoppage or other cessation or disruption of services, either in full or in part (e.g. sick out, slowdown, en masse refusal to work overtime, etc.).	Suspension/ Removal	Removal		
	<b>B.</b> Organizing, leading, coordinating, promoting, or planning a work stoppage or other cessation or services outlined in 20A (above).	Removal			