

CF OPERATING PROCEDURE
NO. 60-55, Chapter 1

STATE OF FLORIDA
DEPARTMENT OF
CHILDREN AND FAMILIES
TALLAHASSEE, April 19, 2017

Personnel

STANDARDS OF CONDUCT AND STANDARDS FOR DISCIPLINARY
ACTION FOR DEPARTMENT EMPLOYEES

1-1. Purpose. This operating procedure sets forth the minimal standards of conduct for employees of the Department of Children and Families, violations of which may result in dismissal.

1-2. Scope. This operating procedure applies to all Career Service, Selected Exempt Service and Senior Management Service employees in the Department.

1-3. References.

- a. Chapter 110, Florida Statutes (F.S.)
- b. Chapter 112, F.S.
- c. Chapter 60L-34, Florida Administrative Code (F.A.C.)
- d. Chapter 60L-36, F.A.C.

1-4. Policy.

a. Programs within the Department perform a vast array of functions and deliver a wide variety of services. The Department of Children and Families has been delegated primary authority and responsibility for managing the conduct of its employees. If it is deemed necessary to discipline an employee for violation of a conduct standard, the Department may impose any discipline up to and including dismissal, taking into account the Department's unique mission and the individual facts and circumstances.

b. Employee performance deficiencies and breaches of good conduct shall be handled in a timely and equitable manner consistent with this operating procedure. Standards of Conduct, which all employees must meet, are established herein, and any employee who fails to meet these Standards of Conduct is subject to corrective action. Other than for dismissal, corrective action must be constructive and shall be for the purpose of motivating the employee to meet the Department's established Standards of Conduct. All disciplinary actions shall be applied in a nondiscriminatory manner.

(1) Employees whose conduct does not comport with the Department's mission are subject to disciplinary action.

(2) Employees outside permanent Career Service may be dismissed at will.

c. Each employee shall have reasonable access to a copy of CFOP 60-1, Employee Handbook. In addition to supervisory performance expectations, the Employee Handbook provides the Department's expectations in the Standards of Conduct and indicates the consequences for employees

This operating procedure supersedes CFOP 60-55, Chapter 1, dated August 29, 2012.

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who do not meet those expectations. The employee shall electronically (e-)acknowledge receipt and the statement shall be considered to be a part of the employee's official personnel file.

d. Supervisors and managers must consult with their servicing employee relations representative before providing written counseling or discipline to an employee.

e. When an employee is under investigation by the Department for violation of the Standards of Conduct or statute for which dismissal is a penalty, the delegated authority may place the employee on administrative leave when the employee's absence from the work location is essential to the investigation. Administrative leave may be used only when it is not possible to temporarily reassign the employee to other duties without detriment to the state's interest. Department of Management Services' Human Resources Management Office must be notified in writing by the delegated authority anytime that an employee is placed on administrative leave while under investigation.

f. In accordance with section 110.217(3), F.S., if a Career Service employee who has received an internal agency promotion from a position in which the employee held permanent status is to be dismissed from the promotional position for failure to meet the established performance standards of the promotional position while in probationary status, the agency, before dismissal, shall return the employee to his or her former position, or to a position with substantially similar duties and responsibilities as the former position, if such a position is vacant. Such determinations by an agency are not appealable, and this subsection does not apply to dismissals for any other reason.

1-5. Counseling.

a. Counseling is used to help the employee recognize their failure to meet a performance expectation or conduct standard, accept the standard that is required and understand the consequences of failing to meet the expectation or standard. Supervisors should recognize that, in some instances, counseling might be appropriate; however, counseling should not be considered as an option for serious offenses.

b. Supervisors should be able to recognize a problem when it first begins to develop and immediately begin counseling the employee. Counseling should be constructive and done with a primary view toward helping the employee correct the problem.

c. Counseling is not considered a form of discipline but can be documented and placed in the employee's personnel file. The employee will be required to sign receipt for the documented counseling. If the employee refuses to sign, that refusal should be so noted by the supervisor.

1-6. Final Counseling Notice.

a. A Final Counsel Notice is a personnel action to formally notify an employee of the specific conduct or performance standard violated and to advise the employee that continued misconduct may result in discipline up to and including dismissal.

b. If the employee's failure to meet the Department's Standards of Conduct warrants a Final Counseling Notice, the appropriate authority will notify the employee. Final Counseling Notice must be in writing and supervisor(s) should meet with the employee to advise the employee of deficiencies and necessary corrective action. The employee will be required to sign receipt for the Final Counseling Notice. If the employee refuses to sign, that refusal should be so noted by the supervisor.

1-7. Disciplinary Action.

a. Administering Disciplinary Action. The authority to approve disciplinary actions is formally delegated to specified managers by the Secretary in the individuals' official Delegation of Authority or

to any person officially designated to act in such capacity. Disciplinary action should be administered in a timely manner in accordance with the statutes, rules, policy, procedures and applicable collective bargaining agreement.

b. Types of Disciplinary Action.

(1) Written Reprimand. This disciplinary action is taken to notify an employee, in writing, of the specific conduct or performance standard that was violated. If the supervisor determines that an employee's failure to meet the Department's Standards of Conduct warrants a written reprimand, the supervisor shall, after consultation with the servicing employee relations representative:

(a) Meet with the employee in private and advise that he or she is receiving a written reprimand;

(b) Cite the specific disciplinary standard(s) that was violated; and,

(c) Discuss the specific incident that prompted the discipline, indicate the corrective action that is expected. The employee will be required to sign receipt for the written reprimand. If the employee refuses to sign, that refusal should be so noted by the supervisor.

(2) Suspension. This is a severe form of disciplinary action to relieve the employee of his or her duties and place him or her on leave without pay. It may be imposed as the first discipline following the commission of certain offenses. If suspension is the initial discipline, care should be exercised to ensure the employee was aware of the seriousness of the offense.

(3) Demotion of Permanent Career Service Employees. An employee may be involuntarily demoted in lieu of counseling or discipline when such demotion is warranted.

(4) Dismissal. Dismissal is the most severe discipline that may be imposed on an employee.

1-8. Standards of Conduct.

a. Employees outside the permanent Career Service may be dismissed at will. Such employees need only be advised in writing of the personnel action and the effective date.

(1) Senior Management Service and Selected Exempt Service employees serve at the pleasure of the Secretary and are subject to personnel actions, including dismissal, at the discretion of the agency head. Such personnel actions are exempt from the provisions of Chapter 120, F.S.

(2) Career Service employees who **have not** satisfactorily completed at least a one (1) year probationary period in their current position may be dismissed at any time, except as provided in paragraph 1-4f of this operating procedure, without the right to appeal such action to the Public Employees Relations Commission (PERC) or grieve under a collective bargaining agreement.

b. Career Service employees who have satisfactorily completed at least a one (1) year probationary period in their current position may be dismissed only for cause, which shall include, but not be limited to, the Standards of Conduct.

c. The following are the minimal Standards of Conduct that apply to all employees in the Department, violation of which may result in discipline up to and including dismissal. (NOTE: Examples under the categories listed below are not exhaustive.)

(1) Poor Performance. Employees shall strive to perform at the highest level of efficiency and effectiveness; they shall do more than “just get by.”

(a) Employees are expected to be reliable and dependable, for example: to show up for work, ready to work, on a reliable basis; to observe established work hours and scheduled appointments; to complete work on time; and to obtain permission before being off work and to schedule leave in a manner that minimizes work disruption.

(b) Employees are expected to be effective, for example: to organize their work; to stay focused on job related activities during work hours; to provide the level of effort necessary to get the job done; to demonstrate willingness and ability to make decisions and exercise sound judgment; to produce work that consistently meets or exceeds expectations; to accept responsibility for their actions and decisions; to adapt to changes in work assignments, procedures, and technology; and to be committed to improving individual performance.

(2) Negligence. Employees shall exercise due care and reasonable diligence in the performance of job duties.

(3) Inefficiency or Inability to Perform Assigned Duties. Employees shall, at a minimum, be able to perform duties in a competent and adequate manner.

(4) Insubordination. Employees shall follow lawful orders and carry out the directives of persons with duly delegated authority. Employees shall resolve any differences with management in a constructive manner.

(5) Violation of Law or Agency Rules. Employees shall abide by the law and applicable rules and policies and procedures, including those of the employing agency and the rules of the State Personnel System. All employees are subject to Part III of Chapter 112, F.S., and governing Standards of Conduct, which the Department shall make available to employees. The Department may determine that an employee has violated the law even if the violation has not resulted in arrest or conviction. Employees shall abide by both the criminal laws, for example, drug laws, and the civil law, for example, laws prohibiting sexual harassment and employment discrimination.

(6) Conduct Unbecoming a Public Employee. Employees shall conduct themselves, on and off the job, in a manner that will not bring discredit or embarrassment to the state.

(a) Employees shall be courteous, considerate, respectful, and prompt in dealing with and serving the public and co-workers.

(b) Employees shall maintain high standards of honesty, integrity, and impartiality. Employees shall place the interests of the public ahead of personal interests. Employees shall not use, or attempt to use, their official position for personal gain or confidential information for personal advantage.

(c) Employees shall protect state property from loss or abuse, and they shall use state property, equipment and personnel only in a manner beneficial to the agency.

(7) Misconduct. Employees shall refrain from conduct which, though not illegal or inappropriate for a state employee generally, is inappropriate for a person in the employee's particular position. For example, cowardice may be dishonorable in people generally, but it may be entirely

unacceptable in law enforcement officers. By way of further example, people are generally free to relate with others, but it may be entirely unacceptable for certain employees to enter into certain relations with others, such as correctional officers with inmates.

(8) Habitual Drug Use. This Department shall not tolerate violations of Florida's Drug Free Workplace Act, section 112.0455, F.S., or other misuse of mood-altering or mind-altering substances, including alcohol and prescription medications.

(9) Conviction of Any Crime, including a plea of nolo contendere and a plea of guilty with adjudication withheld.

1-9. Discipline Process. Section 110.227(5)(a), F.S., establishes procedures for suspension, reduction in pay, demotion, involuntary transfer of more than 50 highway miles or dismissal of Career Service employees who have satisfactorily completed at least a one (1) year probationary period in their current position, as follows:

a. If the employee's failure to meet the Department's Standards of Conduct warrants suspension, reduction in pay, demotion, involuntary transfer of more than 50 highway miles or dismissal, the delegated authority shall provide the employee with written notice of intent to take the action at least 10 calendar days prior to the date such action is to be taken. The notice shall include the Standard(s) of Conduct violated and a description of the facts and identify any documents on which the charges are based.

b. Subsequent to such notice, and prior to the date the action is to be taken, the affected employee shall be given an opportunity to appear before the Department or official taking the action to answer orally and in writing the charges against him or her.

c. The delegated authority taking such action shall, in addition to furnishing notice of intent to take such action, furnish the employee with written notice of final action. The written notice of final action shall include the same reasons for taking the action as included in the notice of intent letter. New charges may not be added to the final notice letter unless another written notice of intent letter is provided to the employee in accordance with paragraph 1-9a above.

d. In extraordinary situations, as established in section 110.227(5)(b), F.S., such as when the retention of a Career Service employee who has satisfactorily completed at least a one (1) year probationary period in his or her current position would result in damage to state property; be detrimental to the best interests of the state; or result in injury to the employee, a fellow employee, or some other person, such employee may be suspended or dismissed without 10 calendar days prior notice, provided that written or oral notice of such action, evidence of the reasons therefore, and an opportunity to rebut the charges are furnished to the employee prior to the dismissal or suspension. Such notice may be delivered to the employee personally or may be sent by certified mail with return receipt requested. Department compliance with the foregoing procedure requiring notice, evidence, and an opportunity for rebuttal must be substantiated.

e. The written notice of final action shall advise the employee of appeal rights under sections 110.227(5)(a) or (b), F.S., under any applicable collective bargaining agreement, and under any other applicable statutory provisions, such as Parts I, VI or VIII of Chapter 112, F.S. The employee has 21 calendar days from the date the employee receives the written notice of final action to appeal under section 110.227(5)(a) or (b), F.S.

f. Disciplinary action involving employees covered by collective bargaining agreements shall be in accordance with the terms of the agreement.

1-10. Job Abandonment. In accordance with 60L-33.0065(2)(a)7., F.A.C., an employee who is absent from the job without approved leave for a minimum of five (5) consecutive work days, and the employee's conduct or circumstance imply no intent to return, may be separated for abandonment. Contact the local Employee Relations representative for assistance as soon as the employee is absent without authorized leave.

BY DIRECTION OF THE SECRETARY:

(Signed original copy on file)

DENNISE G. PARKER
Human Resources Director

SUMMARY OF REVISED, DELETED, OR ADDED MATERIAL

Added paragraph 1-10 related to job abandonment, which requires contact with the local HR Employee Relations Representative in such situations.